SENATE—*Thursday, March 28, 1996*

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

The PRESIDENT pro tempore. Today's prayer will be offered by Rev. Joan Thirkettle from San Diego, CA, Salvation Army of San Diego.

PRAYER

The Reverend Joan Thirkettle, Salvation Army of San Diego, offered the following prayer:

The world new each day, Almighty God, we give You thanks and praise. The days, months, and years You number and sustain. Your wisdom invites this Senate to share the daily administration of this Your United States. Your movement is heard in the walk of the people. The grass blows, the mountains tower, the waters slap the shores, all echo, You among us. Come with Your residence casting Your knowledge and dreams into the debates and decisions made for "We, the People." Take the deliberations of this body fueled with questions, doubts, and varying degrees of what is best and right, and bring consensus of shared patriot leadership for the Republic. It is You, God, who reigns. Guide these Senators as they champion justice, liberty, and peace. Counsel them as they speak, debate, and struggle with the complexities of domestic and global concerns. The mantle of trust is given these persons by the people, Mighty God. Help them carry this heavy mantle in the long hours of work and decision-making. Bring each Senator a calm and a confidence of heart this day and in the days to come. Thank You that You have made them ambassadors of Your work. Travel with them in peace. May their work declare Your intentions, Eternal God. This we pray, Lord, in Your name. Amen.

Mrs. BOXER addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from California.

THE GUEST CHAPLAIN

Mrs. BOXER. Thank you so much, Mr. President. I will just take a moment of the Senate's time to say how really thrilled I am to have heard the prayer given by the Reverend Joan Thirkettle this morning. I want to thank the Senate Chaplain, Dr. Ogilvie, for inviting her here today at my request.

To hear the sounds of a woman's voice coming from that particular place in the Senate Chamber is not that usual, but it is becoming more usual as we see more and more women go into this field.

I also say that it is very important because this month we do celebrate Women's History Month. So it is quite appropriate the Reverend Thirkettle spoke to us today.

There is one last point I want to make. She has come a long way from San Diego, CA, a beautiful part of the world. She spends her waking hours helping high school students, helping with family reeducation, helping with reunification, helping with job readiness, working with children, working with the Salvation Army in charge of shelters for youth and running the Christmas toy drive. So this is a woman who lives her beliefs.

I listened to her words today. She offers us, I think, some very good guidance. I thank her, and I thank Dr. Ogilvie.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. CAMPBELL). Under the previous order, leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER. The Senator from Indiana [Mr. LUGAR] is recognized.

SCHEDULE

Mr. LUGAR. Mr. President, on behalf of the majority leader, Senator DOLE, let me say, for the information of all Senators, the Senate will immediately resume consideration of the farm bill conference report under the remaining time agreement reached yesterday.

Following that debate, the conference report will be set aside, and the Senate will begin 30 minutes of debate regarding the cloture motion with respect to the Kennedy amendment to the Presidio legislation.

Following that debate, the Senate will begin a vote on the adoption of the farm bill conference report, to be followed immediately by a vote on invoking cloture with respect to the Kennedy amendment. Additional rollcall votes are possible throughout today's session of the Senate.

AGRICULTURAL MARKET TRANSITION ACT—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the conference report to accompany H.R. 2854, which the clerk will report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2854) a bill to modify the operation of certain agricultural programs, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate resumed consideration of the conference report.

The PRESIDING OFFICER. The Senator from Indiana [Mr. LUGAR], is recognized.

Mr. LUGAR. Mr. President, yesterday in the beginning of the debate on the farm bill conference report, much of the debate centered upon title I, which is the Agricultural Market Transition Program. And, indeed, this is an extraordinarily important title for producers in this country. Senators reviewed the fact that the new farm bill will offer maximum flexibility to farmers in choosing what crops to plant and how many acres they will plant to meet market conditions in this country and in the world.

Likewise, the nonrecourse marketing assistance loans will remain. They are a safety net, as well as a method of managing income and operations, for producers.

Not mentioned yesterday, but clearly still in the farm bill, is a peanut program, modified somewhat during debate in both the House and the Senate, a sugar program and a milk price support and marketing order program. The Federal Dairy Export Program, the northeast dairy compact, payment limitations, commodity credit all come under this title I, the Agricultural Market Transition Program. I have no doubt, Mr. President, there will be more debate on that issue this morning. But I want to center on additional aspects of the farm bill that are extraordinarily important to all Americans.

Title II, the trade title, contains Public Law 480 and related programs. The conference report reauthorizes Food for Peace and allows private sector participation for the first time. The Food Security Wheat Reserve is renamed the "Food Security Commodity Reserve" to reflect that corn, rice, and sorghum are added as eligible commodities. A 4-million-metric-ton cap is placed on the reserve and access to reserve commodities is made easier.

Mr. President, there is also a provision for agricultural trade. The conference agreement reauthorizes several trade and export programs, with additional emphasis on high-value and

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

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value-added products. The Secretary is directed to monitor compliance with the agriculture provisions of the Uruguay round agreement of GATT and report violations to the United States Trade Representative. Agriculture producers are given additional protection against economic effects of agricultural embargoes.

In addition, several unnecessary and outdated provisions of Federal agricultural trade law are repealed.

The trade title contains a market access program. The Market Promotion Program is renamed the "Market Access Program" to more accurately reflect program goals. Expenditures are capped at $90 million per year, and reforms are implemented to restrict participation to small businesses, farmer-owned cooperatives, and agricultural groups.

The Export Enhancement Program is contained in title II. EEP expenditures are capped at $350 million a year in 1996; $250 million in 1997; $500 million in 1998; $550 million in 1999; $579 million in 2000; $478 million in 2001 and 2002.

For the years 2000 to 2002, the funding levels for EEP represent the maximum allowable expenditures under GATT. In addition, the Secretary is given authority to subsidize the export of intermediate value-added products.

Title III of the farm bill contains the conservation programs and, first of all, of course, is the Conservation Reserve Program, the CRP, which gives the Secretary authority to enter into new contracts and to extend CRP contracts. The authorized maximum acreage in CRP is maintained at 36.4 million acres. It also allows participants to terminate CRP contracts, except on those lands that are deemed to be of high environmental value. Funds saved due to termination of contracts may be used by the Secretary to enroll new lands in the program.

I point out, parenthetically, Mr. President, this arguably is the largest conservation program, including one of the most important environmental aspects the Senate will adopt this year.

The Wetlands Reserve Program is retained with modifications to encourage the use of temporary easements and cost-share restorations.

The Environmental Quality Incentive Program [EQIP], is instituted. This program targets approximately $1.2 billion over 7 years to assist crop and livestock producers to deal with environmental and conservation improvements on their farms. Assistance can be used for animal waste management facilities, terraces, waterways, filterstrips or other structural and management practices to protect water, soil, and related resources. Assistance to individual operations is capped at $10,000 a year, for a maximum of 5 years. Large operators, as defined by the Secretary, will be ineligible for assistance.

Other new conservation programs include the Farms for the Future Program providing $35 million to preserve farmland from commercial development. A new conservation farm option offers producers an additional alternative in meeting conservation goals. A Flood Risk Reduction Program is also included to provide farmers incentives to take out of production frequently flooded lands.

The Conservation Compliance Reform Program gives producers enhanced flexibility to modify conservation practices if they can demonstrate that the new practice achieves equal or greater erosion control. Variances from conservation compliance can now be granted on account of adverse weather or disease, and program payment penalties can be adjusted to be commensurate with the violation.

Swampbuster reform is included in title III. The Natural Resources Conservation Service is designated to lead Federal agencies in wetlands delineation and regulation on grazing lands. The agreement stipulates that current wetlands delineations remain valid until a producer requests a review. Penalties can now be adjusted to fit the wetlands violation. Exceptions can be granted for good faith. And wetlands mitigation options are expanded.

Title IV, a very important title, is the Federal Food Stamp Program. The conference agreement reauthorizes the Food Stamp Program for 2 years while Congress continues to work on comprehensive welfare reform legislation.

Mr. President, this issue has come before this body at least twice before. First of all, in the form of the Balanced Budget Act, where the food stamp provisions were a part of the farm bill and likewise a part of welfare reform. The Senate has considered separately welfare reform with food stamp provisions in that legislation.

As the Chair knows, in the case of both the welfare reform and the Balanced Budget Act, President Clinton vetoed this legislation. Therefore, it has been set aside. This farm bill recaptures now and reauthorizes the Food Stamp Program for 2 years pending action either in our committee, that is, the Agriculture Committee, or action by the Congress with regard to welfare reform that might encompass the Food Stamp Program.

Title V is a miscellaneous title, but an important one in the collection of programs that come under it. Crop insurance is one of these programs. The conference agreement eliminates the mandatory nature of catastrophic crop insurance, but requires producers to waive all Federal disaster assistance if they opt not to purchase catastrophic insurance. Dual delivery of crop insurance is eliminated in those States that have adequate private crop insurance delivery.

The bill corrects a provision of current law by amending the Federal Crop Insurance Act to include seed crops. Eligibility to purchase crop insurance is no longer linked to conservation compliance and swampbuster for producers who choose not to participate in the farm programs.

The Office of Risk Management is provided for. We establish in this legislation, within the Department of Agriculture, the Office of Risk Management to oversee and supervise the Federal Crop Insurance Corporation. The bill directs the Secretary to establish a business interruption insurance program that allows producers of program crops to obtain revenue insurance coverage. The Options Pilot Program is also extended through the year 2002. The Office of Risk Management is charged with oversight of these pilot programs.

Mr. President, the farm bill includes an Everglades Agricultural Area provision. The conference agreement provides $200 million for land acquisition in the Florida Everglades for the purpose of environmental restoration. An additional $100 million in Federal support will be financed through the sale or swap of other federally held land in Florida.

The farm bill provides a fund for rural America. And $300 million is provided for the fund in the years 1997 through 1999. This was a request of the President of the United States, and the Secretary of Agriculture placed a high priority on this fund. The Secretary is required to spend at least one-third of the amount on research and one-third of the amount on rural development. The other one-third of the money can be allocated to either purpose at the discretion of the Secretary. All of the funding must be spent through existing research and rural development programs.

The Agricultural Quarantine and Inspection provision appears in the conference report, which amends the Food, Agriculture, Conservation and Trade Act of 1990 to allow the Secretary to collect and spend fees collected over $100 million to cover the cost for providing quarantine and inspection services for imports.

The Safe Meat and Poultry Inspection Panel is created in this farm bill. The Panel of scientists within the Food Safety and Inspection Service will be charged with the responsibility of reviewing all inspection policies from a scientific perspective. The Panel's report and the Secretary's responses must be published in the Federal Register. State-inspected meat was discussed in our conference report. Within 90 days of enactment, the Secretary shall report and recommend to the Congress the steps necessary to achieve interstate shipment of State-inspected meat products.

Title VI of the conference report deals with USDA Farm Lending Program reforms. The conference report

redirects farm lending programs to their original intent. Authority to make loans for a variety of nonagricultural purposes such as recreation facilities and small business enterprises is repealed. The Secretary is given authority to use collection agencies to recover delinquent loans. The agreement prohibits additional loans to delinquent borrowers and streamlines procedures for disposal of inventory property. A portion of loan funding is reserved for new and beginning farmers.

I point out, Mr. President, that that set of provisions comes after extensive hearings by the Agriculture Committee in which we found that borrowers sometimes are already delinquent and the Department was obligated, under previous law, to lend money to them in any event. Some of these obvious, glaring deficiencies have been corrected. I commend both committees and the conference for that provision.

Title VII deals with rural development. The Rural Community Advancement Program is authorized, and the Secretary may provide grants and direct and guaranteed loans and other assistance to meet rural development needs across the country. Funding under the Rural Community Advanced Program will be allocated to three areas: First of all, rural community facilities; second, rural utilities; and, third, a rural business and cooperative development. The new program provides greater flexibility, State and local decisionmaking, and a simplified uniform application process.

The Water and Waste Water Systems. Authorization for these systems is increased from $500 million to $590 million.

In telemedicine and distance learning programs, the conference agreement reauthorizes and streamlines these programs. Under the programs, the Secretary can make grants and loans to assist rural communities with construction of facilities and services, to provide distance learning and telemedicine service. Funding is authorized at $100 million annually.

Title VIII is the research title. The conference agreement reauthorizes Federal agricultural research, extension, and education programs for 2 years. This will allow Congress to continue ongoing review of these programs and determine how best to use the $1.7 billion in annual agricultural research, extension, and education spending. Additional research dollars are made available under this bill through the fund for rural America that I discussed earlier and which President Clinton and Secretary Glickman have championed.

Title IX, promotion, the generic commodity promotion program. The Secretary is directed to establish such a program. Under this program, interested industries could petition the Department of Agriculture for the establishment of a promotion program. Currently, each commodity must receive specific authorization from Congress to have a promotion program. Recognizing the generic program will not be operational for some time, the conference agreement authorizes new promotion programs for popcorn, canola, and kiwi fruit.

The full conference report was printed, I point out, Mr. President, in the CONGRESSIONAL RECORD of Monday, March 25, 1996, so that Senators have had an opportunity to review this conference report. The report came after discussion of as many as 500 differences between the House and the Senate bills. During an extensive and constructive conference of the two bodies last Wednesday and last Thursday, all issues were resolved. It is in that spirit that this conference report came to the Senate last evening and for further debate today.

Mr. President, let me simply review the fact that the time limit covering this report is 6 hours. Three of those hours are controlled by the distinguished Democratic leader, Senator DASCHLE, an hour by the ranking Democratic member of the Agriculture Committee, and 2 hours by myself. Approximately an hour and a quarter of debate occurred last evening. The remainder of the debate lies ahead of us. Hopefully, Senators who are controlling that time would be prepared to yield back that time to expedite the work of the Senate.

PRIVILEGE OF THE FLOOR

Mr. LUGAR. Mr. President, I ask unanimous consent that Patrick Sweeney, an employee of the General Accounting Office who has been detailed to the Agriculture Committee, be granted privilege of the floor during the pendency of consideration of the farm bill conference report.

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

Mr. LUGAR. Noting no other Senators prepared to debate the issue, I suggest the absence of a quorum, with the time to be equally charged against the time allocated to the three Senators controlling time in this bill.

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, I ask to take time that has been allotted to me under the unanimous consent agreement.

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

Mr. LEAHY. Mr. President, we spent a lot of months of very, very hard work to craft this farm bill. Today, we are completing the final legislative step in the farm bill process. I am glad that Secretary Glickman has said that he will recommend that the bill be signed.

The Secretary is one of the most knowledgeable Secretaries of Agriculture with which I have ever worked. He has been a Member of the Congress. He has worked on many farm bills. He knows, as I do, that nobody ever gets everything they want in a farm bill. You have to bring in a number of competing interests and ultimately make a judgment of whether the bill should be signed or not. I believe it should be signed. I concur with his judgment.

I am also pleased that the President said he would sign the farm bill. In my discussions with the White House and with the Secretary, I have told them this is a good bipartisan bill that proves we can work together.

We were in a situation, Mr. President, where we were not going to be able to pass a Democratic or a Republican farm bill. However, if we worked as we have in the past in a bipartisan fashion, we could pass a very good farm bill.

There are many who had a hand in this legislation. First and foremost of those is the chairman of the Senate Agriculture, Nutrition and Forestry Committee, the senior Senator from Indiana, Senator LUGAR.

Had it not been for his energy, foresight and perseverance, we would not be on the floor today with a completed conference report. The Agriculture Committee is made up of members with very diverse and, I might say, occasionally conflicting interests. For those who know the Agriculture Committee as Senator LUGAR and I do, that is probably considered an understatement. The Senate has some committees that divide along ideological lines and one can almost predict how a vote might go.

That is not the case in the Senate Agriculture Committee. Conservatives join with liberals on various issues; conservatives break with conservatives; liberals break with liberals; moderates oftentimes have a balance of power; regions have interests that conflict with other regions. This is not a case of ideological balances. This is a case of trying to balance the different needs of different parts of our great and wonderful Nation.

Throughout the year, Chairman LUGAR worked closely with members to craft a bill that provides us with the basic road map for agriculture policy. I appreciate both his leadership and his friendship. The bill recognizes that farm policy has changed. It cannot be just about the production side of agriculture. It is about the consumption side of agriculture, too.

The bill provides important protection to consumers in key environmental conservation issues. The focus

is on providing incentives to get farmers to voluntarily do the right thing for the environment, their communities, and their neighbors.

It is a major step away from the old focus of mandatory, detailed regulations. The conservation provisions break with the past. They will provide cash payments to farmers for improvements that make sense for their farms. The bill will help farmers do those things that farmers know should be done. The bill contains the Environmental Quality Incentives Program, EQUIP, to assist farmers in solving critical water quality problems, for those farmers who want to protect lakes, rivers, and the ground water important to both them and their neighbors. This means that farmers will get funds to protect the groundwater that their neighbor's children drink.

There is $300 million in new spending to restore the Florida Everglades which is one of America's national treasures.

All of us should agree, whether we are from Florida or not, that we need to restore the Florida Everglades to its full glory.

There is a $35 million initiative to buy easements sold by willing sellers, on farmland threatened by development. This voluntary program, called Farms for the Future in Vermont, allows farm families to save their farmland for their children.

The bill contains a conservation farm option that will encourage farmers to use good conservation methods. I am pleased that, despite efforts to phase out the Conservation Reserve Program, we were able to save it. It is the Nation's largest, and most successful, private land conservation program.

I also want to mention dairy. Let me speak not as the ranking member of the committee, but as a Vermonter.

I know the farmers in Vermont. They work very, very hard. They rise early every morning and work late into the night just to get their milk into the market. I have sat in the kitchens of farm houses throughout Vermont and talked with the farmers, the women and men, and their sons and daughters, who run these dairy farms. I have gotten up with them at 4 o'clock in the morning and gone into the barns and helped them do their chores and milking. One farmer said I probably made a better Senator than I did a hired hand.

I was helping Bob Howrigan bring a couple different herds in different fields. As I helped him bring one of the herds across to the milking shed, I said, "Bob, I got that herd in for you, and I probably only lost a couple cows on the way over."

He said, "PAT, I appreciate it. If I keep you around a few weeks I can get out of farming altogether."

That is the kind of humor that goes on. These are people who work harder than anybody else I know. These are small family farms. They dot the New England countryside. They are a beautiful part of our heritage. But they exist only if they work hard and efficiently.

So I am pleased this bill includes an issue very important to my region, the Northeast Interstate Dairy Compact. Farmers in my State are not looking for handouts.

All they want is a farm bill that gives them a fair price for an honest day's work. They will work harder than anybody else, but they ought to be recompensed for that work. I am tired of the person in the middle getting all the profits and the typical Vermont farmer going almost 15 years without any kind of a price increase.

This compact is the last best hope of preserving Vermont's heritage. Dairy farmers work harder than anyone I know. Cows have to be milked 7 days a week. It does not make a difference whether it is 25 degrees below zero, as it is often in Vermont, or 5 o'clock in the morning. It makes no difference. The cows have to be milked.

I commend Chairman LUGAR for his help on the dairy compact. I commend the other members of the Vermont delegation. Interestingly enough, we are a State where one-third of our delegation is independent, one-third is Republican, and the remaining third is me. We came together, all three of us, to work for this. Chairman LUGAR talked to farmers in Vermont. He knew how important it was. After years of debate in Congress, we finally have a farm bill that gives them the dairy compact.

I want to remind everyone that while retail prices for dairy products have increased 30 percent, farm prices have actually decreased 5 percent. I want to also point out that although the price of a half gallon of milk has gone from $1.19 to $1.59 over the past 15 years, the farmer's share has remained at just 59 cents.

The dairy compact establishes a system which gives the States and local farmers control over their lives.

It will ensure that New England consumers can find milk in their supermarkets at fair prices.

It will also provide family farmers throughout the region with a decent living, so that they will be able to pass on their farms to their children and their children's children.

Instead of a national standard imposed by the Federal Government, the dairy compact allows local citizens, farmers and officials to make local decisions on milk. That is good for dairy farmers, good for Vermont and good for America.

Mr. President, I ask unanimous consent that a resolution in support of the compact from the New England Governors, letters in support of the compact from various groups in Vermont, the vote totals in each of the State legislatures be printed in the RECORD.

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

NEW ENGLAND GOVERNORS' CONFERENCE, INC.,
Boston, MA, February 13, 1995.

Hon. PATRICK J. LEAHY,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: I understand the Northeast Interstate Dairy Compact awaits action by the full Senate. On behalf of the New England Governors' Conference, Inc., I write to ask your help in moving the Compact bill forward as quickly as possible.

The attached Resolution of the New England Governors' Conference, Inc. was adopted unanimously at our recent meeting in Washington, D.C.

The Dairy Compact has been enacted into law by the six New England states. We hope you will support this unique experiment in cooperative federalism. The Compact is a bipartisan, state-sponsored, regional response to the chronic problem of low dairy farm prices. If successfully implemented, the Compact will stabilize our region's dairy industry and reinvigorate this crucial segment of our rural economy, without cost to the federal government or adverse impact on the national industry.

Thank you for your consideration of this matter.

Very truly yours,

WILLIAM A. GILDEA,
Executive Director.

RESOLUTION 127—NORTHEAST DAIRY COMPACT

A Resolution of the New England Governors' Conference, Inc. in support of congressional enactment of the Northeast Dairy Compact.

Whereas, the six New England states have enacted the Northeast Interstate Dairy Compact to address the alarming loss of dairy farms in the region; and

Whereas, the Compact is a unique partnership of the region's governments and the dairy industry supported by a broad and active coalition of organizations and people committed to maintaining the vitality of the region's diary industry, including consumers, processors, bankers, equipment dealers, veterinarians, the tourist and travel industry, environmentalists, land conservationists and recreational users of open land; and

Whereas, the Compact would not harm but instead complement the existing federal structure for milk pricing, nor adversely affect the competitive position of any dairy farmer, processor or other market participant in the nation's air industry; and

Whereas, the limited and relatively isolated market position of the New England dairy industry makes it an appropriate locality in which to assess the effectiveness of regional regulation of milk pricing, and

Whereas, the Constitution of the United States expressly authorizes states to enter into interstate compacts with the approval of Congress and government at all levels increasingly recognizes the need to promote cooperative, federalist solutions to local and regional problems; and

Whereas, the Northeast Interstate Dairy Compact has been submitted to Congress for approval as required by the Constitution; Now therefore be it *Resolved*, That the New England Governors' Conference, Inc. requests that Congress approve the Northeast Interstate Dairy Compact; and be it further *Resolved*, That, a copy of this resolution be sent to the leadership of the Senate and the House of Representatives, the Chairs of the

appropriate legislative committees, and the Secretary of the United States Department of Agriculture.

Adoption certified by the New England Governors' Conference, Inc. on January 31, 1995.

STEPHEN MERRILL,
Governor of New Hampshire,
Chairman.

VERMONT PUBLIC INTEREST RESEARCH GROUP,
Montpelier, VT, March 29, 1995.

Re Support for the Northeast Interstate Dairy Compact.

Hon. PATRICK LEAHY,
87 State Street,
Montpelier, VT.

DEAR SENATOR LEAHY: Thank you for your efforts last year to move the Northeast Interstate Dairy Compact through the Senate. VPIRG appreciates that those efforts fell prey to gridlock in Congress. Notwithstanding, we strongly support the Compact—we see it as a means to sustain family farms and agriculture in Vermont. We were thus heartened to see your co-sponsorship of Senate Joint Resolution 28 on March 2nd, and ask you to help accelerate its movement through Congress.

We know that passage will not be easy. But the time is right for a strong push. We need your help more than ever. The mood of Congress is to return power to the states and, in the case of the Compact, allow states greater power to manage their own affairs collectively. Please take advantage of this opportunity to promote passage of the Compact at the earliest time possible.

Time is of the essence—Vermont dairy farmers are in trouble. We read that the Vermont Department of Agriculture reported a loss of 50 more dairy farms in January and February alone, bring the total to below 2,000 farms. If anything, the rate of loss seems to be increasing, and this is of great concern to our club members.

In addition to their direct input into the economy. Vermont dairy farms add to the aesthetic quality of the state. And financially stable farms are better able to deal with agricultural run-off problems and important regulations to deal with non-point pollution. Family-owned dairy farms are also a significant part of Vermont's heritage and it is important that they continue to operate here.

Again, thank you for your efforts in supporting the Compact. We are behind you 100%!

Sincerely,

KATHERINE M. VOSE,
Executive Director.

VERMONT FEDERATION OF SPORTSMEN'S CLUBS, INC.,
April 13, 1995.

Senator PATRICK LEAHY,
87 State Street,
Montpelier, VT.

DEAR SENATOR LEAHY: Thank you for your efforts last year to move the Northeast Interstate Dairy Compact through the Congress. We appreciate that those efforts fell prey to gridlock. Notwithstanding, the Vermont Federation of Sportsmen Clubs, Inc. continues to strongly support the Compact—we see it as a reintroduction of Senator Joint Resolution 28 on March 2nd, and ask you to help accelerate its movement through Congress.

We know that passage will not be easy. But the time is right for a strong push. The mood of Congress is to return power to the states and, in the case of the Compact, allow states greater power to manage their own affairs collectively. Please take advantage of this opportunity to promote passage of the Compact at the earliest time possible.

Time is of essence for an even more critical reason—Vermont dairy farmers are in trouble. We read that the Vermont Department of Agriculture reported a loss of 50 more dairy farms in January and February alone, bring the total to below 2000 farms. If anything, the rate of loss seems to be increasing, and this is of great concern to our club members.

In addition to their direct input into the economy. Vermont dairy farms add to the aesthetic quality of the state. Tourism and recreational opportunities are enhanced by the open space provided by farms, Family owned dairy farms are a significant part of Vermont's heritage and it is important that they continue to operate here.

Again, thank you for your efforts in supporting the Compact. We are behind you 100%!

Yours in Sportsmanship,

RALPH BUCHANAN,
Secretary, VFSC.

BOURDEAU BROS., INC.,
Champlain, NY.

Re Support for the Northeast Interstate Dairy Compact.

Senator PATRICK LEAHY,
87 State Street,
Montpelier, VT.

DEAR SENATOR LEAHY: Thank you for your efforts last year to move the Northeast Interstate Dairy Company through the Senate. We appreciate that those efforts fell prey to gridlock in Congress. Notwithstanding, Bourdeau Brothers, Inc. continues to strongly support the Compact—we see it as a means to sustain family farms and agriculture in Vermont and the Northeast. A substantial part of our feed and fertilizer business is with Vermont farmers and they need help! We were thus heartened to see the reintroduction of Senate Joint Resolution 28 on March 2nd, and ask you to help accelerate its movement through Congress.

We know that passage will not be easy. But the time is right for a strong push. The mood of Congress is to return power to the states and, in the case of the Compact, allow states greater power to manage their own affairs collectively. Please take advantage of this opportunity to promote passage of the Compact at the earliest time possible.

The Compact is a unique piece of legislation and is clearly a regional solution to a regional problem. In the long-run, it benefits both consumers and producers. It complements the existing federal program, and even has a provision to discourage overproduction. It's a work of art.

Again, thank you for your efforts in supporting the Compact. We are behind you 100%!

Sincerely,

GERMAIN BOURDEAU,
President.

VERMONT HOUSING AND CONSERVATION COALITION,
Montpelier, VT, April 13, 1995.

Senator PATRICK LEAHY,
87 State Street,
Montpelier, VT.

DEAR PAT: I am writing on behalf of the Vermont Housing and Conservation Coalition to support passage of the Northeast Interstate Dairy Compact legislation. The Coalition is a group of land conservation and affordable housing organizations, including the Vermont Land Trust, that have been instrumental in the creation of the Vermont Housing & Conservation Trust Fund and in the implementation of its program. In less than eight years, that program has permanently protected more than 125 operating farms in Vermont through the acquisition of conservation easements, and the momentum is growing. Over a third of the transactions have involved the transfer of the farm from one generation of owners to the next, which is a key element in maintaining the long-term viability of the agricultural industry in this state.

But that is not the only key element, as you well know. What is also critically important, especially with dairy farming continuing to be the largest sector of Vermont agriculture, is that farmers receive a fair price for their product. If milk prices continue at their present disastrously low levels, Vermont may see a drastic shrinkage in its number of family farms. Even if much of that land is absorbed into other stronger farm operations, Vermont will have lost some of the fabric which makes this state so special.

Congress has been moving in the direction of returning more control to the States. It is therefore highly significant that the six New England States have all adopted the legislation endorsing the compact. The only barrier to returning some sense of fairness and control over milk prices is Congress' authorization.

I understand that the Joint Resolution has been reintroduced in the House and Senate. I hope you will do all you can to push for its passage by Congress at the earliest possible time. Time is short. An officer at the Farm Credit Association, who works with many farmers and is a strong advocate of Vermont's program to purchase development rights on farmland, recently told me that Vermont may lose as many as 800 farms in the next five years. He felt that the next 12–18 months will be the most difficult. We cannot afford to wait for the Compact legislation.

Thank you for your support. With best wishes.

Sincerely,

DARBY BRADLEY,
Co-Chair.

VERMONT SKI AREAS ASSOCIATION,
Montpelier, VT, April 11, 1995.

Re Northeast Interstate Dairy Compact.

Senator PATRICK LEAHY,
87 State Street,
Montpelier, VT.

DEAR SENATOR LEAHY: As you well know, tourism and agriculture in Vermont are mutually dependent industries. More and more, these two industries depend on the health and prosperity of each other. For as long as I can remember, the Vermont ski industry has taken a keen interest in the health and stability of Vermont's dairy farms. We not only share a working landscape, but we also share common markets as well as common values.

On behalf of Vermont ski areas, I want to thank you for your continued support of the Northeast Interstate Dairy Compact. Solving our financial problems within the dairy industry will challenge us for a generation to come, but there is little question that an essential first step is the passage of legislation creating the Northeast Interstate Dairy Compact.

I urge you to give this matter special attention in a very busy legislative session. We

in Vermont's ski industry know, perhaps better than ever, what hard economic times can mean and want to lend our voice of support to the enactment of this legislation at the earliest possible date.

Sincerely,

JOSEPH A. PARKINSON,
Executive Director.

VERMONT CURRENT USE
TAX COALITION,
Montpelier, VT, March 30, 1995.

Hon. PATRICK LEAHY,
87 State Street,
Montpelier, VT.

DEAR SENATOR LEAHY: We appreciate your efforts of last year to try to obtain passage of the Northeast Interstate Dairy Compact legislation. Congress did not see fit to act on the legislation. We still believe this legislation deserves your strong support and so urge you to help accelerate Senate Joint Resolution 28 through Congress.

It is clear that passage will not be easy against western and mid-western determination to hold onto control of milk pricing structures over the entire country. But, we believe that if agriculture is to be sustainable over the foreseeable future in New England, we must be able to set prices for our products based on production costs in New England, not in the corn belt, or on vast federal range lands of the west. The dairy industry should lead the way; the other agricultural sectors will follow.

It appears that now is not only an opportune time to press this legislation because of the general mood on federal deregulation and greater empowerment of the states to manage their own affairs, but also because Vermont agriculture, and dairy farms in particular, are undergoing increasingly difficult financial times. Vermont lost 50 more dairy farms in the first two months of this year. Where is it going to end?

The Compact was adopted with near-unanimous support by the six New England state legislatures. The Current Use Tax Coalition supported the process then, and we continue to believe that if agriculture is to remain an active part of our lives in Vermont this key piece of legislation must be passed.

Thank you for your efforts on behalf of Vermont agriculture.

Sincerely,

DAVID A. MCDONOUGH,
Chair, Current Use Tax Coalition.

NATIONAL BANK OF MIDDLEBURY,
Middlebury, VT, April 3, 1995.

Hon. PATRICK LEAHY,
U.S. Senator, State Street,
Montpelier, VT.

DEAR SENATOR LEAHY: Thank you for your efforts last year to move the Northeast Interstate Dairy Compact through the legislature. National Bank of Middlebury continues to strongly support the Compact, and we are pleased to see the re-introduction of Senate Joint Resolution #28 on March 2, We know that passage will not be easy. However, the Compact has received near unanimous support from the six New England state legislatures. There is a clear regional mandate to solve this problem.

Time is of the essence because Vermont dairy farmers are in trouble. The Vermont Department of Agriculture reported a loss of 50 more dairy farms in January and February alone bringing the total farms in Vermont to below 2,000 in number. We will see one of our customers added to the list of casualties in June. The "loss-of-farms" rate is alarming for the industry, but also for the state economy. It is unclear how much farming contributes to the tourism economy and the postal nature of Vermont. Our instincts tell us it is immeasureable. So, we urge you to promote passage of the Compact at the earliest time possible. Thank you for your efforts in supporting the Compact.

Sincerely,

G. KENNETH PERINE,
President.

NORTHEAST INTERSTATE
DAIRY COMPACT COMMITTEE,
Montpelier, VT.

INTERSTATE COMPACT LEGISLATIVE PROCESS

Connecticut: (P.L. 93-320) House vote = 143-4; Senate vote = 30-6. (Joint Committee on Environment voted bill out 22-2; Joint Committee on Government Administration and Relations voted bill out 15-3; Joint Committee on Judiciary voted bill out 28-0)

Maine: Originally adopted Compact enabling legislation in 1989 (P.L. 89-437) Floor votes and Joint Committee on Agriculture vote not recorded. The law was amended in 1993. (P.L. 93-274) House vote = 114-1; Senate vote = 25-0. (Joint Committee on Agriculture vote not recorded)

Massachusetts: (P.L. 93-370) Approved by unrecorded voice votes.

New Hampshire: (P.L. 93-336) Senate vote = 18-4; House vote unrecorded voice vote; (Senate Committee on Interstate Cooperation vote-unrecorded voice vote; House Committee on Agriuclture voted bill out 17-0)

Rhode Island: (P.L. 93-336) House vote=80-7; Senate vote = 38-0. (House Committee on Judiciary voted bill out 11-2; Senate Committee on Judiciary voice vote not recorded.)

Vermont: Originally adopted Compact in 1989 (P.L. 89-95) House vote = unanimous voice vote; Senate vote = 29-1. The law was amended in 1993. (P.L. 93-57) Floor voice votes, and House and Senate Agriculture Committee voice votes, not recorded.

Mr. LEAHY. Mr. President, the bill expands a great program in Vermont called the Farms for the Future.

Vermont's dairy farms are part of what makes Vermont so special. That is why I want to help Vermont farm families keep their land in agriculture through the Farms for the Future Program.

I included this program in the 1990 farm bill, and since then, Vermont has purchased the development rights for nearly 100 farms throughout the State.

Let me put that another way—nearly 100 Vermont farmers received cash payments under this program. This kept their land in farming.

I am pleased that this bill contains $35 million more for farmland protection programs throughout the Nation.

While this bill has many accomplishments, I wish we could have done even more in environmental areas. For example, the Wetlands Reserve Program places a lower cap on enrollments than the bill passed by the Senate.

Retaining the Senate's cap would have provided further environmental insurance to future generations.

The committee I sit on is called the Agriculture, Nutrition, and Forestry Committee for a reason.

We have a long bipartisan history of making sure every child in our Nation—whether they are rich or poor—has enough to eat.

While agriculture programs now extend for 7 more years, one of our most important child nutrition programs, food stamps, will expire 2 years from now.

Fourteen million children benefit from the Food Stamp Program. I fear that our precious children—those least able to defend themselves in our society—will be at risk in 2 years. I intend to work with Senators LUGAR, DASCHLE, DOLE, and others to make certain that this does not happen.

Mr. President, in closing, while this bill adopts important new provisions in farm policy, we must be careful about patting ourselves too much on the back. There are important areas in conservation, the environment and nutrition where we have failed to go the extra step.

Although this bill is called the farm bill, it affects every American every day of their lives. What we pass today will impact families when they take a vacation to one of our national parks, spread a picnic lunch under a tree, bit into a sandwich or drink a glass of juice.

The 2 million farmers are important and this bill will serve them well.

But we cannot forget that farm policy affects the more than 250 million Americans who are concerned about the environment, conservation, and important nutrition programs.

In the last year partisan fights on the budget and other issues have tied up Congress and shut down the Government on two occasions. We all realize that is not the way to govern. That is why last month, when it appeared that the farm bill would be caught in the same trap, I decided to act.

With Senator LUGAR and Senator DOLE, I offered a bipartisan farm bill with strong conservation, environmental and nutrition provisions. I am proud that a bipartisan step led to this final bill. I want to also thank Chairman ROBERTS for his efforts in working with me at conference. His freedom-to-farm idea has captured the hearts of many thousands of farmers through America.

This is Congressman KIKA DE LA GARZA's last farm bill, as it is the last farm bill for Senator PRYOR and Senator HEFLIN. I have greatly enjoyed working with all of them over the years.

Let me focus on the conservation provisions for a moment. They are different from most—they will provide cash payments to farmers for improvements they would want to make anyway.

One program is a voluntary program of payments to Vermont farmers who want to protect Lake Champlain, or protect rivers or other lakes near their fields. It is also a voluntary program for farmers around the Nation.

It can be expensive to manage your land. Some may need assistance in getting the job done right. That is why Senator LUGAR and I designed a conservation program called EQUIP. It cuts redtape and guarantees funding for conservation assistance for the next 7 years.

This is voluntary assistance that will be available if you need it. It can help Vermont farmers comply with the State's new accepted agricultural practices.

We are in this together. We want to keep our streams full of trout. We want to make sure St. Albans Bay, Lake Memphremagog, and Missiquoi Bay are clean for everyone to enjoy. This bill also protects lakes and rivers in all States.

Keeping our State and regional dairy industry strong is the driving force behind the Northeast Dairy Compact. Working together is how we have gotten so far. At a later date I will thank all those involved in getting the dairy compact approved.

Today I want to thank the agriculture committee chairmen in Vermont, Senator Tom Bahre and Representative Bobby Starr, Governor Dean, Commissioner Graves, Congressman SANDERS, and the hundreds of dairy farmers in Vermont who worked with me on getting the job done. And I want to say a special thanks to JIM JEFFORDS. He and I have worked side by side throughout this fight.

I also need to highlight the role of Danny Smith. He came down to Washington and worked directly with me on getting the compact included in the final bill. His support was vital.

The compact has come a long way, from the State legislatures of New England, to the Congress.

Vermonters and all of New England know the importance of the dairy industry. But in New England people know that the dairy compact is more than helping farmers, and helping the dairy industry in the region.

To New Englanders, a vital rural agricultural economy is part of both the heritage they treasure and the future in which they believe.

This bill represents real reform of Federal dairy policy. This bill phases down dairy price supports saving more than $300 million, more than 20 percent compared to the baseline. This bill fully funds the Dairy Export Incentive Program and poises the U.S. dairy industry to capture expanding world markets.

The Federal milk orders remain in place but mandates their reform and consolidated the current number of 33 by about two-thirds. I am concerned that the Secretary has been given only 3 years to complete this process. These provisions were hard fought compromises addressing the concerns of farmers, processors, consumers, and the various regions. No region or interest group is completely satisfied, but that is the sign of a good compromise.

A major thrust of this bill is to reduce regulations that are imposed on farmers and ranchers. It reduces conservation regulations and farm program regulations.

The conference report gives farmers a lot more flexibility to decide what crops to plant. That means farmers will be able to choose the crop rotations that are best for their farms, rather than planting to meet the requirements of the farm program.

The bill eliminates existing penalties for producing hay and other resource-conserving crops, so the environment should benefit as well.

The conference report also brings to an end the practice of requiring farmers to idle productive cropland. No longer will USDA decide each year how much land a farmer must set aside to get farm program payments. From now on, the Government will pay farmers to idle land only when that land is environmentally sensitive.

A key section of this farm bill is the continuation of international food aid programs—Public Law 480, Food for Progress and the Emerging Democracy Program. These programs are critical in our global efforts to fight world hunger. Our responsibility to help others is a moral obligation and I am delighted that the importance these programs play in the fight against world hunger is understood by all conferees.

I am pleased with the strong emphasis that this bill places on importance of maintaining strong U.S. agricultural export markets. Export of U.S. agricultural products, especially in the value-added market, is one of the most profitable and fastest growing sectors in our Nation's economy. My home State of Vermont understands its importance. Vermont export statistics indicate that Vermont exported more than $175 million in agricultural-derived products—many of these in the value-added category. That translates into a thriving economy and local job creation.

This bill also streamlines USDA farm lending programs. The conferees worked hard with Secretary Glickman to produce a title both the administration, Congress and farm borrowers can support, and I believe we have crafted an effective policy to help farmers prepare for the next century without creating the dependency on USDA loan programs that have existed in past to the detriment of both USDA and the individual borrowers.

I am disappointed that the conference report does not provide a better safety net for farmers. Farm program payments will not be tied to market conditions, so farmers may get large Government payments when they do not need them, and may not get sufficient aid when times are hard. I hope that we can work on new ways to help farmers deal with market risk.

I am also concerned with some of the changes that have been made in the Crop Insurance Program. Farmers will no longer be required to purchase crop insurance to get farm program benefits. While I support giving farmers freedom of choice, I fear that too many farmers will fail to obtain insurance.

If we have widespread crop disaster and many farmers do not have insurance coverage, there will again be political pressure to enact ad hoc disaster programs. I supported the effort to reform crop insurance in 1994 largely because I wanted to bring an end to ad hoc disaster programs. I want everyone to understand that my willingness to accept these changes in the Crop Insurance Program should not be misinterpreted as a willingness to return to wasteful disaster programs.

I have two major concerns with the meat and poultry advisory panel. First, it will waste money that would be better spent on meat and poultry inspectors. Second, the scope of what the panel can investigate is too broad.

However, on the positive side, the panel is advisory and does not have the constitutional or statutory power to delay food safety actions of the Secretary. Delays will only result if the Secretary voluntarily agrees that the delay is appropriate.

I accepted the provision on studying the usefulness of permitting the interstate shipment of State-inspected meat. This idea was proposed by the President of the United States in his farm bill recommendations. I think it would be useful to have the Secretary's most recent views on this issue.

I am especially happy that this legislation includes a proposal that was added at my request, the Flood Risk Reduction Program contained in section 385. I first became interested in this situation after the disastrous floods of 1993. I raised this issue in a hearing with then Secretary Espy.

I asked the Secretary whether it would make more sense to stop fighting the Mississippi River and the natural elements of these lands and instead to enroll them in the Wetland Reserve Program.

In addition, I spoke to the President personally about this proposal. I also wrote a letter to the President detailing my emergency wetlands reserve initiative that would improve the proposed disaster relief program for the Mississippi Valley floods. In this letter I continued to attack the inefficiency and high cost of the disaster relief program.

In addition, I pointed out that there is a very good possibility that many of the cropland areas that were once wetlands would be better off returned to wetland status rather than repaired and kept in crops.

The success of voluntary programs to help farmers move off flood prone bottom land can be seen in the example of

Levee District 8 in Iowa. This area had a history of flood damage. It would have cost the taxpayer about $1,500 per acre to return this land to farmable condition. And then a few years later, it would have flooded again. Instead this levee district was voluntarily abolished. A decision that works for the farmers and the taxpayer. I ask unanimous consent that a description of that success story be printed in the RECORD.

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

THE 1993 FLOODS—FROM LEVEE DISTRICT TO WILDLIFE REFUGE

(By Bruce Mountain)

The farmers were grim as they stood at the road below Bob Hawk's house that leads into the upper end of Levee District 8 and Louisa County, Iowa. It was 7 a.m. on July 8, 1993, and it appeared they were going to lose again. There had been record rains in the Iowa River Basin; and Levee District 8, only six miles from the Mississippi, was feeling the brunt of the massive run-off as it funneled 12 million acres down the river.

The levee was built in 1927 to protect 2,000 acres of crop ground. The area also contained 600 acres of old oxbows and sloughs (Spitznogle Lake, Sunfish Lake, Rush Lake, Parsons Lake, Wilson Lake, Hall Lake, and Diggins Slough) and riverine forests. It had been estimated the levee was a 25-year levee (able to withstand floods that occur once every 25 years), but in the last 60 years it had been breached 14 times.

This looked like it would be number 15. Ed Yotter and the other farmers stood at 551 feet above sea level, and the lower end of the district, at 541 feet, was already under several feet of water due to seepage up through the saturated ground and through the levee. By 8 a.m. water started to lap over the top of the levee at several locations, so the 25 farmers and neighbors moved off the main levee and worked to reinforce the cross levee between Levee District 8 and the adjacent upstream levee district, number 11.

At 9 a.m. word came that the main levee of District 11 had broken and water was gushing in. By 11 a.m. water was coming over the main levee in District 8 like a waterfall. Officially, the main levee was breached in six locations and the cross levee was breached in five, but actually these were the accumulation of many smaller breaches all along the levees. At its height, the flood water was more than two feet over the top of the levee, drowning the hopes of another year's crop.

When the flood water finally receded in September, the farmers looked over the damage. They were stunned by the numerous scour holes (some 25 to 100 feet long and 17 feet deep), sand deposits (some 6 inches to 6 feet deep), and flotsam. The Soil Conservation Service (SCS), now known as the Natural Resources Conservation Service, moved in to assess the damage to the crop ground in Levee District 8 (it was later set at up to $3,000 per acre) and to estimate the costs to fix the roads and drainage system. The Army Corps of Engineers obtained estimates to fix the levees.

But the landowners were tired of fighting the river. And conservationists and public officials knew this oft-flooded land shouldn't be farmed. For a brief time after the waters receded and before the repairs would need to begin, the situation was ripe for change, and a variety of agencies and nonprofits seized the opportunity. They put together a buy-out of the properties in Levee District Number 8 and created—a year and a half later—Horseshoe Bend, a division of the Mark Twain National Wildlife Refuge and a good case study of how a coalition can move quickly when conditions—and the will for change—are right.

GATHERING FUNDS AND WILLING BUYERS

If the flooding of Louisa County's levee had been a localized incident the levees would have been rebuilt ($800,000), the drainage ditches cleared ($400,000), the sand bars removed, the scour holes filled, and the debris removed ($1.7 million) for an estimated $2.9 million. This excludes the additional costs and federal dollars for disaster payments ($200,000) as well as crop insurance payments and the non-recoverable costs of the landowners. (Today, it is believed that these estimates were low because in the adjacent levee district, number 11, where the levee was actually repaired, the initial estimate proved to be 80 percent below the actual costs.)

This was not, however, a localized incident. The flooding of the entire Upper Mississippi River Basin in 1993 was the worst in years. At many of the U.S. Geological Survey gauging stations along the Mississippi, the flow levels exceeded the hundred year mark. In response, Congress passed the Emergency Wet and Reserve Program (EWRP) in October 1993 as a part of flood relief support. Without the funds provided by this program, the Louisa Levee District buy-out could not have occurred.

The federal government's disaster aid program was developed to provide compensation for severely damaged crop ground and also to break the cycle of paying for similar damage caused by future floods. Under the program, the Department of Agriculture would purchase a permanent easement on crop acres where the damage caused by the flood exceeded the value of the easement. The easement would prohibit all but very limited agricultural practices, and in Louisa County, it was set at $683 per acre.

In early October, the Iowa office of the SCS proposed the idea of buying out the entire levee district, but only from willing sellers and only if the district were dissolved so as to ensure that future levee reconstruction costs would not be incurred. The SCS did not have the funds or the statutory authority to purchase the district, so, in late October, it organized meeting with its own representatives, the Fish and Wildlife Service (FWS), the Federal Emergency Management Agency (FEMA), the Environmental Protection Agency (EPA), the Corps, the Iowa Department of Natural Resources, the Iowa Natural Heritage Foundation, Pheasants Forever, and other interested parties to seek a solution.

The group immediately realized that for the project to be successful, quick action would be needed. With winter approaching, the dredge barges the Corps needed to repair the levees would soon be frozen out. The group thought that a buy-out of the fee title to the parcels in the levee district could be accomplished through joining the Emergency Wetland Reserve payment with additional cash to be raised to equal the fair market value of the property.

The area also qualified for FEMA assistance. Applications were made to the Iowa Disaster Management Office, which helped handle FEMA payments, to have the buy-out declared as an alternative floodplain project. That declaration would make up to 90 percent of the disaster payments eligible to be applied for the buy-out. However, an estimated additional $500,000 to $600,000 would still be needed to accomplish the project. Representatives for the FWS indicated they would have the money but not until 1994. The National Fish and Wildlife Foundation then agreed to provide a $250,000 grant to be matched by $250,000 from The Conservation Fund; these monies would be used as a loan or stop-gap funding until the FWS funds became available. Other non-profits, such as the Iowa Natural Heritage Foundation and Pheasants Forever, also provided funding.

The Iowa Natural Heritage Foundation, a 15-year-old private group, was asked to be the project facilitator. The Foundation would coordinate the offers to purchase land from the individual landowners, coordinate the Emergency Wetland Reserve Program funding with the National Fish and Wildlife Foundation and Conservation Fund monies, and oversee the eventual transfer of the properties. Before the buy-out could proceed, the ultimate owner and manager of the area had to be determined. The choice was between the Iowa Department of Natural Resources and the Fish and Wildlife Service. Due in part to state budgetary constraints and federal management personnel available at the nearby Mark Twain Wildlife Refuge, the FWS was the logical choice to hold title and manage the project.

Another condition for the project to proceed was the closing of the levee district and drainage district. Therefore, the statutory requirements for closing the districts, including legal notice and voting procedures, had to be researched. The final closing took place on March 31, 1994.

Once the landowners agreed to the concept, offers to purchase had to be negotiated with each landowner. The district is owned by 13 different landowners with parcels ranging in size from 13 acres to more than 1,500 acres. One farm is owned by an investor/operator, and another was deeded by President James Polk under federal patent to the owners, Jack and Merrit Parsons's great-great-grandfather, in 1846. Two sisters, Mary Boysen and Martha Hawk, each owned Century Farms, a designation given to farms that have been in the same family for 100 years. Another farm was acquired by duck hunters in 1929, and it is still operated as a private duck hunting club by the heirs of the six original partners.

We concluded that all of the offers to landowners had to be based on a consistently applied formula. Several of the landowners said that they were dissatisfied with the offers, but eventually agreed to them, based on the knowledge that other landowners were getting the same offers and that there were no "special deals." By sticking to this strategy, individual negotiations and appraisals were avoided.

The first offer was signed December 13, 1993, and the last one was executed May 6, 1994. Seven of the ten landowners had closed by November 30, 1994. The rest closed by the end of 1994 as the farmers finished their field work.

MANY PARTNERS

Completing a project with so many partners and landowners in such a short time required creativity, cooperation, and attention to detail. One of the more important aspects of this partnership was the Cooperative Agreement signed by the Soil Conservation Service, the Fish and Wildlife Service, and the Iowa Natural Heritage Foundation. This agreement delineates the responsibilities of each party. One useful provision of the agreement is one that specifies that access will be available to top-level officials when efforts were stymied on the local level.

The public/private mix in the project was important. The public and private partners can be divided into five categories, each of which served different roles and functions: implementing non-profit organizations, jurisdictional agencies, funding agencies, funding non-profits, and project managing agencies.

In this project, the Iowa Natural Heritage Foundation was an implementing or facilitating non-profit organization. An implementing non-profit was necessary because flexibility and speed were needed to consummate the project. The Iowa Natural Heritage Foundation's Wetlands for Iowa Program was chosen for the project, in part, because it has expertise in land acquisition projects and in forming partnerships with state and federal agencies and other non-profits to fund the purchase of such projects. In this case, the Wetlands for Iowa Program had the responsibility to educate landowners on the concept of merging the Emergency Wetland Reserve Program easement with a buy-out.

The Foundation also had many other tasks. It did a preliminary appraisal of the land in November of 1993 and devised the uniform buy-out plan. It paid for a quick appraisal of cropland and non-cropland based on comparable sales and pre-flood land values. From this, a portion of the value due to the flood damage, as determined by SCS, was deducted to arrive at the current value. In dealing with non-motivated sellers, the Foundation packaged the idea as an attractive alternative to farming in the floodplain and as being fair among all neighbors.

The Foundation also negotiated offers to purchase land with each landowner and provided the flexibility to customize each transaction. Tax deferments were provided through three-way land exchanges. For example, the Foundation purchased land from a third party (pursuant to the instructions of the owner of levee district land) and then traded the land for land in the levee district. The Foundation then would receive the EWRP payment. Non-levee district acres were purchased to round out tracts that were not eligible for the EWRP. For example, the Spitznogle brothers owned 12 acres inside the levee district, but wanted to sell 20 acres to have square boundaries. The additional eight acres was purchased with some of the funds provided by other nonprofits.

Finally, the Iowa Natural Heritage Foundation developed a timetable for all public and private participants to ensure each was fulfilling its responsibilities. These included appraisals, surveys, title problems, financing, preparing grant applications, closing on each parcel, and transferring each to the Fish and Wildlife Service.

The many jurisdictional agencies involved in the project—the Soil Conservation Service, the Fish and Wildlife Service, the Federal Emergency Management Agency, and the Corps—had responsibilities that varied in breadth and longevity. The SCS was responsible for evaluating flood damage to each land parcel and for implementing the Emergency Wetland Reserve Program. The wetland restoration requirements of the EWRP for the participating landowners were the responsibility of the FWS. The FWS also conducted the environmental assessment and environmental impact studies and engaged an independent appraiser to assess the properties and develop comparable figures from in-house appraisers. These figures were very close to the "quickie" appraisal obtained by the Iowa Natural Heritage Foundation.

FEMA's involvement included assessing damage compensation under its statutory authority and developing the project as an alternative plan. FEMA also had a role as a funding agency for the project as did the SCS and the FWS. Funding non-profits included the Iowa Natural Heritage Foundation, the National Fish and Wildlife Foundation, The Conservation Fund, Pheasants Forever, and the Izaak Walton League. The fifth category of partners were project managing agencies, which included the SCS, the FWS, and the Corps.

Typically, this type of project does not work in normal regulatory frameworks. Entrenched bureaucrats, enamored with their own regulations, can be a death knell to a project. The time it takes to babysit hesitant landowners and coordinate state and federal agencies does not permit one agency to be inflexible in interpreting its regulations when the intent of the regulations can be met through cooperative and imaginative initiatives. All partners need access to top agency personnel because someone outside the organization can sometimes get results, whereas agency personnel may not have the authority or the influence to buck their way up the system.

The Louisa County levee buy-out required close interagency cooperation. As an example, SCS defined the value of damages to the land for purposes of qualification for EWRP. FWS then directed its appraisers to use the same data and valuation premises in determining the fair market value of the land. We would have had difficulty closing the project if the agencies had used two different methods of appraisal and the land qualified for EWRP but would not qualify for the buy-out.

Another example: Regulations for the SCS for EWRP easements, and the FWS for land acquisitions, required their respective legal counsel to determine that landowners had marketable title to the land, subject to the guidelines of the project. Through negotiations, SCS agreed to accept FWS opinions of title. This avoided a separate time-consuming step by keeping the project out of the hands of at least one set of government lawyers.

The last ingredient for success was agency flexibility. For example, EWRP regulations require all easements to be surveyed and this would have caused an immense delay in the project. To its credit, SCS waived these regulations, since most of the acquisitions involved the entire tract. Surveys were then conducted only on five parcels split on irregular boundary lines.

SEVERE LESSONS

This unique project is giving farmers an opportunity to find alternative agricultural land to continue farming without fighting the floods. Additionally, it provides short- and long-term savings to taxpayers because a one-time, fair-market purchase of flood-prone land is much cheaper than continued, expensive federal programs to rebuild levees, clean drainage districts, repair land, and pay disaster payments. All of these costs are interspersed with crop-deficiency payments and insurance claims. In addition, our latest calculation shows the Fish and Wildlife Service saved $235,000 by having the Iowa Natural Heritage Foundation facilitate the transactions. The federal government still has the responsibility to provide existing protection in certain floodplains; but it also must develop alternatives to controlling nature, such as relocating willing landowners and returning parts of the floodplain to the river.

The great flood of 1993 taught us some severe lessons. We have to expand our mission from just controlling the water that affects our individual properties to effectively dealing with the effects of the water all the way down the river ecosystem. We also have to learn to live with the river system by holding more of the rain water where it falls and by slowing its movement through the system, thereby allowing the river to reestablish some of its checks and balances.

Lastly, we have to stop "just greasing the squeaky wheel" and find ways to spread the available federal funds for floodplain management among the various alternatives that benefit the general public. This includes developing a management plan for the entire river system, coordinating pertinent programs and agencies and—where there are willing landowners—giving some of our natural resources back to nature.

Mr. LEAHY. The experience with the Emergency Wetland Reserve Program led me to include the flood risk reduction initiative into this legislation. The purpose of this program is to help farmers who farm in areas that flood frequently to move their farming activities off lands that are flooded frequently. It helps farmers by giving them the capital that they need to move their farming operations to fewer risky areas. To the taxpayer, it is a commonsense program that will reduce the long-term taxpayers' exposure for agriculturally related flooding costs. It should help reduce the severity and frequency of floods to the farmers' neighbors.

Crop damages in recent years have been the source of more than half of the property damages in many floods, including the great Midwest flood of 1993. Our farm programs have unfortunately provided incentives that increase flood damages because they have directly supported the growing of easily damaged commodities even in areas that are flood prone. The crop insurance, disaster assistance, and related programs also make the public assume much of the risk of growing commodities in flood prone areas. We have a strong interest in eliminating the authority to help farmers to switch to more flood resistant uses of flood prone land.

It gives farmers the financial capability to move their operations to less risky land. The incentives for farmers to switch to less risky land come from the funds that have in the past been paid to farmers who farm the flood prone land. In this way, we will give farmers in flood prone areas the flexibility to shift to alternative agricultural or conservation uses of land that are less subject to flood damages.

Under section 385 of this act, the Secretary may enter into a contract with a producer under which the producer will agree to forego virtually all of the forms of Federal financial assistance received in flood prone areas. In return, this section provides that the Secretary will provide the farmer a one-time payment equal to 95 percent of the future market transition payments on the land affected. It further provides these funds from the Commodity Credit

Corporation regardless of whether it has received advanced appropriations.

Subsection (e) of this section further authorizes the Secretary to provide additional payments to encourage this switch to less flood-sensitive land. It gives the Secretary the authority to add to the farm bills' lump sum payments, funds appropriated for programs that would otherwise be used to support agriculture in flood plains. For example, at a minimum this would include funds appropriated for crop insurance, disaster assistance or conservation programs.

The Secretary is, of course, free to condition payment for these funds on appropriate conditions.

The conferees, by including a separate subsection (e), were merely recognizing that funds are available to the Secretary from different sources—CCC and advanced appropriations. The conference included language requiring advanced appropriations because the conference wished the Secretary to offset any funds provided through the Flood Risk Reduction Program from funds for other appropriated programs that are saved by the flood risk reduction contract.

As you can see, I have fought hard for this Flood Risk Reduction Program. That is why, I am very pleased it is part of this farm bill.

Mr. President, I will speak further at a later time. I notice other Senators on the floor. I see the distinguished senior Senator from North Dakota here, and I know he wishes to speak. I reserve the remainder of my time.

I ask the distinguished Senator, under whose time is he speaking?

Mr. CONRAD. Who has time?

Mr. LEAHY. I think everybody does, for and against.

Mr. CONRAD. I would be speaking in opposition.

Mr. LEAHY. Then, Mr. President, that time is reserved by the distinguished Democratic leader, Senator DASCHLE. On his behalf, I yield time to the Senator from North Dakota under the control of the time of the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized. How much time does he seek?

Mr. CONRAD. I will just proceed and end at an appropriate time. That is the agreement that I have.

The PRESIDING OFFICER. The Senator from North Dakota [Mr. CONRAD], is recognized.

Mr. CONRAD. I thank the Chair and the ranking member for his courtesy. I thank the chairman of the committee, as well, for his graciousness throughout the debate. We have disagreed, but we have disagreed in a way that I think you would expect of Senators who have mutual respect. I certainly respect the chairman and the ranking member. I wish all committees were conducted in the way the Agriculture Committee is conducted. People are given a complete and fair chance to present their views. We disagree, but we do it without personal rancor. I think that is a tribute to the chairman and ranking member.

Mr. President, we are in 1996, and we are working on the 1995 farm bill. Something is wrong. What is wrong is that there has been a failure to act. This is the first time since 1947 that a farm bill has lapsed before a new farm bill has been put in place. So we are late.

Mr. President, it is critical that we act quickly so that farmers know the rules of the road as they proceed in this new crop year.

This new farm bill has many positive elements. Let me talk about three.

First, this farm bill retains permanent law. That is critically important because, at the end of this 7-year period, if we had followed the lead of the House, there would be nothing. There would be no permanent farm law. Farmers would have no assurance that there was provision for them in the future. Mr. President, we have had tough fights on this question, but permanent law has been preserved.

The second positive element of this bill is that it provides a dramatic increase in flexibility for farmers. They can plant for the market and not for the farm program. That is certainly a significant improvement.

Third, this farm bill provides a guaranteed payment that will help farmers with the repayment of advanced deficiencies from last year. Now, some say that farmers ought to be repaying, without assistance, their advanced deficiencies from last year because prices have been high. It is true that prices are very good right now. But it is also true that you do not benefit from high prices if you do not have a crop.

Mr. President, in my State, many farmers have had 3 years of very poor crops. They have had it because of very serious weather conditions. We have gone from the extraordinary circumstance of the worst drought since the 1930's—in 1988 and 1989—to having the wettest conditions, we have seen in decades, for 3 years in a row.

Mr. President, it is very hard for some people to understand why farmers are complaining about weather conditions, when conditions turn wet. Mr. President, they just did not turn wet; we got the deluge of the century. In one day, one little town in North Dakota received 10 inches of rain. This is an area that gets maybe 25 inches a year. They received 10 inches in one day. We have, in the Devil's Lake basin, what I have described to my colleagues in the past as a remarkable circumstance of a closed basin with a large lake that is rising as a result of these wet conditions. It has gone up 13 feet in the last 2 years. The National Weather Service has just informed us it is going to go up another 2½ feet this year. The surface area of the lake has doubled. We had Federal officials come out to look at the disaster that is occurring there.

They asked the city officials of the little town of Minnewaukan why they built their water treatment facility so close to this lake because now this water treatment facility is surrounded on three sides by this lake. The city officials laughed, and told the Federal officials, "When we built this treatment facility it was 7 miles from the lake. Now it is surrounded by the lake."

Mr. President, those very wet conditions have meant that many farmers have gotten only a partial crop, and even though prices are high they have not had the benefit because they have not had a crop to sell. So these guaranteed payments—especially this year—are important in allowing them to repay and stay in business.

But just as I have talked about what are I think the positive features of this bill, I would be remiss if I did not say that I believe the underlying farm policy contained in this legislation is fatally flawed. First of all, it decouples payments from prices and production. Mr. President, that is wrong. This legislation contains payments that are fixed but sharply declining. That is wrong. This legislation provides no adjustments if prices plunge, or yields are low. That is wrong.

I remember very well in 1986—that was the year I was elected to the U.S. Senate—wheat that is now selling for over $5 a bushel was selling for $2 a bushel. But we had a safety net. We had a deficiency payment system that allowed some offsets from the Federal Government. That saved literally thousands of family farmers in my State. Under this legislation there will be no safety net. Thousands of farmers will be forced off the land if prices plunge, or if yields are abnormally low because of disasters.

I remember very well what it was like in the 1980's going town to town and meeting to meeting. People came up to me broken financially and in spirit because prices collapsed.

Mr. President, we should not fashion a farm policy that turns its back on people in times of disaster, whether it is a price collapse, or a weather disaster. We ought to maintain a safety net in this legislation.

Mr. President, in my State there are now 30,000 farmers. I believe that under this legislation if prices decline—and they will; we know that it is inevitable in agriculture that prices will decline—when they do, literally thousands of family farmers in my State will be at risk. I believe we will lose perhaps as many as 10,000 family farmers. That will be felt in every city and town in my State. Every school, every rural electric cooperative, every farm co-op, and every grocery store will be hard hit, if more farmers leave the land. And

what will happen to those people? They will go to the cities of the country—the cities where there are already too many people. I look around us here in the Nation's Capital, Metropolitan D.C. and I see too many people here already. It makes no sense to have more people come to the cities and leave the countryside bare.

Mr. President, in Europe they have a policy to keep people on the land. Europe has that policy because they have recognized that it makes sense. They understand the jobs that are created by having agricultural production in their countries. Mr. President, Europe has been hungry twice. They never intend to be hungry again. As a result, they support their farmers at a level three to four times what we do for ourselves. On exports they support their producers at a level eight times ours. They understand that there are not just the jobs on the farm—that there are the jobs in every element of agriculture that are attached to having that production in their countries.

In this country there are 20 million jobs involved in agribusiness, from trucking to running the elevator, to all the ancillary activities of agricultural production—20 million jobs. Agriculture is one of the two shining lights in the export picture of the United States. Airplanes and agriculture are two places where we enjoy a substantial trade surplus.

But under this legislation, Mr. President, we are raising the white flag of surrender. We are engaged in what I call "unilateral disarmament" because we are saying to our competitors, "You go ahead and aggressively seek these markets. We are going to back off. We are going to back down. We are going to let you take them."

Mr. President, this is a profound mistake. And, if we allow it to go forward, we will see happen to us in agriculture what has happened to us in automobiles and electronics, and every other place where the United States did not fight for its market share.

Mr. President, that is a mistake. We would never do it in a military confrontation. It makes no sense to do it in a trade battle.

Mr. President, for those reasons I will reluctantly vote against this farm bill in the hopes that it will send a signal that there are things we must do for the future.

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

The PRESIDING OFFICER. Who yields time?

Mr. DORGAN. Mr. President, can you tell me the circumstances of the time available on each side?

The PRESIDING OFFICER. The Democratic leader has 122 minutes, the Republican leader has 65 minutes. Senator LEAHY has 50 minutes.

Mr. DORGAN. The Democratic leader has how much time?

The PRESIDING OFFICER. He has 120 minutes.

Mr. DORGAN. Let me yield such time as I may consume from the allocation allotted to the Democratic leader.

The PRESIDING OFFICER. The Senator from North Dakota [Mr. DORGAN], is recognized.

Mr. DORGAN. Mr. President, the conference report on the farm bill is now before the Senate. I listened to the presentation by my colleague, Senator CONRAD, who intends to vote against it. I, too, will vote against it. This is not a decent farm bill. It is not a good farm bill. It is attractive to some in the short term. It is sugar coating bad policy.

Those who walk around here with bags of sugar putting out bad policy and want to brag that they have done something good for people I guess might actually, in their minds, feel they have done something good for somebody. However, I cannot conceive that this piece of legislation, being addressed in a serious way, says that we want to help family-sized farms in this country.

This is not a good piece of legislation. This started out as something called Freedom to Farm, which is a handy title, but it really is nothing more than a title. The whole proposition here was to create what is called transition payments. We would create these transition payments in order to get out of a farm program and pull the safety net out from under family farmers.

I guess it is appropriate for those who do not want a minimum wage increase for the folks working at the bottom of the economic ladder to say we do not want a minimum wage for farmers either. Let us pull the rug out from under family farmers. Let us do it this way. Let us provide transition payments to farmers up front as a payment for our getting out of the business of helping farmers when prices collapse.

And so they make the transition payments attractive enough so someone looks at them the first year and says, "well, this is going to a be pretty good circumstance the first year; if I get a good crop and prices are high, I will make good money, plus the Government will give me a good payment." And they say, "well, that is pretty attractive, isn't it?"

Yes, it is attractive. It is wrong. If you have a good crop and prices are high, you do not need the Government to give you a payment for anything. But the whole premise of doing this is so that at the end of the 7 years you can pull the rug out from under them and say, "By the way, we gave you transition payments; we bought you off up front so you have no farm program anymore; you have no safety net any longer."

This bill passed the Congress, both the House and the Senate, and then went to conference, and I wish to show my colleagues a chart that just pulls off the first sentence of a rather lengthy Associated Press piece describing this piece of legislation. It says it better than I could, but let me just read it. Lest anyone who comes here bragging about how wonderful this bill is for family farmers wants to continue to brag about that, here is what this bill is. Robert Green had it right in the Associated Press:

> With a mix of luck, work, and unusual organization, the lobby for big grain companies, railroads, meat companies, millers and shippers scored a big win in the Senate-passed overhaul of farm programs.

This is the overhaul of those farm programs. This is what they won, not farmers. This is what the big grain trade firms won. They scored a big victory. Guess what. When the big grain trade firms win, who loses? Family farmers.

Is it unusual that the winner coming out of a debate about farm policy in this Congress would be the biggest grain trade firms in the world? I guess not. They have been winning right along. Why would they not win this debate?

What bothers me a little bit is that the bill which is going to help family farmers is mislabeled. It is a bill designed to tell farmers this is going to be in your best interests. The bill tries to sound attractive to farmers as a set of agricultural policies, but it is really a big grain trade farm bill. They scored the big victory. They are the winners.

Now, what do we have when we deal with farmers? What we have in most cases is a group of family operations out there around the country. They get up in the morning. They work hard. They go to bed at night. They have tried to make their own way. They have a yard light out there in the yard that shines every night.

If you get on an airplane and fly across this country, fly across Minnesota, North Dakota, South Dakota, Montana, what you see are those thousands of yard lights on at night. They all represent the economic blood vessels that feed into those small towns that make rural life worthwhile and possible. Every time one of those yard lights turns out, it means a little less economic life, a little less opportunity in rural America. And we have seen year after year after year fewer yard lights in our country.

There are some people who say it does not matter whether there are any lights out there in the prairie. They do not care whether the lights dot the prairie at night; that land will be farmed. We do not have to have people living out there to have people farming. We can have corporate

agrifactories farm this country from California to Maine. We do not have to worry about the little guy. We do not have to worry about the family. It will get farmed. We have bigger tractors and bigger combines. We have bigger corporations. They will farm it. They are big enough.

So if you do not care who lives there, whether there are families out there, then this is probably a great policy. Of course, food prices will go up once corporations are farming the country, but that is in the longer term. That may be what is behind all this. I do not know.

I do know this. I have a friend who lives 5 miles south of Regent, ND, in Indian Creek. He is down there trying to operate a small farm, planting in the spring, not knowing whether what he is going to spend on planting—buying the seed, fertilizer, having a tractor—it is an older tractor but having a tractor—and all the apparatus to plant that seed, he does not know whether that seed is going to grow.

All that money might be wasted because that seed may not grow. We may have a drought. It may not come up. So you invest all that money at the front end of the year and you may have no crop. Or it may come up and you may have the most beautiful looking crop you have ever seen, and then in July or June a hailstorm comes along and in 15 minutes the crop is gone. Your money is gone. Your dreams are gone. Your hope is gone.

Or let us assume that he plants that crop, it comes up, and it is a gorgeous crop, a bumper crop, and then he fixes up the combine and gases up and goes to harvest that crop and discovers the price has collapsed. This crop cost him $4.70 a bushel to produce, and then he takes the truck to the elevator and drops off his grain or her grain and discovers that the elevator says it is worth $3 a bushel. They have lost a $1.70 a bushel with all that work.

First you may not get a crop. If you get a crop, you may not get a price. Those are the twin risks that almost no one else in our country faces. For that reason, because we want families to have an opportunity to stay on the farm, we have had a safety net. The new mantra here in Washington is "no more safety net." Let's do transition payments, buy them off and say, by the way, we think you ought to operate in the free market.

Now, who is in the free market? What are the sharks out there in the free market going to do when we set all of this free? First of all, you have the big grain trading firms. What do they want? Do they want higher prices? Absolutely not. They would like lower prices. You have the big milling firms. Are they begging for higher grain prices? No. They want lower prices. You have the grocery manufacturers. Do they want higher grain prices? No. They want lower grain prices.

You have all these influences in the marketplace that in every way, every day are trying to knock down grain prices. When they win, farmers lose. Lower grain prices mean farmers simply do not have the opportunity to make a profit on their product.

I have shown you the story that I think is probably the only accurate one I have seen about what really happened with the farm bill passed by the Senate and now is back before us:

> With a mix of luck, work, and unusual organization, the lobby for the big grain companies, railroads, meat companies, millers and shippers scored a big win in the Senate-passed overhaul of farm programs.

When big grain companies, the big shippers, the meat companies, and the grocery manufacturers are having a party, when they are having a day of fiesta because of what this Senate did, does anybody here soberly believe that is in the interest of family farmers? Those interests do not run parallel, and everybody in this Chamber knows it. When these big grain companies win, farmers lose. It is very simple.

Let me talk just for a moment about grain prices. Some people say grain prices are high right now, and they are record high compared to the last 10 years. Take a look at what has happened to the price of wheat in 10 years. It goes all over the board. I must say, in every case the price of wheat is still below what the USDA says it costs to produce a bushel of wheat, $4.70 a bushel. In every case for 10 years the market price is still below what USDA says it costs, the full cost, to produce a bushel of wheat.

Nonetheless, the wheat prices go down to $2.33 in 1977, meander up to $2.49, back to $2.42 in 1986. In fact, just 5 years ago wheat prices were $2.61. I ask anybody in this Chamber, how many farm units do they think will survive if we get to the point of $2.60 wheat and no safety net? What will happen when we have transitioned people out of the farm program because we said we will give you a few payments up front and then you are on your own.

I know I strongly supported retaining permanent law until the year 2002, but everybody understands they included that in this bill to get it passed. The full intention of those who support this farm legislation is to transition farmers out of a circumstance where a safety net exists so when prices collapse they have a little help.

I am the first to admit, when they stand up to talk about, "The farm program does not work," I am the first to admit the farm program, in my judgment, needs improving. It became a straitjacket for farmers. We had the Government telling farmers what to plant and when to plant it, and that did not make any sense. Every proposal before the Congress would have changed that, including the substitute that we offered.

The current program did not work very well. What should have been a bridge across price valleys became a set of golden arches for the biggest producers in the country. I agree with that as well, and that ought to change. But none of those criticisms are a justification for pulling the rug out from under family farmers—none. If we are going to write a farm bill, we ought to do it seriously and thoughtfully, in a way that says this farm bill cares about whether we have family farmers.

Mr. President, if we in the Congress are not interested in who farms, if we are neutral on the question of whether there are family farms out there with yard lights burning and people living on the farms, if we are neutral on that, if we do not care, then get rid of the whole farm program. Get rid of it altogether. We do not need a farm program. Do we need a farm program to give incentives to the biggest agrifactories to produce? I do not think so. Let them produce for the market. Let us get rid of the farm program.

USDA was created under Abraham Lincoln. Abe Lincoln created the Department of Agriculture with nine employees—think of that. In the 1860's, USDA, nine employees. Now, a century and a third later, we have a USDA with close to 100,000 employees. A third of those, I guess, are in the Forest Service. But think of what has happened with the USDA. We do not need a USDA, in my judgment, if the purpose of the farm program here in Congress is not to try to nurture and maintain and help and strengthen family farms.

Someone says, how do you define a family farm? I do not have a simple definition. I guess a yard light. I mean, a family living out there on the farm, human beings living out there, that is a family farm, I guess I could define it.

Michelangelo was asked, "How did you carve David?"

"I chipped away a piece of marble at a time and chipped away everything that was not David."

I could chip away everything that is not a family farm and have a practical definition, I suppose. But my point is: If our business is not to try to help families to have an opportunity to survive the twin risks of the possibility of not being able to produce anything and the possibility of producing something and having no price, what is our business? If our business is not to try to protect those families or give those families some help, let us not have a farm program at all. If it is our business, let us create a farm program that does just that.

This farm program says to farmers, we are neutral on the issue of whether families are living on the land. It says to farmers, "We are going to transition you." We are going to say to you, "We will give you some really attractive-looking things in the first year or so. Then, we are going to pull the rug out."

We are going to say to you, "You might have record wheat prices this year, grain prices this year. You might have a bumper crop this year. You might have the best income you have had in a century of your family living on and operating on the land. We do not care. We are going to give you a big Government payment. But, down the road, you and your family might suffer catastrophe: no crop, no price, and do you know what we are going to say to you then? Tough luck."

This year we are going to say, "Here is a payment you do not need," and a few years down the road we are going to say, "Sayonara, tough luck. We do not care." That is not much of a farm bill, as far as I am concerned.

For farmers in this country, people out there who are trying to make a living, struggling against the odds, trying to deal with economic influences that are so much larger and so much more powerful than they are—this piece of legislation, while attractive in the first year or two, in my judgment undercuts the true long-term interests of trying to maintain a network of family farms in our country.

Let me finish where I started. We have kind of come full circle, in many respects. I know there are people on this floor who do not like what I said. They will stand up and say it is all baloney, this is a wonderful bill, they worked hard on it, they are wonderful people, and so on and so forth.

Let me admit they are wonderful people and worked hard on it, but let me also say the product they came up with does not serve the interests of family farmers in this country. I do not want more Government in agriculture. I want Government to let farmers farm. But I also want to care whether there are family farmers left in our country. I want us, as a country, if we have a farm policy and we are going to spend money on a farm policy, to decide we are going to spend it in pursuit of helping farmers when prices collapse, helping them stay on the land.

If that is not our business, get rid of the whole business, just get rid of it all. Do not come here and pretend you are passing a bill that is good for family farmers when you are going to pull the rug out from under them 5 or 10 years from today.

There is great disagreement in my State among farm organizations and commodity groups on this subject, but there ought to be no disagreement that family farmers have been the economic all-stars in our country. We have had, for some long while, a basic safety net to try to help family farmers over price valleys, when international prices drop and stay down. Those who believe that such a safety net is ill-advised are often the same people who are here suggesting minimum wages do not matter and a whole series of other economic contentions that I fundamentally disagree with.

I think, if we are going to spend billions, we ought to decide to spend billions in pursuit of policies that really do help America's family farmers, America's economic all stars. The failure to do that forces me to vote against this piece of legislation and to conclude that the winners, as is indicated in this piece of work, are the grain trade firms. The winners are the millers. The winners are the grocery manufacturers. Sadly, the losers will be America's family farmers.

We will have another day. This is advertised as a 7-year farm bill. There will be changes in this body and, when there are changes sufficient so that those of us who believe differently can come to the Chamber with additional ideas and have the votes to pass them, you will see a new farm program. This may last a year. But I tell you this, when this Chamber changes, we will be back. Those of us who believe that there are two sides to this issue, that the economic well-being of the big grain trading firms in this country is assured by their economic strength but that the economic well-being of family farmers is assured by our determination to try to help them, will be back. Those of us who believe this will come back with a farm bill that will work for family farms in our country.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

Mr. LUGAR. Mr. President, I yield time to the distinguished Senator from Idaho.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Idaho [Mr. CRAIG], is recognized.

Mr. CRAIG. Mr. President, let me thank the distinguished chairman of the Senate Agriculture Committee, Senator LUGAR, for yielding time.

At the outset, let me thank Chairman LUGAR and the ranking minority member, Senator LEAHY, for the bipartisan way they worked, together with the whole committee, in crafting the farm bill that we have before us today. It was a tremendous pleasure for me and my staff to work with the staff of the Agriculture Committee to produce what I think is a truly revolutionary document, and a change, a positive change for American agriculture.

Let me also recognize Sara Braasch, who worked with me on my staff, for the tremendous effort she put in, working with the Senate Agriculture Committee staff, resolving so many different issues that make up a good farm bill.

Over the course of the last 2 years I have held a series of meetings across my State, meeting with farmers and ranchers about what they thought ought to be in a new farm bill, a new, national, public policy, as to how Government, Federal Government, ought to interface with American agriculture and Idaho agriculture. I heard in so many ways a level of frustration mounting across my State that, while they thought some level of farm policy was necessary, Government was no longer a cooperating partner.

It had become a traffic cop, if you will, a conservation cop, if you will, telling that family farmer how to farm, what to farm, how much residue they could have on their soil, how they would have to do this, maybe they ought to change their equipment line to accomplish a different form of farming.

I doubt that that is the kind of agriculture that Abraham Lincoln envisioned when he created USDA. I think he saw USDA as a partner for research, as a partner for bringing on new concepts and ideas, but certainly not as a large, monolithic governmental agency that was telling production agriculture how it ought to farm, and that is exactly where we saw farm policy heading.

This weekend, I met, once again, with farmers in Idaho to talk about what is in the new farm bill. There were potato growers there, bean growers, wheat growers, barley growers, ranchers—a broad cross-section—along with processors. They were pleased with what they began to see and hear. Dairy was there, and dairy, of course, is a large and growing segment of my State's agriculture. They are concerned, but they believe that we have made the right decisions to move them toward a more open market.

That is exactly what I think we have accomplished: a significant change in agricultural policy, as the chairman of our committee so clearly spoke to last evening, and a very important change.

We are saying to American agriculture, "You have an opportunity now to adjust and change with the markets; that you don't have to farm to the program; that you don't have to have the Federal agent who comes out and says, 'Oh, I think you are 7, 8, 10 percent over acreage, you are beyond the flex, you better take some of that out or change it a little bit.'" Is that farming or playing the game?

The young farmers of Idaho—and, yes, they are family farmers—but they have millions of dollars invested. I find it interesting, when we worry about farmers, we always fall back on the word "family," "family." Farming is a big business in my State today. It is family-run, in many instances, but those families have assets in the millions of dollars, and they work daily as astute, well-trained businessmen and women trying to operate their agribusinesses.

We know agriculture is changing, and we know that it is capable of adapting. When those young farmers and ranchers come to me, in most instances they find Government the liability and not the asset. I think that is why they look at what we are doing in S. 1541, and the

new farm bill that we have before us, and say this is good policy.

I will be the first to recommend to our chairman that the responsibility of the Senate Ag Committee over the next several years will be to monitor, to do effective oversight, to make sure that that which we are crafting into policy that will hit the ground in rule and regulation that American agriculture will respond to, we ought to watch, especially in the more complicated areas like the dairy policy. But certainly, as the chairman said last night, there will be fewer visits to the local USDA office by production agriculture in the coming years, he speaks well, because there should be. We are saying to American agriculture and to my farmers in Idaho today, you have great flexibility to do what you said you wanted to do.

There are some provisions in this bill that are enhanced substantially, because along with all that we heard from agriculture over the last several years, Mr. President, there are several things we also heard that we just did not change and did not just take away from farm policy. Conservation is one of those. The CRP program has worked well in my State, and agriculture likes it because it gives us an opportunity to build back wildlife habitat and to improve water quality and to improve the erosion that was happening on some of our more erodible lands, some of our steeper landscapes.

We kept CRP. We strengthened the conservation program. We recognized that here is where USDA and Government can be a cooperating partner, and I underline the word "cooperating," not going in and telling them, "Here is how you must do it," but "Here are a variety of ways to manage your assets in a way that we can provide a better environment, and you can enhance your farmstead and all that you have on your private property."

Clearly, the chairman and the ranking minority member worked with all of us to assure that we had a strong CRP program; the creation of a wildlife habitat program; a grazing lands conservation initiative that will provide technical assistance to private landowners in grazing areas, again, a very positive approach toward dealing with the responsibilities we ought to have; an extension of the resource conservation and development districts. That which the House did not do, we reinstated.

We have strong water language, as was spoken to last night by the Senator from Washington as it relates to the responsibility of the U.S. Forest Service in responding to the relicensing or the recertification of water projects on public lands without holding these municipalities or water districts hostage or blackmailing them, as they should not do but as they were doing. We have offered a moratorium to make sure that we get USDA to understand their responsible and legal role under Western water law, and that is, not to take without compensation a property right as is clearly established under Western water law.

Guaranteed payments to wheat and barley growers to help provide stability over a 7-year period—somebody said no more safety nets. I think we have provided a very good glidepath and a very substantial ramp on which to glide that path toward the market, and that is what we are asking American agriculture to do.

I fought hard for a readjustment in an important program for my State, the sugar program. We have made major changes in deregulating it and creating greater flexibility. But it is a program that is no net cost to the taxpayer. It is one that pays for itself, and it is one in which, again, Government can play a valuable role, and that is to solve the political barriers that oftentimes happen in trade, where we can have massive dumping in a domestic market that could destroy that market for the producer. We have said, "Here are the regulations and the process that will protect the domestic producer, while recognizing our responsibility to the consumer," and I think the sugar program reflects that.

The one program that was the most difficult to change was the program that was the most regulated, and that was the dairy program. Literally for months in the Senate we tried to resolve that issue. In the House, there was a stalemate. Finally, in the last hours, we were able to work out compromises that like, again, all other programs in this bill, moves the dairy producer toward the market while at the same time allowing a tremendous opportunity for that individual producer to get into world markets. That is exactly where production agriculture in our country today must go to remain profitable.

I said on the floor of the Senate some months ago that in my youth, I had the opportunity to be a national officer in the once called Future Farmers of America, now known as FFA. I remember standing on the floor at State conventions around this country and saying one farmer produced enough for his or herself and 30 other Americans.

Today, we know that has changed dramatically. That one farmer produces enough for his or herself and about 130 other Americans or world citizens. I use that to dramatize how important it is for Government to participate with agriculture in knocking down the political barriers that disallow us from entering world markets. That is a legitimate role of Government. It is clearly spoken to in this bill.

Another legitimate role is research. I think that is what our first agricultural President, Abraham Lincoln, had in mind, using the assets of Government to advance agriculture, not to control it and manipulate it and manage it. That is exactly what we have done historically. But, frankly, over the last decade, we have backed away from Government's responsibility in long-term research that has helped advance new variety and kept productivity on the farms of America at ever increasingly higher rates. I think we speak again to that issue in this bill.

Let me conclude, Mr. President, by saying Government does, in my opinion, have a legitimate role in agriculture, and that is as a cooperator, to cooperate in the area of trade, to knock down the political barriers that might artificially be established that disallow production agriculture from getting into world markets.

It also has an area in research. That is what we ought to advance to assure the constant maintenance and ever-increasing productivity on America's farms.

It also has a responsibility to cooperate in conservation and improving environmental standards, but it does not have a responsibility to dictate the market or to micromanage the family farm or the agricultural production unit. That is what this farm bill speaks to.

Let me close by once again thanking the chairman and the ranking member for recognizing our role, as the Senate Ag Committee, to move quality legislation to this floor and now to the President's desk. I am pleased to have been a part of it. I am proud to serve on the Senate Ag Committee. I think we have made a quantum leap forward in working with agriculture to move itself into the 21st century as a market-producing entity of the American economy.

I yield back the balance of my time.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, it has been our habit, at least thus far in the debate, to alternate sides. The distinguished Senator from Idaho has just spoken. The Senator from Oregon has been waiting to speak, but I request that it be permissible for the Chair to recognize a Democratic Party speaker and ask the distinguished ranking member to yield time and then to alternate herein. I will grant time to the Senator from Oregon.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. WELLSTONE. Mr. President, I wish to let the Senator know I am speaking against the bill.

Mr. LEAHY. I understand. I have time reserved in favor of the bill. I wonder if I might yield——

Mr. WELLSTONE. I thought I had time from the minority leader to speak against the bill.

Mr. LEAHY. The Senator does, and the minority leader will let the Senator have whatever time he wants.

Mr. WELLSTONE. Ten minutes.

Mr. LEAHY. Mr. President, I see two colleagues here. We have had a speech in favor. Why do we not let the distinguished——

Mr. WELLSTONE. I would yield myself 10 minutes from the minority leader's time to speak against the bill.

Mr. LEAHY. Could I point out another thing, I say to the Senator? We have a conference on the appropriations, and the distinguished chairman of that wants to go forward. As the distinguished Senator from Florida only wants 5 minutes, why do I not yield to the distinguished Senator from Florida the 5 minutes so the distinguished Senator from Oregon, the chairman of the Appropriations Committee, can then next be recognized and then yield whatever time the distinguished Senator from Minnesota wants.

Mr. WELLSTONE. I have to go to the State Department for an arrangement between a Minnesota company and another country in 15 minutes. That is why I have been here early.

Mr. LEAHY. Mr. President, I ask that the time from the Democratic leader be given to the distinguished Senator from Minnesota to speak in opposition. I ask if he might try, as best he can, to accommodate the others, to limit his time.

Mr. WELLSTONE. Absolutely. I would be pleased to do so.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAHAM. Mr. President, can I ask if I might be recognized after the Senator from Oregon?

Mr. LEAHY. I assure the Senator from Florida, he will be.

Mr. GRAHAM. I thank the Senator.

Mr. WELLSTONE. Mr. President, I thank my colleagues. I am sorry we are all here at once. I will try to be very brief. I have been on the floor for some time waiting to speak.

Mr. President, first of all, let me just thank all of my colleagues for their work on the bill, including the distinguished Senator from Indiana, whom I have a tremendous amount of respect for. I mean that very sincerely.

Let me say that the good news is that farmers need to know where they stand. The spring planting season is upon us. People need to know what the program is going to be.

The good news is that there are some programs, some provisions in this legislation that are positive and very important. One of them is the reauthorization of the Conservation Reserve Program, which I think has been a win-win-win program. It does my heart good when environmentalists and farmers and outdoor recreation people all come to my office, all in strong agreement about the importance of this program.

I also think that the $300 million for rural economic development is extremely important. In particular, the focus on encouraging and providing whatever kind of assistance we can for farmers to form their own value-added processing co-ops and retain as much of the value of what they produce as possible, is right on the mark.

Finally, I am no strong supporter of what was the status quo, and I do believe, as my colleague from North Dakota said, in all too many cases farmers have had to farm a farm bill as opposed to farm the land. No question about it: more flexibility is certainly one of the things that farmers in my State have been very interested in.

Let me talk about two fundamental flaws of this piece of legislation. I take very serious exception—and I do not think it is really provincial on my part to do so—to the dairy provisions. It has to do with why we are elected. We are elected to do our best, to speak for and represent and sometimes, I suppose, fight for people in our States. I thought that the Senate had spoken clearly that we were not in favor of a northeast dairy compact. I was very involved in the effort to knock that provision out. In the conference committee, we got a variation of that, giving the Secretary of Agriculture the right to certify such a compact.

That troubles me to no end. It is a huge flaw in this legislation. The dairy provisions of this bill are not favorable to farmers in Minnesota, period. There is not substantial, genuine reform of the milk marketing order system, which is what we need. We have been losing thousands of dairy farmers in my State.

What this potential northeast dairy compact is all about is it gives one region of the country an opportunity to have its own deal while it takes the problems of another region of the country off the table. It is simply unfair. For that reason alone, I would not vote for this farm bill.

The second reason is—and I could go on and on, but I am not going to out of deference to my colleagues who are also here on the floor to speak—but to make a very long story short, I believe that this piece of legislation is fundamentally flawed in one other respect. What we have here is a carrot followed by a stick.

The carrot is that if prices are high—and they currently are—and in addition to your price, you have a hefty support payment that goes on top of that, it is a carrot. I can hardly blame people for being attracted to that proposition. As a matter of fact, I can hardly blame some farmers in my State who I think are saying, "Look, we don't know, Paul, whether there's going to be any farm program in the future. We might as well get the best financial deal that we can." I understand that.

But the question is, what happens in the future? I heard my colleague from Idaho talk about a glidepath. But glidepath to where? I mean, if we are going to cap the loan rate at $1.89 for a bushel of corn and $2.58 for a bushel of wheat, the 1995 level, my question is, since what goes up, comes down, and what happens when prices are low again? That is the stick. That comes later on.

We are talking about children of farmers who want to farm in the future. We are talking about whether or not farmers are going to have any negotiating power in the marketplace. I think what happens is that eventually, with this piece of legislation, the grain farmers in my State will be on their own. They are on their own with the grain companies, and they are on their own with the Board of Trade. They are on their own with the railroad interests.

I agree with my colleague from North Dakota. I think the Tulsa World had it right: "With a mix of luck, work and unusual organization, the lobby for big grain companies, railroads, meat companies, millers and shippers scored a big win in the Senate-passed overhaul of farm programs . . ."

Mr. President, again, there is so much more to say. Let me put it this way. I wish there was a free market in agriculture. I wish Adam Smith's invisible hand was operative. I wish that in the food industry we had many small economic enterprises in competition with one another. But that is not what a rigorous economic analysis of the food industry really shows us.

The conglomerates have muscled their way to the dinner table, exercising raw economic and political power over farmers, taxpayers, and consumers. Everywhere the farmers look, whether it is on the input side or whether it is the output side, they are the ones, the family farmers are the ones, who really represent the free enterprise part of this, but they are faced with oligarchy at best and monopoly at worst.

I think this bill is a piece of legislation that is great for the grain companies because eventually they will get their prices low. If the farmers, as they look to who they sold their products to, if the farmers could see many small businesses, that would be fine. But that is not what they are faced with. They are faced with concentration. Now we are simply taking away the very leverage that farmers have had for a fair price in the marketplace.

So this piece of legislation is a carrot, followed by a stick. I think it is going to lead to the demise of many family farms. I really do believe that. I know my colleagues disagree with me. I hope they are right. I hope I am wrong. Because the health and the vitality of communities in Minnesota is not based upon the acres of land that are farmed or the number of animals, but the number of family farmers that live there. I see this piece of legislation

being a stacked deck against family farmers on the grain front. On the dairy front, the Northeast dairy compact is outrageous and discriminatory and never should have been put in the bill by the conference committee. On that basis alone, as a Senator from Minnesota, I do not support this piece of legislation. I hope my colleagues will vote "no." I yield the floor.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The Chair recognizes Senator HATFIELD.

Mr. LUGAR. I yield time to the distinguished Senator from Oregon.

Mr. HATFIELD. Mr. President, I thank the chairman of our Agriculture Committee, the Senator from Indiana, Mr. LUGAR, for yielding time. I, too, want to add my word of congratulations to the leadership of this committee, Senator LUGAR and Senator LEAHY, for bringing forth an upgrading and updating of this agricultural legislation.

Mr. President, the flood of 1996 in my part of the country has had a devastating impact on much of my State. What I have enjoyed for many years, and now in my adopted home, is the lush and green countryside of the coastal area. It is now barren and covered beneath 2 feet of river silt. The once bountiful pasture lands are no more, and the dairy cows struggle, searching the bare landscape to find scant morsels of food. Many businesses, homes, and families have been adversely affected by the flood. Imagine a small part of this flood damage area, a small county in northwestern Oregon, seven raging rivers running through it and the silt-laden waste water flooding into three bays of the Pacific Ocean. There is such a county, and that county, Mr. President, is Tillamook County, a good Indian name, Tillamook County.

Tillamook County on the northern Oregon coast is the poorest per capita income county of the 36 counties in my State. The entire population of the town of Tillamook consists of only 4,000 people. Roads which connect Tillamook to the rest of the State have been and will be closed for months. Highway 6, which is the east-west corridor to Portland, will be closed for months. Highway 101, which is the north-south corridor out of Tillamook, has been closed since November when the storm started hitting this part of the State.

The leading enterprise in the area is dairy. Mr. President, no industry has suffered more than the dairy industry in Tillamook. As a result of the floods primarily, and windstorms, is that thousands of acres of Tillamook are covered with silt—in some cases as high as 2 feet. It may take as long as 2 years for these lands to recover. Added to the destruction of the grazing land, there have been tremendous losses in livestock and feed, along with damaged equipment and facilities.

Of this town of 4,000, more than 400 people work at the Tillamook County Creamery Association, a local co-op of producers and processors. In this county, there are over 2,000 people directly involved in the dairy industry. Those numbers do not include veterinarians, transporters, supply stores, restaurants, and businesses that live and die based on the health of the dairy farmers.

In summary, Mr. President, this community is isolated due to closed roads. The land, which is the lifeblood of the communities, is smothered under 2 feet of silt. The economic base of this community has been decimated. The short-term prospects for this community are bleak.

With such misery heaped upon this little community, it would have been easy for them to give up, but that is not what has happened. The community of Tillamook locked arms and is working their way back. Immediately after the floods, efforts were made to keep production levels as high as possible at the Tillamook County Creamery Association. Haygrowers throughout Oregon donated several thousand tons to feed the animals. The outpouring of relief efforts has been phenomenal. The Oregon Dairy Farmers Association coordinated relief efforts, which included $200,000 in donations from within the industry, lining up hay deliveries, and assisting hard-hit dairies outside of the town of Tillamook—which, by the way, this town of 4,000 is the largest town in that little county. Dairy farmers helping other dairy farmers. Local, State, and Federal agencies are also assisting with potential loan programs and technical expertise.

I inquired if there was anything else that Congress could do for this community. The response was, "Help us with the Pacific Northwest Milk Marketing order." Now, Mr. President, I attempted to include legislation in the farm bill which would have done so. My amendment would have separated, temporarily, Oregon from this regional milk marketing order. What is the Pacific Northwest Milk Marketing order? Let me explain.

Oregon and Washington and a small part of northern Idaho are part of this regional marketing order. Federal milk orders are authorized by the Agricultural Marketing Agreement Act of 1937. Mr. President, this depression legislation, almost 60 years old, unfortunately, is still governing much of our dairy industry. As the Senator from Idaho has indicated, this bill moves the dairy industry closer to the market economy. Under this law the Secretary of Agriculture establishes Federal orders that apply to buyers of milk. Orders are initiated by dairy farmers normally through cooperatives and can be issued only with the approval of the dairy farmers in the affected area. A milk order is a legal document issued to regulate the minimum prices paid to dairy farmers by handlers of grade A milk in a specified marketing area.

Now, Mr. President, my amendment would have temporarily changed the milk marketing order for a period of 2 years to let flexibility apply to this unique situation in one part of that industry in the Northwest, the Tillamook County Creamery Association. The change would have allowed these farmers to get back on their feet and compete in an open market by giving them added flexibility in establishing their prices.

It was at this point that I hit a brick wall. What was that brick wall? Darigold, Inc. Prior to 1989, Oregon had its own milk marketing order, and it was not until that time that efforts were made to combine the orders. Those efforts were headed up and dominated by Darigold. They used their size and their strength to combine Washington and Oregon under one marketing order, against the objections of the small milk handlers in Oregon. Darigold is the fourth largest cooperative in the Nation, the fourth largest cooperative in the entire Nation. Darigold had almost $1 billion in sales in 1994 alone, with much of their production—and please let me underscore this—with much of their production in powdered milk, for example, being purchased by Government surplus markets. Compare this with the Tillamook County Creamery Association, which had $124 million in sales, all in consumer products produced from local milk—consumer products, not big Government contracts. In their January 1996 member newsletter, Darigold claims a 1995 production of 4.7 billion pounds of milk, 10 times the volume of the Tillamook County Creamery Association, with milk purchased from three States. Darigold produces a wide variety of milk products, including powdered milk, ice cream, packaged cheese, and butter. Compare that with Tillamook, which focuses mainly on a specialty product known as the world famous Tillamook Cheese, which is sold to consumers.

How did Darigold hold up this amendment? The same way most things are done in this litigious society we live in—the Darigold lawyers came forth and threatened to tie up this legislation in the courts. They were sure they could do so for at least a year, and this is the year that needs help. This would have blocked the temporary separation of Oregon from the Pacific Northwest Milk Marketing order for this year. Tillamook County and its dairy farmers do not have the luxury of waiting a year. The Darigold brick wall would have been able to thwart the very will of Congress by stalling this amendment, if it had been adopted. Mr. President, this is a terrible injustice and a black eye on the capitalistic system,

when the giants can run out the small operators from the marketplace because they have Government contracts.

Tillamook County is small, it is battered, but I know it is not out. The strong will of the people of this community and the dairy industry in Oregon will not allow this setback to discourage them. I am disappointed that we will not be able to give Tillamook a helping hand at this time of great need. I am disappointed with the Darigold lawyers for blocking this assistance, and I am disappointed by the greed of the Darigold, Inc. Mr. President, in this situation, the almighty dollar was the bottom line, and compassion was nowhere to be found. That is not and should not be the character of our economic system.

I thank my good friends from Washington and Idaho, particularly Senator GORTON and Senator CRAIG, who have been very sympathetic of the situation in Oregon. They have offered their assistance where possible, and I thank my colleagues for their sensitivity to the plight of flood-damaged Tillamook and the State of Oregon.

I yield the floor.

Mr. LEAHY. Mr. President, I yield from my time such time as the Senator from Florida might need.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I want to commence by stating my deep appreciation to Chairman LUGAR and the ranking member, Senator LEAHY, for their great consideration of issues that were important to agriculture across America and especially important to agriculture and the people of my State of Florida.

Mr. President, as you well know, the State of Florida is a State peculiarly vulnerable to a variety of climatic and other disasters. One of the things that we have tried to do is to learn from those disasters and avoid, where possible, a repetition of previous mistakes, and to bring to the attention of the appropriate decisionmakers steps that could be taken in order to moderate the impact of future adverse consequences.

In the last few years, we have had an unusual number of incidents that have impacted Florida agriculture. Hurricane Andrew is the best known, but by no means the only such incident. As a result of that, we have assembled a number of lessons learned, in terms of how American agricultural law for disasters, crop insurance, and other steps that are intended to soften the impact of negative events, could be modified to be more effective and applied to the special agriculture of our State.

I wish to thank Senator LUGAR, Senator LEAHY, and their colleagues for their consideration and for the number of steps that are contained in this legislation that will have that effect.

Let me just briefly summarize a few of those provisions. The Federal Crop Insurance Act will be amended by the legislation before us today to provide for coverage of crops that have been destroyed by insect and disease, as well as those destroyed by storm or flood, or other natural conditions.

This act will expand coverage to nursery crops and to aquaculture, which have been two of the fastest-growing aspects of American agriculture. It will require that the Federal Crop Insurance Act consider marketing windows when determining whether it is feasible to require replanting during a crop year.

To elaborate on that, Mr. President, as you know, much of Florida agriculture is targeted on a winter growing season. There have been instances in which a natural disaster had occurred at the end of that season—let us say, in this month of March, there were requirements that you had to replant, even though by replanting the crops, they would mature in the middle of the summer when the window for our particular agriculture had closed. This will allow the Federal crop insurance administrators to consider the economic feasibility, as well as the agricultural feasibility of replanting a crop that has been destroyed. So, Mr. President, that represents an important set of lessons learned from disasters and now applied to moderate the impact of future disasters.

Second, Mr. President, there is an important provision in this legislation that is to avoid what would be not a disaster, but a calamity of global importance, and that is the collapse of the Florida Everglades. The Florida Everglades represent a treasure, which happens to be located within the State of Florida, but has been long recognized as a national treasure since 1947. The second largest national park in the lower 48 States is Everglades National Park. It has been recognized by international bodies, including the United Nations, as an ecosystem of international importance. It is a system that has been in very serious trouble. It is a system, which started thousands of years ago as a unique flow of water, commencing in the central part of south Florida, in a slow incremental process that eventually then led to the area that we now call Florida Bay. It provided one of the most fertile areas for wildlife, plants, and fisheries in the world. It is a system which has been destroyed largely because of its uniqueness.

When Europeans came to this region, they looked at the Everglades, and what they saw was a formidable swamp. They saw something that was different than they had known in their previous home. They committed themselves to the goal of turning this unique system into something that was common and pedestrian. For the better part of a century, that effort was pursued with great vigor, and with the support of the people of Florida, and of the Governments of the State and the Nation.

It has been in the last 30 years that we have fully appreciated the fact that it was that very uniqueness of the Everglades that gave it its essential value. Also, it was that uniqueness that contributed to the many ways in which the Everglades sustained life, for humans and others, in the south Florida region.

So a major effort to save the Everglades has been underway. It has been recognized that that effort would require a partnership, and an important member of that partnership was the Federal Government. The Federal Government has significant interest in the Everglades National Park's national wildlife refuges and national fresh water preserves.

The Federal Government also will play a key role in executing those things that will be necessary for the salvation of the Everglades. The people of Florida do not ask the Federal Government to do this singularly, but they ask for a unity of purpose between the National Government and themselves.

Mr. President, I am especially pleased to recognize the tremendous step forward that this legislation represents with that goal of "save the Everglades." In this legislation, there is contained a direct entitlement funding for a special Everglades restoration initiative of $200 million. There are also contained various provisions which will encourage the disposition of surplus land, with the proceeds of that disposition to be used for Everglades restoration. One of those provisions could provide up to an additional $100 million for restoration of the Everglades.

I want to particularly thank Senator LUGAR, who has been especially vocal in his recognition of the importance of the Everglades, and Senator LEAHY, who has been a staunch advocate of a whole variety of initiatives contained in this legislation that are designed to recognize the fact that there is no conflict between the economics of American agriculture and the protection of the fundamental environmental resources upon which agriculture depends.

I commend both of these colleagues for their outstanding contributions, and there is no place in which this will be more significant or more appreciated than in the contribution toward the salvation of the Everglades.

So I wish, Mr. President, to conclude with a joint statement with my colleague, Senator MACK, elaborating on the provisions that are of special importance to our State contained in this legislation, and to conclude with my deep thanks on behalf of the 14 million citizens of my State for what leaders of this legislation have done to prepare us for future disasters and to contribute

to avoidance of what would be a disaster of global proportion if we were to lose the qualities of the Florida Everglades.

Mr. GRAHAM. Mr. President, Senator MACK and I would like to take a moment to thank Chairman LUGAR and ranking member LEAHY for their hard work on the 1996 farm bill. We are particularly pleased with the inclusion of provisions that will have a direct benefit to the State of Florida, our growers, and the Everglades ecosystem.

First of all, this farm bill will address three problems that have faced Florida growers of specialty crops. Upon enactment of Federal Agricultural Improvement and Reform Act, the Federal Crop Insurance Act will be amended to provide for coverage of crops destroyed by insects and disease, expand coverage to all nursery crops and aquaculture, and require the Federal Crop Insurance Act to consider marketing windows when determining whether it is feasible to require replanting during a crop year.

Disasters are a way of life for all involved in agriculture. Disaster relief appropriations are an item of the past. The laws to today need to cover all of agriculture to allow recovery after time of great loss. The amendments which were passed go a long way to addressing inequalities in law and definition to allow coverage for major agricultural segments.

Multiple weather-related disasters, from Hurricane Andrew to the record number of hurricanes in 1995, clearly illustrated deficiencies in disaster coverage of many agricultural commodities. Many agricultural products such as aquatic species and numerous horticultural products are not clearly defined as being eligible for disaster assistance. Additionally, even though the Federal Crop Insurance Act was passed, many agricultural commodities still do not have crop insurance available and as such can not even recoup planting costs under current guidelines.

Changes were clearly needed to allow coverage of all agricultural crops during time of disaster. A tree grown for horticultural purposes should be covered whether it is grown in a port or in rows in the ground. Nontraditional species raised for food purposes should be clearly covered.

Acquaculture-raised species—whether for food or nonfood purposes—should also be covered. Foliage plants are agricultural commodities raised for aesthetic purposes. Tropical fish, while not for food purposes, are clearly raised in aquaculture for aesthetic purposes, and should be covered just as surely as our foliage protection. Many States now find that horticulture and foliage plants have become their No. 1 agricultural commodity.

Disasters are likewise not just weather-related events. A rapidly spreading pest or disease can statistically be a greater danger than a hurricane event.

DEFINITION OF DISASTER FOR FEDERAL CROP INSURANCE ELIGIBILITY

The history of natural disasters in Florida has demonstrated the need for the definition of disaster to include events that are not directly weather-related. Beyond a certain level, the devastation of the gypsy moth, citrus canker, or other pests and diseases constitutes a disaster of major scale. The 1996 farm bill will establish a pilot program to have the term "natural disaster" include extensive crop destruction caused by insects and disease.

DEFINITION OF AGRICULTURE FOR FEDERAL CROP INSURANCE ELIGIBILITY

Florida growers of specialty crops also need a definition of agriculture that includes more than just food, fiber and grain. Historically, for disaster purposes, neither aquaculture or nursery crops have been covered.

As recently as the December freezes, producers in the Hillsborough County area were told that aquaculture species, such as tropical fish and aquatic plants, were not defined as agriculture. While these species are reared for aesthetic purposes, they are certainly agriculture—as much as any other horticultural production.

In-ground plants and trees for the nursery industry were still not covered even after 4 years of negotiation and discussions with Federal Crop Insurance officials in Kansas City. Florida growers are appreciative that this farm bill will expand Federal crop insurance to aquaculture and direct the FCIC to establish a pilot program to allow nursery crops to participate in the Federal Crop Insurance Program.

INCLUDE "MARKETING WINDOW" AS A CRITERIA FOR REQUIRING REPLANTING

A third problem for Florida growers of winter crops has involved the interpretation of the clause requiring replanting where feasible after disaster destruction. Until this farm bill, the Federal Crop Insurance has not considered marketing windows when making judgments about claims. Given that USDA can consider economics, potential marketing of the product must be considered as an economic factor.

As a recent example, a potato crop in Dade County was destroyed. The climate of the county would have permitted the growers to replant and barely get in a crop before that weather became too hot. However, the marketing window and contracts for sale of the product would have been totally nonexistent by the time a long-term crop like potatoes could be raised. The Federal Government required the growers to replant even though no sales of that commodity would have been feasible after the area's marketing period was over. Florida growers raise crops in the dead of winter, and are often double and triple cropping the same land with a succession of commodities to meet very defined and limited marketing windows. I am gratified that the mangers of the farm bill agreed to include our provision requiring the Federal Crop Insurance Corporation to consider marketing windows in determining whether it is feasible to require replanting during a crop year.

BROWN CITRUS APHID RESEARCH

This farm bill also provides authorization of up to $3,000,000 in research funding for the eradication and control of the brown citrus aphid and the citrus tristeza virus. The virus, which is carried by the aphid, poses the most formidable threat in decades to the Florida citrus industry. The citrus tristeza virus, in several forms, has the capability of killing millions of citrus trees in Florida, Texas, and California over the next several years. The language included in this bill will help us provide to the citrus community of our Nation the tools it needs to combat this serious threat.

EVERGLADES RESTORATION FUNDING

The 1996 Farm bill also provides an unprecedented opportunity to further the restoration of the Everglades ecosystem. I yield to Senator MACK.

Mr. MACK. I and my esteemed colleague Senator GRAHAM rise today to congratulate this Congress for its foresight and commitment to one of the most important restoration efforts in our Nation's history, the restoration of the south Florida ecosystem, better known as the Everglades. Under section 506 of the 1996 farm bill, the United States has made a historical commitment to this unique national treasure.

Mr. GRAHAM. The Everglades is an extraordinary ecosystem that travels south from the Kissimmee River through the Everglades and down to Florida Bay. The Everglades ecosystem supports south Florida's industries of tourism, fishing, and agriculture and special quality of life of over 6 million residents by providing water supply and recreational activities. The Federal Government has a direct vested interest in the Everglades ecosystem, which houses the Loxahatchee Refuge, and three national parks: Everglades National Park, Big Cypress National Park and Biscayne Bay National Park.

Mr. MACK. The health of the Everglades ecosystem is critically endangered. The same American spirit of ingenuity and adventure that led us to the Everglades at the turn of the century must now be called upon to save this extraordinary resource that is so emblematic of the American character. The Everglades has taught us that a strong economy and healthy environment are not mutually exclusive.

Mr. GRAHAM. Historically, we have tried to tame the Everglades by focusing on small parts of the ecosystem without regard to how the whole system works. This has proved to be a mistake. As we have tried to develop or

manage parts of the ecosystem separately, the result has been to wreak havoc on the entire ecosystem, thus putting the entire ecosystem in jeopardy. The Everglades is not a set of discreet parts like the limbs of a body but instead is a blood line that circulates throughout the entire ecosystem. The long term viability and sustainability of the ecosystem—whether it is wildlife, urban water supply, agriculture, tourism, recreation activities, or fishing—are all dependent upon the same lifeblood, the Everglades, the River of Grass. Decades of diking, damming and using the Everglades for singular purposes has so endangered the health of the Everglades that in the future the ecosystem may not be available to be used for any purpose.

Mr. MACK. The State of Florida has made extraordinary efforts to address the complex problems of the region and to restore this precious resource. Because south Florida is home to 7 of the 10 fastest-growing metropolitan areas in the Nation, we are at a critical crossroad in the Everglades restoration. Together the State of Florida and the Federal Government can continue their developing partnership to consummate Everglades restoration.

Mr. GRAHAM. While it is understood that a significant gap exists in our scientific knowledge about the ultimate ecological and water management needs of the Everglades ecosystem—which necessitates continued detail studies—the framework for restoration and design of major projects for land acquisition, water storage, and restored hydrology are clear. Restoration of one of the largest functioning ecosystems in the world is a massive undertaking. Congress has acknowledged that success will depend on the Federal Government, the State of Florida, and local, regional and tribal interests working in tandem.

Mr. MACK. In acknowledgement of this responsibility, Congress has provided $200,000,000 and possibly as much as $300,000,000 to expedite Everglades restoration activities, which will include acquisition of the highest priority lands needed to improve water storage and water quality critical to the restoration effort. This unprecedented commitment of $200,000,000 will be provided to the Secretary of Interior to either carry out the restoration activities or to provide funding to the State of Florida or the U.S. Army Corps of Engineers to carry out restoration activities. Congress does not intend for these funds to supplant any previous funds committed to any agency of the Federal Government or the State of Florida for the purpose of Everglades restoration, including the commitment to fund STA 1E, a component of the Everglades Restoration Project.

Mr. GRAHAM. Specifically, the legislation does the following:

Section 506(a) directs the Secretary of the Treasury to transfer to the Secretary of the Interior $200,000,000 of any funds not otherwise appropriated.

Sections 506 (b) and (d) authorize the Secretary of the Interior to use the $200,000,000 until December 31, 1999 to conduct restoration activities in the Everglades ecosystem in South Florida. In implementing these sections, the Secretary may rely upon the priorities, programs, projects, and initiatives identified by the Federal South Florida Interagency Task Force.

Under Section 506(b)(3), the Secretary of the Interior can conduct restoration activities that include the acquisition of real property interests intended to expedite resource protection.

Under Section 506(c) as may be appropriate, the Secretary of the Interior and transfer the restoration funds to the U.S. Army Corps of Engineers or the State of Florida or the South Florida Water Management District to carry out restoration activities in the Everglades ecosystem.

Section 506(e) requires the Secretary of the Interior to submit an annual report to Congress that describes what activities were carried out under the initiative.

Section 506(f) also established a special account to be funded by the sale of surplus Federal property in the State of Florida. The special account is to be managed by the Secretary of the Interior to carry out restoration activities. The Secretary of the Interior is limited in his ability to use the special account funds to acquire real property or an interest in real property. The Secretary can use these special account funds for real property acquisition only if the State of Florida contributes or has contributed an amount equal to not less than 50 percent of the appraised value of the real property interest to be acquired. The actual sale of surplus property is to be managed by the Administrator of the General Services Administration. This account will not exceed $100,000,000.

And finally, under section 506(g), the Secretary of the Interior is directed to submit a report to Congress that assesses whether any unreserved and unappropriated Federal lands are suitable for disposal or exchange for the purpose of conducting restoration activities in the Everglades ecosystem. Section 506(g) is not intended to amend or supersede any applicable Federal statute that governs Federal land management, exchange or disposal.

Mr. LEAHY. Mr. President, I thank my distinguished colleague from Florida for his kind words. I note that he and his colleague from Florida worked very, very hard with both Senator LUGAR and me on this issue. It is one where we came together to address not only a Florida issue but what is truly a national issue.

Mr. LUGAR. Mr. President, I thank the distinguished Senator from Florida.

Mr. MCCONNELL. Mr. President, I congratulate Senator LUGAR, our conference chairman, and his staff, Senator LEAHY and his staff, Chairman ROBERTS and his staff, and Congressman DE LA GARZA and his staff for helping us get to this important day for American agriculture.

Policymaking decisions in agriculture have never been simple or easy. Chairman LUGAR and the ranking Democrat, Senator LEAHY, chartered a course that led them toward a bipartisan bill. Farmers and ranchers across the country are now awaiting the passage of this important legislation.

For the first time in 60 years, we have a commonsense approach that will release farmers from the bureaucratic controls of USDA. Under this approach, farmers will no longer be told what to plant, where to plant, or how much to grow. Uncertain deficiency payments tied to market prices are eliminated and replaced with preset and market transition payments that farmers can count on with confidence.

This legislation, formerly titled the Agricultural Market Transition Act, has been renamed the Federal Agricultural Improvement and Reform [FAIR] Act of 1996. This legislation not only reforms commodity programs but also includes rural development, conservation, credit, research, trade, and nutrition.

Highlights of the bill include:

Eliminates the requirement to purchase crop insurance to participate in commodity programs.

Establishes an Environmental Quality Incentives Program.

Export and promotion programs are reauthorized and refocused to maximize impact in a post-NAFTA/GATT environment.

Maintains the Conservation Reserve Program.

Reauthorizes nutrition programs.

Reauthorizes Federal agricultural research programs.

Provides for dairy reform. Eliminates the budget assessment on dairy producers, phases down the support price on butter, powder, and cheese over 4 years. Consolidates marketing years.

Provides funding for Florida Everglades restoration.

Establishes fund for rural America to be used for rural development and research.

Retains the 1949 Agricultural Act as permanent law.

Streamlines and consolidates rural development programs to provide a more focused Federal effort while encouraging decisionmaking at the State level.

When we began the process of formulating an agricultural policy about 14 months ago, the message I got was that farmers wanted less Government, less redtape, and less paperwork. They said we need planting flexibility and less regulation—to put it more simply let farmers be farmers.

Mr. President, many commodity programs and provisions in the 1990 farm bill expired on December 31, 1995. It is now late March. Spring planting is already underway in many Southern States, and it is imperative that producers know the requirements of the commodity programs. The farmers in this country already have their schedules altered by Mother Nature—they shouldn't have to wait for Congress too.

Producers who raise wheat and feed grains and other commodities want to know what kind of program will be in operation before they make their planting decisions and seek money for their operating loans. Program announcements are usually made in early- to mid-February, and farmers usually begin to sign up for the programs at the beginning of March.

Farmers in my State and across the country can wait no longer. We need a new farm program in place—quickly. It is time to pass responsible legislation that provides the agriculture sector with policy for the next several years.

There are many other provisions that deserve to be highlighted, however I wanted to mention a few that I took an active role in trying to resolve. I support this package and believe it provides a safety net and the opportunity for the agriculture sector to meet the challenges that lie ahead.

First, I am grateful that language concerning the regulation of commercial transportation of equine to slaughter is included. Under this provision the Secretary of Agriculture is provided authority to develop sound regulations that will protect the well-being of equine that are commercially transported to slaughter. Often these horses are transported for long periods, in overcrowded conditions and often in vehicles that have inadequate head room. Some of these horses are in poor physical condition or have serious injuries. These regulations would allow horses to get to a slaughter facility safely and as quickly as possible with the least amount of stress to the animal. I want to make it very clear this provision does not authorize the Secretary to regulate the transportation of horses other than to slaughter or the transportation of livestock or poultry to slaughter or elsewhere.

Second, I also want to thank Senator COCHRAN for his assistance in confronting what may be the most serious health crisis facing the U.S. equine population. I'm referring to the Department of Agriculture's recent decision to grant a waiver allowing the importation of horses infected with equine piroplasmosis, also known as EP, so that they may compete in the Olympic games to be held in Atlanta this year. With help from Senator COCHRAN we have strong report language stating that the 20-point plan that has been agreed upon by the European Union, the Georgia Department of Agriculture, and the U.S. Department of Agriculture must not be relaxed and the conditions must be followed and administratively enforced.

Third, dairy policy has always been a contentious issue and it was no different during this farm bill. One provision I felt must be included was the continuation of the Fluid Milk Promotion Program. Building a stronger demand for milk is essential to the entire dairy industry. Fluid milk sales account for about 35 percent of the total amount of milk produced, which means changes in this category are significant. I believe continuation of this processor-funded program is a very good way to attack misperceptions and to keep people drinking milk. We need to continue to increase people's understanding of the benefits and importance of milk and continue to show consumers new ways to keep milk in their diets.

Fourth, conservation concerns in Kentucky have centered around how to help farmers improve water quality. A new program—the Environmental Quality Incentive Program [EQIP] will target over $1 billion for 7 years to assist crop and livestock producers with environmental and conservation improvements on their farms. I believe this program will be very beneficial to the farmers in Kentucky in providing cost-share and technical assistance in improving water quality.

Another issue I heard loud and clear from my Kentucky farmers dealt with the mandatory purchase of catastrophic crop insurance [CAT]. I made this one of my top priorities, and I am happy to report that my fellow conferees also heard similar comments from their farmers. The conference agreement eliminates mandatory catastrophic crop insurance, but requires producers waive all Federal disaster assistance if they opt not to purchase CAT insurance. This means that tobacco farmers and grain producers don't have to purchase CAT crop insurance to participate in a commodity program or to get their marketing card. Eligibility to purchase crop insurance is no longer linked to conservation compliance and swampbuster for producers who choose not to participate in farm programs.

Mr. President, today's 2 million farmers and the 19 million workers employed in our food and agriculture system generate over 16 percent of our Nation's income. We must keep the farmer, the rancher, the food, and the agriculture sector healthy and growing. It is time to give our Nation's farmers and ranchers some answers and to pass this conference report today.

Again, I thank our committee chairman, ranking member, and staff for their dedication and hard work.

Mrs. KASSEBAUM. Mr. President, I rise today in support of the final passage of the conference report on H.R. 2854, the Federal Agriculture Improvement and Reform Act of 1996. In some ways, it is only natural that this farm bill occurred like one of the other major factors affecting agriculture, the weather. With the weather, you're never sure when the rains will come, but inevitably, it will rain. This legislation brings an end to the waiting and uncertainty currently surrounding farmers and ranchers in my state, as well as around the country.

I would like to thank Senate Agriculture Committee Chairman LUGAR and ranking member LEAHY for their tireless work to bring together the many different sides and address their concerns in this farm bill. And of course, a hearty congratulations to my fellow Kansans and members of the Kansas agricultural triumvirate, House Agriculture Chairman ROBERTS, Senate majority Leader DOLE, and USDA Secretary Glickman.

As a supporter of Congressman ROBERTS' freedom-to-farm bill, it is rewarding to see its inclusion in the final legislation. For production agriculture, this bill represents producer flexibility, program simplicity, and stability—all important priorities that will allow U.S. agriculture to successfully compete in the world marketplace. For the taxpayer, this legislation shows the continued commitment by agriculture to lower spending and reduce the deficit. Clearly, if all government programs displayed agriculture's commitment towards reduced spending, there would be no deficit today.

Many other important programs are also included in this legislation. A clear priority was given to conservation programs, including a strong Conservation Reserve Program [CRP]. The CRP has proven to be a valuable tool to promote wildlife habitat, reduce soil erosion, and improve water quality. Reauthorizing this program at its current level and allowing increased flexibility for the producer will allow current program benefits to be retained and increase the focus of this program to improve the most environmentally sensitive lands.

It should be noted that this farm bill is truly comprehensive legislation that will affect all Americans. Included in this bill is important trade legislation that maintains our commitment to providing valuable food aid to those nations in need, strengthens our ability to open new markets, and encourages the development of emerging trading partners. Research, nutrition, rural development, and credit programs are all included in this bill to ensure to their future viability.

Mr. President, it is true that the rains will inevitably come. However, no action by Congress can remove the uncertainty of how much, when, and where it will rain; but we in Congress can and should remove the uncertainty

surrounding agricultural programs by passing this legislation.

SECTION 147

Mr. LEAHY. Mr. President, the chairman and I want to discuss in more detail what was intended in section 147 of H.R. 2854, the section which grants congressional consent to the northeast interstate dairy compact, subject to certain conditions.

This compact will allow the six New England States to regulate the price of all class I drinking milk sold in those States. The regulation may apply to any class I milk sold in the New England States but produced elsewhere, as well as to such milk produced by New England farmers. The compact also provides that farmers from beyond New England receive its benefits as well as their New England counterparts.

The conditions of congressional consent are intended to ensure the compact operates in harmony with the Federal milk market order program, and in complement with the changes otherwise being imposed on that program by this act. Seven conditions of consent are identified.

The condition in section 147(1) requires that the Secretary of Agriculture make a finding of compelling public interest in the compact region before the compact may be implemented. This provision ensures a determination by the Secretary of the compact's need in the region before the compact's authority to regulate interstate commerce, as granted by the consent provided by this act, can become operational.

The next four conditions of consent outlined in section 147(2) through section 147(5) constitute substantive restrictions on the compact's operation, as entered into by the States. In response to concerns raised by some conferees, section 147(2) limits the compact's regulatory authority to only class I milk. Notwithstanding any provision of the compact to the contrary, the compact commission will not be able to regulate other classes of milk. This condition limits the compact's regulatory reach to only the local and regional, fluid milk market. It ensures that the compact will have no effect on the national market for manufactured dairy products.

Section 147(3) constitutes a procedural limitation on the compact's operation. This condition establishes a finite time limit for the provision of congressional consent to the compact. The section establishes that congressional consent terminates concurrently with the completion of the Federal milk market order consolidation process required under section 143 of the act.

Also in response to concerns raised by committee conferees, conditions in section 147(4) alter the procedure by which additional States may enter the compact. The list of potential new entrants is limited to a named few. Such States may only join if contiguous to a member State and only upon approval by Congress.

Section 147(5) requires the compact commission to compensate the Commodity Credit Corporation [CCC] for purchases by the Corporation attributable to surplus production in the New England States. This condition was necessary for the compact to ensure that there would be no score from the Congressional Budget Office. The compact commission's responsibility to make compensation is to be measured by the Secretary's reference to a comparison of the rate of increased production. The compact commission would have the responsibility to provide compensation for those CCC purchase attributable to an increase in the rate of New England milk production in excess of the national average rate of increase.

Section 147(6) provides for cooperation by the Department of Agriculture in the compact's operation. The Department has in the past construed findings of fact in the Agricultural Marketing Agreement Act of 1937 as precluding the Department's cooperation in the operation of State over-order pricing programs. This condition makes clear these past departmental determinations do not apply to the compact, and that the Department shall provide such technical assistance as requested by the compact commission and requires that the compact commission will reimburse the Department for that assistance. The provision is designed to avoid duplication in audit procedures and any other mechanism needed to administer the compact, and thereby to reduce the compact's regulatory burden and cost.

Except in one regard section 147(7) provides only language of clarification, rather than imposes any additional, substantive, or procedural restriction on the compact's operation. This condition in the main part clarifies that the commission may not limit or prohibit the marketing of milk or milk products in the compact region from any other area in the United States. It also clarifies that the commission may not alter or amend procedures established under Federal milk marketing orders relating to the movement of milk between or among orders.

Neither of the first two sentences of that section is intended to limit the compact commission's authority to establish a compact over-order price regulation for all fluid milk marketed into the compact region in any form, packaged or bulk, produced in another production region in the United States. The last sentence of this section 147(7) delineates this point.

The one substantive restriction of this condition is its limitation of the use of compensatory payments under section 10(6) of the compact. Because the use of compensatory payments is disfavored in milk marketing law, the compact itself placed strict restrictions upon their use in section 10(6). Their use even as so restricted proved to be of some concern, accordingly, the conference report further restricts their use under section 147(7).

Does the chairman agree that this description accurately reflects the views of the conferees.

Mr. LUGAR. That is correct.

Ms. MOSELEY-BRAUN. Section 334 establishes a new conservation program called the environmental quality incentives program. One of the purposes of the program, as stated in section 1240(2)(B), is to assist "farmers and ranchers in complying with this title and Federal and State environmental laws." Could the Senator explain to me how this might occur?

Mr. LEAHY. In order to provide the opportunity for an environmental quality incentives plan to be designed to assure that a producer is in compliance with other Federal State rules, regulations, and laws, USDA should enter into agreements with the appropriate agencies to assure that USDA is the only agency with routine decision-making authority and oversight of development and implementation of the plan. These inter-agency agreements should focus on the development process of the plan, not specific conservation practices or management techniques; strive for maximum flexibility due to the variability of agricultural operations and resource conditions; provide that specific practices in the plan may be implemented in varving timeframes within the duration of the plan; assure that implementation of the plan is not interrupted by frequent revisions caused by changes in agency agreements; and recognize the need to encourage producers to develop plans by allowing reasonable implementation periods that provide for economic recovery of costs. If a plan is designed to assure that a producer is in compliance with other Federal or State rules, regulations, and laws, the producer may request plan revisions when necessary to accommodate any significant operational changes or unforeseen technical problems within the farming or ranching enterprise.

Mr. President, I yield, from the time of the distinguished Democrat leader, Senator DASCHLE, to the Senator from Wisconsin such time as he may need to speak in opposition to the bill.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KOHL. Mr. President, I thank the Senator from Vermont.

Mr. President, we have heard many good things about this farm bill and the promises of market orientation and positive reform that it brings to farm policy, but I believe a more critical examination of this bill demonstrates

something entirely different, and so I want to refute some of the assertions that have been put forth during this debate.

I think every Member of the Senate would agree that agricultural policy needs reform. The realities of production, markets and budgets change rapidly, and therefore what is demanded is a periodic revamping of agricultural policy. I agree that we need greater market orientation in farm policy, and I agree that we need less Government intervention into the production decisions of farmers. However, we also need a farm policy that is defensible to all citizens of our country, and I believe that this bill will ultimately fall short in this very important regard.

The structure of current farm programs is basically to provide a safety net, making supplemental payments to farmers only when prices are low, and freeing farmers to make their money from the market when prices are sufficiently high, as they are currently.

In contrast, this bill offers farmers a so-called guaranteed payment every year for the next 7 years, based entirely on their past production, regardless of market prices. If market prices are high, as they are today, farmers will receive the same payments as they would in times of low prices. In fact, farmers will not even be required to plant a crop in order to get the Government payment. I have a very hard time defending this as a wise expenditure of Federal dollars.

Another assertion about this bill that I challenge is the idea that the goal of simplification and flexibility in farm programs requires guaranteed payments to farmers, even if they do not plant a crop. We all agree that farmers should have greater planting flexibility and that the Federal Government should get out of the business of dictating planting decisions to farmers. But again, farm programs must be defensible to all citizens of our country, not just those few in a position to reap short-term windfall profits from the Government.

Another assumption that the casual observer of this farm bill debate might be tempted to make after listening to the debate is that this bill cuts the cost of farm programs. Yet, a quick analysis of the cost projections for this bill indicates that in the first 2 years of this bill the taxpayer will be required to pay an additional estimated $4 billion for farm programs over what they would pay under the current program. Why? Because the taxpayer will be required to make large cash payments to farmers in times of expected high market prices, as opposed to making payments to farmers only in those years when prices are low.

While these are a few of my concerns about the overall structure of the bill, as a Senator from Wisconsin, my overriding concerns are with the dairy provisions of this bill. And in that regard I believe that this bill offers a very mixed and a dangerous message.

On the one hand, I am hopeful that the milk marketing order reform provisions of the final farm bill will give the USDA the tools that are necessary to bring about greater regional equity in milk pricing policies and to make the milk marketing order system more reflective of today's markets.

The bill instructs the Secretary of Agriculture to consolidate and reform orders within 3 years, and essentially instructs him to do so without consideration to the existing price system established by the 1985 farm bill. I think this is a positive change, and I am very hopeful it will bring about a marketing system that is more defensible in today's economy and more equitable to all the dairy farmers of our country.

However, I am stunned by the inclusion of another provision of this bill, which I believe goes in the complete opposite direction of market orientation, and that is the northeast interstate dairy compact. While the bill does not approve the compact, it does explicitly give the Secretary of Agriculture the authority to do so on a temporary basis if the Secretary determines that there is a compelling public interest in the area.

My colleagues will recall that during the Senate consideration of the farm bill, we voted to strike the northeast dairy compact from the bill. In doing so, the majority of the Senate demonstrated their disagreement with efforts to establish what amounts to regional dairy cartels, and on the House side the northeast dairy compact never was included.

So it is very hard for me to understand how a dangerous provision like this can appear in a conference report when it has been clearly rejected by both Houses of Congress. In my mind, Mr. President, that is back-room dealing at its worst.

It is true that some provisions have been added to the compact to try to blunt its negative effects. Other safeguards that had been agreed to in previous debates were deleted. But my overriding concern about the northeast dairy compact is now and always has been one of dangerous precedent.

Since my first day in the Senate, I have fought to make Federal dairy policy more equitable to the dairy farmers of the Upper Midwest. Most agricultural economists, and now even the Secretary of Agriculture, agree that the current milk pricing policies have had a disproportionately negative effect on the farmers of my region, and I am hopeful that the milk market order reform provisions of this bill will help reverse that injustice. But I fear that even the most equitable milk market order reforms will be meaningless in the long run if we start allowing regions to segregate themselves from the rest of the country economically through efforts like the Northeast Dairy Compact.

Our country and its Constitution are built on the concept of a unitary market without barriers. While I appreciate the efforts that have been made to water down the ill effects of the compact, I strongly believe that the long-term ramifications of this compact on a State like Wisconsin, which depends so heavily on national markets, are ominous.

A New York Times editorial this past weekend stated the following about the Northeast Dairy Compact:

> A House-Senate conference committee has managed to tarnish the most important farm bill in years by inserting a last-minute provision for a New England milk cartel that would gouge consumers and violate the free market concept that has made the 1996 farm bill worthwhile. The regional milk monopoly is the very opposite of the kind of reform this bill was meant to provide.

It will now be up to those who support true market-oriented dairy pricing reform to make that case to the Secretary of Agriculture and to assure this regional compact does not come into effect.

Lastly, while this farm bill eliminates the 10 cent per hundredweight budget assessment that all dairy farmers hate, its net effect on dairy farm income will be negative. In fact, I know of no other farmers that are asked to give up their price safety net as dairy farmers are through the elimination of the Milk Price Support Program without providing some sort of direct transition payment to soften the blow. While I question the wisdom of the overall structure of this bill, it would seem only logical to apply that structure equitably across commodities, and this bill does not do that with respect to the dairy farmer. So I will cast my vote against this farm bill.

I yield the remainder of my time.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Indiana.

Mr. LUGAR. I yield 10 minutes to the distinguished Senator from Pennsylvania [Mr. SANTORUM].

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I thank the Chair.

Mr. President, I rise in support of this legislation, and I do so enthusiastically, although I must say I do have some reservations about a few of the titles which I will talk about later.

Overall, this bill does move in the right direction. It moves toward freedom to farm, which I think is absolutely important for agriculture in America, to be not only profitable for the farmer but to be able to produce goods that can be sold all over the world.

I am very proud of the conservation title in this legislation. I think the dairy title takes a step in the right direction. Dairy, as has been said by various people on the floor, is probably the

toughest area to reform, but we have taken steps in the right direction. It is going to take a little bit longer to get the kind of reforms in dairy that are necessary to be more free market oriented, but I think we have moved substantially in the right direction, and I support this bill.

I have some problems with respect to sugar and peanuts, but they will not keep me from voting in favor of this legislation and to commend both Chairman LUGAR and Senator LEAHY, the ranking member, for a job well done in putting this agreement together under fairly serious time constraints as we approach the planting season.

Let me first focus on the conservation title because this Congress has been excoriated by many in the national media for being an anti-environmental Congress. I suggest this farm bill is the most proenvironmental farm bill ever passed. It makes some terrific reforms by focusing on incentive-based programs, where we encourage farmers to be good stewards of the land. Farmers are good stewards of the land, by and large. We should have programs to complement their natural tendency, which is to take good care of the land that they need to grow their crops or to raise their cattle or sheep or whatever the case may be.

This is a very important step in the right direction. We should commend the leaders here, and the Congress, for putting this bill forward in an area, as I said before, where we are being criticized for not being sensitive to the environment. We have established new programs, incentive-based programs, that I believe will have a tremendously positive effect on the environment in rural America.

As a sponsor of the Environmental Quality Incentive Program that Senators LUGAR and LEAHY introduced and incorporated into this bill, I am particularly encouraged by the cost-shared assistance that will be available for livestock and crop farmers.

Senator LUGAR mentioned the Farms for the Future Program earlier. This is an amendment I offered on the floor of the Senate to provide $35 million for farmland preservation. It is an incredibly successful program in Pennsylvania. In fact, we have an overwhelming demand for this program in Pennsylvania that we simply cannot meet. This is an attempt to have the Federal Government help out to preserve high-quality farmland that happens to be located in an area near an urban area that is under very intense pressure for development. What we are seeing happen, obviously, as the urban sprawl continues to move out into the rural area, we are losing very valuable farmland. In fact, in many of my counties, particularly in southeastern Pennsylvania, we are seeing the whole farm economy destroyed because of the pressure of development. I know it is not just happening in Pennsylvania. It is happening across the country. Farmland preservation is a way to recognize that the farm economies in these areas where we have such high quality farmlands and we have a good agriculture base are worth preserving and protecting. This is a way to do it. So I am very excited about this aspect of the conservation title.

Finally, the whole freedom to farm concept is important with respect to the environment. Instead of dictating our farm policy from Washington, we are now giving flexibility to farmers. So they are not going to plant the same crop on the same ground, year after year. This practice requires increased uses of pesticides and fertilizers, because you are draining the ground of nutrients every year because you are planting the same crops. Now, you will see different crops planted and a reduction in the use of pesticides and herbicides. That is a very important, environmentally positive aspect to the freedom to farm approach.

So, there are a lot of things in this farm bill we should be very excited about from that perspective. I want to congratulate, again, the Agriculture Committee and the conferees, for keeping these programs strong and crafting a good title.

Let me now move to an area I am concerned about and that, obviously, is sugar and peanuts. But one other thing before that. I am disappointed we were not able to eliminate permanent law. Permanent law is from 1949. It is a law that is obviously not in use. It is superseded every few years when we do a farm bill, as we will this time. We will suspend permanent law, but it is still on the books. We say, "What does it matter if it does not come into effect? Why is it so important that you want to get rid of this?"

Permanent law is really the hammer held over our heads, that if we do not pass a farm bill, if we do not keep these farm programs going and we do not repeal permanent law, we kick back to this permanent law which means we have outrageously-priced commodities. This is, really, one of the reasons I believe we continue to pass farm bills and we continue to have an interfering Government hand in agriculture.

If we got rid of permanent law, then the farm bill would have to be passed based on its merits as a bill, not because there is a hammer out there that would throw the economy into disruption if we did not pass a farm bill. So, retaining the permanent law hammer gives me a little bit of trepidation that, when this farm bill comes up again for reauthorization, the transition to more free markets could be hampered because of that hammer. So I am disappointed in that. But, again, it is another fight for another day.

Finally, on the sugar and peanuts—I could talk at length about both, but I am going to focus my attention on what I see is the more egregious of the two programs and that is the peanut program. I stood on the floor right at this spot and offered an amendment on peanuts, which was a gradual phase-down of support price. The opponents of that amendment got up here and demanded—they said, "Look, you guys do not understand. We have real reform in here." They just said, "This is substantially reformed in the original bill. You do not have to go this far. This is outrageous reform, the Senator from Pennsylvania is talking about. This is just too severe. We have real reform in this underlying bill. As a result, you can be for reform of the peanut program and not vote for the amendment of the Senator from Pennsylvania."

Well, as I knew at the time and as I said at the time, I said: Yes, there are some reforms in here. They are not substantial. It is lipstick on a pig. But, yes, you can argue there are reforms here. But you know what is going to happen. These folks, who are advocates of this program, they are going to get in conference and they are going to gut all the reforms and they will come back and it is business as usual.

Surprise, what happened? They get to conference and almost all the minimal reforms that occurred in the original bill are gone. They are gutted. There is almost no reform in this bill anymore with respect to the peanut program in particular. That is fine. I should have known better. In a sense, I did know better. But I will state right here, that this program, while it is only reauthorized every few years—5, 7, whatever years it is—may be only reauthorized that often, but we are going to have another vote on the peanut program this year, maybe more than one vote. We are going to do it on appropriation bills. We may do it on who knows what other bills. We are not going to continue to sandbag reform on peanuts and then go to conference and gut it and have it included in the big bill where you cannot get to it anymore.

This battle is not over. There will not be any argument anymore from the other side that we actually reformed it because you did not reform it. Now we are going to talk about the merits of this program, as to whether it should go forward. Let me talk about the merits of this program. Yes, we cut the support price of peanuts from $678 a ton down to $610 a ton for quota peanuts.

By the way, the world price for peanuts is $350 a ton, but we are now at the tough, mean-spirited rate of $610 a ton, if you are on quota. We have two classes of citizens in peanuts, who grow peanuts. We have people who are lucky enough that their granddaddy was able to get a quota or license from the Government to grow them, and you get $610 a ton. If your granddaddy was not around when they were giving out the

quotas, you only get, if you sell them on the additional market to the Government, $132 a ton.

It is the same quality peanuts, maybe grown by the same farmer, some are quota some are additional. But you get $132 versus $610. OK? The world market is $350.

So we have two classes of people out here. You say, "Well, yeah, you reduce the price." "Well, yes, we reduce the price. Guess what? We now have made this a no-cost program." That is the way they sort of got around it.

No, it is not reform. It is not going to cost money anymore. How do they do that? Every year the Secretary of Agriculture estimates what the consumption of peanuts will be in this country and sets the quota. Let us say it is 1.2 million tons of peanuts, and he sets the quota.

The Secretary cannot allow the Government to be a big buyer of peanuts, and the reason is because we cannot get stuck with a lot of expensive peanuts and not be able to sell them.

Mr. President, I ask for 2 additional minutes.

Mr. LUGAR. I yield 1 additional minute.

Mr. SANTORUM. So the problem is, he will have to go out and short the market; in other words, he will have to have a lower quota than they actually expect so they do not end up buying a bunch of peanuts and being stuck with the cost.

We had two provisions in there that actually penalized farmers 5 percent every time they sold their peanuts to the Government when they had a price equal to the quota price available on the market. Well, they gutted that provision. They gutted that provision completely.

How do they do it? First, they said the farmer has to put up his entire crop. What do you mean "entire"? You put up 99 percent of your crop and you sell 1 percent on the open market, and you avoid all penalties. That is No. 1. There is a big loophole here, No. 1.

No. 2, it says that you have to sell your entire crop to the Government for 2 consecutive years, and then you get penalized. One year one producer sells it all to the Government, the next year another one does, and you play games with producers so nobody gets caught. That is another big loophole in this.

I can go on with a whole variety of other gutting amendments that occurred in conference. But the fact of the matter is this program is not reformed in this bill. We are going to have plenty of opportunities on the floor of the Senate over the next 6 months to reform it, and I am looking forward to that debate.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. LEAHY. How much time does the Senator wish?

Mr. HEFLIN. Ten to twelve minutes.

Mr. LEAHY. I yield 10 minutes to the Senator from Alabama. My time is dwindling, so I yield 10 minutes.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I rise today to talk a few moments on the farm bill conference report that is before the Senate. Last year, when the farm bill process began, farmers came to me representing all types of commodities enthusiastically supporting the continuation of the present programs which provided a safety net for farmers in times of disaster or low market prices. They told me the programs were working well, and, particularly in the South, these programs had worked exceptionally and extremely well, specifically in regard to cotton.

However, there was substantial Republican opposition to the continuation of such programs, even within budgetary limits. Therefore, the Republicans pushed the Agricultural Market Transition Act of 1996, formerly known as the freedom to farm bill, in which the farm program payments were decoupled and all Government programs would ultimately be phased out at the end of 7 years.

In order to gain producers' support for a farm program phaseout, the Republicans advocated fixed, but declining, payments regardless of market prices. The program that they advocated guaranteed payments to farmers whether they needed them or not. This program, in my opinion, constituted a welfare program.

In regard to cotton, it is understood that if you can produce cotton and get a price close to the target price, which is 72.9 cents a pound, you can make a living. The target price was based on the idea of taking the cost of production and the minimum amount necessary to have a return on equity comparable to what business groups endeavor to try to have as a return on equity, on a conservative basis.

But we find that under this program, this freedom to farm act, that if cotton went up to 85 cents a pound, which would be a bonanza year for profits and for prices, nevertheless under this, you would get a Government payment, a mailbox payment. If cotton went, as it did last year, to $1.06 a pound, you would, nevertheless, under the Republican proposal, get a Government subsidy. There is no point in paying money to people who do not need it, and that would be what would have happened last year under this particular program. Support for farmers should be available during times of low market prices or uncontrollable natural disasters. Payments should not be made to farmers when commodity prices are as high as they currently are.

I oppose such an approach, feeling that this program could not survive close public scrutiny and is simply not good policy.

However, in the Senate, there was extended debate, there were cloture motions filed, and it appeared that cloture would not be obtained at one point, so compromises were worked out. Senator LEAHY took a lead in trying to work out a compromise, and I commend him for the end result. I do not like all the compromises, but at least with the circumstances with which we were faced, we did achieve a bill.

One aspect of the compromise was reinstating permanent law. Permanent law will ensure that Congress in the future must address farm programs and not simply allow them to expire.

The addition of permanent law as a part of the now called Federal Agricultural Improvement and Reform Act of 1996 is a vital element for assuring that the Federal Government will refocus its attention on agricultural policy and ensure that we maintain a partnership with rural America and not abandon our agriculture producers at the end of 7 years.

The Senate compromise also reauthorized conservation programs, including the Conservation Reserve Program [CRP] and permitted new CRP enrollments. The conservation title of the farm bill demonstrated a very strong commitment to the environment.

In addition, the very important nutrition programs were also reauthorized.

Discretionary agricultural programs, such as research, trade, rural development and credit were also rolled into the final bill.

The conference report before us today contains much of the Senate bill, and even some improvements were achieved in conference, including improvements in the peanut program. However, to me, this bill contains about an equal amount of good and bad, and this is so even after the compromise changes were included in the conference report.

If I had to weigh the good and the bad on a scale, they would come out about equal. But we are faced today with the fact that the planting season is upon us. A day has not passed in which I do not hear from farmers anxious for some direction from Congress regarding farm programs. Time is of the essence. The planting season is upon us, and that is an element that we must consider.

Nevertheless, I cannot overlook my strong concerns regarding the outyears when it is predicted that commodity prices will fall and the farmers will need an adequate and certain safety net.

The agricultural policy in China, for all practical purposes, is today controlling cotton prices in America, among

others. They have vast billions of citizens to feed, and whatever policy they may establish concerning agriculture, it certainly affects the commodity prices in America today. If Chinese agricultural policy changes immediately, or in the next couple of years, then we will again experience commodity price fluctuations and the safety net provided in the bill before the Senate does not provide an adequate safety net to deal with this potential problem, and this concerns me deeply.

But at the same time, we also are faced with another situation. In my State of Alabama and in the Southeast, and in other sections of the country, last year saw disastrous conditions that affected the production of farm commodities. In the cotton belt, we had to deal with the boll weevil, the tobacco budworm, and the beet armyworm. Alabama also experienced a terrible drought, and then had to deal with two hurricanes unfortunately at harvest time. Alabama, along with other regions of the country, each had their share of uncontrollable factors to deal with this last season. Unfortunately, catastrophic crop insurance proved to be inadequate and many farmers struggled to make back their cost of production, and many did not. We tried to pass some limited degree of disaster assistance for cotton farmers during agriculture appropriations, but this effort was unsuccessful. So we are looking at a situation today where the first payment under the, as I call it the freedom to farm act, would act as a disaster payment to farmers for the disastrous situations experienced last year.

Therefore, while I believe this bill to be flawed in some areas, I have decided to vote for the conference report. I base this decision on weighing the good and the bad, and I believe it to be about equal. The fact that it is late in the day and this bill does provide some immediate assistance to farmers, I will, with reservation, vote for this conference report. I have hopes in the future that we will come back and take a responsible look at the policy, a year from now or 2 years from now, and look again at the overall policy pertaining farm programs.

I would like to commend Senator LEAHY for his work in this regard.

Mr. LEAHY. I will yield another minute for that, Mr. President.

Mr. HEFLIN. I think he did a great job and he reestablished a great deal of Democratic principles into the policy that we have, particularly research and conservation and environmental as well as others in regard to it.

I would briefly like to mention the peanut program. In my judgment the peanut program reform went far too far. According to studies that were made by Auburn University, the final version of the peanut program being voted on today will result in a 28-percent loss of income to the peanut farmer. While other commodity producers are receiving transition payments, the peanut producer is seeing nearly a one-third reduction in his income. In my judgment, the degree to which the program was reformed was unnecessary and punitive.

Mr. President, as I am looking at this farm bill, this will be the last farm bill that I will participate in, since I am retiring at the end of the year. I have long been a supporter of the American farmer. My commitment to agricultural producers has been constant throughout my career. I am concerned that the bill before us today does not provide the kind of safety net that I would prefer to see and leave as a legacy for future generations of farmers. I hope that in the future, Congress will not turn its back on American farmers in the event that commodity prices fall and farmers are left without any price protection.

I ask the Senator if I could have a couple more minutes.

Mr. LEAHY. I yield another minute to the Senator.

Mr. HEFLIN. Basically, I think that the farm bill ought to have balance. Take for example feed grains. Feed grains are important to the producers, and the structure of their program is important to them. But so on the other hand are the users of feed grains, such as the producers of cattle, hogs, and catfish. It is so necessary to have a balance. So I hope that as we look to the future and look again in regard to these matters, that we will attempt to achieve a balance between producers and users of agriculture commodities.

I would like to recognize Senator LUGAR for his work on this farm bill. Senator LUGAR has been a good chairman. I disagreed with him on many aspects of the bill and of the overall policy but he was certainly a gentleman throughout; he made certain that everybody had an opportunity to be heard. I think that he wants to achieve a balance in regard to farm policy and hopefully this will be addressed in the future.

So, as we look forward toward the future, we hope we can have a farm policy that has balance. At some time in the future I will deliver a speech to the Senate relative to balance—balance relative to trade, balance in regard to agriculture policy. But today, Mr. President, I will vote for the conference report.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, we are going back and forth. I see a Member on the other side of the aisle. But I note, if I might, the distinguished chairman. I do intend to make a statement later in praise of both Senator HEFLIN and Senator PRYOR, two of our most distinguished Members, who are leaving the committee at the end of this year.

Mr. LUGAR. Mr. President, Senator GRASSLEY is prepared to wait for Senator KERREY's speech. Senator KERREY has been on the floor. I will ask recognition for him to speak following Senator KERREY.

Mr. PRYOR. Mr. President, I am not seeking recognition to speak, but merely to ask the question, is there a possibility that we could seek, once the speakers coming up are through—I have been here for a good while this morning. In fact, I have enjoyed being over here this morning listening to some of this debate. But I see some of my colleagues, Senator KERREY, Senator BRYAN. I would be glad to follow them, if I just knew some order.

Mr. LEAHY. I wonder on our side, as we go back and forth on the Democrat side, I wonder if my colleagues would be willing to have it be the sequence of Senator KERREY, Senator BRYAN, Senator PRYOR. Is that what the Senator is suggesting?

Mr. PRYOR. I would be glad to follow my colleague, Senator BRYAN.

Mr. BRYAN. If I might, the distinguished Senator from Arkansas has been here longer than I.

Mr. LEAHY. Why not Senator KERREY, Senator PRYOR, Senator BRYAN, as we take our turns. That is assuming there will be a chorus between each Democrat of a Republican seeking recognition.

Mr. LUGAR. If the Chair would permit, following Senator KERREY, Senator GRASSLEY would be the Republican speaker, to be followed then by the two Democratic speakers, and then any Republican that comes on the floor.

Mr. LEAHY. I thank the chairman.

Mr. PRYOR. So I will not surprise either of the splendid managers of this piece of legislation, I am going to vote against this bill. But there is one section I find very appealing in this legislation. I want to talk about that section just for a while, 4 minutes.

Mr. LEAHY. Those in opposition will have time yielded by the distinguished Democratic leader, and we will take that at that appropriate time.

The PRESIDING OFFICER. The Democratic leader has 84 minutes.

Mr. LEAHY. Is the Senator from Nebraska speaking in opposition?

Mr. KERREY. Yes. I ask for 10 minutes, to be charged against the Democratic leader's time.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. KERREY. Mr. President, first let me praise the conferees. Given the acrimony surrounding the debate, and given the lateness of the hour, it is entirely possible for conferees to look and produce nothing, or to produce a bill which the President would have had to veto. I appreciate very much—I know a great deal of movement had to occur in order to resolve many of the conflicts. I applaud them for having

produced a piece of legislation that the President has indicated that he will sign and that he would like to revisit next year.

Mr. President, I would like to go through some of the things I see are good in this bill. I do intend to vote against it, but there are a number of things that are quite good.

First, in the area of conservation, one of the great success stories of farm programs over the past 60 years has been the tremendous improvement in conservation of soil and of water that has occurred on the private property in this country. Very often one of the political lines is used when describing the farm program as "What a failure it has been." But one need only look at the snapshot of what this country looked like in the 1930's versus what it looks like in the 1990's. Indeed, you can go back to the 1980's and see considerable progress just in the last 10 years. It has been a great, often untold story, this success story in this country.

This bill authorizes the CRP at 36.4 million acres through 2002. All conservation programs are going to become more responsive to State and local needs since the technical committees that control will be required to include agriculture producers as well as nongovernmental organizations, giving them an expanded role.

This is no small item, Mr. President. It empowers people at the State level to come up with plans for the CRP that dovetails with their plans for conservation, their plans for tourism, their plans for water quality. We have tried that at the State level in Nebraska, and I can alert colleagues that groups that typically opposed one another have been able to reach agreement as a consequence of being given the power and control over making these kinds of decisions.

There is simplified conservation planning in this legislation for farmers through the Environmental Quality Incentives Program and the Conservation Farm Options. It is a tremendous improvement. I applaud the conferees for including it.

It provides for pilot wetlands mitigation projects to give farmers flexibility in managing their frequently cropped wetlands that have been badly degraded.

It makes many improvements to the law dealing with good-faith violations of conservation requirements and granting of variances from conservation requirements, stemming from "abandonment" of farmed wetlands and in defining "agricultural land" so the U.S. Department of Agriculture will be the agency responsible for delineating wetlands on pasture, rangelands and tree farms.

Next, the Resource Conservation and Development Program, which has also been very successful in my State, is reauthorized through the year 2002. The next big thing I identify is something quite good, spoken at length by many other people, but we have retained permanent authority for farm programs. Thus, we are not phasing out the farm program, not only at the end of 7 years, but the door is open if this program turns out not to be successful, for us to revisit and perhaps change the law.

Third, it increases planting flexibility, though we take a step backward from the 1990 farm bill in planting flexibility for farmers who want to plant fruits and vegetables. I am pleased the conferees adopted a provision I requested regarding alfalfa and other forages. For the first time, farmers and ranchers will not be penalized for harvesting alfalfa and other forages on their base or contract agencies. This will help farmers meet their conservation compliance requirements and may result in more conserving-use species being grown on environmentally sensitive land.

I point out there was an alternative, called the Farm Security Act, providing tremendous flexibility and simplicity by reverting to the normal crop acreage system, what we, on the Democratic side, proposed and tried to get supported. It would have retained a market orientation but would have provided tremendous new simplicity and flexibility for the farmer.

In addition, the rural development programs are improved. The creation of the Rural Community Advancement Program will give States more flexibility to address their individual needs, and the Fund for Rural America will provide additional resources for addressing needs in both rural development and in research.

Next, on the negative side, now moving from the good to the bad, depending on your point of view, my point of view is that it is very bad to create a fixed payment system that is, in essence, ignorant of the market, ignorant of the farmer's revenue, and ignorant of whether the farmers even plant a crop. This decoupled program of so-called guaranteed payments is far from being market oriented. It is market ignorant. American taxpayers would not stand for our Government giving AFDC payments to a family making $100,000 a year, any more than they will stand for our Government giving producers a freedom-to-farm payment—up to $230,000, in fact—when that farmer has received record-breaking profits or when he decides not to plant at all.

Next, it overpays farmers when revenue is high but leaves farmers without adequate protection during bad years when they need Federal support the most. Worse, the loan rate is capped for the 1995 levels. It can go down, but it can never go up. In a time when farm prices have increased and are projected to remain high for several years, these cap loan rates quickly become as outdated as the crop basis of previous farm bills.

Wheat and feed grain farmers, the individual producers themselves, came and said, "If you take these caps off, we will pay for it by taking reduced guaranteed payments," but the majority party refused to make this commonsense change.

In 1996, the farm program was expected to cost very little. To be clear on this, in 1985 the farm program cost $26 billion; last year, $10 billion. This year was going to cost $6 billion; next year it is forecasted to be $3 billion as a consequence of prices being high. Farmers are getting a decent income from the market, and the taxpayers are benefiting from the greatly reduced cost of the farm bill.

As much as I dislike many of the aspects of the 1990 farm bill, it is undeniable, from a taxpayer's perspective, that the 1990 farm bill was working. Our deficit will actually increase by $4.5 billion by the end of 1997 as a result of this bill.

Yesterday, we heard the Secretary of Agriculture come before the Agriculture Appropriations Subcommittee and present the President's budget for 1997 to Congress, and he had to say, "We did not know what the farm bill would be, so we could not include the farm bill consideration." But his budget, assuming spending needs would be the same as they have been under the 1990 farm bill, shows that there is a $3 billion increase in the mandatory side of the farm program payments.

So, please understand for those who will vote for this thing and issue the press release talking about how it will be cheaper in the first year, and the budget that we will debating this year, the budget will actually increase on the mandatory side by $3 billion. Increasing mandatory spending by $3 billion in 1997 can mean one of only two things, Mr. President: Either the deficit will increase, or discretionary spending will have to decrease.

In the President's 1997 budget, budgetary authority for discretionary spending amounts to $13 billion. Budget authority for mandatory spending is $59 billion, including the nutrition programs. That $13 billion is a $200 million increase over last year. With inflation running about 2½ percent, that is an actual cut, Mr. President. With this $3 billion increase in the mandated side, unless we bust the budget or find an offset someplace else, we will have to take the discretionary programs down even further than is being recommended by the President.

Next, Mr. President, our Nation's neediest people are shortchanged by this bill, since the Food Stamp Program is reauthorized for only 2 years. Only 2 years' authorization of food stamps, while farmers are supposedly guaranteed payments up to $230,000 for 7 years.

Research is shortchanged as well, Mr. President, with programs being authorized only through 1997. This is a result

of the House insistence that we should force ourselves to craft a new bill dealing with research within that time period. I agree our research program should be reexamined and updated. However, if the past 14 months is any indication of how quickly the House and Senate Agriculture Committees and Congress as a whole will act to reauthorize agriculture-related programs, the majority's insistence of only a 21-month authorization for research is not a very good idea.

Less planting flexibility for farmers who grow fruits and vegetables is the next objection I have, Mr. President. Potatoes, in particular, is a crop grown increasingly in my State, and not only grown but also processed. So it is an important source of jobs. Under the 1990 farm bill, the current law, any farmer could plant potatoes as long as that farmer agreed to give up any Federal subsidy on the acres that were planted to potatoes. That is fair policy.

Unfortunately, I was unable to persuade the majority that we should adopt the same policy of planting flexibility for potato growers under this bill. Instead, the conferees adopted a provision that will create an allocation system, a quota, Mr. President, for farmers who want to plant potatoes or other fruits and vegetables on contract areas. Instead of allowing any farmer to plant potatoes, if the farmer agrees to forego his Federal subsidy it limits potato production on contract acres to three situations: First, a region with a history of double planting; next, a planting history that includes potatoes; and farmers that can prove to the U.S. Government, the USDA, they have grown potatoes in the past, but that farmer is limited to planting no more than his average production of potatoes in the 1991–95 period.

So in conclusion, we are saying freedom to farm, more flexibility, but you are not able to do what you are allowed under the old farm bill, which is, if you want to plant an alternative crop you are allowed to take a decreased payment off your normal base. I object to this arbitrary planting restriction, particularly since farmers of each of the three situations must also give up their guaranteed payment.

Mr. President, the last time the Congress failed to enact a farm bill during the year it was due was in 1947. I point out, in 1990, when this bill was being debated, when the current law was being debated, in July 1990, there was a great debate over an amendment offered by the Senator from Texas, Senator Bentsen. What he said was, we are going to authorize the Secretary—any section of this farm bill is extended during that 5-year period to reauthorize the rest of the farm bill. Why? Because the Republicans at this time were quite concerned—there was a colloquy between the distinguished Senator from Indiana and the Senator from Kansas saying, we have to do this because July is too late.

We waited far too long, Mr. President, this time around. 1947 was the last year when this happened. That year there was a Democrat in the White House and Republicans controlled the House and the Senate. In my judgment, we are going to have to do the same thing that the voters did in 1948 to break the current logjam we have on the farm bill and the appropriations bill if the American people's will is not going to continue to be frustrated.

However, the conference committee—as I said at the beginning, I must revert to praise—the conference committee does a terrific job. They could have ended the day and passed nothing. They were up against a time line—self-imposed, in my judgment—as a result of not getting the work done. That having been said, it would have been very easy for them to have passed something the President could not have signed.

I hope that the political changes in 1996 present us with an opportunity to revisit this bill on behalf of farmers who need income, on behalf of people in communities who depend upon that income for jobs, on behalf of the taxpayers who are going to pay for it, and, most important, on behalf of the American consumer.

I yield the floor.

Mr. LUGAR. Mr. President, I yield 10 minutes to the Senator from Iowa, Senator GRASSLEY.

Mr. GRASSLEY. Mr. President, Congress and the Senate takes up today the passage of legislation regarding the farming community and is presenting legislation as a basis for a safety net for the agriculture of the next century. The programs of this century are outdated for the agriculture of the next century.

Now, Mr. President, the opponents of this bill take great delight in calling this a welfare bill for farmers. Well, of course, that shows a complete lack of understanding of the farm economy and of farm programs.

First of all, farmers have relied on a Government program for the past 60 years. The urban press has always referred to Government programs as "welfare" because they are too stupid to understand the interrelationship between food production and what goes on in cities and the jobs that it creates.

But what the press does not tell you is what the farmers have done for the American consumer. Farm programs have helped farmers to supply us with the best and the cheapest food supply in the world. Is this welfare? Everyone—most of all, the consumer—has benefited from farm programs, and they will continue to do so under this bill.

But Congress has passed, in this bill, the most sweeping changes in farm programs in 60 years. We will not, in this new environment of change, pull the rug out from under farmers in this legislation.

We are providing in this legislation a glidepath to the free market type of agriculture that most farmers want. This bill provides a glidepath. It provides guaranteed, certain payments to farmers to allow them to adjust to a new era of agriculture.

This era will be heavily influenced by free market forces instead of Government programs. This new era will also be influenced by the opening of markets in Europe and the Pacific rim when free-trade agreements, such as GATT, are allowed a chance to work. Most farmers welcome the opportunity to meet every competitor abroad, compete in every market, and send a clear signal—which this bill does—that we are going to supply that market. We are going to be in the market to stay.

But, of course, during transition, there must be an adjustment period. The Government safety net must continue in order to ease the transition. This bill accomplishes that goal.

And anyone in this Chamber who thinks farmers will take this market transition payment and not plant a crop has a total lack of understanding not only about farming but about economics in general.

The farmers I know cannot afford to pay the property tax on their land and to take these payments and expect to make a living from them. They will have to earn income from the land. Not only do they have to do it, they want to do it. They have to produce and market a crop in order to provide such a living.

With all due respect to any of my colleagues who think otherwise, it is insulting to our farmer constituents to insinuate that they will take a Government payment and fly off to Florida and let the productivity of their land and the return from that productivity be nonexistent.

Obviously, you are not talking to the same farmers that show up at my town meetings and visit my office. These farmers want to continue to farm the land and make a living from that land.

So let us give farmers just a little bit of credit. Let us trust them not only to do the right thing, but to do the only thing that makes sense economically. That is what most of this farm bill is all about—letting farmers make their own decisions, instead of Government making all of their decisions for them.

Mr. President, I simply cannot, on another point, buy the argument made by the opponents of this bill that we have failed to provide an adequate safety net for farmers. The farmers I talk to do not think the current program is any safety net at all.

If you want to see how the current program would work for some farmers if it were extended, talk to the farmers

in southern Iowa, western Illinois, and northern Missouri who did not get a crop planted in 1995, and ask them about a safety net. They had little or no crop to market this year. Yet, they did not receive a deficiency payment because prices are so high. They lost a lot of income, and many of them are on the verge of going out of business. Yet, some of my colleagues want to extend the 1990 farm program because they think it is a better safety net.

This new farm bill has all the components of an adequate safety net. First, it makes guaranteed, fixed payments to farmers for the next 7 years—something they can count on. It lets farmers manage their income from the Government, instead of some bureaucrat in Washington doing it.

Since we know the amount that we have to spend on the farm program over the next 7 years—and we have to know that if we are going to get to a balanced budget—why not let the farmers manage this money instead of Washington? Once again, the opponents of the bill would rather keep the powers in the hands of unelected, faceless bureaucrats, when the farmers, business people, as they are and must be, are competent to do this and want to do it and welcome the freedom to do it.

This farm bill also has a strong Marketing Loan Program. This represents the true safety net for our farmers. It protects the farmers against rapid decline in prices. Finally, we establish a new program in this farm bill called revenue insurance. In fact, it is already being used in Iowa under the name of crop revenue coverage. This new product is a public-private partnership that represents the future of farm programs. The farmers I talked to in town meetings over the past weekend are very excited about this product. They feel that it is the only safety net that they need, one that they can control, and one that is related to the marketplace.

So let us not substitute our judgment for that of our farmers. It is their business, their livelihood, and there is nobody who knows better how to manage the 350-acre average-size farm in Iowa than the man who is operating it or the woman who owns and operates it. They know better than many people here. Let them decide what a sufficient safety net is for their business. I think most of them will decide that this new revenue insurance product is a very strong safety net.

Also, Mr. President, the opponents of this bill argue that we are ending Government involvement in farming, and that this is just plain wrong. These are scare tactics designed to undermine the intent of this bill.

First of all, permanent law, specifically the 1949 act, is still in place as an incentive for Congress to consider farm legislation after the year 2002.

Second, I understand from the Congressional Budget Office that agriculture will have about a $4 billion baseline for farm programs after 2002.

Finally, and most significantly, the bill establishes a strong insurance program. This program will be a public-private partnership that provides a very strong safety net for family farmers.

So Government will continue to play a very important role in farming. But the role will be much more limited. It is accurate to say that farmers' business decisions will no longer be made in Washington. But the Federal Government will continue to play a role in providing a safety net.

Maybe the opponents of this bill want the Government to continue to control all aspects of agriculture. But farmers do not want that, and the supporters of this bill do not want that. But it is just fear-mongering to insinuate that the Federal Government will pull the rug out from under the family farmers. This simply will not happen under this very good piece of legislation.

I commend the manager of the bill for writing a very good piece, as well as the Senator from Vermont.

I yield the floor.

Mr. LEAHY. Mr. President, I yield time from the time of the distinguished Democratic leader to the Senator from Arkansas.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the distinguished ranking member, Senator LEAHY, for yielding to me. I want to compliment not only Senator LEAHY but also our friend and chairman of the committee, Senator LUGAR of Indiana.

This has been a very, very difficult process indeed—Mr. President steering this particular piece of legislation through the Agriculture Committee ultimately onto the floor of the Senate. In my opinion, it is long overdue. We will not fight that battle now. That has been the battle of the past days, and perhaps it could be a battle for a future day. But at least let me say that our two ranking members, our two managing members, this afternoon have worked very hard and very closely to bring this matter to the floor of the Senate this afternoon.

I would like to take just a moment to highlight section 926 of the farm bill conference report to my colleagues in the U.S. Senate. I find myself in a very unusual position of pointing to something in this report which I actually support, and those sections are few and far between. But this is section 926 that I strongly support.

As many of my colleagues know, I have not nor will I today support the freedom-to-farm concept espoused in the philosophy of this legislation. I believe it ends the much-needed safety net for our family farmers. However, I have stated my opinion numerous times on this floor, in the Agriculture Committee, and most recently in the last week or so as a member of the conference committee that brought this bill to the floor of the U.S. Senate.

Nevertheless, I would like to very quickly highlight one particular provision which was included to recognize one of our distinguished colleagues in the U.S. Senate. Section 926 of the report designates the research facility operated by the Agricultural Research Service—ARS—near Booneville, AR, as the "Dale Bumpers Small Farms Research Center."

Booneville, AR, by the way, is less than 15 miles south from an even smaller Arkansas town known as Charleston. The reason I bring this up is that Charleston, AR, just so happens to be the hometown of our colleague, the senior Senator from Arkansas, the Honorable Dale Bumpers. At one time Senator BUMPERS not only operated a small business, which was a hardware store, but he was also an attorney in Charleston, AR. He took great pride in stating that he was not only the only attorney but that he was the best attorney in Charleston, AR.

Mr. President, naming this research facility after the Honorable DALE BUMPERS could not be more appropriate, and I am very pleased today to play a very small part in making this distinction possible. Senator DALE BUMPERS has been a tremendous ally for the farmers and ranchers of Arkansas and across the whole country.

As chair and now ranking member of the Agriculture Appropriations Subcommittee, Senator BUMPERS has worked and continues to work tirelessly on behalf of the agriculture community. He is also, as we all know, the former chairman of the Senate Small Business Committee.

It was early 1976 when the Booneville Chamber of Commerce went to work to find a better way to utilize State-owned land near this particular town. With the tireless help of Senator DALE BUMPERS, the necessary groundwork began, and this truly grassroots project was off and running. After consideration of all possible uses for this land, the overwhelming conclusion was that a research facility to benefit small farms would be the most valuable use. I so well remember this project. It seems so many years ago, as I was Governor at the time and did what I could at the State level to push this project forward.

Over the next couple of years working with Senator BUMPERS, with his help, vision, and foresight with the feasibility studies that he was responsible for when they were conducted, additional backing was gained. Certainly they showed that a research facility for small farmers in small farming operations was justified. Since it was State-owned and State-involved, Mr. President, support from the Governor

was crucial. And when my successor, Governor Bill Clinton, entered office in 1979 he quickly recognized the merit of establishing a small farms research center. Approval from local organizations was also obtained, and the citizens of Booneville traveled to Washington, DC, to the Nation's Capital to follow through on their efforts. I remember so well those meetings. I also remember the leadership of Senator DALE BUMPERS—that much-needed fire that got these funds committed, and the project was then off the ground.

Finally, in 1980, Mr. President, with all of the planning, and all of the studies finally completed, about 15 acres of State-owned land was leased to the University of Arkansas, which in turn was leased to the Department of Agriculture to be used in research. All of this would not have been possible without the leadership and the vision—and certainly the commitment—of the Honorable DALE BUMPERS.

On behalf of the citizens of Booneville, AR, and throughout our entire State, on behalf of the farmers and the ranchers who have and will continue to benefit from the important research conducted there, let me at this time express the much-deserved appreciation for all of Senator BUMPERS' efforts in making a worthy project become reality. We hope that this small token of recognition will demonstrate our gratitude to Senator DALE BUMPERS.

Let me conclude, Mr. President, by stating that this idea to name this particular facility has been kicking around I must say for a long time. For a long time many members of the community of Booneville have thought that the appropriate name for this center would be the "Dale Bumpers Small Farms Research Center." We have leaders like Jeral Hampton, Rick Lippard, Gene Remy, Don Dunn, A.B. Littlefield, and John T. Hampton who served on a committee to steer this center from the blueprint stage to the active research stage that it finds itself in today.

It is a great opportunity, and I must say a great challenge that lies ahead to benefit not only small farmers in our State but small farmers in research across this great country of ours.

It is a great honor for me. It is great to be able to assist in the proper naming of this U.S. Department of Agriculture research center after our distinguished colleague and senior Senator from the State of Arkansas.

Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, I understand that under unanimous consent Senator BRYAN would be recognized.

Mr. BRYAN. Responding to the floor manager's inquiry, I will speak for less than 10 minutes, hopefully.

Mr. HARKIN. Parliamentary inquiry: This Senator would like to know what the speaking order is that is coming down the pike?

The PRESIDING OFFICER. Let us defer to the floor manager.

Mr. LUGAR. Mr. President, may I suggest to the Chair that it might be appropriate after Senator BRYAN is recognized that Senator JEFFORDS be recognized on our side, and then Senator HARKIN, if that would work out with the arrangement. We have attempted to alternate back and forth. But there was no Republican present when Mr. BRYAN appeared and, therefore, I recognized that he was the next speaker on that occasion. But after him, I would like to proceed to Senator JEFFORDS.

The PRESIDING OFFICER. I understand Senator BRYAN, Senator JEFFORDS, and Senator HARKIN, in that order.

The Senator from Nevada is recognized.

Mr. BRYAN. I thank the Chair. I thank the majority floor manager for accommodating me and recognizing me in sequence.

Mr. President, I rise today in opposition to the conference report and to speak about an aspect of this farm bill that is particularly troubling to me and has been troubling to me for many years.

Again and again this Senate has passed provisions to reduce and to reform the Market Promotion Program which is also known as MPP. Each and every time the Senate has called for reform of MPP the conference committees which convened subsequent to the passage of those reforms have removed the reform language from the final conference report.

By way of background, Mr. President, the Market Promotion Program was created to encourage the development, maintenance, and expansion of exports of U.S. agricultural products. MPP is a successor to the Targeted Export Assistance Program [TEA] which was established in 1986. TEA was originally created to counter or offset the adverse effect of subsidies, import quotas, or other unfair trade practices of foreign competitors directed at U.S. agricultural exports. Since 1986, the Federal Government has spent $1.43 billion on TEA and MPP.

The General Accounting Office has pointed out that the entire Federal Government spends about $3.5 billion annually on export promotion. While agricultural products account for approximately 10 percent of total U.S. exports, the Department of Agriculture spends about $2.2 billion each year or 63 percent of that total. By contrast, the Department of Commerce spends $236 million annually on trade promotion.

MPP is operated through approximately 64 organizations that either run market promotion programs themselves or pass the funds along to individual companies to spend on their own advertising efforts. In fiscal year 1994, about 43 percent of all MPP activities involved generic promotions while 57 percent involved brand-name promotions.

In fiscal years 1986 through 1993, $92 million of MPP funds went to foreign companies.

Mr. President, when I talk about MPP funds, I am talking about tax dollars collected from American citizens who remit their taxes to the Federal Government each year. That $92 million represents nearly 20 percent of the total funds allocated for brand-name promotions during those 8 years. In fiscal year 1994, more than 140 foreign companies received MPP funds.

Although the stated goal of MPP is to benefit U.S. farmers, the program can also benefit foreign enterprises. By funding foreign firms, the General Accounting Office has contended that MPP can make it more difficult for U.S. firms to compete and to obtain a foothold in foreign markets. While it has been argued that the funding of foreign companies may produce short-term gains in the export of U.S. agricultural commodities, those gains are likely to come at the expense of U.S. firms gaining a more permanent foothold in overseas markets.

On September 20 of last year, the Senate voted 62 to 36 to reform the MPP Program and to lower the amount of Federal Government money supporting it. This amendment was cast in the form of the Bumpers-Bryan amendment and would have made three reforms to MPP.

First, under the provisions of the amendment, only small businesses and Capper-Volstead cooperatives would be eligible for financial assistance.

Second, no funds would be used to provide assistance to foreign trade associations.

Third, the funding level would be reduced to $70 million.

When the fiscal year 1996 agriculture appropriations conference report came back to the Senate on October 12 of last year, it was passed on a voice vote. The conference committee had removed the Senate language reforming MPP and restored its level of annual funding to $110 million.

Again we tried to reform MPP when the 7-year farm program authorization first came before the Senate last month. The Senate passed the Bryan-Kerry-Bumpers-Reid amendment by a vote of 59 to 37, and it contained the same provisions that were previously included in the Bumpers-Bryan amendment, the reforms as well as reducing funding to $70 million annually. Now the farm bill conference report has come back to the Senate and, again, repeating the pattern of the past MPP reforms that passed the Senate, have been removed.

Let me make specific reference, Mr. President, to language contained in the conference report itself that addresses this subject, and I quote:

Funds shall not be used to provide direct assistance to any foreign for-profit corporation for the corporation's use in promoting foreign-produced products.

Now, at first blush, a superficial reading of the language might suggest that foreign companies would be excluded from receiving money through MPP, but this apparent reform is disingenuous. While the language adopted by the conference committee might prohibit direct assistance to foreign companies, it does not prohibit indirect assistance to foreign companies by nonprofit associations. And in what may be the ultimate irony, the conference report implies that a new reform is being enacted that would preclude payment to foreign corporations for foreign-produced products. MPP was never designed—and I repeat never designed—to compensate corporations for foreign-produced products. This claim of reform is illusory.

At a time when the gospel of budgetary restraint has reportedly been embraced by all, a majority of the agricultural conferees continue to pursue a taxpayer giveaway to foreign corporations.

Finally, this conference report adds a new and rather curious mandate. It officially changes the name of the Market Promotion Program to the Market Access Program [MAP] as it will now be designated. Is this reform? I would submit that if it looks like a duck, walks like a duck, quacks like a duck, swims like a duck, it is a duck. Whether it is called MPP or MAP, this program remains what it has always been, a frivolous use of taxpayer money and a prime example of a corporate welfare program that should be eliminated.

Mr. President, I yield the floor.

Mr. LUGAR. Mr. President, I yield 5 minutes to the distinguished Senator from Vermont, Senator JEFFORDS.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. First of all, I commend the chairman of the Committee on Agriculture, along with the ranking member, for the incredible work that they have put into this bill. I believe it is an excellent piece of legislation that provides stability, enhances markets, streamlines outdated programs, creates incentives to protect the environment, and benefits all farmers from all regions of the country. Having worked on several farm conferences in my period in the House, I know how difficult and how hard it is to come through with a consensus. Not only do you have to worry about all the farm interests but also you have to worry about all of those who are affected by farm policy. It is a tremendous piece of work which they have accomplished. I also thank the Members in the House with whom I worked for many years, for their support at the critical time on the conference committee. Without their help this could not have come about.

I am especially pleased that the conference reached a comprehensive dairy title that reflects the interests of all regions of the country. I was most keenly concerned about the Senate farm bill's inability to give our dairy farmers at least a fair deal. It was this concern that motivated me to vote against the bill for the first time in my 20 years in Congress.

Fortunately, through the help of our chairman and ranking member from my good State of Vermont, the conference committee, after hours of intense consideration produced a dairy title that provides stability for our farmers and true reform in the dairy program. The dairy title eliminates the 10-cent-per-hundredweight assessment paid by dairy producers, returning $150 million annually to dairy producers throughout the country at this difficult time for them. It reforms and consolidates the Federal milk marketing order system, consolidating the orders from 34 to between 10 and 14 will help bring more uniformity in prices throughout the country. It continues price support purchases from December 31, 1999, followed by a recourse loan program for butter, nonfat dry milk and cheese beginning on January 1, 2000, giving the industry the means to compete in world markets and enhancing the future of a strong, renewed dairy industry. Most significantly for the farmers of New England, the bill grants consent to the Northeast Interstate Dairy Compact.

Mr. President, in March of last year, I introduced the Northeast Interstate Dairy Compact along with the entire New England delegation. The dairy compact is intended to help give farmers and consumers fair and stable milk prices in New England. It will establish an interstate commission consisting of one delegation from each of the six New England States. The commission will have the authority to hold public hearings on the fluid class 1 milk market in New England.

The dairy compact originated in the Vermont legislature over 7 years ago. It has universal support among Vermonters and throughout New England and is critical to the maintenance of the region's dairy industry, if not its survival, offering both income stability and income enhancement. The compact has been overwhelmingly approved by the legislatures of all six New England States and simply needed the consent of Congress.

What the State legislatures offered was not at all a novel idea. The widespread support for and central importance of the dairy compact to New England has been throughly emphasized by the regions Governors, legislatures, consumers, farmers, and local processors.

The single most overwhelming fact about the economics of dairying in New England is that the price to the consumer continues to increase at the same time the price to the farmer continues to go down. In fact, current farm milk prices are, as low as they were over 10 years ago while the price to consumers is substantially higher.

The hard working dairy farmers of New England have seen federally set minimum prices return less money than it costs them to produce their milk. The result, during the 1980's, 40 percent of the New England farms ceased to operate. In my own State of Vermont, where agriculture is such an important part of our economy and way of life, nearly 50 percent of the farms have been lost in past 10 years.

The inclusion of the dairy compact in the conference report is a tribute to the hard-working dairy farmers of New England, who are such a vital part of the region's heritage. The compact ensures that family farms from St. Albans to Pawlet, to those in the Northeast Kingdom and all across New England will have the ability to survive and remain economically viable into the next century.

Mr. President, milk processing plants, feed and equipment dealerships, veterinarians, banks, and many others suffer when farms in their communities go out of business.

Not surprisingly, the dairy processors' lobby fought hard to prevent Congress from approving the compact. After all, they have benefited for a long time on both ends of their business from cheaper farm milk and higher consumer prices.

Several of my colleagues have heard from large milk processors in their States about how this compact could hurt the national dairy industry or the farmers in their own State.

Such claims are false. The compact would in no way prevent milk from coming into the region or affect the price of milk in any other region of the country. Despite the claims of the processors' lobby, the fact remains that the compact is very similar to existing State over-order programs currently in place. Like those programs, the compact would not conflict with or alter the Federal milk marketing order system, but only complement its operation. In short, New England States are working cooperatively as a region only to maintain a healthy dairy industry in New England, without adverse effect on the rest of the country.

The compact has been carefully crafted so that it will not affect the national dairy industry. Nonetheless, in order to address any concerns that the conference committee may of, had of, how the compact will work in practice several additions were included.

The compact limits the ability of other States to join; allows farmers outside New England who sell milk within the region to benefit from the compact; restricts the interstate commission to regulate class I milk only,

and will terminate concurrent with the Secretary's implementation of the dairy pricing and Federal milk marketing order consolidation and reforms.

Mr. President, I am also pleased that this bill takes great strides at addressing conservation practices. USDA conservation programs have traditionally addressed the problems faced by producers growing row crops. The technical and financial assistance that livestock producers need have not been well addressed by our current set of conservation programs. This bill creates a new Environmental Quality Incentives Program to help farmers with conservation projects, creating new incentives for farmers to protect and enhance the use their land.

In addition, the bill includes a $35 million initiative to buy easements on farmland threatened by development and $50 million wildlife habitat program. These provisions, along with several others will help farmers from throughout the country deal with water quality, erosion and other conservation challenges.

Mr. President, the hard work and partnership with both the House and Senate has produced a comprehensive bill that reflects accountable reform, important market stability, and environmental responsibility.

I encourage my colleagues to support this important piece of legislation.

Mr. DOMENICI. Mr. President, I rise in support of the conference agreement on the farm bill.

This is the first major, fundamental change in Federal agriculture policy since the first farm programs were created in the 1930's.

Today an international market has developed for America's farm products and we need to provide the mechanisms that allow farmers to base decisions on market conditions and not on Government programs.

This conference agreement provides farmers with that mechanism through the Market Transition Program.

The Market Transition Program moves agriculture in a new direction which will give farmers the freedom to plant what they want, when they want.

The Market Transition Program also ends the production control programs of the Depression era.

Under our current system, farmers may be required to take land out of production which allows our foreign competitors to make up the difference in the world markets.

This conference agreement gives the farmer the flexibility to base business decisions on market conditions and not on Government programs.

Mr. President, this conference agreement allows the Department of Agriculture to spend $67.7 billion on commodity, trade, research, rural development, and conservation programs over the next 7 years as estimated from the December 1995 baseline.

CBO's preliminary estimates indicated that this conference agreement saves $2.1 billion over the next 7 years.

This conference agreement does not achieve the $4.6 billion in savings that was included in the Vetoed Balanced Budget Act of 1995. However, it does provide a down payment toward a balanced budget and is a step in the right direction.

Mr. President this bill also adds spending discipline to the commodity programs by including a spending cap. Spending for commodity programs through the Commodity Credit Corporation has varied widely from $600 million in 1975 to $26 billion in 1986.

The spending cap will limit unforseen spending increases which have frequently occurred in past years.

Mr. President, on a more parochial issue, the bill includes a provision regarding the New Mexico valencia peanut pool.

The Senate-passed bill included an amendment to clarify the original intent of the law. The House passed bill had no such provision.

Mr. President, as part of the 1985 farm bill, Congress created an exclusive pool for New Mexico valencia peanuts, and the provision was retained in the 1990 farm bill.

The original intent of the law is to allow only those valencia peanuts physically grown in New Mexico to enter the pools of the State.

However, peanut growers in my home State have notified me that valencia peanuts grown in Texas have entered the New Mexico pool because of a loophole in existing regulations.

It is my understanding that the USDA regulations allow a producer to enter valencia peanuts grown on a Texas farm if that producer has a combined New Mexico-Texas farm that is administered in New Mexico.

The compromise reached in this agreement clarifies that valencia peanuts must be physically produced in New Mexico in order to enter the New Mexico valencia peanut pool for 1996 and subsequent crop years.

The compromise also grandfathers those producers who entered valencia peanuts grown in Texas during the 1990 to 1995 crop years.

Producers may enter Texas grown valencia peanuts in the New Mexico pool, but the amount is limited to the 6-year average—1990 to 1995—that the producer entered into the pool during that period.

For example, producer "A" entered 10 tons of Texas grown valencia peanuts for each year during 1990 to 1995—a total of 60 tons for the 6 year period. Producer "A" would have a 6-year average of 10 tons.

Producer "A" will be able to enter up to 10 tons of Texas grown valencia peanuts per year into the New Mexico pool.

Producer "B" also has a combined New Mexico-Texas farm administered in New Mexico. But, producer "B" has no history of entering Texas grown valencia peanuts into the New Mexico pool during the 1990 to 1995 crop years.

Under this scenario, producer "B" would not be allowed to enter Texas-grown valencia peanuts into the New Mexico pool for future crop years. Producer "B" could, however, continue to participate in the New Mexico pool with peanuts physically grown in New Mexico.

Mr. President, this conference agreement also includes other provisions which are important to native Americans and the operations of the Commodity Supplemental Food Program.

I thank the distinguished chairman and ranking member of the Agriculture Committee for their review and consideration of this and other issues that I brought to the committee's attention.

I urge the adoption of the conference agreement.

Mr. BAUCUS. Mr. President, I rise today to express my support for the conference report to H.R. 2854, the Federal Agriculture Improvement and Reform Act—the farm bill.

Mr. President, this is a bill which has been too long in coming to the floor of the Senate. The authority contained in this bill expired on New Year's Eve. This debate began on the 1995 farm bill. And with the tardiness of our action this bill will barely be in time for the 1996 crop.

I will cast my vote in favor of adopting this report. I feel that it is essential that we get this legislation passed and to the President for his signature. It is time for our Nation's food producers to know what their program will be in the coming year.

It is my hope that by next week, this bill will be signed into law. The Secretary of Agriculture has recommended that the President sign it. And the President has indicated he will do so. So I am pleased that today we will pass this bill.

There are a number of important items which have been included. In my mind, the most important inclusion is retaining the 1949 Agricultural Act as underlying, permanent law. Mr. President, I am convinced that the 1949 act is the reason we have had this farm bill debate. And I expect that 7 years from now, it could very well be the reason we have a farm bill debate at the sunset of this bill.

This legislation contains a number of valuable conservation programs. In our part of the country, the Conservation Reserve Program, the CRP, is a major factor in wildlife habitat conservation, water quality enhancement, and soil conservation. We are continuing this valuable program. And we are authorizing a new Environmental Quality Incentive Program which will help producers of both crops and livestock to make management changes for the improvement of the natural resource on

which their future and their livelihood depends. This program will also provide for cooperative efforts with conservation organizations to enhance wildlife habitat. It's a win-win for States like Montana.

I am pleased that this is comprehensive legislation—it extends beyond the commodity programs. In addition to conservation, we have addressed credit, research, trade, rural development, and promotion activities. In the arena of trade we have authorized the important Market Access Program, the Export Promotion Program, and the Foreign Market Development Program. These programs are vital to our export activities.

Agriculture trade is a real bright spot in our total trade effort. Our agriculture exports last year were over $54 billion dollars. This year, we are expected to exceed that, reaching $60 billion. That will leave us a positive agriculture trade surplus of $30 billion.

The commodity program featured in this bill directs our farmers to obtain an ever-increasing percentage of their income from the marketplace. In today's world, that means American producers will need to be very competitive and expand their exports. And while our export programs are not funded at levels I would prefer, they will go a long ways toward our export goals.

The commodity programs will provide farmers the flexibility to plant crops which the market demands. No longer will the Government be making planting decisions. While that will be helpful to many farmers that flexibility will carry with it a need to develop and improve alternative crops to grow more successfully in arid climates like that in Montana. Only then will Montana farmers have true planting flexibility. The work at Agricultural Research Stations like the one in Sidney, MT will be an important part of this equation.

In this year, with good prices and sizeable payments it should be a pretty good year for our Montana producers. I hope that the prices we are now experiencing can be maintained. If so, this program should work well for the entire 7 years it is authorized. However, we need to take advantage of the strong price cycle we are in to reform the crop insurance program so it is a more functional system of risk management. If we fail to accomplish this task we could be in for tough times in the late years of the bill.

There are other problems I see in this bill. I am disappointed that this will end the Emergency Livestock Feed Program. And I would like to see the loan rate caps removed. I would also prefer that the research title was authorized for the entire 7 years. This forces a research title to be authorized next year or to risk authorization by appropriation in our important research program. Some might find these to be small concerns, however, to my State they are important.

Before I close Mr. President, I want the record to reflect my appreciation for the work of our Senate conferees on this issue. They had a difficult task and I would like to thank them because this bill is far preferable to the bill brought to conference by our colleagues across the Hill. So I would thank the conferees, especially the chairman and the ranking member for their efforts in getting this accomplished.

And with that Mr. President, I urge my colleagues to approve this conference report and I yield the floor.

Ms. MOSELEY-BRAUN. Mr. President, I am pleased that the Senate has finally reached closure on the farm bill.

Bringing the farm bill to this final stage in the legislative process has not been an easy task. As we approach the end of this debate, I am reminded of the words of Thomas Jefferson, who once said "Were we directed from Washington when to sow and when to reap, we should soon want bread."

While we are far from wanting bread in America, Jefferson's words sound almost as if they had been said by a farmer only 2 hours ago, instead of two centuries ago. Farmers today, like farmers in Jefferson's time, want to get their profits from the market, with as little Government interference as possible.

The new approach to farm programs embodied in this bill, known as the Market Transition Act, or freedom to farm, finds its roots in these views. The new commodity programs are designed on the belief that it is important to reduce Government interference with planting decisions. These new programs have been fashioned to provide farmers with the simplicity, flexibility, and certainty that they seek.

I have great reservations about some aspects of this new approach, however. Farmers still need a system in place to help moderate risk, and provide a financial safety net. In this regard, the Market Transition Act falls profoundly short. And that is a very serious flaw we must revisit as quickly as possible.

Perhaps these problems would have been resolved had the farm bill been handled by this Congress as farm bills have been handed in the past. For over 40 years, farm bills were considered early, and passed on time. Farm programs, which are so very important to rural America, and which can have far-reaching effects, were rigorously debated and reviewed well in advance of their expiration date. While the results may not have been perfect, previously Congresses gave farm bills the time and attention they deserved.

But, I am not running the Senate. And the hour is late. There is a time to debate, and a time to act. Planting season is upon us. We must move beyond politics, and move ahead. Farmers need a farm bill in place—now.

The Market Transition Act may need to be revisited. But it is time to enact a law. My vote for the 1996 farm bill was a vote to end debate, pass a farm bill, and provide farmers with the certainty they need for this crop year.

There are good things about this farm bill. The bill is strong in the areas of conservation, environment, rural development, and research. The Conservation Reserve Program is maintained at 34.6 million acres. The Environmental Quality Incentives Program is authorized at $200 million per year to help livestock and crop farmers control pollution and erosion. The Fund for Rural America, a program I support, was created to provide $300 million for rural development and research initiatives. The Market Promotion Program, now known as the Market Access Program, survived and is authorized at $90 million to promote U.S. agriculture exports overseas. And permanent law is retained, lessening the danger that in 7 years, Federal support for agriculture will end.

I am particularly pleased this bill includes my proposal to increase the marketing loan rate for oilseeds. For soybeans, a major Illinois commodity, the marketing loan rate will be set at 85 percent of the Olympic 5-year average, but no less than $4.92 or no more than $5.26 per bushel. Allowing the soybean loan rate to rise by 5 percent if prices increase helps to treat soybeans equitably with other crops, allows soybeans to compete more effectively for acreage, and provides some protection for small producers against increased volatility in production and prices that may result from full planting flexibility.

With other aspects of this bill, however, I have serious concerns.

I am greatly disturbed by the decision of the conferees to include the Northeast interstate dairy compact. These provisions were soundly rejected by the Senate, not considered by the House, and, therefore, without question, should never have been included in this conference report. I intend to work with my Midwestern colleagues in the Senate to ensure that the U.S. Department of Agriculture never implements this compact, which would set dangerous constitutional precedent and have a serious impact on both dairy farmers and dairy companies in Illinois.

I am also concerned that food stamps have been reauthorized for only 2 years. Roughly 27 million Americans are served by food stamps, 1.2 million of whom are Illinoisans, and over half of whom are children. Food stamps are about providing the nutrition necessary to ensure that mothers and babies remain healthy, students remain alert, and the unemployed make it through tough times. It is poor policy

for Congress to play political games with programs designed to support the health of children, working families, and the elderly.

Many of the improvements in this bill would not have been possible without the leadership of the distinguished Democratic leader, Senator DASCHLE. While he will vote no on this bill, he has worked to make this a better bill, and I commend his leadership on agriculture issues which are so very important to his State.

I would also like to thank the distinguished majority leader, Senator DOLE, and Senators LUGAR, LEAHY, GRASSLEY, and COCHRAN for their work on this bill, and for their assistance and support for programs important to the State of Illinois.

Mr. President, agriculture programs must change with the times. The economic practices and social trends in rural America are vastly different than in decades past. These changes aren't just important to farmers and rural communities. They are not just about dry statistics buried in some obscure report. They are about issues that are critically important to everyday people.

That is why changes to farm programs must be made judiciously. Major changes to Federal farm policies must receive careful attention before they are made, so that inadvertent mistakes that could be very harmful to farmers are avoided.

We can do far better than this bill. But doing nothing—having no bill—is not an option, and that is why I will vote in favor of the 1996 farm bill.

Mr. WELLSTONE. Mr. President, I am pleased that we finally have a farm bill which will pass and will be signed by the President. The bill is long overdue. Farmers should not have to wait any longer for certainty regarding the programs they will operate under.

I regret that the bill has taken so long. The process itself has contributed to a poor outcome for American agriculture and for rural American communities. There are some positive sections of the bill—conservation, nutrition, and needed funding for rural development. But the commodity provisions take us exactly in the wrong direction. The bill decouples Government support from production and from market prices. It caps loan rates at low levels. And it directs the majority of taxpayer payments to the largest, most affluent farms to the same degree as the status-quo programs which operate so unfairly now.

It would be more appropriate to refer to this legislation as the "corporate agribusiness bill" than as a farm bill. After a few short years, American farmers will be left to the tender mercies of a global marketplace that is dominated by corporate conglomerates and trading boards.

We might have produced a better farm bill if our debate over it had been more timely and deliberate. The effort to include an entire 7-year bill in last year's budget reconciliation bill, with little debate and practically no input from Democrats, followed by the now-successful push to pass a plan that was not subjected to extensive hearings or substantial input from rural America has produced a bad bill. Better proposals were offered in both the House and the Senate, including a reform bill introduced here last year by Senate Minority Leader DASCHLE, which I was proud to cosponsor. But those proposals were never given real consideration.

This bill is as deeply flawed now as when I voted against its original Senate version. It was not improved by the conference committee. It does not represent good farm policy and will not likely promote economic revitalization in rural America. I will vote against it now, and it is my hope that as this bill's flaws become even more apparent in its implementation, the result will be its reconsideration by the next Congress so that more genuinely progressive reform of Federal farm policy can be enacted.

Some people, including some Minnesotans, believe that the so-called freedom-to-farm approach to farm policy is the best way forward for American agriculture. I profoundly disagree with that judgment. I believe it is designed to benefit large corporate agribusiness and will actually harm most family farmers. It will likely increase current trends toward economic concentration in agriculture, to the disadvantage of small and moderate-sized farm operations.

I have consistently favored long-term Federal farm policy that would promote family agriculture and revitalize our rural economy. That is not what freedom-to-farm represents. It is such bad policy that it will discredit farm programs forever. The public will not support farm programs that write checks to farmers when prices are high, and no matter what, or even whether anything, is planted.

During initial consideration, Senator DORGAN offered an amendment which I supported, which would have required that farmers plant a crop in order to receive the guaranteed Government payment. That was voted down. I don't think this is the kind of policy that reaches out to the general public for support at a time when we are looking at slashing the budgets for health care and education programs.

Freedom-to-farm represents a dubious carrot followed by a very real stick. What is the short-term carrot? The carrot is so-called "contract" payments, or "transition" payments on the way to the elimination of farm programs. Farmers who have some debt, or who have had a poor crop in the past couple of years, or who did not get good prices last year, would like a Government payment this year on top of decent prices. There is no question about that.

I understand why some people consider that promise attractive. They believe that a promise of 7 years of payments is the best they will get from this Congress. But the contracts cannot be guaranteed. Congress can do another budget bill at any time and reduce or eliminate the payments. The entire purpose of freedom-to-farm is to reduce farm-program spending, then eliminate it. Even current policy, which I have never supported, offers farmers more protection over seven years than freedom-to-farm.

What is the medium-term and the long-term stick? Prices will not stay where they are likely to be this year. Freedom-to-farm caps loan rates at 1995 levels. As the so-called guaranteed payments diminish, and then when they run out, how many Minnesota farmers can make a living off of $1.89-a-bushel corn, or $2.58-a-bushel wheat? Is that the future we want to leave our young farmers?

That is the reality of freedom-to-farm. It ultimately leaves farmers to the tender mercies of the grain companies and the railroads and the Chicago Board of Trade—$1.89 corn is what freedom-to-farm is about. Maybe not this year. But who believes that prices will always be strong? I voted for an amendment to lift the caps off the loan rates. That amendment failed. If farm policy were designed to deliver farmers a fair price in the marketplace, there would be no need for any Government payments. But this bill is designed to encourage maximum production and low prices.

I have supported what I consider to be genuine reform of farm programs. I cosponsored a 7-year proposal last year which called for a targeted marketing-loan approach. That plan would provide farmers the planting flexibility they need. But it also would provide needed long-term protection from some of the uncertainties that farmers face—uncertainties of weather, and of markets that are dominated by large multinational companies. It also would raise loan rates and target farm-program benefits to family-size farmers. I still believe that our proposal, modeled after the Farmers Union plan and endorsed by the Minnesota corn growers, was the best proposal. Perhaps the debate over agriculture policy in the United States will be resumed next year. I intend to see that it is.

Mr. President, I have been working since I arrived to the Senate 5 years ago to achieve an improvement in Federal dairy policy and meaningful reform of the Federal milk marketing orders. This bill does not achieve that goal. Some small improvements in dairy policy were included in the conference committee, notably the elimination of assessments. But not nearly enough. And the bill now will allow

creation of a Northeast dairy compact, despite our overwhelming vote here during initial consideration of the farm bill against that outcome, and despite the fact that the compact was not in either the House or Senate version of the bill. The Northeast compact would only further forestall real Federal order reform. It would cut a special deal for one region's dairy farmers to the detriment of dairy farmers in the Upper Midwest. And it would set a bad precedent for interstate commerce in milk by creating new regional barriers. We need good national dairy policy. And I will continue to resist establishment of a Northeast compact in the absence of substantial reform which will benefit the Midwest. Minnesota and Wisconsin are the best natural dairy-producing states in the country. It is not rational that Federal policy should drive thousands of Minnesota producers from business.

Mr. President, I am pleased that we finally have authorized the enrollment of new acres into the successful and popular Conservation Reserve Program [CRP]. I worked very hard on that. And I am pleased that we could include some additional conservation, rural development and nutrition provisions. It is very important that we ensure that rural development efforts include assistance for farmer-owned, value-added processing cooperatives, which represent an extremely hopeful development in rural America. They are the best of rural America's innovative, self-help tradition, which keeps capital and jobs in local communities.

SAFE MEAT AND POULTRY INSPECTION PANEL

Mr. BRADLEY. Mr. President, I am very concerned about the inclusion in the farm bill conference report of language establishing a Safe Meat and Poultry Inspection Panel. This seemingly innocent-sounding organization may actually be a device to delay needed food safety reforms, and give power over crucial safety decisions to a part-time, administratively unworkable group. Under the terms of the conference report, it would be superimposed over the Food Safety and Inspection Service as one more, unaccountable layer of government.

Authorization for this new panel was contained in neither version of the farm bill, and it was not subjected to hearings in either body. It was slipped into the report at the last minute and has had no public or press scrutiny. Not only would it duplicate existing bodies such as the National Advisory Committee on Microbiological Criteria for Foods, the panel would also be exempt from the Federal Advisory Committee Act and its open-government requirements. Even worse, should it be used to delay or restrict needed safety reforms, the result will be disastrous, not just for consumers but also for the industry itself.

At a time when Britain may be compelled to kill its entire cattle herd because of mad cow disease, the meat industry cannot afford any more actions which will diminish public confidence in our food supply.

I am especially concerned that the new panel would delay issuance of the final version of the proposed pathogen reduction; Hazard Analysis and Critical Control Point System [HACCP] rule. This set of regulations, more commonly known as the E. coli rule, is crucial for controlling this deadly organism and modernizing American meat inspection.

Mr. President, a year ago last March I introduced the Family Food Protection Act which built on these regulations and extended them even further. I was moved by the death of Katie O'Connell, a beautiful, happy 2-year-old girl from my home State of New Jersey who died from eating a hamburger at a fast food restaurant. Although her meal was contaminated with the deadly pathogen called E. coli, the meat that Katie ate had been declared safe by inspectors from the U.S. Department of Agriculture.

Katie died from a disease that should have been detected through our Federal meat inspection system. Katie is no longer alive because that system failed her and her family and has failed thousands of others across the country.

Diseases caused by foodborne illness often strike those most vulnerable in our society: our children. Two summers ago, health officials in New Jersey battled another outbreak of the disease that killed Katie O'Connell. One family, the McCormicks of Newton, NJ, had two of their children (ages 2 and 3) hospitalized. Their lives were in danger because they, too, ate meat that was declared safe by Federal inspectors in the Department of Agriculture.

These cases are far from isolated: the Centers for Disease Control estimates that over 9,000 people die and another 6.5 million get sick from food borne illnesses each year.

The USDA regulations proposed a year ago February would require a daily testing for salmonella at meat and poultry processing plants across America. Additionally, each of the Nation's 6,000 slaughterhouses and processing plants would have to develop operating plans designed to minimize possible sources of contamination—in other words, to design systems to avoid contamination in advance instead of fighting it after it breaks out.

This proposal represents a significant improvement over the current system which has remained in place remarkably unchanged for over 90 years—since the reforms put in place in the wake of Upton Sinclair's wrenching expose, "The Jungle."

Ironically, a cost-benefit analysis was done on the proposed rule. Even though it used a very conservative figure for the value of human life, the ratio was still extremely favorable. According to the analysis, while the rule would cost $250 million per year initially, falling to $220 million a year once it was fully implemented, the benefits were at least $1 billion per year. If a more generous value were used for human life, the cost-benefit ratio was, of course, even more positive.

And $220 million would be the cost to consumers only if every penny of the system's costs were passed along—just two-tenths of a cent per pound. That's right. Two-tenths of a cent per pound. So a consumer would have to buy 5 pounds of hamburger before incurring even a penny of cost. Contrast this with the cost to consumers of $1 billion to $3.7 billion per year attributable to lost wages and medical costs that otherwise would occur without the rule. Surely, the typical American would be more than willing to pay this modest price to avoid sickness or even death to a loved one.

I don't want any more children to die. According to the USDA, the summer months are the prime time for food borne diseases. I question the need to reinvent the wheel at this time.

Unfortunately, these proposed regulations have been the subject of countless hearings, roundtable meetings with industry and consumer groups, and on and on. At one point the industry even claimed that the E. coli organism was not technically an adulterant under our food safety laws in an attempt to deny the agency the ability to regulate. This new panel is yet another attempt to delay.

Do we really need to waste years, lives, and money redoing old analyses and creating new ones in an effort to stall or even defeat these regulations?

Mr. President, I am concerned that these regulations are already a target of members in the other body who would try to delay them further through appropriations riders and other techniques. Instead of delay, I urge my colleagues to stop interfering with these regulations. They are exactly the kinds of regulations we claim to want. They are cost-effective, deal with a serious problem, and have been subjected to close scrutiny by a wide variety of interests. We should not misuse the farm bill to thwart these important regulations.

Mr. FEINGOLD. Mr. President, my colleagues have been speaking today about their frustrations with the 1996 farm bill. I share those frustrations as well as dismay about the process in which this body has been engaged.

In early February we considered this legislation on the Senate floor. The specific commodity program provisions of that bill were never once the subject of a Senate Agriculture Committee markup, and in fact, were not even the subject of a single hearing in that committee. That the commodity provisions represented a drastic change from both

the philosophy and mechanics of current policy appeared irrelevant to the sponsors of this bill.

The process for consideration of this bill was flawed in numerous ways. For example: The text of the underlying bill considered on the floor was written in the backroom, separate even from the eyes and ears of members, of many members of the Agriculture Committee; Almost immediately after the bill was introduced, the majority leader filed cloture to limit debate on the measure before debate had even begun; This bill was considered on the floor with just 10 hours for members to offer and debate amendments prior to final passage; Farmers, the public, and even Senators were not given an adequate opportunity to review this bill before it passed on the floor of the Senate.

Contrast that to consideration of the 1990 farm bill in which each title of the bill was considered separately by the Agriculture Committee during extensive public markup sessions. Consideration of the 1990 farm bill, reported on June 21, 1990, gave Senators nearly a month to study the bill and another 7 days of floor consideration before final passage. Senators were free to iron out their differences with the managers and were provided time for full and open debate with adequate opportunity to offer amendments to the bill.

The 1985 and 1981 farm bills provided similar opportunities for review and debate. Senators had roughly 2 months to review the 1985 farm bill after it was reported and had 12 days of active floor debate. Following the filing of the committee report on the 1981 farm bill, Senators were provided with over 3 months to study and review the bill before its passage in September after 5 days of floor debate.

It is no wonder that the general public is frustrated with Congress. Based on this farm bill process they have every right to be. The conference agreement on which we are to vote in just a few hours was printed in the RECORD just 2 days ago. I ask how many of my colleagues have had an opportunity to read this bill? There are numerous provisions in this bill that were in neither the House nor the Senate bill. The implications of these provisions have not been fully explored.

I wonder if Senators are aware that this bill gives broad authority to the Secretary of Agriculture to propose and implement commodity promotion programs without an initial congressional authorization. In fact, producers of any commodity could be assessed a mandatory tax under this proposal for a period of 3 years before they ever get a chance to vote on the promotion program they have been forced to pay into. This bill contains no protections for consumers in the event that agricultural processors wish to establish mandatory promotion programs and pass those costs directly on to consumers.

Are Senators aware that section 501 of this bill attempts to rewrite 30 years of legislative history with respect to commodity promotion programs in an effort to combat Federal court challenges to these programs? Mr. President, that language was in neither the House nor the Senate bill and has not been the subject of hearings or debate in either Chamber of Congress. I want to make clear that the legislative findings in section 501 of this bill are not indicative of the views of more than a handful of farm bill conferees. Many of these findings, in fact, do not even make sense unless one is aware of the efforts of dissenting farmers to reform programs or are familiar with the first amendment challenges to these programs. Indeed Mr. President, this bill contains some very creative language intended to rewrite an already well-established history as to the purpose and intent of these programs.

I think this has been a shameful process, Mr. President, irresponsible to farmers, consumers and taxpayers, and completely inconsistent with our responsibilities to carry out a deliberative legislative process.

It seems the Congress can't even decide what this farm bill is about. Since its inception, the name of this farm bill has changed 3 times. First we were told this bill was the freedom to farm bill. Then it became the Agricultural Market Transition Act—a name which perhaps most accurately described the motivation of the sponsors of this legislation: to transition farmers away from the basic safety net provided by existing programs. Now, Mr. President, it is called the Federal Agricultural Improvement and Reform Act, or FAIR. That name creates a catchy, if not superficial, acronym, but is about as inaccurate a name as could be found. It presumes this bill represents both reform and improvement of existing programs. In my opinion, this bill does neither.

Even the catchy acronym is a misnomer. To whom is this bill fair? I don't see any fundamental fairness in this bill.

Is it fair to the average farmer to be given an ultimatum on the very programs that help manage the vagaries of farming caused by factors beyond his control? Because that is what many farmers in Wisconsin felt they were given. They were told that Congress was going to eliminate farm programs in any case, so they had better grab the money in these transition payments while they can.

However, when some of these farmers argue in favor of the bill, they really appear to be arguing for the maintenance of the safety net, not in favor of termination of these programs and the so-called transition payments. They argue that farm programs are critical in allowing family farmers to secure credit. They argue that farm programs provide them with the security to adopt forward-looking business plans. They argue that without farm programs, the attrition rate in farming will only increase while younger people will be unable to enter farming. I have not heard substantive arguments in favor of eliminating the basic safety net for farmers and replacing it with guaranteed but declining payments that aren't tied to market prices.

Is it fair to small farmers who rely more on the existence of farm programs for their survival than larger corporate farms, that this declining pot of money is not targeted more toward their needs? This bill bases a farmers' payment on what he received in the past. Large farmers continue to get large payments under this bill. How does that help small farmers transition away from their reliance on Federal programs? The answer is, it doesn't, Mr. President.

This bill could have provided a tremendous opportunity to reform farm programs by targeting limited Government funds to smaller farmers. While this bill takes some steps to reduce corporate welfare, Congress could have made far greater reductions in the payment limitations. Instead the bill makes a slight reduction in the maximum deficiency payments one can receive but fails to eliminate loopholes that allow large farmers to get twice that amount. Eliminating loopholes and reducing payment limitations would have likely achieved greater Federal savings in commodity programs than the commodity titles in the so-called FAIR Act without hurting America's family farms. Instead, this bill depletes the small pot of money for farmers by providing transition payments in the same proportions as they are now provided. That doesn't sound very fair to me.

Is this bill fair to taxpayers who will now be asked to provide annual checks to farmers even when market prices are good? The fact is that these market transition payments cannot be justified on sound fiscal grounds. While this bill may save money over 7 years, based on CBO projections, it results in far greater costs in the next 2 years for commodity program payments compared to current law. That is because we don't make unnecessary payments under the current farm bill. Government costs are low when market prices are high. Existing programs make payments to farmers only when market conditions are poor and farm income is depressed. But market conditions are expected to be favorable in the next few years. Even so, the FAIR Act doles out the money to producers even if they are making a profit through the marketplace. This bill is fiscally irresponsible and fundamentally unfair to taxpayers. USDA reports that, based on their estimates, taxpayers will pay out $25 billion more to farmers under this

bill than under current law. Every taxpayer should ask why they should pay farmers when market prices are high.

Is this bill fair to consumers when the most costly programs from their perspective, such as the sugar and peanut programs, are left fundamentally untouched? Is it fair that the program which has very little effect on consumer prices, the dairy price support program, is the program eliminated in the name of consumer protection? Is it fair to consumers that this bill virtually ignores the aspects of Federal milk marketing orders that do have a substantial impact on consumers—that is the federally established prices for fluid milk that are excessive in many parts of this country? No, Mr. President. This bill is not fair to consumers, particularly on dairy policy. It is a fraud from the standpoint of consumer protection, making only token changes in the programs that most offend the pocketbook.

In my opinion this bill should be called the unfair act of 1996 because it is most unjust to dairy farmers in the upper Midwest. Fundamentally, this bill includes major provisions strongly opposed by the upper Midwest dairy industry. This bill provides congressional consent to the Northeast Dairy Compact and includes much of the House-passed Solomon amendment which the upper Midwest had opposed.

The provisions of the House-passed dairy amendment were improved somewhat in the conference committee but are still devastating to America's family dairy farmers. The House passed amendment reduced dairy farmer income by $4 billion over the next 7 years by eliminating the price support program for milk. The conference agreement is expected to cause only slightly less pain because the support level is not reduced as much prior to program termination. However, the conference agreement eliminates the price support program in 1999 rather than 2000 as provided by the House bill.

It is ironic the dairy price support program is eliminated in this bill given that it was the lowest cost of all commodity programs in fiscal year 1995, except for no-net cost programs such as sugar and tobacco. The program cost less than $4 million in fiscal year 1995 according to USDA. Interestingly, the no-net cost programs all operate under strict supply control mechanisms in order to extract the support price from consumers through higher market prices. The dairy price support program does not rely on supply control and has had little impact on consumer prices unlike the sugar and peanut programs.

And yet, the dairy price support program is the only commodity program actually terminated in this legislation and dairy farmers the only producers not provided with transition payments. Not only do producers of other commodities continue to benefit from their underlying programs maintained in this bill, but they also receive sizable transition payments annually.

As a result, most observers expect dairy farmers to suffer from a larger decrease in family farm income than producers of any other commodity affected by this bill. Producers of some other commodities will actually enjoy income increases out of this so-called reform bill, at least in the next 2 years. But dairy farmers are asked to suffer.

Mr. President, I am baffled as to the reason why this was agreed to in this conference report. The dairy price support program has made great strides toward market orientation and operates truly as a safety net. While the conference agreement authorizes a processor recourse loan program for dairy after price supports are terminated, such a program can merely act as a price stabilizer, not as a price support mechanism.

I am extremely concerned about the impact of terminating the price support program. Wisconsin loses over 1,000 dairy farmers annually. I am fearful that without a basic safety net, that rate will increase in the coming years, particularly if the inequities of the Federal milk marketing order system are not eliminated.

I have spoken often on the floor and to the Agriculture Committee about the need to reform Federal orders to eliminate market distortions, regional inequities, and consumer-related costs caused by excessive class I differentials. Even Secretary of Agriculture Dan Glickman has conceded that Federal orders have created regional inequities and that upper Midwest producers have suffered as a result. I had hoped the farm bill process would ultimately provide for those much needed changes.

I am concerned, however, that this bill does not ensure that such discriminatory features will be eliminated. The House bill provided exceptionally limited reform of the Federal milk marketing order system, which is among the most outrageous commodity programs in existence.

Unfortunately the minimal reforms in the House bill were made only slightly stronger by the conferees. The agreement requires the Secretary to reduce the existing number of orders to between 10 and 14. That is certainly a step in the right direction. However, consolidation alone does not guarantee a fundamental restructuring of class I prices nor does it ensure that Eau Claire, WI will no longer be used as the basing point for pricing milk. These should have been simple assurances to provide if the conferees were sincere in their reform efforts as some claim.

The conference agreement appears to release the Secretary from compliance with statutorily required class I differentials in the reform process, but provides no further guidance on what factors the Secretary is to consider in these deliberations. All too often, those factors are political, not economic, and they do not work in our favor. There is absolutely nothing in this bill to ensure that class I differentials will be reformed or substantially altered from their current levels. In fact, the report language appears to specifically allow for an outcome in which reformed differentials are virtually the same as the current excessive statutory minimums. I will work to ensure that does not happen.

I think, however, that the greatest blow to the upper Midwest is the inclusion of the Northeast Interstate Dairy Compact in the conference agreement. The compact was not only defeated in the Senate, it was also excluded from the House bill. Its emergence in the final conference agreement is outrageous and unconscionable. While many might contend that the conference agreement provides a scaled back version of the compact, I am still concerned about its ultimate approval, its precedent, and its potential impact.

The conference agreement gives congressional consent to the compact subject to the Agriculture Secretary's determination that it serves a compelling public interest in the Northeast. I have a number of concerns with this. First, while this may put some members at ease, I caution those who think the Secretary of Agriculture will be more resilient against the political forces that came to bear upon the entire U.S. Congress and which resulted in the inclusion of this language. Second, a finding of a compelling public interest in the compact region is not an appropriate test for approval of this compact. The U.S. Constitution requires Congress to approve interstate compacts in order to protect the national interest. We can assume that the States agreeing to the compact have already determined that this is in their States' overall public interest. That test should be irrelevant. Rather, Congress should be able to ensure that the compact serves a compelling national public interest. I think the Northeast Dairy Compact would fail that test. Third, I think it is quite cowardly for the Congress to abdicate its role in the approval of this very controversial compact by making the Secretary do the dirty work. Authority for compact approval resides in the legislative branch, not the executive branch. This is a congressional responsibility, and this bill shirks it.

That the term of congressional consent for the compact is tied to the implementation of consolidated Federal orders, is somewhat of an improvement over a compact of indefinite term. I would provide two caveats to those who think this provides protection to dairy producers elsewhere, and in particular in the upper Midwest. First,

once consent is provided, it will be easier to reinstate after expiration. Second, the compact could remain in place much longer than the 3-year deadline for implementation of order consolidation. Consolidation can be delayed if the Secretary is enjoined by a court order from implementing order changes, thus providing continuing consent for the compact.

The conference agreement attempts to provide safeguards to prevent the compact from interfering in interstate commerce by keeping noncompact milk outside of its borders. However, the compact commission will still be able to require that anyone buying milk from outside the compact region pay the compact over-order price. That provision, coupled with transportation costs, is still an extremely effective barrier to trade.

I urge my colleagues to keep in mind that the fight over the compact was not just about the regional walls it erected. It was also about the impacts the compact would have on national markets for milk and dairy products. And, Mr. President, the dairy compact will have impacts outside its region. Increasing prices in the compact States, particularly to the levels anticipated by those farmers, will cause increased production. That production will likely spill over from fluid markets into manufactured product markets. That will ultimately impact the base price that all farmers receive for their milk, since prices nationwide are linked to prices for manufactured dairy products. In fact, the conference agreement neglected to include language contained in Senate Joint Resolution 28, ensuring that such production responses would not impact the national market.

Furthermore, the conference agreement will allow the compact States to provide their processors with export subsidies so that they can export their high cost product to other parts of the United States that are playing by the rules. This is the type of subsidy we are asking other countries to eliminate through our trade agreements, yet we are creating our own domestic export subsidies through this compact.

The Senate made clear by voting down the compact during consideration of the farm bill that this type of price fixing compact is not acceptable. And yet here we are again, fighting the Northeast Dairy compact. Having won this issue in the Senate we will now be forced to fight this administratively as well. And if it is approved administratively, we will have to fight when the Northeast comes back to Congress seeking renewal of this consent. And finally, we will fight this battle as other regions come to Congress looking for approval of similar price fixing agreements for dairy farmers in their regions.

Mr. President, I ask unanimous consent that an editorial from the New York Times regarding the compact be printed in the RECORD.

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

[From the New York Times, Mar. 23, 1996]

MILK SOURS THE FARM BILL

A House-Senate conference committee has managed to tarnish the most important farm bill in years by inserting a last-minute provision for a New England milk cartel that would gouge consumers and violate the free-market concept that has made the 1996 farm bill worthwhile. The full House and Senate need to excise this noxious favor to the New England dairy lobby before approving the bill in voting set for next week.

The dairy interests achieved their victory in the conference committee after failing to persuade either chamber to enact such a proposal earlier. The conferees accepted the bill's major reform, a seven-year phaseout of subsidies for corn, wheat, rice and cotton. That could save billions eventually and release farmers to make their own marketing decisions free of government supervision. But the conferees adopted a weak Senate provision that would reinstate the subsidies after 2002 unless Congress again votes them out.

The conference committee also weakened the Government's ability to preserve wetlands, something neither house had done on its own. The committee wants to restrict the Agriculture Department's valuable program to prevent diversion of fishing streams that run through Federal land.

There were some environmental gains. At least $200 million was approved to buy and restore major stretches of the Florida Everglades. A program to encourage farmers not to develop environmentally fragile land was renewed, as were food stamp and nutrition programs. A program to help farmers keep their animal waste and other pollutants from running off into waterways was adopted.

But the regional milk monopoly is the very opposite of the kind of reform this bill was meant to provide. The bill would authorize the Secretary of Agriculture to permit the six New England states to set high prices and erect tariff hurdles against outside competition. That is totally alien to the central idea of agriculture reform, which is to set loose the forces of free-market competition.

How could such a backlash occur? The agriculture committees of both Senate and House are dominated by farm and dairy interests. By appointing conferees from this limited group, Congressional leadership vests tremendous power with the members least responsive to the current popular concern over the environment and over consumer prices. The full Senate and House can do better.

Mr. FEINGOLD. Mr. President, at the beginning of the 104th Congress I thought it inconceivable, given the deregulatory and market-oriented rhetoric of some of our Senate leaders, that the Northeast Dairy Compact would be granted approval. It is the antithesis of market orientation. It seeks to protect agricultural producers in one particular region by imposing artificially high costs on consumers.

In fact, this compact flies in the face of the rhetoric associated with this very farm bill. I've heard so many Senators claim this bill allows farmers to make decisions based on the market, not on Government payments. But the compact attempts to insulate a small group of farmers from the very market conditions this bill embraces so tightly.

Mr. President, I am opposing this farm bill for the many reasons I have outlined today. And I know this bill will pass. I intend to fight hard for the upper Midwest as both the Northeast compact and Federal order measures proceed through the administrative process. I will work with Secretary Glickman to ensure that meaningful reform of Federal milk marketing orders is implemented in a timely manner.

And if, as the minority leader has suggested, this is a 1 year farm bill, I will be back on this floor trying to improve dairy farmer income which is so badly slashed in this bill.

I yield the floor.

Mr. CHAFEE. Mr. President, on March 15, 1996, I wrote to Chairman LUGAR to express my concerns about the potential undermining of wetlands conservation provisions in the farm bill. Proposals to exempt a vast number of wetlands from the Swampbuster Program and changes to the definition of "agricultural land" for purposes of wetlands delineations were among the specific concerns raised in my letter. I am pleased to report that Chairman LUGAR has responded to these concerns. A letter written by Chairman LUGAR upon the completion of the conference states:

The bill makes no changes to the existing definition of a wetland, and does not exempt any lands based solely on cropping history or size. Although the report does define "agricultural lands" for the purpose of implementation of the interagency memorandum of agreement on wetlands delineations, it does not amend Section 404 of the Clean Water Act or require any changes to the 1987 Army Corps of Engineers wetlands delineation manual.

Mr. President, I ask unanimous consent that a copy of this letter dated March 23, 1996, be printed in the RECORD following this colloquy. I congratulate Chairman LUGAR and ranking member LEAHY for their efforts in crafting a sound conservation title that will benefit the environment and the economy well into the next century.

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

(See exhibit 1.)

Mr. LUGAR. I want to thank the Senator from Rhode Island for his kind words. As I mentioned in the letter, I believe that this conference report is the most environmentally responsive and responsible farm legislation in our Nation's history. As chairman of the Environment and Public Works Committee, which has jurisdiction over the Clean Water Act and the Federal Wetlands Program, Senator CHAFEE's support means a great deal to me.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, DC, March 23, 1996.

Hon. JOHN H. CHAFEE,
Chairman, Senate Committee on Environment and Public Works, Dirksen 410, Washington, DC.

DEAR CHAIRMAN CHAFEE: Thank you for your letter of March 15 in which you expressed interest in the conservation provisions of the 1996 farm bill. I am pleased to report that the Conferees agreed to what I feel is the most environmentally responsive and responsible farm legislation in our nation's history.

You specifically mentioned a concern that existing wetland conservation provisions might be undermined in the farm bill. In fact, the Conference agreement makes several common-sense updates to the "swampbuster" compliance requirements that will make the program more flexible for producers while still protecting wetland functions and values. The bill makes no changes to the existing definition of a wetland, and does not exempt any lands based solely on cropping history or size. Although the report does define "agricultural lands" for the purpose of implementation of the interagency memorandum of agreement on wetland deliberations, it does not amend Section 404 of the Clean Water Act or require any changes to the 1987 Army Corps of Engineers wetland delineation manual.

In other areas, the Conference agreement established the new Environmental Quality Incentives Program, which stands to make a significant positive impact on water quality. In addition, the Conservation Reserve Program and Wetlands Reserve Programs are reauthorized through 2002, with new provisions that will make the WRP more attractive to producers. Combined with the new crop planting flexibility provisions in the commodity title, these conservation efforts represent an impressive commitment to addressing the potential adverse environmental impacts of agricultural production. I know that, as Chairman of the Environment and Public Works Committee, you can appreciate the tremendous investment made in this new farm bill. I hope you can enthusiastically support the Conference Report when it is debated on the floor later this week.

Sincerely,

RICHARD G. LUGAR,
Chairman.

Mr. GRASSLEY. I am pleased that the conferees agreed to include a provision in the bill that I originally authored regarding revenue insurance. I and the farmers in my State truly believe that revenue-based risk management tools are a vital resource for today's and tomorrow's American farmer as the weather, market, and global trading patterns continue to fluctuate and pose often unpredictable risks for farmers worldwide.

The FAIR Act would require the Federal Crop Insurance Corporation to offer pilot revenue insurance programs for a number of crops for crop years 1997 through 2000 so that by 2002 and the end of the production flexibility contracts provided under this bill, we will have well-tested revenue based risk management products available for farmers.

It is very important to note, however, that it was never my intent to restrict the authority of the Federal Crop Insurance Corporation as it currently exists under law to conduct pilot programs. There are two revenue insurance pilot programs currently operating for crop year 1996. I, and I do not believe the conferees, intend for this new language in any way to interfere with the operation or expansion of these existing programs to other crops under the same terms and conditions under which they are currently operating. Rather, my intent was to encourage the Corporation to expand current efforts to other crops and speed the development of such products for the American farmer. Does the chairman agree with this interpretation—that the FAIR Act language is not intended to restrict the existing authority of FCIC to approve pilot programs under similar terms as the 1996 revenue pilot programs—for example on a whole State basis, although in a limited number of States?

Mr. LUGAR. Yes; I would agree that the conferees intended for this language not to restrict FCIC authority to implement the revenue insurance pilot program authorized by this Act.

Mr. GRASSLEY. I thank the chairman. I strongly urge the Corporation to further experiment with revenue-based insurance products and to do so under similar terms and conditions represented by the 1996 crop year revenue insurance programs.

Mr. FEINGOLD. Mr. President, the Federal Agricultural Improvement and Reform Act of 1996 eliminates the requirement that farmers buy catastrophic crop insurance in order to participate in other USDA farm programs. However, as I indicated in my letter to you on March 20, there is some concern that language as drafted may not technically delink the crop insurance purchase requirement for forage. The language in the bill delinks the crop insurance purchase requirement for crops planted in spring of 1996. However, forage crops, as perennials, are typically planted once every three or four years. Thus, forage crops which will be harvested in 1996 may have been planted several years ago, and may not be captured by the language in the bill.

It is my understanding that it was the intent of the conference committee and the intent of this legislation to delink crop insurance purchase requirements for participation in other USDA programs for all crops, including forage. Is that correct?

Mr. LUGAR. The Senator is correct. section 193(a)(2) of this bill is intended to allow delinkage of the purchase of catastrophic crop insurance for all crops including forage harvested in 1996 and beyond. Producers of forage crops harvested in 1996 should be able to participate in all USDA programs without purchasing catastrophic crop insurance, regardless of when that forage crop was planted. There was no intent to exclude forage from these delinkage provisions and the Secretary should interpret section 193(a)(2) as such.

Mr. FEINGOLD. I thank the Senator.

Mr. LEVIN. Mr. President, I had hoped to be able to support the farm bill conference report. On balance, however, the conferees did not make enough improvements to the bill passed by the Senate for me to do so. In several important ways, the conferees have made it worse. It is unfortunate that this Congress, overdue in completing action on a farm bill, has produced this bill in apparent haste to get something down.

The conferees have included a dairy title that treats milk producers very differently from other agriculture sectors, and is potentially damaging to Michigan milk producers. This bill reauthorizes the basic dairy price support program that we have today, but reduces the price support level from $10.35 per hundredweight [cwt.] in 1996 to $9.90/cwt. in 1999. Then, in the year 2000, the program is somehow to magically transform into a recourse loan program. This type of experimentation, without adequate consideration or hearings on its economic effects, could seriously harm the dairy sector and producers income, not to mention supply and price stability. I regret that the conferees did not incorporate more of the comprehensive and cost-effective Gunderson approach into the final product.

Further, the bill opens the door for establishment of the Northeast Dairy compact, a door that we had closed in the Senate bill. It gives the Secretary of Agriculture the authority to create the compact if he finds a "compelling public need in the [Northeast] region." This is a mistake and I will join efforts to repeal this provision if this bill becomes law.

I have been open to producers' desire to increase their flexibility, in the context of Federal farm programs, so long as it has not required crops like fruits and vegetables to unfairly compete against crops that receive Federal price supports. This bill continues that protection, which is important for Michigan's diverse and productive fruit and vegetable sector. But, my colleagues and producers should remember why the Federal Government has a farm program—our Nation needs a secure and stable supply of food. Producers have always had the flexibility to not participate in these programs.

The contract payments in the bill may assist producers to achieve greater flexibility and encourage them to be more sensitive to the market. But, I am still disturbed that the Government payments bear no direct relation to market prices. Producers will receive these payments in times of high prices even though they are doing well. That

makes no sense. There are no provisions for a safety net when prices drop. That makes no sense either.

The managers of the bill have informed me that there is no requirement that a contract payment recipient actually engage in farming on contract acreage for the 7 years that the contract runs. At a time when we are reforming welfare and emphasizing work, I find it unacceptable to give taxpayers dollars away to a producer or owner who might decide to leave contract land fallow and still collect a tidy Government payment.

Simplification of Federal agriculture programs is generally a good idea. That is one positive concept in the bill before us, which I hope will bear out in implementation. I am also pleased that this bill contains most of the important conservation programs, particularly the Conservation Reserve Program, and the trade, and research titles that were included in the Senate bill. And, we have been able to prevent any serious damage to the sugar program.

In my judgement, however, Congress could and should have put together a better farm bill than this one, and in a more timely way. The majority should have put the farm bill higher up on its agenda so that we would not be acting hastily now to give producers some direction on Government agriculture policy so far into the crop year. This bill charts a controversial and uncertain course for 7 years. But, at least we have retained permanent law so that Congress must revisit agriculture policy no later than 2002.

Mr. FAIRCLOTH. Mr. President, I rise to speak on behalf of the Federal Agriculture Improvement and Reform Act.

Mr. President, I am one of only a few working farmers in Congress. Having worked the land most of my life, I know, first hand, what it is like to try to make a living under Federal farm programs. As my colleagues began crafting a new farm bill, I believed we had a historic opportunity to change the way our farm sector operates while still maintaining a strong commitment to conservation practices that truly protect the environment.

Now that our work is complete, I can tell you that Congress is steering the farm community in the right direction. Through the FAIR Act, farmers will no longer be told by someone in Washington what to plant, how much to plant and even how much not to plant. Farmers will now have the freedom to make their own planting decisions based on market demands rather than mandates from Washington.

The age of micromanaging the farm sector from a corner office at the USDA is over. And it should be. The world has changed dramatically since I first took over the farm from my father. Whether we like it or not, NAFTA and GATT are now the law of the land. Fortunately, Congress recognized this and crafted a farm bill that gives farmers the freedom to respond to these new market demands. Had Congress not done their job by producing the FAIR Act, farming in this country would have been left behind in the cold.

This farm bill also goes a long way toward protecting the environment. Mr. President, it only makes common sense that farmers would support strong conservation practices because a healthy environment is essential to a good harvest. As a matter of fact, the conservation title attracted strong bipartisan support because it reauthorized and expanded the Wetlands Reserve Program and the Conservation Reserve Program and created new conservation initiatives like the Environmental Quality Incentive Program. Through strengthening the conservation title, this Congress has proven our commitment to protecting the environment while allowing farmers to make a living from their land.

I am proud of the work done by my colleagues in both the Senate and the House. Senator LUGAR, Representative ROBERTS, and the conferees have produced a farm bill like no other in the history of this Nation and they should be commended for it.

Mr. HELMS. Mr. President, in many ways this farm legislation is historic. In my 23-plus years as a member of the Senate Agriculture Committee, I have never been faced with so many changes in the overall structure of American agriculture—and, in large measure, for the better most of America and the farmers of this country.

I doubt that anyone seriously imagined that this Congress could succeed in streamlining agriculture programs and increasing the effectiveness of agriculture. This bill includes reforms to most of the major commodity programs, including peanuts, cotton, dairy, feed grains, and wheat.

In my home State of North Carolina, agriculture has long been a leading industry, providing jobs and economic opportunity for countless small family farmers and their communities. This legislation will give North Carolina's farmers stability for at least the next 7 years while removing the strong arm of government controls over our commodity programs. It will ease the strain on rural America.

Mr. President, I applaud the two chairman for undertaking these market-oriented reforms that will unquestionably help the family farmers adapt and adjust to the 21st century. As a former chairman of the Senate Agriculture Committee, I know and understand the difficult and painstaking process that has consumed weeks and months.

I am convinced that this farm bill will help farmers become more productive, and will continue to save tax dollars and it will improve the rural environment.

At a time when the Federal debt has climbed beyond the 5 trillion dollar mark, Congress owes it to the farmers and taxpayers of this country not to enact a meaningless temporary solution, but to establish a sound new policy of agricultural reform.

That is what happened, and I, for one, believe both Agriculture Committees, House and Senate pursued the real reforms that were needed. In that, I am proud of the peanut farmers of my State and other States for embracing a no net cost program and sacrificing close to $500 million out of their pockets to contribute to balancing the Federal budget in 7 years. In order to save the peanut program we all had to sacrifice, but in the end, this bill retains the peanut program and reforms it to make it more efficient for the farmers and less costly for taxpayers.

This bill offers a future to the farmers of America, who can now wake up everyday and knowing what their future payments will be. The taxpayers will know how much of their money will be spent. U.S. agriculture now has a future—our farmers have a future.

Mr. CAMPBELL. Mr. President, I would like to offer my full support for the farm bill conference report. I believe this bill, carefully crafted after many months of hard work and compromise, will offer much needed stability to farmers across America. In addition, it symbolizes a new path for our agricultural industries, leading us away from the Depression-era policies of the past and towards a freer, more flexible system which will empower our farmers to face the challenges of the 21st century.

I am particularly pleased and supportive of the conservation and nutrition components of the bill, which I believe illustrates the strong bi-partisan collaborative work that crafted this compromise. The environmental provisions will help farmers protect agricultural lands through specific appropriations that will conserve farmland from development. With my homestate of Colorado facing a tremendous growth in population, this will enhance the precious preservation of private land, open space and wildlife habitat from developers and subdivisions. In addition, by recognizing the inexorable ties between agriculture and water, this bill will provide much needed support to farmers to help protect our water supplies and maintain water quality.

I also want to congratulate the managers of this bill—Senators LUGAR and LEAHY, and the conferees in maintaining and extending the Food Stamp Program. This will reiterate the commitment of the Federal Government to families, women and children that rely on this vital program for their daily subsistence. I know there are many issues that still need to be resolved for

welfare reform legislation, but I am glad that the farm bill recognizes the importance of the Food Stamp Program.

Mr. President, I would like to conclude my statement by reiterating the fundamental importance of agriculture to my homestate of Colorado's economy, environment, and identity. The importance of this bill to my constituents is tremendous, and I hope these dramatic reforms will breathe new life into the farms of America to revitalize the industry for the next century.

Mr. WARNER. Mr. President, as you know, every 5 years Congress undertakes a rewrite of farm legislation. Some years this process is relatively painless, some years it is more difficult. Farm programs are bipartisan efforts, with both sides working to achieve the best result possible for the nation's farmers.

This year has proven to be the most contentious, hard fought farm bill in memory. I am fortunate, through seniority, to have become a member of the Senate Agriculture Committee—the first Senator from Virginia, I might add, in nearly 30 years.

For close to 1 year the Agriculture Committee has been working diligently to craft a new farm bill for our country. On September 30 of this past year, the old farm bill expired. Under the necessary budget changes and spending priorities that we set forth, a large portion of the farm bill was part of the Balanced Budget Act that Congress passed and sent to the President. The President, unfortunately for America, vetoed it. This veto created a critical problem for U.S. agriculture.

The problem is that commodity support programs for the next 7 years were wiped out with the President's veto of the Balanced Budget Act. Existing authority for those programs had expired. All that remain are outdated statutes from 1938 and 1949.

The solution required action. Chairman LUGAR skillfully negotiated the regional and political obstacles that could have doomed this effort. Certainly, there are areas still to be addressed and work to be done. But today we take a major step forward in farm policy—a step toward the future.

Mr. President, the farm bill debate is a microcosm of the larger debate we have witnessed over the balanced budget. It represents a struggle with those who are comfortable with the status-quo, who want to continue the failed policies of big government intervening in people's lives and dictating their decisions. We are ending Washington control of farm policy.

Reformed farm policy is one step towards our goal of smaller government and a balanced budget. But, as you know, this is a new direction. Even the name of this bill—the Agricultural Reform and Improvement Act—indicates the direction toward which farmers want to go.

Briefly, this farm bill will accomplish several things. The bill will reform and modernize farm programs; provide a more certain income safety net for farmers through direct payments; strengthen conservation programs; and, provide broad planting flexibility.

In short, we give farmers what they want—greater flexibility and freedom from Government intervention. Farmers like the plan because it is good for the bottom line. Support is broad because it will have the most positive impact on farm income. The plan is simple, certain and efficient. It eliminates layers of bureaucracy and accompanying regulations. Best of all, this bill shifts decision making from Washington back to the farm.

The bill calls for the end of Government planting controls. It provides an entirely new outlook for American agriculture, which I find very exciting both as a member of the Committee responsible for farm policy and as somebody who has owned and operated a farm.

The plan is simple, in contrast to the needless complexity of current programs.

It offers certainty. Farmers will know what their future payments will be. Taxpayers will know how much these programs will cost. U.S. agriculture will have more security against future budget cuts.

Finally, it is market oriented. Farmers' payments will be the same even if they choose to plant alternate crops. Producers' planting decisions will be based on the market—as these decisions should be. Under this bill there will be planting freedom, not arbitrary government controls.

This bill is good for the environment. It strenghtens conservation programs, enhances wetlands protection, and emphasizes improving water quality, which is of critical importance to Virginia and the Chesapeake Bay.

This bill's agricultural provisions are a long-term plan endorsed by a broad spectrum of agricultural groups, including, in my State, the Virginia Farm Bureau and the Virginia Agribusiness Council. Let us be clear: U.S. producer and agribusiness organizations nationwide support this plan. We owe it to those who work in agriculture in our respective States—not to those who would dictate farm policy from behind a desk—to pass this bill.

Mr. President, I have heard many Senators lament the delay in enacting a new Farm Bill. While this bill is a few months late—due in large part to President Clinton's veto of the balanced budget bill—the reforms it contains are years overdue.

I am proud to have participated in this historic legislation during my first term as a member of the Agriculture Committee. And I commend Chairman LUGAR and his able staff on a job well done.

SECTION 389

Mr. BROWN. Mr. President, section 389 comes as a result of many hours of negotiations involving the U.S. Department of Agriculture, the U.S. Forest Service, the U.S. Fish and Wildlife Service, and various Members of Congress. The language agreed to by the conference committee is a step forward in an effort to ensure that the Forest Service does not take water from existing users without providing proper compensation.

My amendment, as modified by the conference committee, provides for an 18-month moratorium on any U.S. Forest Service decision to require bypass flows or any other relinquishment of the unimpaired use of a decreed water right as a condition of renewal or reissuance of a land use permit. Nothing in this section changes current law regarding the allocation of water or rights to the use of water, and the expiration of the moratorium is not intended to be a recognition or grant of authority to the Forest Service for imposition of bypass flows.

The amendment also creates a water rights task force to study, make recommendations, and report back to the Congress and the administration on questions of: First, whether, and the manner in which, a Federal water right should be acquired by the U.S. Forest Service for minimum instream flow, environmental and watershed management purposes on the National Forests domain either through purchase from or a lawful exchange of valuable consideration with a willing seller; second, measures, if any, deemed to be necessary to protect the free exercise and use of decreed non-Federal water rights which require land use authorization permits from the U.S. Forest Service; and third, the legal and economic effects of creating a Federal environmental water right upon existing state laws, regulations, and customs of water usage and measures that would be useful in avoiding or resolving conflicts with any regulatory taking of a valuable decreed water right pursuant to conditions for the reissuance of a special use permit.

This language is intended to reaffirm the fact that for over 150 years, the United States has followed a policy of deferring to State laws governing the use and allocation of water in the western United States. As the Supreme Court observed in *California* v. *United States*, 438 U.S. 645, 653 (1978):

> The history of the relationship between the Federal Government and the States in the reclamation of the arid lands of the Western States is both long and involved, but through it runs the consistent thread of purposeful and continued deference to State water law by Congress.

It is also necessary to understand that national forests were created to protect and allow water uses, not as an excuse to take water away from people

that have been using it for decades. The national forests were created pursuant to the Organic Administration Act of 1897, 16 U.S.C. 481, which explicitly provides for the use of water from national forests for domestic, mining, milling, or irrigation purposes. In *United States* v. *New Mexico*, 438 U.S. 696 (1978), the United States Supreme Court rejected claims by the Forest Service that the Organic Administration Act authorized the assertion of claims to the use of water for fishery and other secondary purposes of the national forests. The Supreme Court held that the Organic Administration Act was enacted by Congress "principally as a means of enhancing the quantity of water that would be available to the settlers of the arid west." The Court rejected the Forest Service claims to the use of water for secondary purposes because they would defeat the purpose for which the national forests were created, in part because these claims would result in a gallon-for-gallon reduction in the water supply available for use by farmers and cities in the West. The bypass flows that the Forest Service now wants to require are for the same secondary purposes, and would result in the same, or even greater, losses of water by existing users.

The assignment of land management functions to a Federal agency in and of itself does not provide an appropriate legal basis for assertion of water rights by Federal agencies to preempt State law with regard to the expropriation of already existing decreed water rights. The enactment of the Multiple Use and Sustained Yield Act [MUSYA], 16 U.S.C. 528–31, and the Federal Land Policy Management Act [FLPMA], did not change or expand the primary purposes for which the national forest lands are to be managed pursuant to the Organic Administration Act. In fact, the National Forest Management Act [NFMA] expressly provides that any change in land use authorizations "shall be subject to valid existing rights," 16 U.S.C. 1604(i). In addition, sections 701 (g) and (h) of the Federal Land Policy Management Act [FLPMA] contain explicit savings provisions regarding the management and use of water, specifically disclaiming any delegation of authority to "affect" the use of water. The provisions make it clear that these acts create no new Federal authority over the use or water, and most certainly do not authorize the imposition of bypass flows on existing facilities.

It is also important to recognize that any Federal claims to water for the Organic Administration Act, Federal Land Policy Management Act [FLPMA], National Forest Management Act [NFMA], or other Federal purposes, whether based upon appropriative rights, riparian rights or reserved rights, must be asserted and established pursuant to the McCarran amendment, 43 U.S.C. 666.

In conclusion, Mr. President, I ask that the Senate act favorably to pass the conference report to H.R. 2854, the Agricultural Market Transition Act, which includes my amendment containing the subject moratorium and task force language. I would hope that in the coming 18 months an agreement will be reached on this subject—an agreement which will ensure the adequate protection of western water.

Mr. KEMPTHORNE. Mr. President, I join my colleagues in supporting the final passage of the conference report for the farm bill, and applauding the efforts the members of the Senate and House Agriculture committees. In particular, I call attention to the efforts of Senator CRAIG, coauthor of the compromise which this body adopted a few weeks ago, and which formed the basis for the bill we are adopting today.

Mr. President, this bill is an important step forward for our Nation's agricultural policy. For Idaho's farmers, it means the freedom to have the Federal Government off their backs and out of their tractors. For the first time in a century, they will be able to plant crops according to the market, instead of according to Uncle Sam's outdated policies. The 7 year contracts and loan programs provided in the bill give farmers the safety net they need to make this transition.

Under the bill, Idaho's wheat farmers will have the security to analyze market demands. Idaho's growing dairy industry will be better prepared to take their place in the world market. And Idaho's sugarbeet growers will be in an excellent position to compete as domestic market restrictions are removed.

This bill grants agricultural producers the freedom to meet the demands of growing international markets. They will be able to step back and look at their crop rotation plans, and to try new and innovative crops that might not have been allowed under the old programs. Some of those new crops may well prove to be the solution to soil erosion, or a dependable alternative source of income. Such individual innovation and specialization were not possible under the old bureaucratic dictates.

Mr. President, this bill is important because of what is changes, but it is also important for what it strengthens, and that is our Nation's commitment to research and international trade development. Of all the concerns raised by Idaho's farmers since we began debate on the bill, commitment to research and international trade has been at the top of their list.

Under the new rural development provisions, and specifically through the agriculture competitiveness initiative, we will see a strengthened agriculture research program, the key to our Nation's strong food supply system. This research program will encourage the development and application of new technologies, such as the precision farming research being conducted at the Idaho National Engineering Laboratory in Idaho Falls.

The bill also maintains a strong commitment to international market development programs. So long as our Nation's agriculture producers face subsidized competition in our foreign markets, we will need to ensure that our producers are in a position to meet that challenge. We have maintained the Export Enhancement Program and the Market Promotion Program, and elevated the Foreign Market Development Program to an independent status. These programs are vital tools for Idaho commodities, such as wheat, beans, peas, and lentils, to help them develop their overseas markets.

The bill also removes needless burdens and provides important incentives. It eliminates the requirement that farmers sign up for crop insurance and encourages private insurance companies to fill the gap. It streamlines current USDA conservation programs, and provides new incentives to help farmers achieve these national goals. I am particularly pleased to see that successful conservation programs, including the Conservation Reserve Program and the Wetlands Reserve Program, will continue to be a tool to protect the environment and provide habitat for wildlife.

Agriculture is Idaho's No. 1 industry. Its diversity forms the foundation for the rest of the State's economy. There is still work to be done to remove regulatory and tax burdens on farmers, these small-business people who are the stewards of our Nation's open spaces. This includes our efforts to reform the Delaney clause and its unrealistic limitations on pesticide tolerances, and to remove disincentives to re-registration of minor crop pesticides. But this farm bill is the first step to bringing Idaho's and the Nation's farmers into the 21st century and I urge my colleagues to support its passage.

Mr. McCAIN. Mr. President, first let me express my sincere admiration and respect for the chairman of the Agriculture Committee, Senator LUGAR of Indiana. Senator LUGAR is a man of vision and reason with respect to our nation's agricultural policies, and the Senate is fortunate to have a man of his caliber as Chairman of the Agriculture Committee. It is an extremely challenging position, due to the pleadings of numerous regional and narrowly-focused agricultural groups that descend in droves upon the Congress every 5 years. They urgently request more and more Federal aid, lest the extent of their taxpayer-funded subsidies, price supports, and grant programs stray too far from the status quo.

A Senate that is split between Members dedicated to fiscal responsibility, and those equally dedicated preserving virtually every aspect of Federal largesse, is not a promising forum for a boldly reformist farm bill. For those of us that were hoping for a significantly less costly, less expansive farm bill, this is deeply regrettable. I cannot support a massive new farm bill that does little to lighten the heavy burden that price supports and farm programs have long placed on taxpayers, and I will oppose this conference report.

Mr. President, the unprecedented election of 1994 has been interpreted in many ways; its signals meant different things to the diverse Members of this body, and among the luminous commentators who purport their views to represent the pulse of the masses. My personal beliefs about what the American people are calling for often run head-on into the resistance of this body. I can, however, confidently convey my judgment about one meaning of the November, 1994 election without reservation. Clearly, the new Congress was not empowered to cautiously piece together an expensive array of farm programs, and pass the bill to taxpayers. This Congress was not directed to timidly wander among agricultural special interest groups and seek a consensus that would offend no one. No one, of course, except for taxpayers, who unknowingly will be stuck with the bill.

I oppose this conference report with regret. I supported H.R. 1541 with the understanding that it would actually reduce the cost of farm programs by 15%. The Senate-passed version of S. 1541 was widely described as a substantial reduction of spending on farm subsidies. I also hoped that the House would make further reductions and fiscally responsible reforms. I was mistaken. This conference report contains almost $50 billion in direct farm subsidies over the next seven years, and in its entirety will cost taxpayers close to $70 billion over that time. If any savings are achieved they will be modest, and I am all too familiar with the outcome of previous farm bills, which routinely cost billions more than anticipated.

This is simply unacceptable, Mr. President. We are acquiescing to the well-organized interests who are satisfied with nothing but a bigger trough from which to feed.

At a time when Congressional overspending has already rung up a $5 trillion dollar debt; and when we must fight the administration and its free-spending allies every step of the way for even the most modest restraints on spending, a $70 billion farm bill is simply indefensible. I cannot justify voting for such a bill to my constituents in Arizona, who this year must work five months a year just to pay their taxes!

The logic of passing a new, $70 billion farm bill escapes me, Mr. President, but I think it will prove positively unfathomable to most Americans. A large segment of the Congress seems to operate in a world completely disconnected from any sense of urgency about deficit spending. News reports which mindlessly turn reductions in increases into life-threatening cuts—as we saw with the School Lunch Program last year—cynically feed this atmosphere. This manipulative shell game will go on and on, I'm sure, until a decisive majority of the Congress—with the support of a President who has the courage to lead—stands up and simply says, "Enough!"

To the contrary, this conference report—and this Administration—continues to say: "No problem."

Just last week the Washington Post had a prominent story about how the fiscal year 96 deficit will be dramatically lower than expected. It will undoubtedly bolster the administration's confidence in striving for billions more in domestic spending. Of course, there was no mention in the article about how this year's cheery, refreshingly low deficit means that at best, the Federal Government will spend $400 million more each day than it takes in. This farm bill will keep the tab on that credit card rolling along with respect to agricultural spending for the next 7 years.

During the initial Senate debate on the 1996 farm bill, I was optimistic that the freedom to farm concept of decoupling farmers from bureaucratic crop controls would be a ground-breaking, cost-effective reform. It has not turned out that way. With this conference report, farmers do get a freedom to farm, but lurking just below its surface is the same, dusty maze of permanent price subsidies that the Congress purportedly wanted to move away from.

Let me point out several other areas where this conference report has stumbled badly away from the Senate bill I supported. First, it has several dairy provisions which boggle the mind of anyone interested in cost-efficient, pro-market farm policies. The Northeast Dairy Compact—a price control consortium reminiscent of the very best of Soviet block agricultural policies—is given new life despite being previously rejected by the Senate. Furthermore, this conference report will allow dairy interests in the State of California to impose a new trade barrier on out-of-state milk. California's price-enhancing dairy regulations jack up milk prices for its nearly 30 million consumers, and they will now be codified in Federal law to shield California's dairy industry from fair and open competition. The California solids-added provision is incontestably anti-competitive, anti-market, and definitely anti-consumer. However, even in 1996, those dubious attributes are not enough to exclude them from being tucked into a farm bill.

There are many more areas of great concern for me in this measure. A new, $300 million-a-year rural development program—added at the behest of the administration—was the subject of some thirty seconds of debate in the Senate. There is a $360 million grant program for private grazing lands; a $600 million grant program for livestock activities; $360 million for a new twist on the Market Promotion Program. And, of course, cherished, old standbys like the sugar and peanut programs.

Let me emphasize, Mr. President, I support providing a credible level of truly-needed assistance to farmers in America. I would oppose pulling the rug out from under them with a complete elimination of farm programs. Many agricultural producers in Arizona have relied on price support programs, and dozens of rural communities in my State have greatly benefitted from important rural development initiatives. We should continue meritorious farm programs that work, and that also comply with the fiscal discipline necessary to balance the budget.

I want to express my gratitude to Senator LUGAR for preserving an amendment that will assist Native American community colleges. Indeed, I recognize that if Senator LUGAR was able to fully develop all of his ideas for federal agricultural policies, our country would be in much better shape. I regret that his best efforts have been dissipated by interests unwilling to yield in their defense of a status quo we can no longer afford.

I cannot support a massive package of $70 billion in agricultural spending at a time when the administration and the Congress has been unwilling to stem the tide of deficit spending. It represents too little real reform, not enough relief for taxpayers, and too much toleration of business as usual.

Mr. GLENN. Mr. President, I rise today in opposition to the conference report on the the farm bill. While I strongly favor some aspects of the bill, I have serious reservation about the 7-year contract and the dairy provisions.

This bill ends the system of giving subsidies to farmers when market prices drop. Instead farmers sign a 7-year contract to get annual market transition payments regardless of market conditions. I support moving to a market oriented farm policy. However, I think it is wrong to pay farmers regardless of market conditions and I strongly oppose paying farmers when they do not plant a crop. In times when commodity prices are high, such as now, farmers will receive big checks they do not need; in bad years farmers will receive little or no support.

I also oppose giving the Secretary of Agriculture the authority to implement the Northeast Interstate Dairy Compact. This provision allows six

States more leeway in setting their own prices. I think we need to take a good look at our current system of dairy price supports and move dairy along with the other commodities into a realistic market oriented system.

I support the conservation provisions put forward in this bill which emphasize land management options for farmers and livestock producers, not simply land retirement, to reduce the harmful environmental and economic impacts of agriculture activities. For example, the bill authorizes the Environmental Quality Incentives Program [EQIP] which combines the functions of several current conservation programs into one voluntary incentive and cost-share program for crop and livestock producers. I am pleased that the bill channels additional needed funds to rural development and agricultural research programs through the Fund for Rural America.

I do not believe this bill is good public policy. I am concerned it will cost us more to phase into the new program than to maintain current law. And finally, I also feel that the Congress will be forced to return to this issue as soon as less favorable market conditions return for farmers.

Mr. HOLLINGS. Mr. President, I rise today to voice my opposition to the 1996 farm bill. Although the conferees have worked hard on this legislation and have obtained many good things for rural America, overall the bill is a bad bill, it is bad policy, and it is bad for the small family farmer in South Carolina. With this bill, Congress isn't the goose that laid the golden egg. It's the goose that is laying the rotten egg. And like rotten eggs, this bill stinks.

As I said, this farm bill does have some positive aspects. We establish the Fund for Rural America to infuse $300 million into research and rural development—something that South Carolina and other rural States can definitely use. We create a new Environmental Quality Incentives Program that will help smaller farms with conservation projects.

We also reauthorize the Conservation Reserve Program, a program which is extremely popular among farmers and which improves millions of highly erodible acres across the country. Finally, we reauthorize several nutrition programs for 7 years. I am disappointed that the conference committee chose to reauthorize food stamps for only 2 years, but I hope we will revisit this issue soon.

Despite the few good portions in this farm bill, it remains bad farm policy. Here's how absurd the bill is. Instead of the current price support system in which we help farmers recover their losses with deficiency payments, this bill allows the Government to pay farmers in each of the next 7 years—regardless of whether they have a good or bad year, regardless of whether they plant anything at all or regardless of market prices. Do you know what that means to the budget? It means we'll have to spend a lot more money than we currently spend on farm programs. It is estimated that this farm bill will cost the taxpayers an additional $4 billion over the next 2 years compared to current law. The current system works—why fix it? Current law provides that farmers do not receive Government subsidies in good years. But under this bill, we'll essentially give farmers a bonus in good years—like this year. That makes no sense to me in this environment of fiscal responsibility in which everybody and his brother is trying to find ways to save money.

The small family farmer—especially the South Carolina farmer—comes under attack in this wrong-minded legislation. Through this bill, payments to farmers will decline over the next 7 years. But farming, like history, occurs in cycles. This bill doesn't take the cyclical nature of farming into account. Over the next 7 years, prices almost certainly will decrease from the high prices we now enjoy. But, at the end of this 7-year farm bill, prices likely will be low at the same time that payments are low. In other words, farmers who might be living high on the hog now will be scraping to make ends meet later on. I am worried that this will have catastrophic effects on the small farmer in my State and that many small farmers will have no choice but to harvest their fields for the last time.

And that, in turn, could lead to the expansion of corporate farming. While I do believe there is a place for corporate farming, I don't believe that their successes should come at the detriment of small family farms. These folks, including many of my friends in Mullins, Dillon, Manning, Kingstree, Bamberg, Hampton, Orangeburg, and Charleston, have faithfully cultivated their land for many years. I believe they should be able to continue their profession, not be forced out of it by ill-conceived legislation. This bill is shortsighted. Down the road, it will hurt farmers.

Mr. President, we should have passed a farm bill last year and farm policy should never have been considered as part of the budget package. The hour, however, is late. Farmers need to know where they stand for the coming crop year. For this reason, I understand that the Secretary of Agriculture has reluctantly recommended that the President sign this legislation, and that the President has agreed to sign it with serious hesitation. The President, however, also has indicated that he will continue to work with Democrats in the Congress to propose more farmer friendly legislation next year. I look forward to working with the President on this issue because, as sure as I stand here today, I guarantee that this farm bill won't be around for the 7 years it stipulates.

The so-called freedom to farm concept has been flawed from the start. This piece of legislation, although it may have a different name, follows in the same disastrous direction. I refuse to turn my back on the family farmers of South Carolina and I believe it is wrong for us to pay money to farmers when they do not need it. As a result, I will vote against the farm bill this afternoon. I look forward to revisiting this issue again next year.

I thank the chair.

Mr. SIMON. Mr. President, In many important ways, this farm bill is a good bill for Illinois. While it is not a perfect bill, I'm pleased to see that some of the most meaningful programs were protected. The bill offers farmers limited certainty in the area of income protection and provides a safety net for farmers in future years. In addition, it improves conservation efforts and reauthorizes important nutrition programs, as well as trade and research titles.

Illinois is second only to Iowa in soybean production, with 9.7 million acres planted to soybeans. Exports for soybeans and soybean products totaled $7.9 billion in 1995, making soybeans the largest export, in terms of value, in U.S. agriculture.

This bill raises the marketing loan rate for soybeans to 85 percent of an Olympic 5-year average, with a ceiling of $5.26 per bushel. Despite a 3-percent annual growth in world demand for vegetable oil and protein meal, U.S. oilseed acreage has declined by 17 percent since 1979. This slight increase in the marketing loan rate creates some incentive for soybean production here at home, which helps our trade balance.

The bill also retains permanent law for farm programs. Agriculture policy should protect family farms as well as consumers. The original freedom to farm proposal eliminated permanent law for farm programs, allowing no safety net past the year 2002. Through the leadership of Senator DASCHLE, Democratic Members of the Senate were able to guarantee a safety net for farmers in year 7.

I strongly object to language in the bill giving the Secretary of Agriculture authority to implement the Northeast Interstate Dairy Compact and will work to see that it is not implemented. Dairy farmers in the Midwest cannot compete against this kind of regional price fixing. It is bad policy, legally questionable and the Senate voted to remove it from the Senate bill.

In addition, we are making a big mistake authorizing the safe meat and poultry inspection panel. The role of the panel is to delay implementation of proposed meat inspection regulations. We need to modernize our meat and poultry inspection system and speed up

efforts to implement the proposed hazard analysis and critical control point system, not set up road blocks to improving the system. Meat and poultry inspection is a human health issue. At a time when the world is facing serious food safety problems, such as the British beef crisis, the rejection of United States poultry imports to Russia due to Salmonella contamination and the E. coli disaster in the United States, it is simply irresponsible and shortsighted to be stalling efforts to improve the system. I will work with my Democratic colleagues to prevent funds from being appropriated for the panel.

Ms. MIKULSKI. Mr. President, I will vote against the farm bill conference report. I believe that the farm bill, in its present form, goes against the true purpose of a farm bill—to help America's farmers. While I support the reauthorization of the Conservation Reserve Program and other conservation and nutrition programs, I do not believe this bill is in Maryland's interests.

I realize that spring planting is fast approaching, but that is no reason to be forced into accepting a bill that will hurt Maryland farmers and the Maryland industries that depend on our farmers. This bill does just that.

I believe that the Freedom to Farm Act, included in this bill, will have harmful long-term effects on the family farmer in Maryland. This bill puts the family farm up for sale. The bill does not provide a strong enough safety net for farmers. Setting a flat subsidy rate, then removing it in 7 years, without allowing flexibility during extreme economic conditions or natural disasters, is dangerous for farmers in Maryland and across the country. Under this conference agreement, producers will be paid even when prices are high, but will not receive necessary protection when prices are low.

I am particularly concerned that this bill continues and expands the Sugar Price Support Program to the detriment of cane refiners such as Domino in my hometown of Baltimore. This sugar program jeopardizes the future of the cane refining industry. It provides additional protection to domestic growers that would increase the price of raw cane sugar and put Domino and its 600 employees out of business. This is totally unacceptable. Sugar cane refining is one of the few manufacturing industries still left in our inner cities. The farm bill conference report threatens Domino's future. I see no reason why a farm bill must threaten an entire industry.

Also of deep concern to me is the fact that this bill reauthorizes the Food Stamp Program for only 2 years. What happens to Maryland's poor after that? To add insult to injury, while it provides a helping hand to the most impoverished in our communities for only 2 years, this bill guarantees corporate welfare to huge agribusiness for 7 years.

During this Congress, we have debated the issue of a balanced budget. We need a balanced budget, and I regret that we have not succeeded this year in finding consensus and the sensible center on a plan to eliminate the deficit. This bill will make this task even more difficult. Originally designed to save billions of dollars, this conference report will end up costing the American people an extra $1.3 billion.

It is for these reasons that I must vote against the farm bill. I acknowledge that this bill will likely pass and be signed into law by the President. But I also believe that the flaws in this conference report are so severe that Congress will need to revisit these issues next year. I hope at that time we will be able to produce a workable farm bill, one that addresses the best interests of farmers, business, and families.

Mr. NICKLES. Mr. President, I want to compliment my friend from Indiana, chairman of the Agriculture Committee, and all of my colleagues involved in the farm bill debate for their hard work in crafting legislation which reforms our Nation's agriculture policies. The conference report on the Federal Agricultural Improvement and Reform Act represents a long-term plan to get the Government out of the farming business—an idea I strongly support. The final agreement offers farmers flexibility, simplicity, certainty, opportunity and growth and I urge my colleagues to support its adoption.

Under the provisions of this bill, farmers will have the flexibility to plant the crop or crops that best suit their climate, conditions and market opportunities. No longer will the Government tell farmers which crops to plant and no longer will the Government tell farmers to leave productive land idle in exchange for a Federal handout.

Current agriculture programs will be simplified by allowing farmers to enter into 7-year contracts. After the initial sign-up, many farmers will never need to visit USDA again. I strongly support provisions in the bill which eliminate the countless rules and costly regulations that accompany today's farm programs.

The conference agreement provides certainty to farmers by ensuring they will know all program parameters and payment rates for the next 7 years. Under current programs, payment rates often change after program sign-up and payments in future years are unknown. A fixed stream of payments bolsters confidence in farm lending and all areas of farm business decisions.

I believe in the opportunity this legislation provides to farmers. Decades-old planting patterns that limit profits are eliminated and replaced with flexibility and fixed market transition payments. Farm income will grow as farmers are no longer limited to planting stagnant, low-value, market crops.

With respect to haying and grazing provisions included in the conference agreement, I want to thank both the House and Senate Committees for their commitment to allowing farmers to hay and graze their lands. I was involved in amending the original bill, which restricted haying and grazing, and I thank my colleagues for their continued interest in providing the utmost flexibility to those who earn their living in agriculture.

Finally, as many of you know, Oklahoma and other Western States have suffered a severe drought during the past 6 months. Farmers tell me that if Congress doesn't enact this farm bill many will be forced out of business. Frankly, I do not want to see that happen.

Congress has a responsibility to farmers in Oklahoma and every other agricultural State to enact a farm bill this week. I support the conference report before the Senate and urge my colleagues to vote for its adoption.

APPLICABILITY OF THE CONGRESSIONAL REVIEW ACT

Mr. LUGAR. I would ask the sponsor of the just-passed Congressional Review Act of 1996, the Senator from Oklahoma, Mr. NICKLES, whether the bill, if signed by the President this week, will apply to the Department of Agriculture's rules that will be promulgated under the Agricultural Reform and Improvement Act.

Mr. NICKLES. Yes, I will inform the chairman of the Agriculture Committee that all Federal agency rules will be subject to congressional review upon enactment of the Congressional Review Act.

Mr. LUGAR. I ask the Senator from Oklahoma if the Department of Agriculture were to issue major rules under the Agricultural Reform and Improvement Act, that is rules that would have a large economic impact on the agricultural community might be held up for 60 calendar days by the Congressional Review Act?

Mr. NICKLES. Yes, my colleague is correct. If any Federal agency issues what the Congressional Review Act defines as "major" rules, those rules would not be allowed to go into effect for at least 60 calendar days. However, I advise my colleague that the President, by Executive order, may declare a health, safety, or other emergency, and that particular major rule would be exempt from the 60-day delay. I would add, that the President's determination of whether there is an emergency is not subject to judicial review.

Mr. LUGAR. As the Senator from Oklahoma may know, we in the conference on H.R. 2854 did not contemplate such prompt enactment of the congressional review bill. I would

inform the chairman that H.R. 2854 requires that the Secretary of Agriculture, within 45 days of enactment, offer market transition contracts available to eligible producers. These contracts must not be further delayed, or they will not be effective for the 1996 planting season. Moreover, these contracts are worth billions of dollars, and are certainly going to qualify as major rules under the Congressional Review Act. Would the chairman agree that these major rules are the type that are contemplated by his committee as qualifying for the emergency exception available to the President?

Mr. NICKLES. Yes, I agree with the chairman of the committee that the other emergency exception from the 60-day delay of major rules was included for this kind of circumstance. Certainly, it would be totally appropriate for the President to determine by Executive order that the market transition contract rules promulgated this spring under the Agricultural Reform and Improvement Act are emergency rules that would not be subject to the automatic 60-day delay.

Mr. LUGAR. I thank the Senator for that clarification.

Mr. KERRY. Mr. President, today the Senate is considering the conference report on the farm bill. I had hoped that the conference would produce a bill that would be more fiscally responsible than either its House or Senate predecessors. However, I regret that in my view it does not achieve that fiscal reform. I voted against final passage of the Senate's farm bill, S. 1541, when the Senate acted on it last month because, while it was improved considerably in some key respects from the bill that the Republican leadership originally introduced, ultimately, it was not the reform package that I believe our Nation needed and had the right to expect. Unfortunately, neither does this conference report provide the improvements that would be needed to secure my support.

I understand that the President, with some reservation, is expected to sign into law the conference report now before us. I know that farmers, as they head into the spring planting season, need to know the conditions under which they must operate. And I acknowledge that this bill is probably the best package that could be expected to emerge from a conference with the House in the contentious, partisan environment which pervades Capitol Hill. Indeed, the conference package is far better than the House bill, which, in fact, was not complete legislation because it did not reauthorize important conservation and nutrition programs that have traditionally been addressed in omnibus farm legislation.

It is imperative that I congratulate and sincerely compliment the Senators who worked diligently to secure an agreement at least as good as the one before us today. Agriculture Committee Ranking Democrat PAT LEAHY deserves our commendation for his successful struggle to insist that adequate conservation and nutrition provisions be included. Chairman LUGAR again on this bill demonstrated his well-known and respected ability to place the Nation's interests as his first objective instead of partisan scoring and ideological rigidity. The way in which Senators LUGAR and LEAHY worked together in pursuit of responsible legislation that could pass both houses and receive the President's signature is a model that others in this body would do well to emulate.

I compliment Senator LEAHY, also, for his instrumental role in including in this conference agreement a provision important to me and my New England colleagues allowing the Northeast Interstate Dairy Compact to go into effect upon the approval of the Secretary of Agriculture. As a cosponsor of the compact legislation, I am very pleased that it will be included in a bill that apparently will become law.

This conference agreement includes important rural development programs that are important to farmers in my State of Massachusetts as well as to farmers across the country. The bill retains new development initiatives such as the multimillion-dollar Fund for Rural America and the new structure for delivery for rural development programs, the Rural Community Advancement Program [RCAP]. RCAP provides important flexibility to States to allow them to develop innovative approaches to their unique rural development problems by permitting each State director to tailor assistance to local needs. This is a vast improvement over the previous Republican proposal for block grants to the States.

But on the central question of the way it deals with farm incomes, I reluctantly must conclude this conference report fails to make the grade. While it eliminates the current price support structure for many commodities programs, it replaces it with an extremely costly fixed direct payment to farmers. The Congressional Budget Office estimates that for the first 2 years under this new proposal—fiscal years 1996 and 1997—the Treasury will pay out $5 billion more to farmers than would be paid under a continuation of the current price support programs.

While some claim that this 7-year direct payment program is necessary to wean farmers off Federal support, that argument is significantly weakened by the provision in the bill that retains the outdated 1949 Agricultural Act as the permanent law governing Federal commodity programs. According to the United States Department of Agriculture, the 1949 statute, if enacted today, would cost taxpayers $10 billion for 1996 alone, substantially more than the recently expired provisions.

I remain convinced that we need a new approach to farm policy. We need to transition to a situation where we permit the free market to function with much less interference, regardless of how well-intentioned it may be. When this issue first came before the Senate, I supported cloture on the Leahy-Dole reform package—although it was far from ideal in my mind—because it would have replaced the 1949 statute and the financial support provided by the current price support programs with a 7-year phase-out plan. Also, importantly, that package would have reauthorized critical conservation and nutrition programs, including food stamps, through 2002. The conference agreement reauthorizes food stamps for only 2 years.

Today we must vote yes or no on the conference package in its entirety. While it contains many important and acceptable nutrition, conservation and rural development provisions, it falls well short of the kind of bill we ought to be passing. While I accept the explanation of Senators LUGAR and LEAHY that this is the best bill they could get their House counterparts to approve, it falls too far short of what our Nation needs and there will be too little to show for too great an expenditure of tax dollars for me to be able to vote affirmatively.

Mr. President, for these reasons, I will cast my vote in opposition to this conference report.

Mrs. MURRAY. Mr. President, this Farm Bill Conference Report represents a bold new direction for the future of this Nation's agricultural policy. A direction I do not support. The removal of the safety net for our farmers will prove itself to be a mistake, I think. Undermining the safety net is easy now since prices are relatively high, but when prices drop, and we all know they will, I fear this farm bill may come back to haunt us. In fact, it may well come back regardless of prices. It may come back because of the so-called market-transition payments: guaranteed payments to farmers regardless of market conditions or production. I am truly afraid that the American public will not view these payments as a safety net to maintain a safe and stable food supply. They will view the payments as a give-away. Those of us who understand the importance of farm programs know better than to undermine farm support structures in this way. That is why we think the payments should continue to be tied to production and the marketplace.

Many have expressed the sentiment that after the 7 years of Freedom to Farm, we will continue to maintain some kind of farm program. While the preservation of permanent agricultural law in the conference report provides some assurance that this will be the case, I am not so confident. The proponents of "Freedom to Farm" have

made it explicitly clear that they view the market transition payments as a transition to nothing. Moreover, I am also concerned that public outcry over these direct payments will force us to revisit the farm bill sooner than 7 years. If this occurs, I am not at all convinced that Congress will seek to rectify the situation by reinstating a more traditional safety net, they may well decide just to end the payments, period.

Which just goes to the point: we had the opportunity to appropriately address national agricultural policy and we failed. Instead, we chose to let budget priorities drive farm policy. By putting forward policies that could not even make it out of committee, we undermined the process and the result is far from satisfactory. Congress has let our farmers down. The farm bill has traditionally been bipartisan with considerable time provided for debate and discussion. Congress sought to provide all parties a chance to provide their input. That tradition has ended with this bill. Take the dairy provisions for example. There is still a considerable amount of disagreement over these provisions, a compromise has not been achieved.

Despite all this, our farmers do need certainty for the 1996 season. I spoke with the wheat growers in my State of Washington yesterday. While they share many of my concerns with this farm bill, they told me they need something for this season. It would be unfair to hold the farmers of America hostage to our disagreements. While in the long term, I have serious concerns about the future of our farms under this bill, in the short term, they need to know what to plant for. I therefore will support this conference report, with serious reservations, in order for my farmers to have the certainty they need this season. I am committed to protecting the ability of our farmers to continue producing a safe and stable food supply for this Nation and the world. I will be watching the impacts of "Freedom to Farm" on our Nation's farms closely as the program, or lack of program, moves forward.

The PRESIDING OFFICER. Who seeks time?

Mr. LEAHY. Mr. President, on the procedure we have, we have been going back and forth. I know the distinguished Senator from Iowa was seeking recognition.

I yield, from the time of the Democratic leader, time to the distinguished Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, there are really two parts to this farm bill. One component was in general put together in a very bipartisan and cooperative manner. That process has produced a number of sound provisions that deserve broad support.

There are many good features in the titles of this bill dealing with conservation, for example, the continuation of the Conservation Reserve Program and the Wetlands Reserve Program, the Environmental Quality Incentives Program and improvements in the wetlands conservation rules. The wetlands rules are something that has concerned me greatly. They have been very confusing and frustrating to many farmers in Iowa, but there some positive changes in this bill that should make wetlands conservation rules more reasonable and workable for farmers.

One of the wetlands changes involves farmland that has been converted in the past and drainage tiles have been put in, but for one reason or another, such as tile plugging up, the land has returned to wetland again. Farmers in this situation have had problems with the rules in trying to reopen their drainage systems. This bill will allow farmers to go in and unplug their tiles and go ahead and drain those fields, if they have already been previously converted. That is very important.

This bill also provides that farmers can take a wet spot, a small spot in the field, and go ahead and convert it and farm it if they mitigate the loss through improving, restoring or creating wetlands in the area. Sometimes that is the best thing to do, because there may be a better area for a wetland than where it is existing right now in the middle of a field. And the bill also calls for clarifying the rules on the types of wetlands that are so insignificant that they are not subject to wetlands rules. So these are very good changes for our farmers.

Although there are a number of positive features in the bill, there is one aspect of the bill that outweighs everything else, and for that reason I cannot support this farm bill. I am speaking about the commodity program provisions in this bill. They are the most substantial part of the bill: $35.6 billion in direct payments alone. Commodity programs involve by far the largest amount of Federal agricultural outlays, and they will have, naturally, the largest effect on the agricultural economy of my State of Iowa. So, if the commodity programs in the farm bill will not be good for the farm families in my State, I simply cannot support the bill. Regrettably, that is the case with this bill.

It is true it is late in the season. This farm bill is at least 6 months late—more like 9 months late. Farmers, at least in my area, are starting in their fields. They are wondering why the leadership of this Congress could not get its work done to pass the farm bill on time. I will not be forced into voting for a farm bill simply because the Republicans could not get their act together and get it done last year.

I have here the CONGRESSIONAL RECORD from July 26, 1990. I was here. I was working on the farm bill at that time, the 1990 farm bill to take effect with the 1991 crop. Here is what the minority leader, Senator DOLE, said at that time, July 1990:

> Mr. President, we are rapidly approaching the August recess, and back in my home State of Kansas farmers are preparing for the seeding of the winter wheat crop. Even as they reflect upon the record Kansas wheat crop recently harvested, uncertainty lies ahead. That is because Congress again has been unable to finish the farm bill in a timely manner so that producers of fall crops will know their program in advance.

Here is the Senator from Kansas, Senator DOLE, complaining in July 1990, that we do not have the farm bill done in July 1990 to cover 1991 crops. Here it is March 1996 and we do not have the 1995 farm bill done to cover 1996 crops.

Again, it was the other side that was in charge. We could have had a farm bill out here on the floor last fall. We passed commodity provisions out of our committee last September. We could have had a farm bill on the floor in October or November or December. We sat here and twiddled our thumbs, waiting to try to get some kind of budget deal that was never agreed upon. We could have had the farm bill done at that time, but the leadership did not bring it up. So now we have a gun held to our heads, saying we have to pass it now, it is awfully late. I do not like to operate in that atmosphere, and I will not vote for it on that basis—just on that basis.

I cannot support the bill because it sets up a farm program with payments that have no relationship to commodity prices, crop production, or farm income levels. This bill has it exactly backward. It will provide far less protection against low farm income than previous farm bills. But then it turns around and makes substantial payments to farmers in good times, when there are good prices and high incomes. What this is going to mean is it will hurt agriculture's image and undermine support for any sound farm policy in the future.

A sound farm policy is one that promotes good farm income from the market, but helps farm families survive circumstances beyond their control, when the market goes down or they have a disaster. The farmers I know want to farm for the market and not the mailbox. This bill says no matter what the market does, no matter how good your income, you are going to get a check in that mailbox. Most farmers I know do not want to farm like that.

I want to make it clear that I want reform in farm programs with full planning flexibility, less paperwork, less redtape, less hassle. We can do that. There was general agreement on both sides of the aisle, in a bipartisan fashion, to make those reforms. We can provide that planting flexibility without adopting the payment scheme in

this bill that will send checks to farmers, even when they have a good income from the market.

I want farm programs that work better for farmers, but this bill goes far beyond reasonable reforms to destroy the farm income safety net. It is absolutely unnecessary to take the radical approach in this bill in order to achieve the commonsense reforms that farmers have told me they want.

The proponents of this farm bill are not really telling farmers the whole story. The payments may look good now, but if commodity prices and farm incomes fall—and past cycles in the farm economy show how quickly and devastatingly that can happen—this bill sets farmers up for a big fall. By the time we get to the later years in this farm bill, the maximum payment for corn is about 28 cents a bushel—no matter how low the price may fall, 28 cents a bushel.

Have no doubt about it, what this bill does is it shifts risk. It is a tremendous shift of risk onto farmers. They are being told to produce all they can so that grain companies will have plenty of grain to trade, but if surpluses and low prices develop, as they most certainly have many times before, it will be the farmers who get the short end of the stick.

They will have much less help in working out of that low-price situation than we have had in the past. There will be no farmer owned reserve, for example, because this bill specifically takes it out, and the bill also raises the CCC interest rate by a full percentage point above the cost of money to CCC. I offered amendments here on the Senate floor to put the farmer owned reserve back in and take out the CCC interest rate hike. Only two Republican Senators voted for those amendments and neither was approved.

To see how the farm income safety net is slashed in this bill, let us take, for example, an Iowa farmer with a 350-acre corn base. If the price of corn, let us say, is $1.90 in 2002, that farm will have about $23,000 less income protection under this bill than it would have under the 1990 farm bill. That is because this bill will not respond to low prices.

I suppose some of you might say, "Well, $1.90 a bushel, we won't get to that price." I have been around long enough to remember when Earl Butz in the 1970's said that American farmers should plant "fence row to fence row" to meet burgeoning world demand for U.S. agricultural exports. In my State of Iowa, we plowed up a very large share of the hills in southern Iowa, planted soybeans and planted corn. I tell you, we had a ride. There was a boom. Farmers had a good ride and a lot of them went deeply into debt. Why shouldn't they? There was supposed to be no end to it. Land prices skyrocketed. A lot of big new tractors and combines were bought. Many young farmers, in particular, took on a lot of debt to get started or to expand. Then in a few short years the crash came and out went the young farmers. We had a devastating time in the 1980's. I am very concerned this bill is setting farmers up for that same kind of situation again, because it does not have enough protection against low prices and farm incomes.

This bill also imposes a new cap on loan rates for wheat and feed grains, which is another weakening of the farm income safety net. The loan rate for corn cannot go above $1.89 a bushel, but it can go below $1.89. I offered an amendment in conference, backed by the National Corn Growers and the National Association of Wheat Growers, to lift the cap on loan rates for wheat and feed grains, but, again, I could not get one vote from the Republican side of the aisle.

To illustrate the lack of farm income protection in this bill, I did some rough calculations and determined that if this bill had been in effect in Iowa for the last 5 years of the 1980's, Iowa's farm families would have had about $2 billion less in farm income than they had under the farm bill in effect at that time. That would have been devastating for Iowa's farm families and rural communities. That kind of situation could develop again, and if it does this bill will be woefully inadequate.

I am convinced this bill will hasten the trend to larger farms and the decline of the family farm. The largest share of these contract payments will go to the larger farms, and there will be much less income protection for the smaller farms against low prices and incomes. Do not take my word. Here is an article that appeared in the March 24, 1996 Sunday New York Times:

> The new approach, called Freedom to Farm by its supporters, would accelerate the ongoing consolidation of smaller less profitable farms into larger, more efficient corporate farms. That has serious implications, not only for the face of farming in America but also for the livelihoods of rural communities.

That is from the New York Times. I might also point out, Mr. President, that the New York Times, the Washington Post, and the Wall Street Journal have all editorially endorsed this so-called freedom-to-farm type of program. I tell farmers in Iowa, any time the New York Times, the Wall Street Journal, and the Washington Post all editorially endorse a farm program, I get worried, I get really worried.

Let us talk about fiscal responsibility. Here we are trying to reduce the deficit. We want to get a balanced budget. I support that. We ought to be as tight as we possibly can with taxpayers' dollars. If someone needs help, yes, that is when you come in with some assistance. But if you do not need help, why spend taxpayers' dollars?

This bill will spend $35.6 billion on direct payments to farmers, even if prices are high and farm incomes are high. Those payments, made whether they are needed or not, hold huge potential for embarrassing farmers and those who support sound farm policy. We should save that money for farmers when and if they need it.

Going back to the example of the Iowa farm with the 350-acre corn base, that farmer would get a payment of about $13,000 in 1997, even if corn is $3 a bushel and yields are good. No matter what that farmer makes from the market, the Government will send out a check for $13,000. I just do not see how that is fiscally responsible when we are trying to balance the Federal budget.

Here is another example: a large Kansas wheat and grain sorghum farm, with 1,800 acres of wheat and 600 acres of grain sorghum. Let us assume wheat is selling for $5 and grain sorghum for $3 in 1998. That farm would have a net income of about $195,000 after costs. That is net farm income. On top of that, Uncle Sam will write a check to that farmer for just under $40,000. Furthermore, if a farmer arranges his or her business carefully to take full advantage of the programs and maneuver around the payment limitation, that one individual farmer could receive as much as $80,000 in a year in direct cash payments from Uncle Sam, even if the farmer makes a net income of over $195,000, as in the example, or more. That money will be paid out regardless of how much money that farmer makes in the market.

I want someone to explain to me why the taxpayers—especially taxpayers living in rural communities across this Nation trying to make ends meet in small businesses or working at low wages—should be asked to pay for a farm program that makes sizable payments to farmers, even if they are making a good income from the market?

Where is the fairness in a system of income transfers from taxpayers who are struggling to make a living if that money will be spent in providing payments to other people when they do not need the help?

And the impact of this bill on taxpayers could be substantial. The Congressional Budget Office has estimated this bill will send out over $5 billion more in direct farm payments during fiscal 1996 and 1997 than would be the case under the 1990 farm bill. USDA estimates that this bill will result in direct income support payments of about $25 billion more over the 7-year period than would have been the case if we had just continued the 1990 farm bill.

Mr. President, here is the conference report on the farm bill. I know not too many people read these documents. I just want to read one sentence out of section 113. It is titled "Section 113. Amounts Available for Contract Payments," and it spells out for every fiscal year how much money would be

available. It amounts to about $35.6 billion. But listen to this:

The Secretary shall, to the maximum extent practicable, expend the following amounts to satisfy the obligations of the Secretary under all contracts.

"The Secretary shall, to the maximum extent practicable" make these payments. Wait a minute. I thought we were trying to save money for the taxpayers. I thought we were trying to reduce the deficit and balance the budget. Here is a bill that says USDA has to pay it out no matter what happens, no matter how much money farmers make; to the maximum extent practicable, it has to make those payments.

I would like someone to show me one other bill passed by this Senate or House that says, for example, that the Secretary of Health and Human Services has to pay out, to the maximum extent practicable, a sum of money for welfare payments. Or let me see a bill stating that the Secretary of Education has to pay out, to the maximum extent practicable, money for title I. I do not believe you will find such a provision anywhere.

I certainly have never seen anything like this in an agriculture bill in all the time I have been here. I just do not see how anyone who claims to be a conservative can be in favor of mandating that the Secretary shall make the maximum payments possible no matter what commodity prices or farm incomes are.

I offered an amendment on this very point. My amendment said that payments under this bill could not be any higher than they would have been under the 1990 farm bill, except in the case of a farmer with a disaster loss. Farmers with disaster losses would receive the whole contract payment. Any money saved in a fiscal year through my amendment would be rolled over and reserved for payments to farmers in later years when they may have a greater need for them.

Here is an article from the front page of the Iowa Farm Bureau Spokesman dated November 18, 1995, quoting Dean Kleckner, the president of the American Farm Bureau Federation. Mr. Kleckner is not a member of my political party, and we have disagreed on issues in the past. But here he is, quoted just a few months ago, expressing opposition to the payment mechanism that is in this bill, just as I have:

"In order to provide a long-term safety net, the conference committee should develop a program that maintains a price-payment linkage and allows budgeted funds not expended in years of high prices to be available in years when farm income is low," the Rudd, Ia., farmer said in a letter to House and Senate budget conferees last week.

"Failure to resolve this issue will render farm programs either an ineffective income support mechanism or subject them to being an irresistible political target," Kleckner said.

Mr. President, I offered an amendment in the conference committee to do just that. It would have kept the money in reserve in times of high prices; USDA would not have paid out any more than under the 1990 farm bill unless the farmer had a disaster. Any money that was not paid out would have been rolled over for use in making payments in future years when the need may be greater because of lower prices or disaster losses. Again, my amendment was rejected along strict party lines. Every Republican voted against it.

Some people get pretty edgy and touchy when they hear it said that this farm bill makes farmers vulnerable to criticism that they are receiving welfare payments. If this bill becomes law, I can only say, get used to it; get used to it. The national press, who have never been friendly to agriculture, will have plenty of new material. There will be television stories and the same editorial writers at the New York Times, the Washington Post, and others will go to work. You mark my words. There will be editorials about USDA making large payments to large farmers no matter how much money they are making from the market.

The editorial writers do not understand what is going on in agriculture anyway, but what I am concerned about is the damage this bill threatens to do to the public's image of farmers and of agriculture programs. Farmers do not want to be perceived as receiving something for nothing, regardless of whether they need it. I do not believe farmers receive welfare, or that farm programs are welfare. Farmers work very hard for their money. They are proud people. They want to get their income from the market and not from the mailbox. There is real potential for this bill to contribute to an impression among the public that farm programs are welfare.

What I am saying is that I firmly believe and most sincerely believe that those who support this program are doing a great disservice to farmers because it sets up farmers for this kind of attack, that they are receiving welfare, getting payments even though they are making good money from the marketplace. It is setting up farmers, I think, for a big fall.

Not only are farmers going to have a greatly reduced farm income safety net under this bill, they are also likely to suffer damage to their public image because of the payment scheme in this bill. We should not pass a bill that gives critics of farmers and sound farm policies more ammunition to fire away in the national press. It can only be damaging to hard-working farmers in Iowa and across our land. It is hard enough sometimes to explain to our urban counterparts why we need a decent farm policy, without having to overcome the image created by this bill.

Mr. President, farm programs should be there as a safety net to provide adequate protection when times are hard, not to pay out over $35 billion to the maximum extent practicable even when commodity prices and farm incomes are high. This bill slashes the farm income safety net, and it is not fiscally responsible. For those reasons, I cannot in good faith support this farm bill. I hope we can come back next year, perhaps, and readjust this bill so that we will have enough money available for farm programs in the years when it is really needed.

I hope and pray this radical so-called freedom-to-farm approach will not devastate our farm families. I am very concerned that the payments made in the next year or so will create a political liability. When we do have a downturn in the farm economy and there is a real need for an adequate farm income safety net, the political capital required to pass the necessary legislation will have been used up. Those of us who care very deeply about family farms and about rural America will not be able to get anything through here to help them through their tough times.

For these reasons, Mr. President, I cannot support this farm bill. I see the train is on the track expect this bill will pass. I understand the President has indicated he will sign it reluctantly. I must say, in all candor, I am disappointed that the President did not rely upon his authority under the existing law to carry out a decent farm program and avoid being cornered into signing a bill as objectionable as this one. Farmers should not be in the position of having an entirely new farm bill enacted at this late date. We should not have been in a position of writing a farm bill with a gun held to our head, instead of working together in a bipartisan fashion to hammer out a really good, sensible farm bill for farmers. I am just sorry the President did not use his authority to avoid this situation. I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, let me commend the distinguished Senator from Iowa for his excellent statement. I do not know that anyone could say it any better. He has capsulized very well what many of us feel about this legislation. He has been in the trenches and has fought the fight and has led the effort in many cases. I applaud him for his statement and for the contribution he has made to this debate again this morning.

As I consider the contributions made by many of our colleagues, let me also call attention to the fact that this is the last farm bill that the Senator from Alabama, Senator HEFLIN, and the Senator from Arkansas, Senator PRYOR, will probably be involved in. Over the years they have been remarkable advocates of sound farm policy and leaders in their own right in so

many ways. The people of Alabama and the people of Arkansas could do no better than to have the representation that they have had in Senators HEFLIN and PRYOR. They will certainly be missed as we consider farm legislation in the future.

Let me commend as well our distinguished ranking member and the chairman for their work in bringing us to this point. We may not agree entirely on many of the issues involved in farm policy or ultimately on what we should do with this legislation, but no two people have worked harder and in a more bipartisan manner to bring us what we have been able to achieve today. So I again publicly thank them for their leadership.

As I said last night, Mr. President, this bill is long overdue. I do not have an explanation as to why, as late as it is, we are dealing with the 1995 farm bill in 1996, but we do know this, we know that farmers need certainty. We do know that it is too late to start over. We know that the winter crop will soon be harvested. We know that southern crops are already in the ground. We know that midwestern farmers are ready to begin planting.

In fact, just recently a farmer from Volga, SD, called me from a supply store trying to decide what kind of seed to buy for spring planting because the seed was going to be determined in part by what the ground rules are for the farm bill. How much planting time he had available to him, what the planting year was going to be like was going to be determined by what we decided. He simply said, "We can't wait any longer. Get it done. Get it done."

So we are here with that realization. We know we need to get it done. We received hundreds of calls to do something, to provide certainty, to take what we can now and to fix the rest later. That is exactly what we are doing. I do not know what the farm programs eventually will be, but I do know this, that the time for action is long overdue. I know and farmers know that we cannot wait any longer.

As a result, the President is going to be forced to sign this legislation, forced to sign a bad bill because of a late date. He shares our concern about the safety net and the decoupling in this legislation. But with our ranking member and with others, we intend to fight another day, to come back, to do even more to ensure that farmers will have the kind of certainty, the kind of assurances that they have had in past farm legislation.

There are some good provisions in this bill. No one should be misled in that regard. The continuation of the Conservation Reserve Program is a good thing. The incorporation of many of the conservation programs and the adequate funding for those programs is a good thing and would not have happened without the effort made by the ranking member.

The Fund for Rural America is a good thing. That it guarantees spending on rural development and research, that it addresses the needs of rural America, especially in creating new value-added markets all over the country, is a good thing. We provide assistance for value-added processing facilities through the Fund for Rural America. I must tell you, it is one of the best features of this farm legislation.

The increased flexibility for some producers also is a good thing. Simplification is a good thing. Perhaps most importantly of all, the guarantee that we will have permanent law, with the expiration of this legislation, is perhaps the most important thing of all. Ensuring that permanent law will be there, regardless of circumstances, regardless of our inability to find some consensus about what to do after this legislation expires, in my view, is perhaps the best thing.

In spite of all of that, and that does represent a significant amount of bipartisan consensus, there are at least six serious flaws, Mr. President, that in my view, bring me to the same conclusion that the Senator from Iowa has just expressed. I cannot support this bill in large measure because, simply, it fails to provide the safety net that we believe is so essential in any piece of farm legislation.

Loan rates are capped in this bill. They can go down. They can never go up. The farmer owned reserve is eliminated. There is no possibility for farmers to truly have the freedom to farm if they do not have the freedom of access to the tools necessary to farm. The farmer owned reserve is one of the best tools farmers ever had. It is no longer there. It is not freedom to farm when you take the tools, financially and otherwise, away from the same farmers that ostensibly have such freedom today. The Emergency Livestock Feed Program is gone, another tool that undermines a real opportunity to provide the freedom that we all say we want for farmers today.

Not long ago, three South Dakota farmers met with the President. If they expressed anything in the short time they had with the President of the United States, it was this: "Mr. President, we need that safety net. Mr. President, we know we will face national disasters. We will face natural calamities in South Dakota and throughout the Midwest, and for that matter in all parts of the country that will require we have a safety net, an insurance program. Do not be a part of taking that away."

The second and perhaps equally as significant a problem I see with this bill is it pays producers, regardless of price. It requires guaranteed payments, as the Senator from Iowa has indicated today, probably in an unprecedented fashion. It requires the Government to pay producers, regardless of their circumstances. As the Senator so ably said, where else in law today are people required to get a payment, regardless of need, regardless of circumstance? I must say, Mr. President, of all the things in this bill, that is the one that troubles me the most.

Third, while we do have some degree of flexibility, some degree of new-found simplicity in this legislation, no one should be misled about the fact that there are some who have less flexibility. Vegetable producers are treated differently than grain producers. A potato producer in South Dakota is not given the freedom to farm, is not given the flexibility he may need to be able to compete effectively in the marketplace. Why? Because we are protecting other potato producers in other areas of the country.

That kind of freedom to farm is not articulated very well by proponents of this bill. Instead of getting signals from the market, some producers are receiving stronger signals from the Government for certain products, such as potatoes.

Fourth, the research program, in my view, Mr. President, is one of the greatest concerns as I look to the long-term future of farm legislation. What happens in 2 years to research? How do we assure those who are involved in research today in our colleges and universities across this country, in agricultural clinics and laboratories all over the country, what we are going to do with regard to basic and applied research 2 years from now? We do not have the luxury of turning the spigot on and off. We do not have the luxury of telling a researcher out there, "Go ahead and do it, but we cannot give you any guarantees 2 years from now you will have any assurance that money will continue." What kind of a vote of confidence is this? Researchers want to know that when it comes to new production or new markets, we are going to stand, ready in partnership, with research to make sure that agriculture continues to be what it is today.

Mr. President, I am also concerned about the deficit consequences of this legislation. No one denies this bill increases the deficit in the first 2 years by more than $4 billion. In rooms just down the hall we are trying to figure out how to cut billions of dollars from education, the environment, national service, programs that directly affect people in virtually every walk of life. We are cutting billions there and adding billions on the floor as we speak—$4 billion in the next 2 years, largely in payments given to farmers who will tell you privately this is not the year they need them. You do not need farm payments when prices are as high as they are in grain today, but we are going to provide them. We are going to mandate them. We are going to tell farmers you go out and do whatever

you want, get as much money as you can from the marketplace, God bless you, we will still give you $50,000, $100,000, $200,000 in some cases.

Mr. President, the nutrition program, as well, troubles me a good deal. How we can reauthorize farm program benefits and these payments to farmers for 7 years, but payments to nutrition for children for only 2 years, is troubling in many ways.

Having said all of that, we recognize the good things. We wish we could improve those that are not good. We recognize that we will fight another day. We recognize that there are a lot of people out there struggling who want certainty. Bob Ode, a farmer near Brandon, SD, who was just in my office the day before yesterday. He is concerned about the lack of a safety net. He has told me that grain farmers and livestock producers in our State 2 years ago lost 13 percent of their income. Last year, they lost 18 percent of their income. In the last 2 years, many farmers have lost over 30 percent of their income, and our response today is to say we are going to take away your safety net. It is no longer there. You are on your own.

Are we really prepared to do that? Do we want to tell Bob Ode and farmers across this country that is the best we can do? Mr. President, we can do better. We must do better. We must come back, whether it is next year or at some time in the not-too-distant future. We must address these deficiencies. We cannot conscientiously allow this to happen.

I am very pleased that the President has promised to join forces with us, next year, to make that happen. We can do better. I yield the floor.

Mr. LEAHY. I understand the Senator wishes to speak in opposition to the bill?

Mr. BUMPERS. Yes.

Mr. LEAHY. I yield 5 minutes, from the distinguished Democratic leader's time.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I thank the distinguished ranking member, my good friend from Vermont.

First, I want to express my profound gratitude to my colleague, Senator PRYOR, for the very laudatory and kind words he delivered on the floor a moment ago when he referred to a provision in the bill to name the U.S. Department of Agriculture Small Farmer Research Center in Arkansas after me.

As I sat there in my office watching Senator PRYOR deliver those accolades I couldn't but help question if it was really me he was describing. He laid it on pretty thick.

The thing that makes Senator PRYOR easily the most popular politician in Arkansas is because he is one of the most generous to a fault and one of the hardest working people I have ever known. You never see his name mentioned in the Arkansas press that it does not say, "Senator PRYOR, the most popular politician in Arkansas," as the lead to whatever story they are reporting.

I have been deeply honored to have him as a colleague, and deeply distressed to know that he will depart this body at the end of this session of Congress. We have had what I think is probably as fine a working relationship as any two Senators in the U.S. Senate have ever had. But I want to publicly express my gratitude to Senator PRYOR for all the kind things he did say about me.

He gave me much too much credit. Of course, that is one of the things that makes him so popular back home. He gives other people credit for everything that happens, no matter what his role was in it.

In this particular case I can honestly say the Senate would have been justified in naming that after an aide, my agriculture assistant back in those days, Rhona Weaver. It was essentially Rhona's idea. She worked with the State leaders and the leaders of the community. I would be remiss if I did not pay tribute to her. We politicians take credit for everything, but the truth of the matter is most of it originates with our staff, and this is a classic case in point.

I am deeply honored, Mr. President. And now, because I detest this bill so much, I am in the very ambivalent position of having to vote against a bill that places a great honor on me. Nevertheless, I have no choice but to vote no.

Let me just say, in these few remarks, that I personally thought the bill before us, which will probably be always remembered as the freedom-to-farm bill, was fatally flawed in concept. Senator CONRAD of North Dakota said it more appropriately several times, and it bears repeating. This bill is like the people who followed Jim Jones down to Guyana, and he told them, when they were committing mass suicide, to drink the Kool-Aid, it tastes good, and the children drank the Kool-Aid. It was after they got it down that the problems began. And so it is with this bill. It is going to taste good to the farmers, initially, because they are going to be paid a handsome bonus on top of record commodity prices. They do not even necessarily have to farm to get the bonus. The conference report did make one improvement from the earlier Senate version. To get the bonus, they at least have to engage in some sort of agricultural activity. But I can think of all kinds of activities that I can argue are "agricultural" in nature but do not resemble farming as farmers in my State would recognize it. You are going to see "60 Minutes" stories of farmers who are maybe getting 80 cents or a dollar a pound for cotton, plus a very handsome, generous payment from "Uncle Sugar." To make matters worse, depending on how they finally define "agricultural activity," you might see farm payments being paid to people who no longer plant a seed or turn a clod of dirt.

That is not what farmers want. They do not want welfare. That is what this is, pure and simple. Actually, I suppose you could argue that welfare is what you give to people who need it, which may not be the case with these freedom-to-farm handouts. But the problem is going to be just like drinking the Kool-Aid. Seven years from now, or sooner, when these payments have been terminated or have dwindled to nearly nothing, if commodity prices are back where they were 2 years ago, I do not know what is going to happen. We either go back to the drawing board and draft a bill similar to the one we are abandoning, or we just say "adios" to the farmers of America. I might remind my colleagues that in 1987 when the farm credit crisis was at its worst, the Congress did not abandon America's farmers. We stood by them in bad times as well as good and helped many of them make a substantial come-back. But with this bill, we are virtually saying "don't let the door hit you on the way out."

The tragedy of this is that many aspects of current law—the marketing loan in particular—that we have used all of these years is working. And they are working as they were intended. According to the CBO baseline estimates—one of our more esoteric exercises—USDA will show a $4 billion reduction in spending of farm programs in 1995 below what we anticipated less than a year ago. While terms like "baseline" do not mean anything to laymen, we all understand that we spent $4 billion less last year than we anticipated because wheat, cotton, and corn are well above the target price. Rice is really the only major commodity that is below the target price, and under current law, rice farmers would benefit. If commodity prices in the next 7 years stay as high as they are right now, the freedom-to-farm bill will cost $21 billion more than current law. In fact, if prices stayed at current prices, and rice improved a little, then every penny paid out as freedom-to-farm welfare is money we have no business spending this way. I can think of lots of better uses of this money for rural America. We are cutting conservation, we are cutting research, we are cutting rural water and sewer programs, we are cutting rural housing, and the list goes on and on. If you will give these billions of dollars that you are willing to give farmers already making record profits to us on the Agriculture Appropriations Subcommittee for discretionary spending, I will show you how we can put it to use in a way that can really make a difference

in farming communities in every State of this Nation.

Finally, Mr. President, let me speak about the Market Promotion Program, which Senator BRYAN and I have tried to kill as religiously as I have tried to kill anything in my life. On a very handsome vote in the U.S. Senate, we cut the Market Promotion Program—the program that subsidizes Tyson, McDonald's, Hiram Walker, Gallo Brothers, and many other of the biggest corporations in America These subsidies were paid to them for advertising they ought to be, and perhaps would be, doing on their own, according to the GAO. Finally, we got that program cut back to $70 million less than 2 months ago on the floor of the U.S. Senate. What do you think? Here it is reincarnated in this bill at $90 million.

Senator BRYAN has already spoken on some of the ways the reforms he and I successfully brought to this program were dismantled one by one. Defenders of this program may have tried to hide their changes by changing the name of the program or by using language that appeared to be making reforms but were actually just a restatement of current law. MPP may have become MAP—and I won't begin here to describe the fun the press can have with this new name when you consider some of the former program beneficiaries—but it is really nothing new. Fortune 500 companies will still find ways to taxpayer-finance their already huge advertising budgets and foreign companies can still get the federal government to advertise in a way that might be adverse to similar U.S. companies. And so, is the only reform a provision to prohibit giving federal assistance to foreign companies for the purpose of promoting foreign agricultural production? And they call this bill the Federal Agriculture Improvement and Reform Act [FAIR]? This measure is hardly an improvement or a reform, and it certainly isn't fair.

So MPP, MAP, or whatever it ultimately gets called, lives on. I guess that is one of the unique things about the U.S. Senate. Nothing ever really dies. Rasputin finally died, but it seems that the Market Promotion Program, or whatever you call it, never will. So while there may be some things in the bill that have some redeeming value, they seem to have miraculously escaped my attention under the glare of such unbelievable policies as those I have just described.

So, Mr. President, when the roll is called, I will have no choice but to vote "no" on this. That is not to say that I do not admire the distinguished chairman and ranking member for their endless hours of trying to craft something that this body could agree on and that the House could agree on. Maybe it is the very best anybody could do. I do not know. But those best efforts do not require me to vote "aye." Therefore, I will vote "no."

I yield the floor.

Mr. LEAHY. Mr. President, I will speak on my own time. I always enjoy hearing the distinguished Senator from Arkansas. I told him before that one of the joys of coming here is that we came in the same class. He is one of the best friends I have had for 22 years here. I almost hate to go into this speech and muddy the water with facts, but one that I point out is on the Market Promotion Program, which I voted to cut and change over the years. There are significant changes. We made significant reforms to this program in 1993, and we gave a great deal of flexibility to the Secretary to carry out the reforms we had. I agree that participation in this program should be limited. This program is designed to help those who do not have large marketing organizations or deep pockets. It is designed for the small dairy co-ops in Vermont that use it now to promote exports to Canada, and other places, or the small rice dealers in Arkansas, who might use it. And bit by bit, this supertanker is being turned around, I tell my friend from Arkansas. We are improving it and will continue to do so.

I also tell my friend from Arkansas—and he knows this, as I do—that nobody ever brought to the floor a farm bill where they liked every single page of it. There is no legislation that comes before this Congress that is more a product of having the balanced interests of regions, individuals, of commodities, and balance of the needs of people who are not directly involved with farming, but have an actual interest—people who see the legislation in here to protect the Everglades and to help rehabilitate the Everglades, and those who see a Conservation Reserve Program continued and strengthened, those who see permanent law maintained, those who see improvements in some of our nutrition programs, as well as several new environmental initiatives like the EQUIP program, added here. These are things that effect every one of us, whether we are farmers or not. There are those throughout the country, farmers or not, who applaud these initiatives in this bill.

I would like to take this time, Mr. President, to thank several of my colleagues for their work on behalf of agricultural interests, who will not be here in the next farm bill. One, of course, is the distinguished ranking Member of the House Agriculture Committee, Representative KIKA DE LA GARZA. He went out of his way to be not only bipartisan in his own body, but in this body, as we have tried to bring together competing interests of farm bills. His most recent success was accomplished while chairman of the House Agriculture Committee, with a reorganization of the USDA and overhaul of the Federal Crop Insurance Program.

Then, in our body, let me speak of two Members I will miss greatly, both in serving with them on the Agriculture Committee and serving with them in the Senate.

One is my colleague from Alabama, Senator HEFLIN. I am proud to say I have served for 15 years on the Agriculture Committee with Judge HEFLIN. I served with him also on the Judiciary Committee. But I think in many ways I have relied on his expertise and his good humor. His ability to help forage consensus and coalition has been on the Agriculture Committee. His expertise and his judgment is going to be sorely missed. He has been the spokesman for southern agriculture. Certainly nobody ever discussed peanuts without Judge HEFLIN being there, and so much else of southern agriculture.

I think of the times when I traveled to his State of Alabama with him, with he and his wife, Mike, and on occasion when my wife was able to join us. I remember going to one function—a dinner in a school—where there were several hundred people there. I am positive that the judge called every one by name and asked about members of their family by name. I was then chairman of the Senate Agriculture Committee. I was nothing but a spear carrier on that trip to Alabama. I can assure the Chair, they were there to see Senator HEFLIN and this Eastern Senator who came with him, and who talked funny as far as they were concerned.

So I want to thank Senator HEFLIN for all he has done to further agriculture programs and, in particular, the rural development programs—the rural development programs that helped Alabama but also helped rural Vermont, and have helped rural areas throughout our country.

Another person I want to recognize from that committee is Senator DAVID PRYOR. I never have known any Member of the Senate, Republican or Democrat, who did not have great affection for DAVE PRYOR. I know I have been proud to serve on the Committee with him and proud that he has been one of my close friends in the Senate over the years.

Again, DAVID PRYOR is one who has time and again helped us bring coalitions together—his quiet dedication, his obvious knowledge of the facts, but also his knowledge that, as a Senator, there are certain prerogatives, especially debate prerogatives, that are available to all of us, and my memory of that goes back to the 1985 farm bill.

Senator PRYOR and his colleague Senator BUMPERS were concerned that the bill would cut Federal price supports for the rice industry. They came to the Senate floor and they delayed action by reading their favorite rice recipes into the CONGRESSIONAL RECORD. The opposition finally gave in to these Southern gentleman when

Senator PRYOR announced that he knew of 1,000 rice recipes. I checked that figure with Senator PRYOR this morning, and the distinguished Senator from Arkansas told me that not only did he know them but that he kept copies of them in his desk should the need arise to add to our education in the Senate. Should he suddenly be called upon to give us time for reflection, he is prepared to talk about rice recipes.

That kind of dedication is going to be sorely missed. But these are people—Senator HEFLIN and Senator PRYOR—who have improved the Senate Agriculture Committee by their presence and have left a great legacy for all of us.

Mr. President, I have sometimes joked that Senators are merely constitutional impediments to their staffers, or constitutional necessities for their staffs. But I must say that this bill was made possible by the hard work of staff. And I think of those on my side of the aisle that I was able to appoint who have worked tirelessly in 1995 and 1996 on this farm bill.

I am particularly indebted to my staff director, Ed Barron. He joined me in 1987, and he has been a great fountain of education, encouragement, and tireless work. He is a good friend. He is a good adviser.

In the past he was the lead staff person who handled nutritional and rural development programs. The continuation of the nutrition programs in this bill is a tribute to his commitment to these issues. Ed also had a critical role in getting the dairy compact included in the final bill. His attitude on the compact reflected mine: "Never give up." And he never did.

Ed worked tirelessly in a bipartisan manner demonstrating superb political judgment and negotiating skills.

I thank him for his hard work. And, I believe his sons, James and Stephen, and his wife, Bonnie, will be delighted to know that they finally are going to see him again. They will have him back this weekend.

Jim Cubie, my chief counsel, has been with me over a decade on both appropriations matters and agriculture matters. His commitment to conservation and environmental issues has helped make this the most environmentally progressive farm bill in history. Without his dedication, there would not have been such a strong connection between farm policy and conservation initiatives.

Working alongside Jim was Brooks Preston whose commitment to the environment was forged during a childhood spent outdoors. Brooks provided invaluable legislative support for both my personal office and the committee on environmental and forestry issues.

Pat Westhoff, my chief economist, poured endless amounts of energy providing economic analysis for the committee on commodity program and budgetary issues. I felt confident knowing that Pat was leading the complex negotiations needed to fine tune the intricate details of the bill. Pat, your dedication and service to this committee is recognized and commended.

Thanks, as well, to Pat's wife Elena and to his children Christina, Ben, and Maria for letting us borrow Pat for what seemed to them to be about 50 years.

Kate Howard, my counsel for international trade, joined the staff for the 1994 GATT deliberations. Since then, Kate has continued to play a lead role in the trade, international food aid, and agricultural credit programs. Kate's efforts to build a bipartisan consensus for the international programs in this bill, and her support for the international food assistance programs, is especially appreciated.

Tom Cosgrove played a leading role in the passage of the dairy compact and other dairy reforms. On my committee for the past 5 years, Tom has worked endless hours on behalf of dairy farmers in Vermont and across America. Born on a dairy farm himself, Tom connected with the dairy community and understood their concerns, enabling him to effectively translate their needs into legislation.

David Grahn spent countless hours drafting the bill and deserves a special mention. Without him, the drafting of this legislation would not have been as successful. David would be here now—except that he and his wife just had a baby during the last 2 weeks of the farm bill. Congratulations, David and Jill, on your baby girl, Carolyn Elizabeth Grahn.

Bob Paquin has worked tirelessly for me on agriculture issues in Vermont. I appreciate that he flew down to Washington to help out on the compact at the critical moment. His talents are greatly appreciated.

Diane Coates, who started in my Vermont office and has been working on the committee for 2 years, provided invaluable support to Ed Barron. Her work on nutrition programs was particularly helpful.

Kevin Flynn, who started with me in the Washington office and joined the committee last fall, provides excellent support for everyone on the committee.

I was also very fortunate to have on staff several people as fellows or from the Department of Agriculture. Rob Hedgerg provided invaluable expertise in the areas of conservation, research, and rural development. Kate DeRemer's efforts ensured that the final bill included a research title that prepares our farmers for the next century.

Ron Williams, who arrived right in the thick of things, provided critical assistance. His patience and unflappable personality are invaluable.

There are a number of people who are no longer on the committee but worked very hard to help get us to the point we have reached today. Nick Johnson did a superb job for Vermont and me on rural development and nutrition and I wish him all the best at the Center for Budget and Policy Priorities.

Craig Cox, who left my committee to join the Natural Resources Conservation Service at USDA, spent countless hours over the past 3 years to help lay the foundation for the conservation title that we included in the farm bill.

Bryant Farland, who left the committee last year to enter law school, provided excellent support to the committee. His professional attitude and cheerful approach to every assignment is sorely missed.

Senate legislative counsel—especially Gary Endicott, Tom Cole, and Janine Johnson—deserve a lot of credit for their willingness to stay late and their excellent work.

I must also thank Secretary Glickman, and his chief of staff, Greg Frazier, as well as the Secretary's dedicated staff at USDA for countless hours of support during this long process.

But I have emphasized over and over again that this is bipartisan legislation. I compliment my good friend from Indiana, as I have before, Senator LUGAR, who listened and worked so hard with me so that we could pass this bill. We agreed on some issues and disagreed on others. But, we know that we can always take each other's word.

I think many times staff reflect the Members they work for. Chuck Connor deserves a great deal of credit for that. He works for one of the most honest, dedicated, hard-working Senators here. This is reflected in the type of person Chuck Connor is. He is someone I have respected in all of the years that I have worked with him. I consider him one of the finest staff in this body. I compliment him, and I thank him for his work and the direction he gave to Randy Green, Dave Johnson, and Michael Knipe, and others.

Mr. LUGAR. Mr. President, our side will be represented ably by the majority leader in a moment as he will make a final statement.

For several decades, the U.S. Department of Agriculture subsidized farmers with target prices and deficiency payments. Target prices for wheat, feed grains, cotton, and rice were set at levels believed to represent a fair price for the crops.

Whenever the average market price was below the target price, the Federal Government paid farmers the difference. This was called a deficiency payment.

Now Congress is considering a plan that would scrap deficiency payments and target prices and replace them with fixed payments. The farmer receives the same subsidy payment whether prices are high or low. Advocates for change believe this system

provides the certainty farmers need with regard to payments and the predictability taxpayers demand with regard to balancing the target. Defenders of the status quo criticize this plan because farmers receive payment during periods of extremely high prices.

While no one wants subsidies paid when they are not needed, the current system of deficiency payments and target prices fails even the most modest standards of targeting or means testing.

Deficiency payments are a poor indicator of farm wealth. Price represents only one-half of the farm income picture. Cash receipts in farming are a product of price per bushel multiplied by the quantity produced.

Recent history is a case in point: 1994 was a remarkable year for corn production. Total corn production for the country exceeded 10 billion bushels—a feat most thought was impossible. In the Midwest, whole fields averaging over 200 bushel per acre were commonplace.

Large supplies caused prices to fall. The average corn price for the year was $2.26 per bushel—almost 50 cents below the target price. According to our system of calculating farm wealth, 1994 was a terrible year because prices were lower. Taxpayers came to the rescue with substantial subsidies even though farmers harvesting 200 bushels per acre corn at $2.26 per bushel grossed a record breaking $450 per acre.

As is often the case in farming, 1995 was different than 1994. Weather problems and pestilence plagued farmers throughout the year. Many farmers who harvested 200 bushels per acre in 1994 saw their production fall to 90 bushels or less in 1995. Some farmers lost their entire crop. With falling production and strong demand, prices were substantially above target price levels. Corn farmers received $3.00 per bushel or more for their crop.

1995, however, was a very difficult year for many farmers because they had little, if any, crop to sell at higher prices. Ninety bushels per acre at $3.00 per bushel represents a per acre gross of $270 per acre—40 percent below 1994. Yet the USDA declared 1995 as a good income year, and took away all subsidies for the 1995 crop. Generous subsidies were paid to 80 percent of the corn farmers in America in 1994.

Freedom to farm gets the Government out of the business of estimating good income years and poor income years. The 7-year baseline payment levels are distributed—on a declining basis—to farmers over the next 7 years without regard to commodity prices.

Will there be years in which farmers receive a subsidy even though their income was high? Perhaps. But this is no more the case than under present law. The current system has indeed failed to identify genuine need. Let's give the USDA something better to do with their time.

In short, Mr. President, although it has been suggested that the freedom-to-farm bill would not be a good idea in the event that a bad year came along on the farm, the fact is the current program has not been particularly helpful. In those years in which we have had a great abundance of crops in and great revenue from the fields, we have also had target prices in addition or great deficiency payments. That is an important point to make, and I make it for the RECORD.

Mr. President, I thank, once again, the distinguished ranking member, Senator LEAHY, for an extraordinary opportunity to work with him and to create, I believe, a remarkable farm bill.

Today, as we pass a farm bill that shapes the outlook of agriculture for the 21st century, it is time to recognize the tireless efforts of one of the finest staffs on Capitol Hill.

I want to start by recognizing the efforts of the professional staff of the committee led by senior professional staff member, Robert (Randy) Green. Randy deserves special credit for his outstanding professional efforts in translating complex ideas into effective legislation. Often working through the night into the mornings and on countless weekends, Randy and his staff exemplified a dedication to the truth in the details of the committee conference process. While respecting the views of others, the professional staff crafted a bill in a manner that was fair. They have worked on endless proposals and through many very tough negotiating meetings to achieve the exciting new concepts about agriculture that were passed today. Katherine Brunett McGuire, David Stawick, Darrel Choat, Terri Nintemann, Terri Snow, Elizabeth Johnson, Douglass Leslie, Patrick Sweeney, and Bill Simms combined their extensive knowledge of agricultural issues to create this landmark revision of Agriculture policy. They are the unsung heroes who took the plight of the American farmers seriously and kept their shoulders to the task until we have arrived at the conclusion of this conference.

Dave Johnson, chief counsel, Marcia Asquith and Michael Knipe, counsels, spend endless hours giving assiduous attention to the details in the drafting of legislation to forge compromises on the most difficult issues. They worked diligently to negotiate provisions that would be effective and yet pull together diverse interests. Patiently drafting and redrafting a great many ideas that ultimately were not part of this legislation, but necessary in arriving at the concluding language, they never gave up and determinedly made the resulting Farm Bill a strong one.

Chief economist, any Morton, spent hours crunching numbers for the committee to ensure that the bill's cost fell within budgetary constraints. It is a tribute to his ability that this bill is scored so successfully by CBO and achieves the numbers that are required. Andy's knowledge of agricultural economics has proven to be a most valuable resource to the committee.

Andy Fisher did a superb job of keeping the press informed of the bill's progress and his ability to translate complex agricultural issues for the press and operate under severe time constraints ensured that the public was well informed.

Chief clerk, Robert Sturm, along with Debbie Schwertner, Danny Spellacy, David Dayhoff, Mary Kinzer, Jill Clawson, Cathleen Harrington and Barbara Ward kept the office running smoothly throughout this process. In conducting many hearings, both here and in the field, responding to hundreds of letters, answering thousands of telephone calls, and tracking a very active staff they demonstrated their diligence and loyalty to the Committee.

I also want to thank Gary Endicott, Janine Johnson and Thom Cole from the legislative counsel's office for their willingness to respond to the committee's requests and for lending their valuable expertise to the development of this bill.

As well, I want to commend the minority staff of the committee who contributed greatly with their professionalism and cooperation. In particular, I want to thank minority staff director, Edward Barron and chief counsel, Jim Cubie. They led the way to agreement through many continuous issues.

I would especially like to commend staff director, Chuck Conner for his tremendous contribution to the committee. Chuck's leadership and broad expertise in agricultural policy provided the committee with sound guidance on key issues. His resolute attitude and strong convictions kept the conference advancing when the process seemed mired in difficulty. Chuck molded a superb staff and prepared them with precision so that they could navigate a steady course to the passage of this legislation. The public rarely sees the work of the Senate staff but they give so much to our country. Their sacrifice and long hours are shared by their families and I applaud their efforts.

Mr. DOLE. Mr. President, we have had a number of farm bills discussed and passed since I have been in the Senate. Of course, the first question is, is it good for agriculture and good for the consumers and good for the American people generally? I think we can say that the answer is in the affirmative in each case.

I certainly thank Senator LUGAR, the chairman of the committee, and Senator LEAHY, the ranking Democrat on

the committee. They have worked together, as we must, in agriculture. I have always found that if you bring a bill to the floor that is too partisan, either Democratic or Republican, it is not going to pass. And so, as has been the case in the past 20, 30 years, as far as I can recollect, this is a bipartisan piece of legislation. It should be bipartisan or nonpartisan. I do not believe that to the American farmer who is sitting out there making his decision on what is good or bad it depends on whether it has a D or an R behind it. But if it is worked out in Congress, as it has been, on a bipartisan basis, then I believe the American farmer, rancher, and, of course, the American taxpayer, too, is generally more satisfied.

This bill is also a good environmental bill, as I will touch on later.

I would like to also congratulate my friends and colleagues on the other side of the Capitol, PAT ROBERTS, and Congressman DE LA GARZA. I have worked with them over the years. My friend, PAT ROBERTS, is my Congressman in western Kansas. He has done an outstanding job working with the Senate and working with the House and again in coming up with a very important piece of legislation. It is truly a bipartisan effort.

I congratulate my colleagues, particularly those who were conferees. It has required a lot of patience and a lot of perseverance, qualities which farmers and ranchers have to have themselves. They have to have patience and persistence or they would not be in business very long.

The legislation before us will transition America's farmers into the 21st century without disrupting the farm economy or land values, and farmers, as other Members in the Chambers have said, finally are going to plant for the market and not for the Government.

In addition, this legislation provides farmers with what they have asked for the most—certainty, simplicity, and flexibility. As I travel across America, farmers and ranchers tell me the same thing: Keep it simple. All Government programs, and especially all regulations, must be simpler and less intrusive. The farm program should pass the common sense test.

As I said, another big winner in this bill is the American taxpayer. This legislation ensures reasonable and responsible spending through a capped entitlement. If we are to balance the budget—and we will—the American farmer will tell you that everyone must contribute including himself. Farmers often remind me that they are taxpayers, too. And as taxpayers, farmers want a balanced budget because they know under a balanced budget, spending on interest payments are projected to decline $15 billion over 7 years. And the farmers would be one of the greatest beneficiaries in that event.

For family farmers who often struggle to make ends meet, the money saved through reduced interest payments could make the difference between success and failure.

This is landmark legislation. The bill contains one of the most significant conservation packages ever enacted. Instead of mandates and the heavy hand of Government, this bill reflects a common sense approach. This historic farm bill is one that conservationists can be proud of.

This legislation includes elements from the conservation bill authored last year by Senators LUGAR, CRAIG, GRASSLEY, and myself, also known as S. 1373, the Agricultural Resource Enhancement Act.

For example, this farm bill continues the Conservation Reserve Program which, at 36.4 million acres, makes the program twice the size of the National Wildlife Refuge System. This program is the Nation's biggest and the most successful private lands conservation program.

The bill streamlines cost-share incentive programs into one revitalized program, the Environmental Quality Incentive Program. The program will spend $200 million per year on cost-share assistance for crop and livestock farmers as they work to control pollution and erosion.

For years, farmers have been planting the same crops year after year which leads to excessive use of fertilizer, chemicals, and tillage to control pests and maintain crop yields. This bill provides farmers with complete planting flexibility, allowing them to plant environmentally sensitive crops.

The bill also ensures sound conservation practices on over 300 million acres. This legislation continues the successful record of the 1985 and 1990 farm bills by requiring participating producers to meet soil conservation and wetlands protection standards.

In addition, the bill provides funding for the restoration of the Florida Everglades, balances conservation compliance regulations, expands mitigation options for wetlands, and authorizes new conservation and wildlife enhancement programs.

Several national farm organizations have praised the conservation provisions as providing a more common sense balance between practical conservation methods and protection of natural resources and wildlife.

As I see it, this bill is not the end but a beginning. It is a positive first step in a larger effort to ensure that rural America prospers. From here, we can address other issues. Tax and regulatory reform are a must. Property rights protection and health care reform are vital. I am committed to taking action on these issues, so that rural America can realize a brighter future.

American agriculture is ready and waiting for policies that will help prepare it for a successful 21st century. This legislation lays a solid foundation for sustained growth.

Like other members on the Ag Committee—and I have been proud to be a member of that committee for a long time—I certainly have had outstanding staff, headed by Mike Torrey, who has worked closely with Chuck Conner and others, along with Dave Spears, who is in my Kansas office but has been back here from time to time to help us on this legislation, and Bruce Knight, who helped us a great deal with the conservation title.

I want to thank my three staff members, in addition to all the others that have been mentioned by Senator LEAHY and Senator LUGAR. Without staff, I do not believe we could be here today, on the verge of voting for this historic legislation.

This is historic legislation. This is a complete departure from the past when it comes to agricultural legislation.

Again, I want to particularly commend our distinguished chairman, Senator LUGAR, along with Senator LEAHY and others, who have made it possible.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, do I have time remaining?

The PRESIDING OFFICER. The time has expired.

Mr. LEAHY. Is the Senator from Montana speaking in favor of the bill?

Mr. BURNS. In favor of the bill.

Mr. LEAHY. How much time does the Senator wish?

Mr. BURNS. Two minutes or less.

Mr. LEAHY. I will yield to the Senator, not to exceed 5 minutes.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I thank Senator LEAHY, the ranking member of the Ag Committee, and of course Senator LUGAR, who has displayed great leadership crafting this legislation.

I rise today in support of the conference report of the Federal Agriculture Improvement Act of 1996, now known as FAIR. I see this as a positive move forward for agriculture and agricultural production in America. This is a bill—and an idea—that is overdue and now the time has come for the implementation.

As I review this conference report, I see many components that I favor, and of course there are provisions that I think are softer than they should have been for the good of the producer and the good of the Nation and its economy. Positive steps have been taken in the Commodity programs and in the marketing and foreign trade provisions. However, I do believe that we could have provided greater flexibility for our producers in some of the conservation programs.

I have listened to many of the Members of the Senate in the past day discuss that this will doom the future of

agriculture, and that we are providing welfare for the American farmer. This is truly not the case. This act will provide for the future of the American farmer in a way that Congress has not had the nerve to address for almost 60 years. This bill will assist many young farmers to have access to the land and allow for the future development of agricultural production in this country.

I have heard many times that we have not provided for a safety net for the small farmer. As I look at the programs that were enacted to protect the small family farmer in the past, they have not done a very good job at offering protection to these people that make their living of the land. In recent years, due to many circumstances, we have seen a decline in the number of small family farmers.

What we have done is bring American agriculture into the future. Gone are the days that a producer can take grain to the elevator and figure that the job is done as they watch the grain drop through the grate. American producers are going to have to take an active role in marketing their own products, from the field to the final product.

I suggest that with the passage of this bill our work has just begun. We now need to work on the improvements for the future of agriculture in our Nation. With the passage of this measure we will finally take a step toward getting Government out of the farming business. We need to set our sights on those areas of law and Government assistance that Government should work on. The role of Government in this new future will be those areas that the individual farmer has little or no real access to. The role of government in the future should be in the development and expansion of research assistance in the marketing in both domestic and foreign markets. This is how we can and should develop the future for our producers.

As we place our producers in the world market, we need to provide them with the tools to compete in this market. To do this we need to offer to them the advancements that will keep American agriculture a lead player in the world. At a time when we see a trend in declining yields, we need to provide our producers with the best research in developing resistant crops. The market is there for them to be active in, but they need the tools available to them to see meaningful gains in the amounts that they can earn from their had labor. Just recently, we have found the presence of a fungus in grain that could, if it was not properly dealt with, permanently damage our access to foreign markets. I would like to commend the Department of Agriculture for the work that they have done with the recent discovery of karnal bunt within our country. With a meaningful and dedicated research effort, we can and should be able to find a way to develop a resistant seed to this and many of the diseases that target our crops in the United States.

In addition, we need to offer to our producers the understanding and assistance in marketing their commodities. As I have previously stated, many producers think that their job is done when it reaches the elevator. As we move into this new program, our producers are going to need the knowledge and the access to information and opportunities to improve their ability to make a return on their investment. In my discussions around the State of Montana, many farmers, young and old, have stated that they are glad to have the Government out of their business. What they would like to see from Government now is a little assistance in learning what it takes to market their product. They do not want Government directly involved. They would like assistance in marketing their efforts, both here in the United States and on the world market. This was one of the major reasons that I worked hard to have this legislation include wording on the foreign market development cooperators program.

Finally, but not least of all, we need to address a major concern in the agriculture community: tax reform. This Congress has been called upon by the people to institute tax reform to address the concerns of all Americans. Any progress that we make on this front will greatly benefit the American small family farmer. Provisions must include changes in the inheritance tax code, to allow more families to keep their operations in the family. For generation after generation, our farm families have worked to keep their operations within the family, yet current tax structure seeks to penalize those people who want to keep the operation in the family.

Another of the Tax Codes that we need to address is the capital gains tax. There are a great number of Montanans who would like to sell their operation. However, with current structure and the price of land, they are not in a position to put their property on the market. Action in this tax will allow many new and younger farmers to move onto land that may now be out of production. This must be addressed, and we must do so soon.

We have taken the first step to address the future of American agriculture. It is only the first step. The future is upon us and we must make the most of it for the family farmer in America. I support this first step and I hope the Senate will endorse it fully for the producers in the field.

I want to make a further comment. I think there are some areas where we have to continue to work. I think the market development amendments we got put in there to develop markets abroad, our foreign trade—we know agricultural exports are one of the great, bright, and shining spots of our trade. But I think tax reform for agriculture still remains a very, very important part of our work to be done here on the floor of the Senate.

We had a hearing this morning on agricultural appropriations and the work of the ARS. Of course, with the inspection service, we know we still have problems. Sometimes we look at the funding. Maybe it is not quite enough in our Agricultural Research Service. We have to continue to do research on how do we produce food and fiber for America, this great Nation, and also, over in the area of inspection, on how do we isolate these very disastrous things that can happen to us in agriculture.

I will give you an example, karnal bunt now in wheat. They got it isolated. They knew what to do. But it is a situation that could have devastated the durum wheat industry in our part of the country. In Montana, it is karnal bunt. All we have to do is look across the ocean and take a look and see how important APHIS is to us, the inspection service on plants and animals, when we take a look at England and the situation they are in with their "mad cow" situation.

So I congratulate the leadership on this bill. We will be supporting this bill. It is a departure from even the carryover from the 1930's.

I thank the leadership, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON. Mr. President, my understanding is we will go to discussion on minimum wage at this point?

The PRESIDING OFFICER. Time remains on the farm issue.

Mr. SIMON. I yield the floor.

Mr. DORGAN. Mr. President, my understanding is the minority leader has 12 minutes remaining. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DORGAN. Mr. President, let me yield myself as much of that 12 minutes as I shall use. I shall not use the entire 12 minutes.

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

Mr. DORGAN. Mr. President, my colleague from Montana just a few moments ago spoke of something my colleague from North Dakota spoke about earlier this morning. Let me just make a comment about that topic. I also want to make a couple of final comments about the conference report that is on the floor before us.

My colleague from Montana, Senator BAUCUS, and my colleague, Senator CONRAD, talked about actions Canada has taken in the last 24 hours with respect to the restriction of durum, durum wheat, moving into Canada because of a fungus called karnal bunt. I

have in the last couple of hours talked to Chief of Staff at the White House, Leon Panetta, who is going to be contacting the agriculture secretary of the trade ambassador to talk about the actions Canada has taken. It has the possibility of causing some real chaos in our ability to export durum grain, because that durum goes through ports on the Saint Lawrence Seaway that are Canadian facilities. To suggest somehow American durum could not move through those facilities could have a devastating impact on our ability to export durum grain.

The Canadians, I think, have created a circumstance that is fundamentally unfair. Karnal bunt does not survive above the 35th parallel, we are told by the scientists. The suggestion that they can use karnal bunt as some sort of an excuse to injure our ability to serve export markets is, I think, a transparent attempt to create advantage for themselves in international trade at our expense. I have asked the President to take some immediate action to respond to this issue.

But the reason I make that point now is my colleague from Montana made the point about things like karnal bunt and the problem they pose in the marketplace. There are a whole series of things that can cause significant changes in grain prices. We had someone out here recently talking about, "Well, we have a loan rate in this bill which provides a safety net. So there is, in fact, a safety net." However, the fact is that the loan rate in this piece of legislation creates a safety net that is so far below the market price that, for family farmers to make a living, it is not much of a safety net at all.

The point I wanted to make finally in this discussion is one about market power. I brought to the floor a story that was written following the Senate passage of the farm bill. This news story says that the big grain trading firms won in the U.S. Senate, the meat companies won, the millers won, the grocery manufacturers won. The biggest economic interests got a full plate when the Senate passed this farm bill.

The fact is, when the big grain trading firms win in farm policy it means family farmers lose. What happens is, you set people loose in a survival of the fittest circumstance and say, "You just battle it out, out there in the marketplace," And what do you face in the marketplace? You face grain trading firms, one of which has more storage capacity in one firm than all of the wheat raised in my State, one grain trading firm can store all the wheat that is raised in North Dakota—that is market power.

Now, if you put 8 or 9 grain trading firms at the choke neck of the bottle through which all that grain has to move and then you say to the 30,000 North Dakota farmers, "Each you should compete in these circumstances," guess who wins and guess who loses? It is not a surprise. The story I showed on the floor of the Senate describes it accurately.

This bill is a major victory for the biggest grain trading firms, the biggest millers, grocery manufacturers and others, because they like lower grain prices in the long run. They are in the marketplace in order to nick grain prices back, to keep them down. What does that mean? Family farmers cannot survive. The deck is stacked against them. The odds are against them. The fact is, there will be fewer yard lights out there, fewer families able to live on the farm and make a decent living.

When you see those yard lights, those economic blood vessels that serve small communities and create a rural life style, turn out, you lose something important. When those blood vessels shrink away, you devastate something I think is very important in our country.

The reason I keep talking about family farmers is I care who farms this country. It makes a difference to me. It makes a big difference to me, whether an corporate agrifactory is farming America from California to Maine, or whether America is dotted with yard lights where families exist out on the land, trying to make a living.

We had an world renowned author from North Dakota who died last year, whose name was Critchfield. He wrote several wonderful books about what this country gains from the rural parts of America. He talked about the nurturing of values that comes from the farms to the small towns and to the cities, as people move in our country.

I think to suggest somehow that those values, which have always started at the family farm, are not important is a mistake. These values have moved their way through this country of ours—I'm talking about helping one another, shared sacrifices and so on—and to suggest that this is not important in our future is a regrettable oversight for this country.

It does matter who farms in this country. If we do not have a farm bill that stands up for the interest of family farmers, let us not have a farm bill at all; we do not need it. And if we have a farm bill, let us have a farm bill that stands up and speaks for the economic interests of families out there trying to make a living. We need a farm bill for those trying to make a living in circumstances where, if they plant a seed, they may not get a crop, and if they get a crop, they may not get a price. Family farmers face twin risks that no one else in this country faces.

Time after time when international prices drop—and they will and they do—family farmers go bankrupt. That is why we for years have decided we will provide a basic safety net to try to give family farmers a chance to survive over those price valleys.

This bill, for all of the huffing and puffing of those who support it, basically pulls the safety net out from under family farmers. Yes, it is attractive in the first year. Yes, there will be money in the first year, the second year and people will like it. But that money is labeled "transition money."

What is the transition from? The transition is to move farmers away from a safety net. If we do this we will be left one day with more expensive food produced by corporate agrifactories that farm all of this country. There will be precious few lights dotting America's prairies because this Congress says family farmers do not matter.

I will make one final comment. This issue is over this year. We are a year late, we are pretty short on the correct policy initiatives, but this issue is not over for the long term.

Next year there will be a different Senate, and those of us who believe that we ought to invest in the future of family farmers will be here. We will be here to give family farmers a chance to make it in a marketplace where there are a lot of larger interests that want lower prices and do not care whether family farmers survive. Those of us who believe in a different philosophy in a different approach will be back. We will be back to rewrite a farm bill based on a policy approach that is more appropriate for the long-term economic interests of those families who today struggle against the odds.

Mr. President, with that, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, I know of no one else who wishes to speak. I have been authorized by the distinguished Democratic leader, Senator DASCHLE, and the ranking member, Mr. LEAHY—and I have exhausted my time—to yield back all time.

The PRESIDING OFFICER. All time is yielded back.

PRESIDIO PROPERTIES ADMINISTRATION ACT

The PRESIDING OFFICER. The clerk will now report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 1296) to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer.

The Senate resumed consideration of the bill.

Pending:

Murkowski Modified amendment No. 3564, in the nature of a substitute.

Dole (for Burns) amendment No. 3571 (to amendment No. 3564), to provide for the exchange of certain land and interests in land located in the Lost Creek area and other areas of the Deerlodge National Forest, Montana.

Dole (for Burns) amendment No. 3572 (to amendment No. 3571), in the nature of substitute.

Kennedy amendment No. 3573, to provide for an increase in the minimum wage rate.

Kerry amendment No. 3574 (to amendment No. 3573), in the nature of a substitute.

Dole motion to commit the bill to the Committee on Finance with instructions.

Dole amendment No. 3653 (to the instructions of the motion to commit), to strike the instructions and insert in lieu thereof "to report back to April 21, 1996 amendments to reform welfare and Medicaid effective one day after the effective date of the bill."

Dole amendment No. 3654 (to amendment No. 3653), in the nature of a substitute.

AMENDMENT NO. 3573

The PRESIDING OFFICER. There will now be 30 minutes equally divided prior to the cloture vote.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I yield myself 2½ minutes.

We are talking about the minimum wage. We are talking about 12 million Americans who can benefit, and what that means to 12 million Americans, people who are struggling, I do not think I need to spell out for most people. But unfortunately, in the U.S. Senate, we have to spell it out.

We ought to spell it out, among other things, in terms of welfare. I have heard the phrase "welfare reform" on the floor of the Senate over and over again this year and last year. Let me tell you, this minimum wage bill will do more to help people on welfare and for welfare reform than any welfare reform bill that has been before us. And it will save money for the Federal Government.

Once in a while, we can do the humanitarian thing and save money. We will save welfare money. We will save money on the earned income tax credit if this is adopted. So for people who are interested in saving money, moving toward a balanced budget, here is one practical way of doing it.

But let me mention one other observation that I think is important, and that is the way we finance campaigns and distort what is taking place. Probably before this session of Congress is over, we are going to reduce the capital gains tax. Primarily 10,000 people will benefit from that. People are going to come out with the numbers, but 60 percent of the benefits go to 10,000 people. But those 10,000 people are contributors on both sides of the aisle, and we listen to them.

How many of the 12 million people earning the minimum wage are big campaign contributors? Virtually none. So their voice is muted in this process. We ought to today speak up for 12 million people who are not big campaign contributors but need our help.

Mr. President, I see you are about to gavel me down, so I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. There are 12 minutes 15 seconds remaining on your side and 15 minutes remains on the other side.

Mr. KENNEDY. I yield 3 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, this minimum wage increase is a very simple and straightforward proposition. Minimum wage right now is $4.25 an hour. You can work 52 weeks a year, 40 hours a week and you still do not make poverty wages. This is important for working families in Minnesota and across the country—almost 200,000 workers in my State—much less their children.

We are talking about a 90-cent increase over 2 years—90 cents over 2 years—to try and respond to the concerns and circumstances of working families in the United States of America, working families in Minnesota.

Let me put it another way. The U.S. Senate a few years ago voted itself 1 year a $30,000 increase in salary. That is almost four times the total yearly income of what minimum wage workers make right now in our country. The U.S. Senate voted itself a $30,000 increase in 1 year, which is almost four times the total annual salary of a minimum wage worker and his or her family in this country, and we cannot raise the minimum wage for working people?

I do not consider this to be partisan strategy. I do not consider this to be a game. I do not consider this to be tactics. People in the United States of America make it a plea that we respond to the issues that they care about; that we respond to fundamental economic justice questions. That a worker in our country should be able to see his or her wage raised from $4.25 an hour to $5.15 an hour over 2 years is a matter of fundamental economic justice. It is what I call a Minnesota economic justice issue, and I urge my colleagues to vote for cloture.

Mr. KENNEDY. Mr. President, I yield 3 minutes to my colleague from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, thank you. I am pleased to join with my colleagues in asking the rest of my colleagues to join with all of us in voting for this increase in the minimum wage.

This vote is not a vote on process, it is not a vote on cloture, it is not a vote on who controls the Senate, it is not a vote on Presidential politics; it is a vote on whether or not people who are today working at the minimum wage who are at a record almost 40-year low in the purchasing power of that wage are going to get a raise.

We hear colleagues try to make diversionary arguments: "Well, this is going to lose jobs."

We have heard those arguments, Mr. President. We put the minimum wage in America into effect in 1938 at 25 cents. Obviously, to get up to the $4.25, it has been raised in the meantime.

In 1989, we raised it here, and 89 U.S. Senators, Democrat and Republican alike, joined in raising the minimum wage. We raised it each time against the arguments that, "Oh, this is going to lose us jobs."

Finally, in the last 5 years, because that argument keeps being raised, a series of studies have been done, study after study. More than two dozen of them have shown you do not lose jobs when you raise the minimum wage. As long as you obviously raise it to a reasonable level, you increase employment.

The study by Lawrence Katz, of Harvard, and Alan Krueger, of Princeton, most recently has showed what happened in New Jersey. New Jersey, Mr. President, raised the minimum wage to a level that is well above the $5.15 that we are seeking. If you had a comparable level today to what they raised it in New Jersey, it would be the equivalent of $5.93. We are only asking to raise it to something that is still 13 percent below the level the minimum wage had in the 1980's. We are not asking to raise it to the full level of purchasing power the minimum wage has had in the past.

America was never slowed by having it at that level in the past. We have increased employment in this country. In fact, after adjusting for inflation, studies would show that if we raised it now to just $5.15 an hour, you would still be below the purchasing power level of the minimum wage in prior years.

The other day we had an employer stand with us talking about the minimum wage. He is in the restaurant business. That is one of the businesses you most often hear about might be negatively impacted. This employer not only pays more than the minimum wage in his restaurant business, but he gives everybody in that business full health care—full health care—more than the minimum wage, and he is doubling his business every single year. He keeps the people employed. He keeps the people working for him. It is good for his business. It is good for the country, Mr. President. This is fair.

When chief executives are getting paid more, when the stock market goes up 34 percent in 1 year, when the productivity of this country increases 12 percentage points over the course of the last 5 years, but wages only go up 2 percent, it is time to say, give those people working at the least point of the economic ladder a raise. I hope we will do that in a bipartisan fashion.

Mr. President, let us not misunderstand this cloture vote today; let us not misunderstand what it means about the prevailing political agenda of the majority leadership who have consistently supported huge tax cuts for the wealthiest Americans and millions

of dollars in corporate give-aways, but will not allow a simple up-or-down vote on increasing the minimum wage.

This cloture vote today is that vote. Some on the other side of the aisle would have us believe that this is a vote about schedules, or about Presidential politics, or about Democratic attempts to usurp control of the Senate when, in fact, it is none of those things. It is the vote on whether or not we support an increase in the minimum wage. It's a vote about economic justice.

Mr. President, I have offered, on my part, and we, on this side, have all said that we would "sit down and shut up," in exchange for a vote anytime between now and June—an honest, up-or-down vote on rasing the hourly wage of the poorest American workers. But even that request was rejected by the majority leadership. So, this is not about us—on this side of the aisle—taking hold of the Senate's agenda, or stalling action on the Presidio bill. On the contrary, it is an honest insistence that we address this fundamental issue of fairness and economic justice.

The arguments that we are hearing from the other side—that an increase in the minimum wage loses jobs, that somehow giving people a better chance at survival is a bad thing—simply do not hold up on the economic side or on the fairness side.

In fact, Mr. President, the last time we raised the minimum wage by 90 cents over 2 years, it was with broad bipartisan support and the signature of a Republican President. These arguments never came up then, but now, we cannot even get the Republican majority to bring the issue up for a vote. It would seem to me that the only thing that has significantly changed—besides the inability of 22 million hard working Americans to keep up in this economy—is the political imbalance of a Republican Party sliding hopelessly to the extreme. Because—based on empirical evidence—the need for an increase is clear.

Study after study show that increasing the minimum wage helps.

I have brought up example after example in the last few days of young single mothers and working families in my State, trying desperately to find a job that pays them enough to raise their families with dignity—that pays enough to provide health care for their children, a decent safe place to live—enough to afford daycare and groceries, pay the heat and pay the electricity. Mr. President, is that too much to ask for people on the job and off the doles?

The evidence is clear. This increase would not be out of the range of increases that have been enacted at the Federal level and in some States, and the overwhelming preponderance of evidence—in studies that looked at the two-step 90-cent increase in the Federal minimum at the turn of the decade, as well as State increases at the level of nearly $5.70 an hour in 1996 dollars—is that these increases do not increase job loss.

So any argument here that points to job loss as a reason for voting against giving people a raise, is, on its face, absurd. David Card, in "Industrial and Labor Relations Review" in October 1992, studied the first 45-cent increase to $4.25 in the Federal minimum wage and found there to be no increase in job loss. Now, that study is in 1991 dollars. The equivalent in 1996 dollars is $4.93—without—without causing job loss.

Another study by Card and Alan Krueger, "The Effect of the Minimum Wage on the Fast Food Industry" studied the effects of New Jersey increasing its minimum wage by 80 cents, from $4.25 an hour to $5.05 an hour in 1992—that's $5.69 an hour in 1996 dollars—and they found that the increase did not cause job loss.

And a specific study by David Card entitled, "Do Minimum Wages Reduce Employment: A Case Study of California, 1987–1989" that looked at California's 90-cent increase in the minimum from $3.35 an hour in 1987 to $4.25 an hour in 1988—that's $5.68 in 1996 dollars—has no significant impact on job loss.

Card concluded: "Comparisons of grouped and individual State data confirm that the rise in the minimum wage increased teenagers' wages. There is no evidence of corresponding losses in teenage employment."

Another study by Lawrence Katz of Harvard and Alan Krueger of Princeton examined an increase on the minimum wage on the fast-food industry in Texas and found that the employment effects, if anything, were positive.

Mr. President, let us not be fooled by diversionary arguments that muddy the waters. There's no correlation between increases in the minimum wage and job loss, and that argument should be put to rest once and for all.

Harvard labor economist Richard Freeman, in the International Journal of Manpower, in November 1994, said it best. He said: "at the level of the minimum wage in the 1980s, moderate legislated increases did not reduce employment and were, if anything, associated with higher employment in some locales."

He said, "Studies based on employment across economic units such as States and counties yield more disparate results. Most studies, however, reject the notion that the late 1980's and early 1990's increases had adverse employment effects, and the studies that find adverse effects prior to those increases obtain small elasticities—meaning small employment effects—which confirm the effectiveness of the minimum in redistributing wage income.

He concluded: "That moderate increases in the minimum wage transferred income to the lower paid without any apparent adverse effect on employment at the turn of the 1990's is no mean achievement for a policy tool in an era when the real earnings of the less skilled fell sharply."

Freeman also observed that any net reduction in employment from a higher minimum wage that might occur among teenagers would be mitigated by the extremely high turnover rates of these workers. So even if a higher minimum wage means that it will take some low-wage workers a little longer to find jobs, once they do find a job they will benefit from the higher wages.

Do you know what this vote comes down to, Mr. President? It comes down to whether or not to put $2,000 more in the pockets of workers. In these times, is that a difficult choice? That, $2,000 more for every minimum wage worker in local economies. My Republican friends rail against welfare, but when it comes to being fair, mark them absent.

So what are we arguing about. What are my Republican colleagues trying to tell us. What straws are they grasping at to create an argument about job loss, and teenage employment—or about the imagine hobgoblins that would appear if we were to give more money to the people who need it most.

Mr. President, the truth is that raising the minimum wage to $5.15 an hour, according to everyone, would make up slightly more than half of the ground that was lost to inflation during the 1980's. In fact, after adjusting for inflation, the studies show that even if we raised the minimum wage to $5.15 an hour it would still be 13 percent below its average purchasing power during the 1970's. To have the same purchasing power that it had in 1996 it would have to be raised to $5.93 and we certainly would not get a vote on $5.93 when we can't get one on $5.15.

Mr. President, the purchasing power of the minimum wage is now at its second lowest level in four decades. After adjusting for inflation, the value of the minimum wage is below its level for every year—except 1989—going all the way back to 1955.

To put this in perspective: as real wages for the middle-class have been stagnant, the real wages of people at the bottom end have dropped. And so the dramatic shift in wealth and obvious wage inequities in America are contributing to an extraordinary change in worker morale.

To put it simply: the dreams and hopes of millions of hard-working American families who or on the job and off the dole are at stake here. This is about whether or not we understand what people are going through in this country.

Mr. President, we are talking about the working poor. In 1993 more than half of the poor, some 22 million people, lived in households with someone

who went to work everyday—8 hours a day—7 days a week. Some 4.2 million workers in America paid by the hour in 1993 had earnings at or below the minimum wage. This was 6.6 percent of hourly workers. An additional 9.2 million hourly workers had earnings just above the minimum wage.

Mr. President, these are not teenagers. These are not minorities. They are, to large extent, women. Less than one-in-three, 31 percent, were teenagers. About one-in-five, 22 percent, were 20 to 24 years old. Nearly half were aged 25 and older.

And almost 62 percent of them were women.

Mr. President, who are the real losers in today's economy? Not the corporate executives. Not the Republican leadership in the Senate that is looking to give them a massive tax cut, and reward these same corporations with huge giveaways. No. The ones being left further and further behind—are working women.

They represent 46 percent of the paid work force, but 60 percent of those working for the minimum wage. These working women cannot make ends meet on $4.25 an hour. A single working woman with two children cannot pay for daycare, health care, housing, and food on subpoverty wages. For that family of three, the Federal poverty level is $12,500. At the minimum wage that family earns only $8,500, $4,000 below the poverty level. Times have changed since the 1960's and 1970's when the minimum wage was enough to raise families up to the poverty line.

That imbalance is an unacceptable inequity in America. Yet, Republicans in Congress are quibbling over raising the minimum to $5.15—even though, since 1979, the minimum wage has lost 25 percent of its value—while at the same time they favor a tax cut for the wealthiest Americans, and wonder why women who take home less than $132 a week are forced to choose welfare over work.

While it may be easy for some to moralize about values and the dignity of work while they earn a congressional salary that is 10 times the poverty level for a family of three, common sense and common decency require that we look at what a single mother with a child and $148 a week faces in real terms, everyday. She has to hope that her employer provides or subsidizes the cost of daycare. But daycare programs at work are rare, particularly for minimum wage earners. Nationally only 5 percent of employers pay for or subsidize daycare costs for full time employees, and, if a mother is offered a second- or third-shift job, daycare is simply not an option.

The Republicans response is not only to say no to increasing the minimum wage, but to cut food stamps, cut school lunches, and cut nutritional programs for underprivileged children. Yet, they ask single working mothers to work hard, stay off of welfare, pay for daycare, get a decent apartment, feed the children, pay for health care, save for the future, have a good time, and make ends meet.

Times have, indeed, changed in the 57 years since Congress first set the minimum wage at 25 cents an hour in 1938. But what has not changed is our pride and our spirit and our sense of hope. There are millions and millions of young, hard-working Americans in the vanguard of a new labor movement that is no longer fighting against ruthless employers for child labor laws, fair labor practices, health and safety standards, decent working conditions, or an 8-hour day. I hope we have put those fights behind us because those labor wars were fought over the most fundamental rights of people trying to work for a living and survive the unregulated power of ruthless employers.

Now, there is a new labor force struggling against downsizing and technology and a global economy. For them, an increase in the minimum wage is not too much to ask. The last time we voted to increase it, in 1989, a Republican President and a Democratic Congress did it together. And there were none of these arguments that we are hearing today.

We worked together then to raise the minimum from $3.35 an hour to $4.25 an hour, and I was proud to have voted for it. The House passed it by a vote of 382 to 37 with 135 Republicans voting for the increase. It passed the Senate by a vote of 89 to 8 with 36 Republicans on the side of common sense. We can do it again together, if common sense and fairness are still bipartisan virtues in Washington.

I yield the floor.

Mr. KENNEDY. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Massachusetts, has 5 minutes 50 seconds remaining on his side. There are still 15 minutes remaining on the other side.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I am sorry I was distracted. I think the Senator from Massachusetts suggested time run over here.

Mr. KENNEDY. I was inquiring what the allocation of time was that remained.

Mr. MURKOWSKI. Mr. President, as the chairman of the Energy and Natural Resources Committee, the committee that brought the Presidio legislation to the floor, I want to make some very brief comments at this time. I think we are all very much aware that minimum-wage legislation has absolutely nothing to do with the parks package that included the Presidio, the Utah wilderness, Sterling Forest, and numerous other titles. As a matter of fact, we had some 35 titles in the bill that affected some 26 States.

It is no secret that, unfortunately, the parks package coincides with the national convention of the AFL–CIO, or at least their Washington meeting, and it is unfortunate for this legislation that the timing and the announcement by the group that they were going to raise some $35 million to put into the campaign effort against Republicans who were up for reelection. The announcement that they were clearly endorsing the Clinton administration, provided Members on the other side the opportunity to put the minimum wage, which is one of labor's criteria, on something that might move. Unfortunately, the parks package, the Presidio, all the 35-some odd titles, are affected.

The point is, Mr. President, minimum wage legislation has nothing to do with this package of bills before the Senate. It has really no business being offered or even debated while there is one of the most important environmental and conservation legislative packages before the 104th Congress. Yet, they have seen fit to take advantage of this opportunity. They are well within their rights, but, in the opinion of the Senator from Alaska, this is simply politically motivated and it is political grandstanding. We all know it, even if the media refuses to report it that way.

It is rather interesting to see the media's comments with regard to the bill and the support base concerning the adequacy of wilderness in Utah. Not too many people are aware of just how much a million acres of wilderness is in size. It is about three times the size of the State of Rhode Island. Two million acres is about half the size of the State of New Jersey. It is a pretty big hunk of real estate. In any event, in this legislation, there was a provision that would have put 2 million additional acres into a wilderness classification in Utah.

There are those who suggest that the legislation prevents the Federal Government and the Congress from making a determination that additional wilderness might be created. That is absolutely false, Mr. President. Anyone who studied the legislation, anyone who looked at the bill, and particularly the media, should recognize that Congress can create more wilderness any time they see fit, as is evidenced by the creation of 56 million acres of wilderness in my State of Alaska.

So, the point I want to make at this time, Mr. President, is, as we look at the status of this bill and the package in the context of its significance, this package of park-related issues constitutes the most significant single environmental package before the Senate in this Congress.

Those who criticize the package process have a responsibility for two things.

One, ask the question why is the package needed? The answer to that question is simple. As these individual bills came before the Energy and Natural Resources Committee and were reported out, had their hearings, and so forth, a hold was put on virtually every one of these 50 plus bills now found within the 35 titles of this legislation. The Senator from New Jersey who saw fit to hold up the entire collection of reported bills to negotiate his particular interests relative to the State of New York and the State of New Jersey. That issue was Sterling Forest.

We have no problem with that, but it did force us to package all of the individual bills into a single piece of legislation. Some are now suggesting we take it apart. Yet we all know it will not prevail in the House if one goes and the others do not.

Mr. President this process has been going on for a year. Mr. President, the other interesting thing is that hundreds of thousands of dollars have been expended criticizing this package by unnamed, motivated elitists. They do not have to report where the money comes from. They simply write full-page ads in some of the Nation's major newspapers.

I think that is a bit irresponsible, Mr. President, they are responsible to no one. They are well-financed groups that are single focused.

They are not the people of Utah. They are not the legislature of Utah. They are not the delegation from Utah. They are an elitist group that wants to dictate the terms and conditions under which they can recreate in Utah or any other Western State.

I advise my colleagues that perhaps it is time to put a little wilderness in all of our States. We have six States that have no wilderness. Is there justification for that?

Mr. President, in conclusion, I urge my colleagues to show some restraint in their enthusiasm to get 5 seconds on the evening news tonight. Let us move forward with the most important conservation measure to come before this body. We have an opportunity to preserve that magnificent Presidio, provide the necessary authority for the Bureau of Land Management to set aside 2 million acres of new wilderness, and provide critical protection for other areas.

Mr. President this bill affects almost every single State, let us move forward on this important environmental bill and leave this specific amendment for the Labor Committee.

We need to pass the Presidio bill, Mr. President. The minimum wage has no business even being on this bill. We all know it.

I reserve the balance of my time. How much time is remaining?

The PRESIDING OFFICER. The Senator from Alaska has 7 minutes and 32 seconds remaining.

Mr. MURKOWSKI. I yield the floor.

Mr. LEVIN. Mr. President, the issue before us is straightforward. It is about whether or not we are truly committed to helping working people earn a livable wage.

Recently, we have begun to hear more concern expressed about jobs and wages for the working family in America. Some have newly discovered the problems that working families face today: the declining purchasing power of their wages, increasing health care costs, and the high cost of child care are among those most important. But, for some of us, and for the American people, this is not a new issue.

Unfortunately, too little has been done to address these concerns. Today, we have the opportunity to take an important step in the right direction, by making sure that those hard-working Americans at the bottom of the wage ladder get closer to a fair living wage.

Many workers in our society work for low wages and few benefits. They have virtually no bargaining power in their workplaces and any attempt to negotiate for higher wages is futile. For these workers, the government has historically provided protection in the form of a minimum wage.

The Rand Corp. a highly respected think tank, recently reported what they called a double dose of bad news: economic inequality is growing and living standards for millions are getting worse.

The last time we gave minimum wage workers a raise was 5 years ago April 1. The current minimum wage is $4.25. In the last 5 years, because of inflation, the buying power of that wage has fallen 50 cents. The minimum wage is now 29 percent lower in purchasing power than it was in 1979—17 years ago.

With this amendment, the hourly minimum wage would rise to $4.70 this year and to $5.15 next year. Close to 12 million American workers would take a step forward toward a more equitable living wage.

Remarkably, there are some in this Congress who not only would not increase this wage to a fair level, but would eliminate the wage completely. But, I think that they comprise a minority. The last increase had overwhelming bipartisan support. On November 8, 1989, the Senate passed the increase by a vote of 89 to 8. Supporting that increase were the current majority and minority leaders. In the House, this bill passed by a vote of 382 to 37. Voting yes were the current Speaker of the House and the minority leader. Of course, the bill was signed into law by President George Bush.

The results of Rand's study demonstrate once again that the economic squeeze is real. Discounting inflation, the study shows that the median income of families fell more than $2,700 over 4 years to about $27,000 in 1993. People at the lower rungs of the economic ladder have had it the worst.

These figures illustrate that although our economy is growing and unemployment is relatively low, working families are confronting difficult and uncertain times. This amendment would provide a modest boost in earnings for many of these households.

A higher minimum wage could help reverse the growing wage inequality that has occurred since the seventies. A raise in the minimum wage is not only good for workers, but it is also good for business.

The minimum wage is now at a lower level in terms of purchasing power than it has been in three or four decades. That means minimum wage workers buy less. More money in the pockets of workers means more dollars circulating in the local economy.

While some claim a moderate increase in the minimum wage will cost jobs, leading economists find little evidence of loss of employment. Instead, they find that a ripple effect could expand the impact beyond the immediate minimum wage workforce. Some workers in low-wage jobs who currently earn more than the minimum wage may see an increase in their earnings as minimum wages rise.

As the richest nation on Earth, our minimum wage should be a living wage, and it is not. When a father or mother works full-time, 40 hours a week, year-round, they should be able to lift their family out of poverty. Sadly, even the proposed $5.15 an hour will not do that. But, our proposal makes an important stride toward assuring that work is more profitable than welfare.

A minimum wage hike rewards work and lessens the burden of dependency. The current minimum wage is actually about $2 an hour less than what a family of four needs to live above the poverty line. At $4.25 an hour, you earn $680 a month, gross. That's $8,160 per year. The poverty line for a family of four is $15,600 per year.

Adults who support their families would be the prime beneficiaries of our proposal to raise the minimum wage. Nearly two-thirds of minimum wage earners are adults and more than one-third are the sole breadwinners. Nearly 60 percent of the full-time minimum wage earners are women. Often these are women bringing home the family's only paycheck.

We must puncture the myth that a minimum wage hike would only help teens holding down part-time jobs after school. An increase in the minimum wage would improve the standard of living for many working Americans who live paycheck to paycheck, trying to get a foothold on the American dream. In reality, almost half of minimum wage earners work full-time

while only one-fifth work less than half time. Only a quarter are teenagers.

In 32 States, including Michigan, over 10 percent of the workforce would benefit directly from an increase in the minimum wage. Workers who now earn less than $5.15 per hour stand to gain immediately. An analysis by the Economic Policy Institute finds 10.5 percent of all Michigan voters, more than 420,000 workers, are in this group.

Mr. President, the bottom line is work should pay, and the current minimum wage is not enough to live on. The minimum wage is a floor beneath which no one should fall. But we should make sure that standing on that floor, a person can reach the table. A full-time minimum wage job should provide a minimum standard of living in addition to giving workers the dignity that comes with a paycheck. Hard-working Americans deserve a fair deal.

Mr. CAMPBELL. Mr. President, I take this opportunity today to clarify my position on the pending Kennedy amendment to increase the minimum wage. As with any debate that takes place in this Chamber, we debate both the merits of a particular legislative initiative as well as, and equally important, the procedures and timing of bringing a legislative initiative to the floor for debate.

Mr. President, last year during debate on S. 1357, the Balanced Budget Act adopted by this Congress, I supported a sense-of-the-Senate resolution to debate and vote on the merits of increasing the minimum wage. While I have been supportive of past minimum wage increases, I don't believe H.R. 1296, the Presidio Act, the underlying bill currently being considered, provides a proper vehicle to increase the current minimum wage. This bill, and the fact that the pending amendment prevents further consideration of this bill, is not conducive to properly address some of its more contentious issues regarding a minimum wage increase.

For example, just as minimum wage opponents may believe the highest proportion of low-wage workers to be young people, proponents of a higher minimum wage often portray the minimum wage work force as largely adult and, therefore, much more in need of an increase. However, we must recognize that this debate hinges upon how one defines youth. If, for example, one defines a youth as between 16 and 19 years of age, then about 36 percent of workers, paid hourly at the minimum wage, are youths and 64 percent adults. However, if one adopts a definition of youth as one between 16 and 24 years of age, then about 60 percent of the work force at the Federal minimum wage are youths and only 40 percent are adults. Indeed, this discrepancy alone warrants further debate.

Mr. President, this brings me to the second, and equally important issue, that of the procedure and timing of this discussion. I believe this debate on the minimum wage deserves to be debated as a vehicle unto itself, and not as a proposal to be attached to each and every legislative initiative that comes up on the floor in this Chamber, in this case H.R. 1296, the Presidio legislation.

The procedure of appending the minimum wage initiative to H.R. 1296, in my view Mr. President, is to attach a nongermane element to a bill that deserves to be debated on its own merits. In this case, it is a bill that has several elements that are important to my State of Colorado.

As a small business owner and former minimum wage laborer, I can truly understand where both sides of this debate are coming from. While a compromise increase of 45 cents over 2 years is something I would consider, Congress should approach this issue with full deliberation; over 80 million workers are covered by the Fair Labor Standards Act's minimum wage, and its impacts would undoubtedly be far reaching.

Therefore, I look forward to working with my colleagues on this issue in the future, and I am hopeful a more suitable legislative vehicle will be found in which we can properly address the issue of raising the Federal minimum wage.

Mr. DODD. Mr. President, I rise today in strong support of this amendment on behalf of American workers and American families.

Here in Washington, and on the campaign trail we hear a lot of talk about corporate downsizing, stagnant wages, and worker anxiety. Throughout this country, American workers and their families are frustrated and anxious of what the future might bring.

And, if we're going to do more than pay lip service to these issues, if we're going to be serious about helping those Americans that work hard and play by the rules then this amendment should pass by a unanimous vote.

Today, with this measure we have a genuine opportunity, on behalf of millions of American workers, to turn the minimum wage into a true living wage.

Today, the real value of the minimum wage is at its second lowest point in 40 years—$4.25 an hour.

Now, I want every person in this room to consider living on $4.25 a hour; or, living on $36 a day. That's an annual income of $8,500 a year—well below the poverty level for a family of three, which is $12,500.

How can any American expect to bring themselves out of poverty or pull themselves up by their bootstraps when they're expected to raise a family on $8,500 a year?

Over the past year I've heard a lot of talk from the other side of the aisle about encouraging responsibility and a strong work ethic among our Nation's welfare recipients. I think it's something we can all agree upon.

But, it is utter hypocrisy to talk about encouraging self-sufficiency and responsibility while we ask our Nation's poorest citizens to live on a meager wage of $36 a day.

Let us be clear, the people affected by the minimum wage aren't high-school kids flipping hamburgers at McDonald's. I can see why people would like to believe that: it certainly makes it easier to oppose this amendment.

We're talking about child care workers, waiters and waitresses, telemarketers, custodians, salesclerks, and the list goes on and on.

The fact is, more than 73 percent of those affected by the minimum wage are adults. More than 47 percent are full-time workers. Four in ten are the sole earner for their families and nearly one in five currently lives in poverty.

What's more, nearly 60 percent of minimum wage workers are women, more than three-quarters of whom are adults. That's 5.2 million adult women, many of whom are also busy raising children who would be directly affected if we pass this amendment.

These figures represent millions of American workers who are just able to keep their heads above water, who are barely subsisting at three-fourths the level of poverty.

For them this amendment isn't about politics or partisan games—this is about economic survival.

Now, my colleagues from across the aisle often use the argument that raising the minimum wage will cost jobs. But study after study has shown that this is a fallacious argument.

Studies done after the minimum wage was raised in 1990 demonstrate that not only did it have a negligible effect on job loss, but in some locales it actually brought higher employment.

The fact is, a higher minimum wage is not only a stronger incentive to work, but it reduces turnover, increases productivity, and lowers cost for retraining and recruiting.

And, the fact is we're not even talking about an enormous increase—only 90 cents an hour. And, while 90 cents may not seem like a lot to most people, it represents $1,800 in potential income for American workers.

For a family struggling to make ends meet, a simple 90-cent-an-hour increase in the minimum wage would pay for 7 months of groceries, or 1 year of health care costs, or more than a year's tuition at a 2-year college.

And if you don't believe me, listen to the experts. According to a recent study by economists William Spriggs and John Schmitt: "The overwhelming weight of recent evidence supports the view that low-wage workers will benefit overwhelmingly from a higher Federal minimum wage."

And that's the choice we have before us today: To raise the minimum wage and make a real difference in the lives of close to 12 million American workers.

If we want to be serious about moving welfare recipients to work, if we want to calm the fears of anxious workers, if we want to provide economic opportunity for every American we have a solemn commitment to pass this amendment and raise the minimum wage for American workers.

In the past, this body has, in a bipartisan manner, overwhelmingly supported increasing the minimum wage. The last time we raised it in 1989, the Senate voted 89 to 8.

Indeed, Senator DOLE, who I often hear talking about the importance of working families on the campaign trail, was a key supporter of raising the minimum wage in 1989.

Well, I hope Senator DOLE and all my colleagues continue the bipartisan tradition of supporting the minimum wage and join me in backing this critically important amendment for American workers.

Mr. KOHL. Mr. President, I rise in support of the Kennedy amendment to raise the minimum wage.

This amendment presents the Senate with a unique opportunity to address one of the most pressing anxieties for America's lower and middle-class workers—stagnant wages. By passing this amendment, Congress can take a small step to help reverse the shrinking purchasing power and suppressed living standards of America's lowest paid workers.

The amendment before us would allow some of the hardest working American's to make a better life for themselves and their families. It would increase the minimum wage from the current level of $4.25 to $5.15 over 2 years. Granting a 90 cent wage increase over 2 year's will not solve the economic problems of the working class nor will it break the bank; but it will help working families.

Mr. President, over 12 million workers would directly benefit from an increase in the minimum wage—over 210,000 of those workers live in Wisconsin.

Contrary to assertions of minimum wage opponents, this amendment would not wreak havoc on job availability. In fact, a large group of prominent economists, including three Nobel prize winners, recently endorsed a minimum wage increase. These economists assert that the moderate Federal minimum wage increase will not significantly jeopardize employment opportunities. The Kennedy amendment represents such a moderate increase.

Mr. President, the plight of the American worker has received more attention in speeches during recent political primaries than through the policy decisions of the 104th Congress. During the first session of the 104th Congress, we have seen proposals to cut education, job training, and workplace safety programs. Perhaps most inexcusable are the severe cuts proposed in the earned income tax credit for low paid working Americans. These are the same workers who are held down by the artificially low minimum wage.

Mr. President, the economy appears healthy, unemployment is down and millions of jobs have been created over the past 3 years. Yet the average American worker remains uneasy. Real wages have become stagnant and many Americans have discovered that their standard of living has decreased over the years.

It has been almost 5 years since the minimum wage has been increased. Studies indicate that after the minimum wage was increased in 1991, the real value of the wage has fallen by nearly 50 cents. Furthermore, the real value of the minimum wage is 29 percent lower than it was in 1979. If this trend continues, the value of the minimum wage will plummet to a 40-year low by 1997.

The importance of increasing the minimum wage looms even larger today as Congress attempts to balance the budget and cut spending for welfare, worker education and training, the earned income tax credit, child care and other resources that families use to stay afloat economically. To deny America's lowest paid workers a sustaining wage during a time of substantial budget cuts simply represents misguided priorities. This is precisely the time when we need to reward the people who work. If we are going to cut funding for education and training, we must provide individuals with the economic tools necessary to get ahead.

The last minimum wage increase under President Bush enjoyed broad bipartisan support. I urge my colleagues in the Senate to undertake a similar bipartisan effort today and demonstrate their commitment to working families by restoring the fair value of the minimum wage. It is time for Congress to remove this issue from Presidential politics and take real legislative action to address the economic problems facing the American worker.

Raising the minimum wage will not solve all of the problems of low-wage workers, but it will go far in demonstrating that Congress can act to help those on the lowest rung of the economic ladder. I urge my colleagues to vote for cloture and pass the minimum wage increase.

Ms. MOSELEY-BRAUN. Mr. President, I support raising the minimum wage over the next 2 years, from its current $4.25 per hour to $5.15 per hour, because I believe in the American dream and I believe in family values.

If a person works hard and diligently, he or she should succeed. This is a deeply held belief in this country and one which I share—this is the American dream. And if a person works hard and diligently, he or she should be able to care for family—this is family values.

Today, 12 million Americans earn the minimum wage. In my State alone, over 10 percent of the workforce earns the minimum wage—545,647 Illinoisans earn $4.25 an hour. This means that an Illinoisan, working 40 hours a week, 52 weeks a year, earns only $8,840.

These workers are not just young people working at their first job—although young people often contribute to their family's income. The majority of the people earning minimum wage—73 percent—are adults. Many of these are parents raising families on under $9,000 a year—still eligible for food stamps. It is a travesty that a mother or father working full-time— 40 hours a week, 52 weeks a year—cannot support a family.

As we continue to purge the welfare roles of children and their mothers, we should remember that close to 60 percent of those earning minimum wage are women. These are women who are taking responsibility for themselves and their children. These are women who are trying to make it on their own. These are women who go to work every single day. And still, minimum wage does not provide them with a living wage for their family.

This legislation would not overcompensate workers. It has been almost 5 years since the minimum wage was last increased. Prices have increased over the last 5 years, as I'm sure anybody who has bought a carton of milk or a dozen eggs lately can tell you.

In this country, we increasingly face a declining standard of living for working people. In the 1980's, 80 percent of Americans did not improve their standard of living. While the average wage increased 67 percent, the average price of a home increased by 100 percent, the average price of a car increased 125 percent, and the cost of a year in college increased by 130 percent. And the minimum wage increased by only 23 percent.

If a 90-cent increase in minimum wage had been part of the Contract With America, by today, a full-time worker earning the minimum wage would have earned an additional $2,000. That money could pay more than 7 months of groceries, rent or mortgage for 4 months, a full year of health care costs, or 9 months of utility bills. The money would make a world of difference to a family—and it is money that the employee earned.

And paying a living wage does not mean that jobs will be lost as opponents of increasing the minimum wage claim. Last year a group of respected economists, including three Nobel Prize winners, concluded that an increase in the minimum wage to $5.15 an hour will have positive effects on the

labor market, workers, and the economy.

Workers are our greatest resource. The American worker is what has made this country great. We should recognize the contributions of our workers and reward those who work long and hard to earn a living. And we must make certain that parents working full-time can support their families. If a parent working full-time cannot keep a family above poverty, a child will learn about the American nightmare, not the American dream.

Let us today show that America rewards work, that Americans who try hard can succeed, that America's families are important to us. A living minimum wage is a sign of a just and decent society. I urge my colleagues to vote for cloture and for this modest increase in the minimum wage.

Mr. BAUCUS. Mr. President, this one is real simple. If you raise the minimum wage, you provide working people with a higher salary and a better standard of living. And so I come here in very strong support for the minority leader's effort to give working people a raise by increasing the minimum wage.

BUTTE SAFEWAY

Over the years, Butte, MT, has seen more than its share of hard times. When the mines closed, a lot of people said it was curtains for Butte. But those people had obviously not spent much time in Butte.

Through a lot of hard work, resourcefulness, and community spirit, the folks in Butte fought to rebuild their economy. And they did it. The economic success story that is Butte today is a great example of what can happen when people come together, play by the rules, and work hard.

A few weeks ago, I was in Butte. I spent some time at the Safeway store just listening to people. And I was struck by what a young woman named Rhonda had to say. She was in her early 20's; friendly, energetic, and bright. And like most people that age, she was also anxious to build a better future for herself. But she told me, "Max, I am having a hard time making ends meet on minimum wage. I work hard, but it's just not enough."

A whole lot of Montanans feel just the same. They see their wages increasing too slowly to keep up with the cost of living. They find it harder and harder to save money to send their children to college.

In fact, according to a recent study, over 52,000 Montana workers—more than the entire population of Lewis and Clark County, Montana's sixth largest county—would find it a little easier to make ends meet if we raised the minimum wage to just $5.15 per hour.

FALLING WAGES, RISING COSTS

The experts confirm this. A recent Paine-Webber analysis shows that real wages in America have declined from $7.55 per hour in 1990 to $7.40 in 1995.

We're getting the worst of it in Montana. Our wage growth has been slower than virtually any other State in the Nation. Let me point to a few startling Montana statistics to prove my point:

The purchasing power of the average Montana family has actually fallen by $700 over the last 10 years;

In 1980, Montana's average personal income ranked 33 in the Nation. But today we've slipped to 41;

And the cost of living continues to climb—particularly when it comes to housing costs. Just 5 years ago, the average price of a Montana home was about $48,000. But today that figure has increased by 30 percent to $68,500.

NEED THE RIGHT KIND OF CHANGES

The people who suffer most from this wage stagnation are the middle class—the backbone of America. People who work hard. Pay taxes. Volunteer in their communities. When they suffer, the whole country suffers. Because if our middle class cannot afford homes, or cars, or college educations for the children—ultimately American businesses and America itself will be weaker.

Congress is not going to solve these problems all by itself. But there are some things Congress can do to help.

We need to cut the tax burden on working families. Not by giving new tax breaks to corporations that are already profitable, but by giving a tax deduction for college expenses, so more families can afford college and more children can qualify for high-paying jobs in demanding fields.

We need to make sure family businesses can stay in the family, by reducing the estate and gift tax substantially.

We need to balance the budget, in the right way. Not by threatening retirement and health security. Not by threatening the next generation's prosperity by cutting college loans and vocational education. But by a more serious effort to attack fraud and abuse in Government health care programs, by sticking to the Defense Department's recommendations on security rather than tacking on pork programs, and by resisting the temptation to create new loopholes and deductions for profitable companies.

RECORD OF THE CONGRESS

So these are the people Congress is here to help. And I think it's fair to say that at the beginning of 1995, a lot of Montanans felt this Congress might help. There was a lot of new blood and some new ideas, and people had some high hopes.

But those hopes have vanished in the mess of bumbling revolutionary experiments and Government shutdowns which the leadership in the House has created. Rather than make people a little more prosperous and secure, the Congress seems to have deliberately done just the opposite.

When Speaker GINGRICH, for example, was angry about his seating assignment on Air Force One a few months back, he shut down Yellowstone and Glacier National Park, along with most of the rest of the Government, to take revenge. That drove small businesses in the gateway communities to the edge of bankruptcy. And it threatened to put Park Service employees and Government research scientists on welfare.

A SECOND CHANCE

So the leadership in this 104th Congress has let our State down pretty badly. All too often, rather than do something good and positive for the people, it has done something irrational and destructive.

But we are here today to offer the folks in charge a second chance.

By adopting this amendment, we will give hard-working people a raise. Plain and simple. A 90-cent-an-hour raise in the minimum wage, from $4.25 an hour to $5.15 an hour. That is something concrete for people like Rhonda. People who are working hard and finding they can't make it.

For a young woman working 40 hours a week at the minimum wage, this amendment means a raise of 90 cents per hour. That means almost $2,000 more in the pocket every year. And it means a bump along the wage scale that will give some help to Rhonda's co-workers with a bit more seniority—the men and women struggling to provide for their families on $6 or $7 an hour.

OPPOSITION TO MINIMUM WAGE MISGUIDED

I know some around here don't like the idea. But if they'll step back and look again, they'll find that the opposition to a minimum wage increase boils down to one idea: higher wages are bad for the country.

I simply can't accept that. America cannot prosper by keeping a lid on the prosperity of most of our families. That doesn't make sense.

So by putting party ideology aside, the majority here can rebuild some of the credit it has squandered in the past year and a half. It can do some good for honest, deserving working people like Rhonda. And that is what we ought to do.

This minimum wage increase is a chance for Congress to show some common sense. Some independence from elitist supply-side ideologs. The courage to do what we all know is right.

Let's agree to this amendment and give America a raise.

Thank you, Mr. President, and I yield the floor.

Mr. KENNEDY. I yield myself 4 minutes.

Mr. President, I urge the Senate to vote for cloture and end this unconscionable Republican filibuster against the minimum wage. Senate DOLE is leading this filibuster. He is the one who can end it. It is his decision.

Thumbs up, and 13 million wage earners get their first pay raise in 5 years.

Thumbs down, and 13 million minimum wage workers go on living in poverty, because the minimum wage is not a living wage. A hard day's work deserves a fair day's pay. No one who works for a living should have to live in poverty.

Senator DOLE locks up the nomination, and the first thing he does is lock out the 13 million Americans who are only asking for the fair minimum wage they deserve. Stock prices are going right up through the roof, and the minimum wage is falling through the basement. That is not fair. It is not acceptable.

Speaker GINGRICH and Senator DOLE make a remarkable couple. It is like Bonnie and Clyde writing the Republican platform. NEWT GINGRICH wants to repeal the ban on assault weapons, and BOB DOLE wants to block any increases in the minimum wage. Democrats do not share those appalling priorities and neither do the vast majority of the American people.

Who are the minimum wage workers? The vast majority are not teenagers. More than two-thirds are adults, 59 percent are women. Minimum wage workers are nurses aides caring for patients, child-care workers caring for young children, garment workers, retail clerks, janitors cleaning office buildings.

Last year, we heard the story of Tonya Outlaw. She had been teaching at a child care center in Windsor, NC, for 4 years making the minimum wage. She left a high-paying job because she could not afford the child care for her own two daughters. Earning only $4.25 an hour, she cannot afford medicine for her family. She lives with her uncle and sister. Every bill is a struggle. Why are the Republicans filibustering against giving the raise that she deserves?

David Dow was 23 years old when I met him last year working for a pizza chain, in Southfork, PA, working for the minimum wage, struggling to support his 2-year-old daughter and 1-year-old son. His wife works for telemarketing, just above the minimum wage. They have no health insurance, are repaying college loans, and cannot afford child care. They work different shifts and see each other for an hour or two a day, except on weekends.

This is America in 1996. Who are the Republicans kidding? David Dow needs the pay raise the Republicans are filibustering.

The question is, whose side are you on? You cannot have it both ways. We cannot be for working Americans and their families and against making the minimum wage a decent wage. You cannot be concerned about declining living standards for American families and the widening income gap between the wealthiest Americans and everyone else, and then deny a fair increase in the minimum wage.

Congress has not voted to raise the minimum wage in 5 years. At least three times since that last increase, the Senate has given themselves a pay increase. We take care of the privileged. Surely it is time to take care of those at bottom of the economic ladder.

It is shocking that the longstanding bipartisan support for raising the minimum wage has disappeared. The last vote in the Senate in 1989 was 89–8 in favor of a 90-cent increase in the minimum wage.

The economy is healthier in 1996 than it was in 1989. Inflation and unemployment are lower. Corporate profits and the stock market are at record highs.

BOB DOLE and all but a handful of Republican Senators were in the mainstream in 1989 and voted to make the minimum wage a fair wage. The question now is, why have they changed?

I withhold the balance of the time.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, how much time do we have remaining on this side?

The PRESIDING OFFICER. Seven minutes and thirty-two seconds.

Mr. MURKOWSKI. I will yield my remaining time to the Senator from Oklahoma after I make a few remarks.

Mr. President, I think it is interesting to reflect that the attack now is being made on the majority leader as a consequence of the fact that he is the designee, Republican nominee for President.

The comment has been made that there is a filibuster going on. I do not know that there is a filibuster going on. We voted yesterday on cloture. We will vote today on cloture, but, instead, the attack is on the majority leader. I resent that.

Mr. President, the amendment today being offered would raise the minimum wage from $4.25 to $5.15, a 20-percent increase over 2 years. Now, our Democratic friends suggest that this would be very meritorious and everybody would be a winner. They are accommodating, obviously, the interests of the unions. Of course, those members are virtually all in the unions, receiving a wage much higher than the minimum wage. But look at what they are not addressing and the consequences associated with that.

That is why I oppose the amendment, because of the danger that it is going to foreclose job opportunities precisely for those who we want to help. They do not mention that. Increasing the minimum wage will raise the lower rung of the economic ladder and leave behind those just trying to get a foothold with their first job. They will not be hired and we all know it.

The amendment, though well-intentioned, will cause a loss of entry-level jobs. It will limit job opportunities for low-skilled workers. This will not help raise the standard of living for the poor. They do not even want to address that in the discussion.

The U.S. Senate cannot repeal the law of supply and demand. Common sense tells us we cannot make it more expensive to hire new workers and then expect employers to hire the same number of workers. Experience has shown when we raise the minimum wage, employers hire fewer workers and substitute new machinery and new technology in place of those workers. That is why we pump our own gas today. That is why we pay with a credit card rather than have a gas attendant do the job, wash our windows. It is why we bus our own trays in the fast food restaurants.

Make no mistake about it, Mr. President, this is not a win-win-win. As a consequence, the appropriateness of putting this on the parks bill, the most significant environmental measure to come before this body, is simply unconscionable. It is political opportunism at its worst. The fact that it is directed at the majority leader is absolutely uncalled for.

I yield the balance of my time to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. How much time is remaining?

The PRESIDING OFFICER. Four minutes.

Mr. NICKLES. Mr. President, I compliment my friend and colleague from Alaska, Senator MURKOWSKI, for, one, his statement, but also for maybe one of the most important things he said: This amendment has nothing to do with the national parks. It does not belong on this bill.

You might say, well, why is it on this bill? Why was it offered by my friend and colleague from Massachusetts to put on this bill? I will tell you. In my opinion, it is all about politics. It is not about increasing minimum wage. If my friends on the other side of the aisle wanted to increase the minimum wage, they controlled this body in 1993, in 1994. They controlled the White House. They could have done it at that time. They had that right. They had the votes. The majority leader could have called it up any time. They did not do it.

Why did they do it now? Well, Presidential politics. Plus, I noticed an article in the paper that says the AFL-CIO endorses Clinton and approves a $35 million political program. They want to run a lot of independent expenditures, all against Republicans. It is all about politics. It does not belong on this bill. We should reject this amendment.

What is the substance of the amendment? The substance of the amendment is, it says if you make less than $5.15 an hour, you should not have a job. Not only should you not have a job, you cannot have a job. An increase in the minimum wage says it is against the Federal law for you to have a job if

you make less than $5.15. You cannot have a job.

I do not care if my friends from the States of Massachusetts, New York, or North Dakota want to increase the minimum wage to $10 an hour in their States; let them do it. I do not think they should do it in my State because they are going to put some people out of work. I heard them say that it has no adverse economic impact and maybe it will increase jobs. If that is the case, let us increase minimum wage to $10 an hour. I do not want everybody to make just $5 an hour; I want everybody to make more than $5 an hour. Why not $10 or $20 an hour? If we can repeal the law of economics, if it makes no difference whatsoever economically, let us make it more because I want people to make a lot more money. I am not against people getting a raise. I want that.

But I do not want to raise the minimum wage and say it is against the law for you to have a job if the best thing you can get is $4.50 or $4.75. I have kids that make that amount of money. We are going to pass a law that says they cannot have a job if it does not pay $5.15. If the infinite wisdom of Washington, DC, says, "If you do not have a job that pays at least $5.15 an hour, you should not have a job," and that person cannot get a job and they are idle, then what are they doing? A lot of times they end up involved in crime or involved in mischief. That is ridiculous. And they do not learn a trade or a new skill.

I worked for minimum wage. I do not make any bones about it. I worked for minimum wage after my wife and I were married, 27½ years ago. We made $1.60 an hour. I needed more, but it was enough. I quit that job and started my own janitor service. I learned a trade, and I hired a lot of people, and they all made more than minimum wage. Why in the world should we set an arbitrary level, a higher level, and say, "If you do not meet this level, you cannot have a job? Uncle Sam says we would rather have you be idle if you cannot meet at least this standard." I think that is ridiculous.

I think the Senator's amendment is wrong in its substance. It is nothing but a political act of appeasement or trying to make organized labor leaders happy. Thank you very much for your $35 million. You are going to get a great program. We are going to try to embarrass BOB DOLE and see if we cannot come up with a great program to thank you for your money. I think that is blatant political abuse and should be rejected. I hope it is rejected.

My colleagues on the other side know this amendment is not going to become law. They hope to score some political points, and I hope they will not be successful.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 1 minute 12 seconds.

Mr. KENNEDY. Mr. President, I yield myself 1 minute 12 seconds.

BOB DOLE, March 28, 1974:

> I am pleased to support the conference report on the minimum wage bill. A living wage for a fair day's work is a hallmark of the American economic philosophy.

May 17, 1989, BOB DOLE on the floor of the Senate:

> I have said, as a Republican, I am not going to stand here and say you can live on $3.25 an hour, or $4.55 an hour.

BOB DOLE on the Senate floor, April 11, 1989:

> To be sure, I am all for helping the working poor. I have spent most of my public life supporting causes on behalf of the working poor, and no one would deny that the working poor are the ones who most deserve a wage increase.

Mr. President, where is that BOB DOLE? Where is that BOB DOLE? I hear from my colleagues that they resent the fact that this is being offered on this particular bill. I want to tell you that it does not make a difference whether any Senator resents it in here. The people who resent us not doing this have a right to, and they are the men and women not getting it. They are the ones who ought to feel the resentment by our failure to provide a decent wage, a livable wage, for working 40 hours a week, 52 weeks of the year.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I will use my leader time.

Mr. President, I think it would be very unfortunate if someone cast this as anything other than what it is—unless we act soon, we will be at the lowest point in terms of purchasing power that we have been in our Nation's history when it comes to the minimum wage. That is a fact.

This is not an effort to encumber an environmental bill, as troubling as one aspect of that bill is. It has nothing to do with Presidential politics, it has nothing to do with labor unions. It has everything to do with the fact that the economic foundation for working families in this country has been, is now, and will continue to be the minimum wage. That is a fact. A fair minimum wage is an economic foundation for working families, period.

Seventy-three percent of those who would benefit from this minimum wage increase are adults. Almost three out of every four people; not just those getting started in life, or just out of high school or college. They are people struggling to make ends meet with a family. And 40 percent of those on minimum wage today are the sole breadwinners.

Let us put an end to the stereotype of the teenager flipping hamburgers so he can buy a car, or somehow get started right out of school. The face of a typical minimum wage worker is a woman working full time or part time to support her family, a single mother working 40 hours a week, and concluding at the end of every week or month when she tries to pay the bills that she is still living in poverty. A minimum wage increase could help, at long last, after 5 years, pull her at least a little bit out of the depths of concern that she has about the economic and financial problems she is facing. A 90-cent increase, which is what this bill would do, provides $1,800 more in a year's time. And 45 cents does not sound like a whole lot, but when you combine 45 cents this year and next, over a period of time you find that it buys more than 7 months worth of groceries, 1 year of health care, including insurance premiums, prescription drugs, and other out-of-pocket costs.

This increase will buy 4 months rent or mortgage payments. This increase pays 9 months of utility bills. So do not let anybody mislead you. This is not just a minuscule amount for a lot of people. This is whether people can eat or have the ability to pay their bills. That is what we are talking about here.

The increase in the minimum wage is obviously just a piece of it. The earned-income tax credit is also a very important part. We have faced, throughout this last 14 months, efforts by many of our Republican colleagues to cut the earned-income tax credit. They tell us that they ought to go out and find a job, they do not need the EITC, they ought to rely on the marketplace to find, somehow, an increase in wages there. If we are going to rely upon the marketplace, we better have a living wage to do that. The minimum wage can only be the beginning for many of these working families.

Republicans often tell us they want to move people off welfare and on to work, and we share that view, that desire, that goal. What do you tell people who work 40 hours a week and are still below the legal level of poverty in this country? How is that an encouragement to tell people to get off welfare? Restoring the minimum wage to a working wage is one of the best ways you get people off of welfare.

Five years, Mr. President, is a long time. In that 5 years, we have had increases in our wages. Just about every CEO in this country has seen dramatic increases in their wages. I do not deny them that. In many cases, they truly deserve it. On April 1, we will see the fifth anniversary of the last increase in the minimum wage. We have seen a 20-year period of wage stagnation, and the gap between the richest and poorest in this country has never been wider. The stratification in this country has to be something this Senate addresses.

A higher minimum wage is the least we can do to begin dealing effectively

with that stratification. The real value of the minimum wage has fallen by nearly 50 cents since 1991, and by 29 percent since 1979. If we do not act right now, the real value will be at a 40-year low by January 1997.

This is not just a matter affecting a few people, Mr. President; 12 million working people will benefit directly by what we are going to decide this afternoon. In 32 States, it is over 10 percent of the work force. In study after study, in spite of all the denials you hear from our Republican friends—nearly two dozen in all, not one or two—have shown that a moderate increase in the minimum wage can be achieved without costing jobs. That is not our assertion. That is not something we just postulate about. This is something that actually has been examined in case after case after case, and in every single case it has been reported that you can raise the minimum wage at a moderate level and not cost jobs.

In fact, we see a positive effect on both business and workers. A higher minimum wage reduces turnover, raises productivity, and lowers recruitment and training costs. When workers are paid better, when they get a better living wage, then there is more demand for the products they make.

There are all kinds of advantages in doing this in a proper way. We know that. Apparently, a lot of Republican colleagues share that view because the last time we voted in 1989, 89 Senators supported the increase in the minimum wage. A Republican President signed it into law indicating that he endorsed the principle of a guaranteed and fair minimum wage.

The time has come to show that same bipartisanship and to do it again. A recent Gallup poll said that 77 percent of the American people think that we ought to do it again. Sixty-three percent of Republicans think that we ought to do it again.

This is not a "new mandate." This is not something that we have just dreamed up. This is something we have been doing for decades and decades with the realization you have to start somewhere. The U.S. Conference of Mayors just sent us all a letter that makes it very clear that they endorse an increase in the minimum wage. These are government leaders at the most local level telling us that they see what this does; they know that if we get people off welfare, they can reduce the cost of government. The way to do it is with a minimum wage that works.

So, Mr. President, there are those who say we are somehow encumbering the process. So be it. If there is no other way to ensure that we get a vote on the minimum wage, we have no other choice but to do it this way.

We have all agreed that we will hold off on offering this as an amendment to any other piece of legislation if we can simply get a timeframe within which this can be debated, when we can consider it in a way that gives us a commitment to vote on a minimum wage.

The ultimate irony is that the majority is asking people making $4.25 an hour to wait until the majority figures out a way to cut their Medicare benefits before they allow them a 45-cent increase. Republicans—at least some of them—are prepared to wage a war on working families.

Two days ago, we saw that they are willing to go to any length to avoid a vote and to face a choice. We saw a 4-hour quorum call, a motion to recommit, a recess in one of the biggest weeks of the year, and talk of an unfunded mandates points of order.

Mr. President, never have so few done so much to deny so little to so many.

Working Americans are not going to be fooled. Our Republican colleagues cannot have it both ways. They express newfound concern for workers in a campaign but then manufacture reasons to oppose them when it is real.

If you oppose the minimum wage, as the House majority leader does, then vote against this. But if you believe that 12 million people—many the sole earners for their families—deserve an increase, then vote for it.

The time to face up to that choice is what this is all about. It is what we were elected to do. Let us do it this afternoon.

Several Senators addressed the Chair.

Mrs. BOXER. Mr. President, will the minority leader yield for a question?

Mr. DASCHLE. If I have time available, I will be happy to yield for a question.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you, Mr. President.

I ask the Democrat leader. Is it not so that 51 Senators have already gone on record in favor of raising the minimum wage?

Mr. DASCHLE. The Senator is correct. We have seen a number of Republicans as well as Democrats—in fact, almost unanimously the Democrats and many Republicans have indicated their support in votes taken earlier last year.

So clearly we have a majority vote in the Senate in support of an increase in the minimum wage.

Mrs. BOXER. Mr. President, will my leader agree that these parliamentary maneuvers are really meant to delay, put off, postpone, block an up-or-down vote even though the majority of Senators support such an increase?

Mr. DASCHLE. The Senator is correct.

Several Senators addressed the Chair.

Mr. NICKLES. Mr. President, will the minority leader yield for a question?

Mr. DASCHLE. I am happy to yield, if I have any time.

Mr. NICKLES. I ask the Senator from South Dakota, correct me if I am wrong, but when the Democrats were in control of the Senate and the House in 1993 and 1994 and you had Bill Clinton in the White House, if this is so urgent, why did not you bring it to the floor any time during those 2 years? Is there any reason why it was not brought to the floor at that time?

Mr. DASCHLE. The answer is very simple. Obviously, if we could put some sort of cost of living adjustment in the minimum wage we would do so. We would do so today. We would do so any time. Obviously that is not possible. So we have to revisit the issue from time to time. The average length of time between increases of the minimum wage is 6 or 7 years. You cannot do it the first couple of years. We know that. As much as we would like to, we recognize the limitations of increasing the minimum wage. But over a period of time, you finally have to come to the conclusion that, if you cannot do it in 2 years, if you cannot do it in 3 years, at least you have to do it in 5 years.

That is really what this is all about—a recognition that we could not do it before but we ought to do it now—now that we have reached a purchasing power level that approaches the lowest in history.

So certainly the Senator from Oklahoma recognizes, as all of us do, that this is the time to face up to the facts and adjust this minimum wage as we know we must.

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

The PRESIDING OFFICER. The time has expired.

Mr. DASCHLE. My time has expired. I appreciate the indulgence of the President.

Mr. MURKOWSKI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Fifteen seconds.

Mr. MURKOWSKI. Mr. President, I think we have just witnessed a preview of the course of the Senate action from here on until the elections. It is going to be crass political attacks against the Republican Presidential nominee, BOB DOLE. Nothing meaningful is going to get done in this body, and that is simply too bad.

The PRESIDING OFFICER. All time has expired.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

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

AGRICULTURAL MARKET TRANSITION ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. MURKOWSKI. Mr. President, I ask for the yeas and nays on the conference report to accompany H.R. 2854, the farm bill.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 74, nays 26, as follows:

[Rollcall Vote No. 57 Leg.]

YEAS—74

Abraham	Ford	McConnell
Ashcroft	Frist	Moseley-Braun
Baucus	Gorton	Moynihan
Bennett	Graham	Murkowski
Biden	Gramm	Murray
Bingaman	Grams	Nickles
Bond	Grassley	Nunn
Boxer	Gregg	Pell
Bradley	Hatch	Pressler
Breaux	Hatfield	Robb
Brown	Heflin	Roth
Burns	Helms	Santorum
Campbell	Hutchison	Shelby
Chafee	Inhofe	Simon
Coats	Inouye	Simpson
Cochran	Jeffords	Smith
Cohen	Johnston	Snowe
Coverdell	Kassebaum	Specter
Craig	Kempthorne	Stevens
D'Amato	Kyl	Thomas
DeWine	Leahy	Thompson
Dole	Lieberman	Thurmond
Domenici	Lott	Warner
Faircloth	Lugar	Wyden
Feinstein	Mack	

NAYS—26

Akaka	Feingold	Levin
Bryan	Glenn	McCain
Bumpers	Harkin	Mikulski
Byrd	Hollings	Pryor
Conrad	Kennedy	Reid
Daschle	Kerrey	Rockefeller
Dodd	Kerry	Sarbanes
Dorgan	Kohl	Wellstone
Exon	Lautenberg	

So the conference report was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRESIDIO PROPERTIES ADMINISTRATION ACT

The Senate continued with the consideration of the bill.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Kennedy amendment No. 3573.

Edward M. Kennedy, Paul Wellstone, Joe Biden, J.J. Exon, Chuck Robb, Carol Moseley-Braun, Christopher Dodd, Bryon L. Dorgan, Claiborne Pell, Kent Conrad, John F. Kerry, Ron Wyden, David Pryor, Russell D. Feingold, Paul Sarbanes, Patrick Leahy, Dianne Feinstein, Frank R. Lautenberg.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate shall be brought to a close?

The yeas and nays are ordered under rule XXII.

The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. THOMPSON). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—55 yeas, nays 45, as follows:

[Rollcall Vote No. 58 Leg.]

YEAS—55

Akaka	Ford	Moseley-Braun
Baucus	Glenn	Moynihan
Biden	Graham	Murray
Bingaman	Harkin	Nunn
Boxer	Hatfield	Pell
Bradley	Heflin	Pryor
Breaux	Hollings	Reid
Bryan	Inouye	Robb
Bumpers	Jeffords	Rockefeller
Byrd	Johnston	Roth
Cohen	Kennedy	Santorum
Conrad	Kerrey	Sarbanes
D'Amato	Kerry	Simon
Daschle	Kohl	Snowe
Dodd	Lautenberg	Specter
Dorgan	Leahy	Wellstone
Exon	Levin	Wyden
Feingold	Lieberman	
Feinstein	Mikulski	

NAYS—45

Abraham	Faircloth	Lugar
Ashcroft	Frist	Mack
Bennett	Gorton	McCain
Bond	Gramm	McConnell
Brown	Grams	Murkowski
Burns	Grassley	Nickles
Campbell	Gregg	Pressler
Chafee	Hatch	Shelby
Coats	Helms	Simpson
Cochran	Hutchison	Smith
Coverdell	Inhofe	Stevens
Craig	Kassebaum	Thomas
DeWine	Kempthorne	Thompson
Dole	Kyl	Thurmond
Domenici	Lott	Warner

The PRESIDING OFFICER. On this vote the yeas are 55, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 AND 1997—CONFERENCE REPORT

Mr. HELMS. Mr. President, I ask that the Chair lay before the Senate the conference report to accompany H.R. 1561, the State Department Authorization bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1561), a bill to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for United States foreign assistance programs for fiscal years 1996 and 1997, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of March 8, 1996.)

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent to call off the quorum call for 5 minutes to speak as in morning business.

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

NO GIFT BAN EXEMPTION

Mr. WELLSTONE. Mr. President, today in the Washington Post, and yesterday in the Congress Daily, there were some articles suggesting that Senator MCCONNELL, Chair of the Senate Ethics Committee, was talking about a blanket exemption on the gift ban—and there may be changes to this, and I hope so—for the upcoming political conventions in San Diego and in Chicago.

Mr. President, I want to speak very briefly—and I suspect that I speak on behalf of other colleagues, Senator MCCAIN from Arizona, Senator FEINGOLD from Wisconsin, Senator LAUTENBERG, Senator LEVIN—after more than 2½ years of negotiations and several hard-fought battles, just as the ink is drying, for a major change like this to be proposed, I think would be a serious breach of faith with the people in our country.

Mr. President, a friend and former Senator, Eugene McCarthy, who, by the way, will be 80 this weekend, has joked with me about being a "Calvinist" on congressional gift rules, but the reason many of us Senators worked very hard on this reform is that we want people to have more confidence and more trust and more faith in the political process. I just want to say that I really think if there is any kind of blanket exemption here, it would be a terrible mistake.

I can see the headlines now: "Members of Congress Take a Holiday from New Ethics Rule;" or "Pressed By Special Interests, Members Backslide to Provide Access;" or another headline,

"Safe Harbor From Ethics Rules Members Let Their Hair Down at the Conventions."

Mr. President, I just want to make it clear to colleagues that we would be making a terrible mistake. It is one thing if there are specific issues that have to be resolved, specific problems where maybe there could be minor clarifications. I say just maybe because I think this gift ban legislation is very reasonable.

But, quite frankly, people do not want to see us go into these conventions and having special interests pay for our hotels or having them pay for various kinds of outings or having them pay for fancy dinners. It is just simply out of the question, Mr. President.

We have a $50 limit on a gift. You can take one up to $50. I say if somebody is thinking about eating more than $50 worth of shrimp at a gathering, this is becoming more a health care issue, not an issue of gift reform.

I do not mean to be just talking about this with a twinkle in my eye, but I want to say to colleagues, I do not know what was intended by these comments, but those who worked very hard on this certainly would be out on the floor. If there was any broad or blanket exemption, we would oppose it with all our might. And, more importantly, people in this country would not stand for it.

Mr. President, let me just say one more time: The ink is barely dried on these new gift rules, and some are now proposing to relax them. All of a sudden we hear about possible exemptions from the gift rules while Members are at the conventions. For Democrats and Republicans alike—let me be bipartisan—it would be a huge mistake to go back on the very reform law that we passed a few months ago. We must not do it.

There should not be any broad exemptions for these political conventions. We ought to live up to the law of the land that we passed. We ought to live up to this reform. We all ought to go by very high standards. I think people want us to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 AND 1997—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. HELMS. Now, Mr. President, will the Chair review for me the unanimous consent in terms of time.

The PRESIDING OFFICER. The agreement is 2 hours under the control of the Senator from North Carolina, Senator HELMS, or his designee; 2 hours under the control of Senator KERRY or his designee; 2 hours under the control of Senator NUNN; 3 hours under the control of Senator JOHNSTON; and 1 hour under the control of Senator FEINSTEIN.

Mr. HELMS. That makes 2 hours on our side. That is a total of 10 hours.

The PRESIDING OFFICER. Ten hours.

Mr. HELMS. I yield myself such time as I may consume.

Mr. President, the Senate now has before it the conference report accompanying H.R. 1561, which, of course, is the Foreign Relations Authorization Act for fiscal year 1996 and 1997.

This bill authorizes $6.5 billion for the operation of the Department of State, the U.S. Information Agency, and the Arms Control and Disarmament Agency for 1996 and 1997. That represents a $500 million cut from fiscal year 1995 spending.

After 1996, the bill authorizes funding for the State Department and requires the President to abolish at least one of the three anachronistic foreign affairs agencies: Either the Arms Control and Disarmament Agency, the U.S. Agency for International Development, or the U.S. Information Agency.

During the course of this debate, some may attempt to portray this legislation as isolationist. I hear that all the time. But you better not go out and ask the taxpayers of America what they think of it, because they do not agree with these people who cry isolationism.

These people who oppose this bill and have opposed it will not ever, of course, mention that the Secretary of State, Warren Christopher, himself proposed the abolishment of not one but all three of these agencies. The fact is likely to be ignored, as well, that such prominent isolationists as Henry Kissinger, George Shultz, Larry Eagleburger, General Al Haig, and Jim Baker, all five being former Secretaries of State, support this, testified on behalf of it, and urged that we pare back these anachronistic, bloated foreign affair agencies. Of course, the media did not say much about that. They never do.

This bill, of course, does not cut the muscle out of our foreign affairs apparatus. What it does do is cut the fat—a little bit of it—by making deep and necessary reductions in the current bloated and unwieldy Federal bureaucracy that says it is dedicated to foreign affairs.

This bill cuts $500 million from the 1995 spending level. I have already said that. I do not think that is isolationism. If it is isolationism, Mr. President, let us make the most of it, because if I could have my full way, we would cut even more deeply across the board and save the taxpayers billions upon billions of dollars, not only in terms of the State Department but all across this bloated Federal bureaucracy.

This bill is simply a recognition that the U.S. Government wants too much money and desperately needs to reduce the $5 trillion Federal debt that has been piled up and will be dumped on the backs of young people. Simply put, the State Department can and must do more with less, and the greatest advocates of that have been the present Secretary of State, before he was instructed to take a hike, and five former Secretaries of State, who stood up and said, "This needs to be done."

Most important, in agreeing to this conference report, the Senate has an opportunity to send to the President of the United States a bill to disestablish at least one anachronistic Federal agency and, thereby, save the American taxpayers $1.7 billion. It was my intent, when I embarked on this legislation, to do far better than that, but the distinguished Presiding Officer knows what happened all of last year, and for most of this year—it was filibustered. There were instructions from the White House to delay and obfuscate and not to let this bill pass because it will cost some bureaucrats their jobs. So they filibustered. And only when the Senator from North Carolina said, "All right, if you are going to filibuster this bill, you are not going to get any more ambassadors, and you can tell your President that." Pretty soon, they said, "Let's make a deal." When they made a deal, they got the ambassadors. But if they had not made a deal, at least to have a vote on this legislation, those ambassadors would still be sitting twiddling their thumbs.

Let me remind all involved that Republicans were elected in 1994, in the majority of both the House and Senate, to cut the size of the Federal Government and to eliminate waste by the Federal Government. And this is the first piece of legislation to be sent to the President of the United States which will result in one agency—one anachronistic Federal agency—being abolished.

I sat at home the night that the President delivered his State of the Union Address. I would rather be with Dot Helms than go to any State of the Union Address. She is a lot better company. I heard the President say over and over again—it was a great show, by the way—"The era of big Government is over." Do you remember him saying that? Some people cheered, including the few conservatives who were sitting down there. Well, the President will soon have the opportunity to prove that he meant that. But, already, the White House is sending word that the President is going to veto this bill, minimal as it may be.

Mr. President, after months of foot-dragging and calculated delays, our friends on the other side grudgingly allowed our reform efforts to be voted on in the Senate and went into a conference committee with the House of Representatives. Mr. President, I have participated, during my nearly 24 years in the Senate, in a lot of conferences. But this conference was one of the most peculiar I have ever seen or heard about, let alone participated in. Prior to the convening of the conference between the House and the Senate, the Democrat Senators made three demands, and I believe the majority made every possible good-faith effort to meet those demands. First was on the question of funding levels. This conference report is consistent with the Commerce, State, Justice appropriations bill on nearly every account. The funding levels contained in this bill are the best that the President of the United States is going to get from a Republican Congress.

Second, despite receiving no input whatsoever—not a syllable—a bipartisan attempt was made to work out an acceptable compromise on population funding. That not being possible, the entire issue was then set aside for later consideration.

Finally, the Democrats demanded that no more aid provisions be included in the final conference agreement. Again, the majority agreed and obliged. Except for the Peace Corps and some antinarcotics funding, there are no foreign aid authorizations in this bill. Important provisions necessary to bring peace in Ireland and to end the embargo of Armenia are included. What do you know? Despite all of these concessions that we made, when the conference began, not one Senate Democratic conferee—except for JOHN KERRY of Massachusetts, with one brief visit by the distinguished Senator from Rhode Island, Senator PELL—attended any meeting of the conference. Senator PELL just visited briefly one time, and JOHN KERRY was there for a while.

Now, the conference met on five separate occasions over a period of 2 weeks, and never did any other Democratic member of the Foreign Relations Committee even set foot in the room.

Mr. President, the Office of Management and Budget recommends that the President veto this bill when it is presented to him. According to an OMB statement, one reason the President should veto the bill is because "it fails to remedy the severe limitation on U.S. population assistance programs placed in the fiscal year 1996 foreign operations bill."

Do not be deceived by the words "population assistance program." It has nothing to do with assisting the population. It has everything to do with unborn babies that the Federal Government wants to finance to be killed.

Now, I suggest, however, that if the President agrees with OMB, then he should not have signed the foreign operations bill if he did not approve of the abortion-related provision in that because it is strange indeed that the President would veto this bill because it does not fix a problem that he, himself, the President, created when he signed the appropriations bill. So that is the inconsistency that we have run into all along.

Mr. President, the distinguished occupant of the Oval Office apparently wants to have his cake and eat it, too. Further, the Office of Management and Budget recommended to the President that he veto the bill because it terminates the Agency for International Development's housing guarantee program. Now, what OMB kept secret, though, was the fact that this program is the international equivalent to the U.S. savings and loan bailout just a few years ago. The General Accounting Office, when recommending the termination of this program reported: "We estimate that the cost to the U.S. Government of future loan default from the existing portfolio of loans is likely to be an additional $600 million."

That is on top of the $400 million already lost, Mr. President. Yet, AID and others in this administration, have been struggling for more than a year to keep this sorry program alive. I suspect that when the American people learn—if the media will dare let them know about it—that Congress has passed and the President has vetoed a bill that would save $1.7 billion and abolish one of those temporary Federal agencies created in 1950—in the 1950's, at least— I think the American people are going to have a definite reaction. By the way, Ronald Reagan used to say, "There is nothing as close to eternal life as a temporary Federal agency." He was right about that. We are trying to do away with one of them. We are not get getting anywhere much. But we will see.

Let me take a moment to recognize the valuable work that has been performed by other of my colleagues on this side of the aisle who served as conferees on this bill— Senator HANK BROWN, Senator COVERDELL, Senator ASHCROFT. Most important, I want to pay my respects to the distinguished Senator from Maine, Ms. SNOWE, who chaired the International Operations Subcommittee and who has worked faithfully side by side with me and others to move this bill forward as best we could in the face of a total blockade by the other side. Senator SNOWE is most knowledgeable about the intricacies of the State Department and the international operations budget.

Well, Mr. President, here we are. We are now at the point, as the saying goes, where "the rubber meets the road." A vote against this conference report is a reaffirmation of the status quo which has contributed so much to the $5 trillion Federal debt that has been run up by the Congress of the United States. Do not blame any President, Democrat or Republican. The damage was done right here and in the House of Representatives. This is where that $5 trillion debt was run up because we could have stopped it.

Those of us over the period of the last 23 years and 3 months, as far as I am concerned, who tried to hold down the spending were described by the liberal media as being tight-fisted and ultraconservative. But I think the young people, when they realize what the Congress of the United States has done in dumping this $5 trillion debt on the American people, are going to have a small revolution of their own. I hope it will start in November among those who are 18 or older.

By the way, Mr. President, back in February 1992, I realized that nobody was paying much attention to the Federal debt which at that time stood at about, as I recall, $3.5 trillion. I think it was February 22 or 23 that I decided to begin making a daily report to the Senate on the Federal debt as of the close of business the previous day. On Mondays the report, of course, was for the close of business the previous Friday.

One day I went into the Cloakroom where Senators were awaiting a rollcall vote that had been scheduled by unanimous consent. I got to thinking about how big $1 trillion is. I went in, and I said, "Fellows, how many million are there in a trillion?" I had all sorts of guesses. These are the folks, myself included, who have been here when this debt has been run up. Only one of them, as I recall, had the vaguest notion of how many million there are in a trillion. Finally one of them got out a piece of paper and scribbled it down. He said, "There are a million million in a trillion." What do you know about that? Now we owe 5 million million dollars—"we" being the coming generation, in the main.

I think that is a criminal act on the part of the Congress of the United States—to run up that debt for these young people to pay.

In any case, a vote in favor of this pending conference report will be a vote to cut Federal spending by $1.7 billion for the American taxpayers while shutting down at least one anachronistic, wasteful, bloated, antiquated agency.

I reserve the remainder of my time and yield the floor.

Mr. DOLE. Mr. President, since last year we have been working hard to reform the foreign policy bureaucracy—to save the taxpayers nearly $2 billion and to get our foreign policy machinery working smoothly. This bill takes a big leap forward in that direction.

And, this bill does even more. It supports numerous U.S. foreign policy

goals—from Europe to Asia—at a time when our interests are being challenged around the globe.

In addition to State Department reorganization, this bill has many other important provisions including:

The Humanitarian Aid Corridors Act, which prohibits U.S. aid to other governments does not block U.S. assistance to needy populations;

Full funding of the administration's request for assistance to Israel;

Funding for the International Fund for Ireland and provisions to encourage recipients to use business practices consistent with the so-called MacBride Principles;

A mandate for the establishment of Radio Free Asia and the beginning of broadcasts into China and other Communist countries in Asia;

Prior notice of Security Council votes on U.N. peacekeeping activities and a limitation of the U.S. assessment percentage for U.N. peacekeeping to 25 percent;

Authorization for the Bosnia and Herzegovina and self-defense fund to provide $100 million to arm and train Bosnian Federation Forces.

The list goes on and on. The Point is that no matter how hard the administration tries to muddy the waters with its long list of objections—no matter how much rhetoric administration officials spew forth—it is clear that the Clinton administration is more interested in protecting the foreign policy bureaucracy and promoting the status quo, than protecting and promoting American interests.

We've heard the administration's objections, but let's look at the facts. This bill is silent on abortion. With respect to Vietnam, the Congress is only requiring that the President certify that his own stated criteria have been met before relations with Vietnam are upgraded. This legislation supports U.S. foreign policy interests and only limits bureaucratic redundancy and inefficiency. This bill allows our limited foreign aid dollars to go further.

Mr. President, to threaten to veto this bill is irresponsible. To actually veto this bill is inexcusable.

Mr. HELMS. Mr. President, I ask unanimous consent that the time in the quorum call be deducted proportionately from both sides controlling the time.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may proceed for up to 5 minutes as if in morning business.

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

Mr. HELMS. To be charged to each side. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. SPECTER. I thank the Chair. I thank my distinguished colleague from North Carolina.

TEEN PREGNANCY PREVENTION WEEK

Mr. SPECTER. Mr. President, I have sought recognition to comment about the establishment of Teen Pregnancy Prevention Week in the Commonwealth of Pennsylvania from March 18 to March 24, and about a meeting of a number of people at Central High School in Philadelphia on Friday, March 15, at 3 p.m. where a group of educators, ministers, students, and I spoke briefly about this subject.

There is enormous controversy on the subject of pro-choice, pro-life, but there is a consensus that there ought to be the maximum effort made toward prevention of teen pregnancy and that, to the extent possible, information should be distributed and there ought to be positive peer pressure on teens on the subject of abstinence.

The birth rate among teenagers remains at a surprisingly and alarmingly high level compared to those of nearly all other developed countries. In Pennsylvania, the pregnancy rate is 58.3 per 1,000 females aged 15 to 25.

A proclamation was adopted which I ask unanimous consent to be printed at the conclusion of these remarks on Teen Pregnancy Prevention Week.

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

(See exhibit 1.)

Mr. SPECTER. Mr. President, this is in line with efforts which are now being made by the Appropriations Subcommittee which I chair, Labor, Health, Human Services and Education, to allocate more funding for Title XX on abstinence. This is a funding issue which I have been active in at the specific request of our colleague, Senator Jeremiah Denton, who was a major spokesman for this issue prior to his departure from the Senate back in 1987.

Mr. President, it is my intention to introduce legislation to increase funding and authorization on the abstinence issue and, also, legislation to promote adoption with tax breaks. My staff and I are currently in the process of securing cosponsors for that legislation, which I anticipate introducing sometime in the latter portion of April.

Mr. President, at this point, I ask unanimous consent that the full text of the proclamation be printed in the RECORD together with the list of the speakers who spoke at the Teen Pregnancy Prevention Week press conference back on March 15, 1996, together with a copy of the "Dear Colleague" letter which I am circulating with the request that any of my colleagues who wish to support this legislation let me know so they may be added as cosponsors.

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

PHILADELPHIA FAMILY POLICY COUNCIL,
Philadelphia, PA, March 14, 1996.

TEEN PREGNANCY PREVENTION WEEK PRESS CONFERENCE SPEAKERS LIST

1. William Devlin, Director, Philadelphia Family Policy Council.
2. Reverend Ray Barnard, pastor, Impacting Your World Christian Center.
3. Dr. Della Blair, Founder and Director, Blair Christian Academy.
4. Dr. Keith Herzog, prediatrician, affiliated with Holy Redeemer Hospital and Medical Center and St. Christopher's Hospital for Children.
5. Reverend Herb Lusk, pastor, Greater Exodus Baptist Church.
6. Tim Julien, Senior at Central High School.
7. Monica Sneed, Junior at Girls' High.
8. Rachel Toliver, Junior at Central High School.
9. Dan Kim, student at Central High School.
10. Senator Arlen Specter; Signing of Proclamation.

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, March 25, 1996.

DEAR COLLEAGUE: I am writing to urge you to cosponsor two bills I intend to introduce shortly: the Adolescent Family Life and Abstinence Education Act of 1996 and the Adoption Promotion Act of 1996.

While there are obviously great differences of opinion on the pro-life/pro-choice issue, there is a consensus that all efforts should be made to prevent unwanted teen pregnancies through abstinence. The first bill does just that.

Where tax breaks for adoption would encourage carrying to term, we should act on that as well. The second bill does just that.

The following describes the essence of the two bills:

Adolescent Family Life and Abstinence Education Act of 1996.—Reauthorizes the Adolescent Family Life (Title XX) program, which funds demonstration projects focusing on abstinence, adolescent sexuality, adoption alternatives, pregnancy and parenting. This program had bipartisan support when originally enacted in 1981 and when it was reauthorized in 1984. Authority for Title XX expired in 1985 and since then, the program has been operating under funding provided in the annual Labor, HHS, and Education Appropriations bill. For FY 1996, the Labor, HHS, and Education Appropriations Subcommittee, which I chair, has provided $7.7 million for the Adolescent Family Life program. Congress should reauthorize Title XX to demonstrate our commitment to abstinence education and the physical and emotional health of adolescents.

The Adoption Promotion Act of 1996.—Provides tax incentives to encourage adoption, a policy which serves as a compassionate response to children whose own parents are unable or unwilling to care for them. This is particularly important in an era when so many teenagers are having babies and are unable to care for them. This proposal is based substantially on the provisions contained in the balanced budget legislation which Congress passed in 1995 but was vetoed by the President.

I hope you will cosponsor one or both of these bills. If you are interested, please contact me or have your staff contact Dan Renberg at 224-4254.

Sincerely,

ARLEN SPECTER.

P.S. A more detailed statement of the bills is enclosed. My office and I would be glad to provide additional information upon request.

EXHIBIT 1

Whereas, In the United States, birth rates among teenagers remain at alarmingly high levels compared to those of nearly all other developed countries and in Pennsylvania, the pregnancy rate is 58.3 per 1,000 females ages 15–19; and

Whereas, the negative effects of early parenthood on the lifelong health, educational status, and financial condition of adolescents are well documented and babies born to teenage mothers are more prone to low birthweight and to have medical and developmental problems, teenage pregnancy is a public health issue of serious concern. Still, it is just one symptom of the greater problem of teenage sexual activity which carries many additional risk; and

Whereas, sexually transmitted diseases (STD's) some of which can be easily cured but others of which can cause permanent damage, infertility, death or harm to an unborn child, continue to affect 3 million teenagers per year, a solution that offers complete protection from these diseases is needed; and,

Whereas, The emotional consequences of early sexual activity can include anxiety, regret, decreased self-esteem, confusion about intimacy and shattered dreams; and

Whereas, "Safe sex" is at best a relative concept since even consistent, correct use of condoms can not guarantee freedom from STD's or pregnancy and offers no protection from the emotional consequences of intimacy without commitment; and

Whereas, studies indicate a decrease in sexual activity among teenagers in recent years, a recent study indicated that 9 out 10 youths want help in saying "no" to sexual pressure, and, abstinence programs designed for pre-teens and teenagers record a clear reduction both in teen pregnancy rates and teen sexual activity at large; and.

Whereas, the people of the state of Pennsylvania are interested in the health and well being of youth, I recognize that young people must be taught the risks of pre-marital sexual activity, the benefits of abstinence prior to marriage, and how to build healthy relationships on a solid foundation. This indicates my belief in the strength and character of the young people of this fine state.

Now, therefore, I Arlen Specter, United States Senator From Pennsylvania, do hereby proclaim the week of March 18 to 24, 1996 to be Teen Pregnancy Prevention Week. I urge all citizens to take part in activities and observances designed to increase understanding of abstinence as the positive solution to the problems of teenage pregnancy and its related issues. This message is not one of mere prevention, but a message of hope. At the local, state, and national levels, I uphold and support the message of abstinence prior to marriage as the healthy alternative for all Pennsylvanians.

In witness thereof, I have hereunto set my hand.

Mr. SPECTER. I thank the Chair. I yield the floor.

Mr. HELMS. Mr. President, on the basis that I mentioned earlier, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 and 1997—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. KERRY. Mr. President, this conference report that we are now considering on H.R. 1561 is not a traditional nuts-and-bolts authorization bill for the Departments of State, USIA, and ACDA. It is, regrettably, a nonbipartisan and controversial bill in its current form.

This bill seeks to reorganize the foreign affairs agencies of the executive branch by forcing on the President a consolidation of one Agency, USIA, AID, or ACDA, even though the administration has made it very, very clear that is unacceptable to them. So, for that reason alone, this particular bill is subject to veto by the President. He has said that he will, indeed, veto it on that basis. I think it is regrettable we are going to take the time of the Senate to go through the process of sending the President something that he has already said he is going to veto, but that is what we are going to do.

But there are other implications in here. If a President of the United States asserts constitutional authority with respect to particular prerogatives within the formulation of the conduct of American foreign policy, it seems to me we ought to be careful to at least examine, if not respect at face value, those assertions with respect to that constitutional authority. And I think that there are legitimate questions here about whether or not it is appropriate, if the President says that is a prerogative and he does not want to be forced into that position, whether or not we should not respect that and create a different formulation by which we end up with the same result.

We did offer a different formulation by which we would end up with the same result during the course of the conference. That was rejected. Specifically, we offered the same amount of savings that we will achieve under the numbers in this bill—actually, a slightly lower aggregate amount of savings—but we recommended that we only hold out the threat of closure of these agencies if the President refused to return to us a sufficient plan with respect to the reorganization of our foreign policy agencies, and we had the right to determine whether or not we thought that was a sufficient plan. If we did not, we could reject it and start again.

In addition to that, there are a series of policy issues attached to what should, in normal circumstances, be a nuts-and-bolts reauthorization. Those policy decisions, each and every one of them, present their own set of problems. One such policy issue is the very, very significant alteration of our relationship with China, it might be said, literally shaking the foundations of that relationship at a very precarious time in our dealings with both China and Taiwan. I will have more to say about that subsequently, as will other colleagues.

In addition to that, it undermines the President's July 1995 decision with respect to normalization with Vietnam, and puts language into the authorizing process that, in effect, sets back our accountability process on the POW/MIA's.

Furthermore, it fails to meet the administration's budget requests for fiscal year 1997, particularly for the critical account of peacekeeping. The United States is engaged, as we all know, in most critical peacekeeping efforts in the world, most recently in Bosnia. To suggest the Congress is going to be unwilling to meet what we know are the agreed-upon figures and responsibilities for those peacekeeping efforts is simply irresponsible. Moreover, it sends a very, very dangerous, damaging message to our relationships with our allies.

Yesterday, I had the privilege of having a meeting with our Ambassador to the United Nations, Ambassador Albright, whom I think most would agree has been really doing an outstanding job on our behalf in New York at the United Nations. She relates that, literally in every debate, in every single effort, now, to try to bring our allies along on some particular effort, she meets with not just resistance, but a level of cynicism and scorn with respect to the United States' arrearages and the United States' slowness in paying with respect to peacekeeping.

Even in Bosnia, we are $200 million shy of a $200 million commitment. And the on-the-ground effort which the European representative, Carl Bildt, is trying to implement on our behalf and the European's behalf, is significantly restrained by virtue of the perception that we are not serious, we are not there, we are not going to really leverage this and try to guarantee that the on-the-ground civilian component can be as successful as the on-the-ground military component has been to date.

In addition to that, the United States-assessed contributions to the United Nations and its related agencies, as well as ACDA and the International Exchange Programs, are all significantly underfunded for the 1997 year.

I know, as my colleagues know, there is no easier whipping boy in the United States today than foreign policy and the United Nations. If you want to get applause at a local meeting at home, if you want to get people to kind of vent some of their anger at the waste of Washington, all you have to do is say to them, "By God, I think the money ought to be going here to X, Y, or Z

town instead of to these foreign efforts." And most people will automatically cheer and say you are absolutely correct.

When you ask most Americans how much money they think is going into our foreign policy effort, it is really amazing how far off most Americans are. I go to town meeting after town meeting; when the issue comes up, I say, "How much do you think we are paying for foreign assistance, foreign aid? Do you think it is 20 percent of the budget?" And a number of hands go up. "Do you think it is 15 percent of the budget?" Quite a few hands go up. "Do you think it is 10, 9, 8 percent of the budget?" A lot of hands go up, the vast majority. "Is it 5 percent of the budget?" And you get the remainder of the hands with the exception of a few.

Then, when you finally get down and say, "Is it 1 percent or less of the budget," I usually have one or two hands go up. That is what it is. That is what it is. It is 1 percent or less. It is less than 1 percent of the budget of the United States that we commit to all of our interests in terms of peacekeeping, AID, efforts to leverage peace in the Middle East. And most of the money, as we know, is contained within, almost, two items, Egypt and Israel, but significant portions are spread around with respect to some of the development programs and other efforts to curb drugs, narcotics, money laundering, immigration—a whole lot of things that we try to do in that field, including, I might add, one of the most important of all today: our economic enterprises.

We are shortchanging ourselves in places like Hong Kong, Singapore, the Far East, with respect to our Foreign Commercial Service, where we are losing countless job opportunities for Americans, countless manufacturing opportunities in this country, because we do not have the people on the ground sufficient to marry those opportunities with the opportunities in this country. That is extraordinarily shortsighted, because we could pay their salaries many times over in a matter of months, and I think that has been proven many times over.

So, Mr. President, the current level of funding is a very significant issue to the administration, and the administration has appropriately, in my judgment, suggested that those numbers are sufficiently low that that is a reason to veto this bill.

In addition to that, there still is no satisfactory solution to the question of family planning, and it is ultimately a bill that, in my judgment, is deficient.

I think many of my colleagues know that Senator HELMS and I have been grappling in good faith with the central and perhaps most controversial issue in this bill, and that was the reorganization of the foreign affairs agencies.

At the start of the year, I was excited about the proposition, and I still remain excited about the proposition, that we could consolidate, we might even merge, we need to reduce the size. I applaud the Senator from North Carolina in his efforts to try to press that. It is very legitimate. There does need to be a savings. There can be some savings, but I think there is an equally legitimate question about whether or not, at first instance, we should make an executive department decision regarding reorganization.

I think if we were to create the framework, if we were to hold a very heavy sword over the head of the administration, suggesting that if they do not do it sufficiently, they will pay a price, I think that would have been a very appropriate approach and it is one which we offered. In the absence of the administration being willing to accept a forced agency numbered closure, it is very difficult, obviously, to pass a bill.

I appreciate the fact—and I want the chairman to know it—I appreciate the fact that this conference report does contain a compromise on reorganization, and I think that did reflect a willingness of the House Republican conferees to move away from the House-passed bill's requirement that all three agencies be abolished. I want to respect the fact that they did move and say it on the record, and it would have been my hope that we might have been able to come to a final agreement on this.

But regrettably, the compromise does not meet the veto proof test, because it denies the President that executive department right of how to reorganize and, therefore, it is not just the fact of reorganization that is being asserted here, it is the principle of Presidential prerogative which, as we know, is not unimportant in the context of foreign policy.

Moreover, there is a very serious question, which I am confident the Senator from Arizona [Mr. MCCAIN], who is on the floor, will share with me, that it is really inappropriate for this conference effort to prohibit the President from following through on an Executive determination and an Executive right with respect to diplomatic relations with another country. Having determined, as a matter of that Presidential right, that we will establish diplomatic relations, for the Congress to then not fund the requisites of that diplomatic process; that is, an embassy, is to come in through the back door to, again, deny the President the prerogatives of Presidential authority in the conduct of foreign affairs.

So, again, that is a problem with respect to this particular issue.

Mr. President, let me say further that one of the most damaging components of this conference report, which I know the Senator from Louisiana is going to talk about and I know Senator NUNN of Georgia is going to talk about, is the very provocative and, in my judgment, ill-advised initiatives with respect to Taiwan and China.

I do not want to suggest that Taiwan should not be considered at some point for membership in GATT or the United Nations. It may well be that in the context of further marching down the road of one China and two systems and of bringing a sufficient dialog together between China and Taiwan, it will be possible to work those details out. But it is clearly on its face ill-advised in the context of the current difficulties for the U.S. Congress to step in and make extraordinarily important and provocative statements about that relationship that can only lend further fears to a Beijing that is so significantly caught up in, convoluted by, constrained by the transition process today, the leadership transition process.

Any of us has to understand that there are certain limits as to what the center of China, the Beijing regime can do at a time when there is a leadership transition in the shadows and perhaps sometimes not even so much in the shadows. For us to step in and alter in a unilateral way the Shanghai communique and the Taiwan Relations Act and the 1982 further communique would be to disrupt and, in fact, make more dangerous an already fragile and difficult situation.

There is no question but that the President of the United States on those items alone—just on the question of President Lee Teng-hui's visit to the United States, GATT and U.N. membership, and on the question of the relationship of the Taiwan Relations Act and the 1982 communique—those items alone, each and every one of them individually, let alone in the aggregate, ought to be grounds for a veto.

I think it is important for us to understand that while all of us here share a deep-rooted belief that the words of the communique are critical with respect to peaceful transition in Taiwan and that the words of the communique are critical with respect to our commitment to the Taiwanese not to ever be subjected to an invasion or to takeover by force or to a subversion of the democracy they are increasingly choosing and practicing, it would be equally wrong for us to just move away from the policy track that has guided our movements in that region for so long.

I think it is fair to say that if we were serious about establishing that as a policy of the United States Congress, it would be fair to understand that China would interpret that as an extraordinarily belligerent, provocative move that would elicit nothing but a hard-line response and wind up having exactly the opposite effect of what we are trying to achieve in the long run and make the world a far more dangerous place.

I believe that we can continue to back the principles of the communique and Taiwan Relations Act without resorting to those measures. We will still

sell weapons to Taiwan as they need it for defense, and we will still abide by the guarantees of the two systems and of a peaceful transition. But what a terrible mistake it would be to start to assert a sort of "435-person House and 100-person Secretary of State policy" from the U.S. Congress.

Mr. President, finally, let me just say, turning to the funding levels, I want to speak for a quick moment about not just the peacekeeping money, but the relationship with the United Nations itself and our arrearages.

Ambassador Albright has made it very, very clear, and I think all of us need to really think about this—I encourage colleagues to go to New York and meet with representatives of various countries, find people who they respect in the process as observers and truly inquire independently of an advocate of the administration—whether or not our arrearages are creating a legitimate problem in our ability to achieve the very reforms that we are seeking at the United Nations.

In the context of this conference process, Congressman HAMILTON and I offered a proposal that would have allowed for continued leverage to get reform from the United Nations. We proposed that we not pay the arrearages back in one lump sum so that we lose leverage and control, but rather that we agree to pay them back, that we make it clear that we are going to do that, while simultaneously over a 5-year period achieving a fixed set of reforms within the U.N. itself, as well as achieving from the U.N. commitments with respect to changing the formula for contributions in and of itself.

I believe the contribution formula ought to change. The world has changed since the formula was set up. The gross domestic products of our partners have grown, and, on a relative basis, ours is shrinking compared to theirs. So it is appropriate for us to look to the United Nations and to our allies for fair contribution, for burden sharing and for a more fair distribution of that effort.

But right now, as a consequence of our unilateral decision not to pay, our allies are paying more than 100 percent. I will tell you, our allies, ranging from the British, the Canadians, French and others, are looking at us askance and wondering and increasingly feeling a sense of the inappropriateness of our unilateral actions. I know that our envoys are hearing about this on a regular basis, and it is diminishing our ability, Mr. President, to be able to achieve the very goals we are trying to achieve.

Let me say, finally, that this bill is an improvement over the House-passed bill on a number of different questions. It is my hope that after the President has vetoed this bill, that we might be able to quickly meet and resolve these particular issues. It was my feeling, had we embraced a couple of these concepts in the course of the conference rather than simply shunting them aside, we might still have been able to have the consensus and bipartisanship necessary to pass this.

Mr. President, the conference report on H.R. 1561, which we are now considering, is not just a traditional nuts-and-bolts authorization bill for the Department of State, USIA, and ACDA. It is a controversial bill with far-reaching provisions.

This bill seeks to reorganize the foreign affairs agencies in the executive branch by forcing the President to abolish one agency—USIA, AID or ACDA—even though the administration has made it clear from day one that it will not accept any forced consolidation of agencies. It undermines the President's July 1995 decision to normalize relations with Vietnam and threatens to set back the POW/MIA accounting process that we have worked so hard to put in place. It shakes the foundations of United States relations with China and tilts the balance toward Taiwan at a precarious time in the relations between Taiwan and China. It is a bill which fails to meet the administration's anticipated budget requests for fiscal year 1997, particularly for critical accounts such as peacekeeping, U.S.-assessed contributions to the United Nations and related agencies, ACDA, and international exchange programs. It lacks a satisfactory solution to the family planning issue. In short, it is a bill that I cannot support and that the President has indicated that he will veto.

I think all of my colleagues know that Senator HELMS and I have been grappling with the central, and perhaps most controversial issue in this bill—the reorganization of the foreign affairs agencies—for over a year. As I indicated from the start, I am sympathetic to the idea of consolidation, and I believe that Senator HELMS provided the committee with a thought-provoking plan for reorganizing the foreign affairs agencies. Personally, I can envision ways in which functions of the State Department and one or more of the three other foreign affairs agencies could be merged. In fact, as the chairman knows, I offered an amendment in committee to abolish one agency and consolidate its functions into the State Department. However, this proposal—like the chairman's proposal to abolish all three agencies, AID, USIA, and ACDA—was rejected by the administration.

The fact of the matter is that the administration does not now, and has never, supported the forced consolidation of agencies. That is why I worked with the chairman to forge a compromise in the Senate that would force consolidation through savings rather than through the mandatory abolition of agencies, and at the same time allow the Senate to act on S. 908. It was clear then, as it is clear now, that the Senate-passed version of consolidation was the only version that could possibly gain the support of Democrats in this body and of the administration.

I appreciate the fact that this conference report contains a compromise on reorganization which reflects the willingness of the House Republican conferees to move away from the House-passed bill's requirement that all three agencies be abolished. However, this compromise does not meet the veto-proof test because it denies the President the right to determine how to reorganize the foreign affairs agencies under his control. I believe this is a right that any President, Democrat or Republican, would assert.

Section 1214 of this conference report essentially prohibits the President from establishing an American embassy in Vietnam unless he certifies that Vietnam is fully cooperating on the POW/MIA issue in the four areas set forth by President Clinton. The Senate-passed bill contained nothing on this issue. The House bill contained weaker, sense of the Congress language. Unfortunately, the Republican conferees decided to up the ante by including the language now in section 1214—language which was in the fiscal year 1996 Commerce, State, Justice appropriations conference report that President Clinton vetoed. He indicated his opposition to this provision in that veto statement and he has cited it as one of the provisions that will provoke a veto of this conference report.

On the face of it, section 1214 might look like a harmless provision. But the fact of the matter is, this is a veiled attempt to go backwards—to nullify the decision made by President Clinton last July to normalize our relations with Vietnam.

That decision was the culmination of a process begun several years ago by President Bush, when he laid out a road map for improvement in relations between the United States and Vietnam. Under the road map, which the Clinton administration has embraced, genuine progress on the POW/MIA issue would result in the establishment of full diplomatic relations.

Genuine progress has been made. Through the efforts of people like Gen. John Vessey and the often heroic work by our own joint task force personnel and their Vietnamese counterparts in the field, we have a process in place that is producing that accounting.

Of the 2,154 Americans technically classified as MIA's in all of Southeast Asia, we have only 50 in Vietnam whose fate has yet to be confirmed. That means we have confirmed the fates of 146 of the 196 priority discrepancy cases. We have determined that 567 Americans were lost over water or in other circumstances where survival

was doubtful and where the recovery of remains is very difficult. We have recovered 520 remains from Vietnam, 170 of which have already been positively identified as American. The remainder are pending identification by our scientists at CILHI. We have investigated all unresolved live sighting reports and received over 27,000 materials including photos and other archival materials. It is clear that Vietnam is working diligently to help us resolve outstanding POW/MIA cases.

Last November, the Defense Department's POW/MIA office released its comprehensive review of individual cases of Americans unaccounted for in Southeast Asia. In testimony on the report before the Military Personnel Subcommittee of the House Committee on National Security, Deputy Assistant Secretary of Defense James W. Wold stated the bottom line. He said, "We have no evidence that information is being deliberately withheld." In addition, all of our United States military personnel involved in the POW/MIA accounting process, from the Commander in Chief of United States Forces in the Pacific to the private first class excavating a crash site have confirmed that Vietnam's cooperation has been extraordinarily extensive and represents a genuine effort on the part of the Government and people of Vietnam to resolve this issue once and for all.

The United States under Presidents Bush and Clinton made a commitment to Vietnam that the bilateral relationship would move forward as their cooperation on the POW/MIA issue improved. Vietnam is doing its part. The United States must fulfill its commitment in turn. The language in section 1214 of this bill puts that commitment in question and, in so doing, threatens to undermine the successful accounting process that we have put in place.

Apart from the damaging section on Vietnam, this conference report contains several provisions on China-Taiwan issues which are potentially damaging to our bilateral relations with Beijing. For example, section 1708 expresses the Sense of Congress that Taiwanese President Li should be allowed to visit the United States in 1996. Section 1709 advocates Taiwan's admission into GATT and the WTO. Most damaging of all, section 1601 subordinates the 1982 Joint Communique between the United States and China to the Taiwan Relations Act, in order to enable the United States to provide more weapons to Taiwan. This provision unilaterally repudiates a fundamental and longstanding element in the bilateral relationship between the United States and China. The administration has made it clear that this provision is a veto item.

Taken together, these provisions are a provocation to China. They raise the specter of a United States that is tilting toward Taiwan, encouraging Taiwan's apparent quest for independence, and positioning itself to enhance Taiwan's military capabilities in contravention of the fundamental nature of the United States-China relationship. To adopt these provisions now, when China and Taiwan are reaching out to each other to defuse the tensions between them, would be a mistake.

Turning to funding levels, this bill fails to meet the administration's likely budget request for fiscal year 1997, particularly, as I said earlier, in key accounts such as peacekeeping, assessed U.S. contributions to the U.N. international exchanges, and ACDA. I understand that the Republican conferees wanted to stay within the caps set by the budget resolution for function 150, the international affairs function. All of us, including President Clinton, understand that economies must be achieved if the budget is going to be balanced. However, the glide path in the existing budget resolution for function 150 is too steep—as it is for other functions—and if we stick to this glide path, our ability to promote and protect our national interests and to conduct diplomacy will be greatly jeopardized.

For example, we are not going to be able to use our leverage effectively at the United Nations to secure management reforms and revisions in our assessed contributions if we continue to be the deadbeat debtor. This conference report prevents us from paying not only through inadequate authorization levels but also by withholding high percentages of our peacekeeping contributions and our contributions to the regular budget until the President can certify that various reforms have been achieved. There is no disagreement over the need for reform at the United Nations but there is real disagreement among us over how to achieve it. The money card can only work so long and I think its effectiveness has run out. Few, if any, at the United Nations believe we are going to pay and as long as they do not believe it, we have no leverage to promote reform.

This conference report also includes some foreign aid provisions. Of these, the most problematic—and one cited by the administration as a reason for Presidential veto—is section 1111 which effectively terminates the housing guarantee program in several countries such as those in Eastern Europe and South Africa.

Finally, I should point out that this bill is an improvement over the House-passed bill on the question of family planning because it does not contain the objectionable provisions on Mexico City and prohibitions on funding for UNFPA. However, in an effort to avoid a fight over this issue—on which the House and Senate are so divided—the Republican conferees decided to remain silent on the family planning issue. In so doing they missed the opportunity to release funds for population assistance that have been held up under the fiscal year 1996 foreign operations appropriations bill. The restrictions in that bill cut family planning aid by 35 percent below last year's levels, and prohibit using any of the 1996 funds until July. Ironically, such restrictions could actually serve to increase the number of abortions and maternal deaths in developing countries, since they mean fewer couples will have access to contraceptives, health services and information. Therefore, the administration strongly opposes these restrictions and has cited the failure of this conference report to resolve the family planning issue as another reason for a veto.

Mr. President, this conference report represents a radical departure, not only from the traditional bipartisanship that has marked American foreign policy for so long, but also from the traditional bipartisanship that has enabled the foreign affairs committees of the Senate and the House to fulfill their authorizing responsibilities for the State Department and related foreign affairs agencies. Some will argue this is just politics, but they are wrong. The gulf between us is rooted in policy and the policy in this bill is not in our national interests. That is why I am going to vote against this conference report and why the President is going to veto it.

I reserve the remainder of our time at this point in time, Mr. President.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, let me spend just 2 or 3 minutes in respectful response to my friend from Massachusetts. His statement that the Taiwan Relations Act, which is a public law passed by the Congress of the United States, supersedes an Executive order, that is a matter of fact. The United States Congress was clear in its intent to support Taiwan's defense needs when this Taiwan Relations Act was passed.

The 1982 Executive order, referring to the ability of the United States to sell arms to Taiwan, seems to contradict certain terms of the Taiwan Relations Act. Now then, section 1601 does not—does not—repudiate the 1982 Executive order, though I confess that I wish it did. It does, however, clarify that in those instances in which the Taiwan Relations Act and the 1982 Executive order seem to contradict one another, the Taiwan Relations Act is, after all, United States law, therefore, stipulates the policy to which the United States should and must adhere.

Not once—this is the point, Mr. President—not once during the course of the conference between the House and the Senate did a single Member of the House or a single Member of the

Senate raise this provision as a problem. As a matter of fact, I think it is worthy of note that when the staff met preliminarily, the staff of the Senate and the staff of the House, Democrats and Republicans, the Democrats' staff members made it clear that they were not there to participate; they were only to take notes. They refused to take any action or any part in the proceedings. So that is a little bit like the fellow who killed his mother and father and asked for mercy in the court because he was an orphan. They did not participate when we wanted them to, when we were begging them to.

With that said, I remind my colleagues that this provision was adopted by both Houses of Congress. Therefore, it was in both the House and the Senate bills. I also remind my distinguished colleague and friend from Massachusetts that he, himself, voted in support of this exact language during the committee consideration of the State Department authorization bill.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, for a long time now many critics of the administration's Russia policy have been voicing our deep concern that that policy is structured to serve a variety of interests, few of which could be defined as America's national security interests.

Let me just mention two of the more obvious administration positions which manifest a greater concern for Russia's interests than our own. The administration's persistent reluctance to seize the present opportunity to expand NATO has been maintained out of deference to the political sensibilities of current Russian leaders who wish to take political advantage from Russian nostalgia for empire.

The administration's opposition to lifting the unjust arms embargo imposed on the Government of Bosnia, a position which eventually required the United States to deploy our military forces to that country, was partially a consequence of the administration's fear of offending Russia's fraternal regard for the Serbian aggressors in Bosnia.

Mr. President, over the last 2 days we have learned that the administration's Russia policy is intended to serve the interests of at least one American, the President's, to the extent that the President defines his interests as being reelected to office.

The Washington Times reported yesterday and today that at the terrorism summit earlier this month, President Clinton privately pledged to maintain positive relations with President Yeltsin, as both men seek reelection this year, and President Clinton helpfully identified to President Yeltsin one issue of an extraordinary national security value to the United States that the Russian President could help him with—U.S. sales of chickens to Russia.

Mr. President, in the Washington Post today there is an article entitled: "White House Asks for Probe in Leak of Clinton-Yeltsin Talk Memo." Mr. McCurry, that erudite observer of national security issues says in the article:

> The President feels like he ought to be able to sit down with the President of Russia and have a private conversation.

I agree with Mr. McCurry:

> State Department officials said that the Talbott memorandum was circulated fairly widely . . ..

Incidentally, I would like to say I am proud to have opposed Mr. Talbott's nomination on two occasions.

The article goes on:

> The memo, as quoted in the Times, said President Clinton pledged to work with Yeltsin to maintain positive relations with the United States, as both men seek reelection this year. One way to do this, the memo quoted President Clinton as saying, is for Yeltsin to stop restricting poultry imports.

President Clinton said—and I quote:

> "This is a big issue, especially since 40 percent of U.S. poultry is produced in Arkansas," the memo said.

I ask unanimous consent that the article from the Washington Post and an another article from the Washington Times on the issue be printed in the RECORD.

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

WHITE HOUSE ASKS FOR PROBE IN LEAK OF CLINTON-YELTSIN TALK MEMO

(By John F. Harris)

The White House yesterday asked the Justice Department to investigate the leak of a classified State Department memo detailing a recent conversation between President Clinton and Russian President Boris Yeltsin.

Clinton was "concerned" by a report in yesterday's Washington Times based on a memo written by Deputy Secretary of State Strobe Talbott, according to White House press secretary Michael McCurry. It recounted talks between Clinton and Yeltsin earlier this month when both leaders attended an anti-terrorism summit in Egypt.

National security adviser Anthony Lake instructed an aide to call the Justice Department to encourage the FBI to investigate an apparent "violation of federal law," the spokesman said.

At a news briefing yesterday, McCurry said "the Washington Times appears to be illegally in possession of a classified document," but in a later interview he said that comment had been "inartful." The White House believes the illegality was committed by someone in the government who leaked the information, not by the newspaper in taking the document or publishing it, McCurry explained.

Asked for comment on the investigation yesterday, Times editor-in-chief Wesley Pruden said, "I always wish the FBI well in whatever endeavors they undertake."

McCurry said Clinton and Lake considered the leak to be far more sensitive than the typical anonymous disclosure that is commonplace in Washington journalism. "The president feels like he ought to be able to sit down with the president of Russia and have a private conversation," McCurry said.

State Department officials said that the Talbott memorandum was circulated fairly widely within the administration, and would have been seen by senior officials in other government departments, in addition to the State Department.

The memo, as quoted in the Times, said Clinton pledged to work with Yeltsin to maintain "positive" relations with the United States as both men seek reelection this year. One way to do this, the memo quoted Clinton as saying, is for Yeltsin to stop restricting poultry imports. Clinton said "this is a big issue, especially since 40 percent of U.S. poultry is produced in Arkansas," the memo said.

Lake, according to White House and Justice Department officials, instructed the National Security Council lawyer yesterday to initiate a criminal investigation. Justice officials said yesterday that they had not yet turned the matter over to the FBI but expected to do so soon.

McCurry said administration officials have been concerned about other disclosures published in the Times under reporter Bill Gertz's byline, and hinted that law enforcement officers earlier had been called in to track down his sources.

Lake, he said, wanted the FBI to "add this to any ongoing inquiry that they have going."

Gertz, a national security reporter, in recent months has written other articles based on classified documents concerning arms control and missile defense.

The White House has brought on troubles for itself by encouraging the FBI to launch investigations. When White House travel office staff members were fired in 1993, administration officials called in the FBI to investigate the employees. Congressional critics said that was an attempt by the White House to use the agency for political ends.

CLINTON VOWS HELP FOR YELTSIN CAMPAIGN

(By Bill Gertz)

President Clinton, in a private meeting at the recent anti-terrorism summit, promised Boris Yeltsin he would back the Russian president's re-election bid with "positive" U.S. policies toward Russia.

In exchange, Mr. Clinton asked for Mr. Yeltsin's help in clearing up "negative" issues such as the poultry dispute between the two countries, according to a classified State Department record of the meeting obtained by The Washington Times.

Mr. Clinton told Mr. Yeltsin that "this is a big issue, especially since about 40 percent of U.S. poultry is produced in Arkansas. An effort should be made to keep such things from getting out of hand," the memo said.

White House and State Department spokesmen confirmed the authenticity of the memo but declined to comment on what they acknowledged was an extremely sensitive exchange between the two leaders.

The memorandum on the March 13 talks in Sharm el-Sheikh, Egypt, does not quote the two presidents directly but paraphrases in detail their conversation.

According to the classified memorandum, Mr. Yeltsin said "a leader of international stature such as President Clinton should support Russia and that meant supporting Yeltsin. Thought should be given to how to do that wisely."

The president replied that Secretary of State Warren Christopher and Russian Foreign Minister Yevgeny Primakov "would

talk about that" at a meeting in Moscow. The meeting ended last week.

Mr. Clinton told Mr. Yeltsin "there was not much time" before the Russian elections and "he wanted to make sure that everything the United States did would have a positive impact, and nothing should have a negative impact," the memo said.

"The main thing is that the two sides not do anything that would harm the other," Mr. Clinton said to Mr. Yeltsin. "Things could come up between now and the elections in Russia or the United States which could cause conflicts."

The memorandum, contained in a cable sent Friday by Deputy Secretary of State Strobe Talbott, was marked "confidential" and was intended for the "eyes only" of Thomas Pickering, U.S. ambassador to Russia, and James F. Collins, the State Department's senior diplomat for the former Soviet Union.

The memo said Mr. Clinton suggested that the chicken dispute and others like it could be made part of talks between Vice President Al Gore and Russian Prime Minister Victor Chernomyrdin.

Mr. Gore announced Monday that Russia has lifted the ban on U.S. chicken imports that had been imposed out of concern that the chicken was tainted with bacteria.

The Washington Times reported March 8 that Mr. Clinton intervened personally in the poultry dispute late last month.

The president's directives to his staff to solve the problem right away benefited powerful Arkansas poultry concerns. Among them is the nation's leading producer, Tyson Foods Inc., whose owner, Don Tyson, has long been a major contributor to Mr. Clinton's campaigns.

U.S. poultry exports make up one-third of all U.S. exports to Russia and are expected to total $700 million this year.

Asked about the memo on the Clinton-Yeltsin meeting, White House Press Secretary Michael McCurry said yesterday that it is "inaccurate" to say Mr. Clinton promised to orient U.S. policy toward helping the Russian leader's political fortunes. Rather, he said, the president wanted to make sure that issues in the two countries do not hamper good relations. The poultry issue was raised in that context only, the press secretary said.

Mr. McCurry, who said he was present at the meeting, also said the president was referring to "positive relations" between the two countries and not political campaigns.

Those present at the meeting included Mr. Christopher, CIA Director John Deutch, National Security Adviser Anthony Lake and, besides Mr. Yeltsin, four Russian officials, including Mr. Primakov and Mikhail Barsukov, director of the Federal Security Service.

During the discussion, Mr. Yeltsin outlined his political strategy for winning the June presidential elections and said he still had doubts about running as late as last month.

"But after he saw the Communist platform, he decided to run," the memo said, "The Communists would destroy reform, do away with privatization, nationalize production, confiscate land and homes. They would even execute people. This was in their blood."

Mr. Yeltsin said he will begin his campaign early next month, traveling throughout Russia for two months to "get his message to every apartment, house and person" about his plan to strengthen democracy and reforms.

"The aim of Yeltsin and his supporters would be to convince the candidates one by one to withdraw from the race and to throw their support behind Yeltsin," the memo said.

Russian Communist Party leader Gennady Zyuganov is "the one candidate who would not do this" because he is "a die-hard communist," and Mr. Yeltsin noted that he "would need to do battle with him."

Mr. Yeltsin dismissed former Soviet President Mikhail Gorbachev as "not a serious candidate."

"He had awoken one morning and decided to run and would wake up another morning and decide to withdraw his candidacy," Mr. Yeltsin said of his predecessor. "This would be better for him because he now had some standing and if he participated in the elections, he would lose any reputation he had left."

Mr. McCAIN. Mr. President, give me a break. What kind of foreign policy is that? Does President Clinton know that he is President of the United States now and not Governor of Arkansas? Since when is poultry sales a big issue to be discussed between two Presidents? What happened to NATO expansion, Bosnia, proliferation of weapons of mass destruction, recent allusions in Russia to the restoration of the Soviet Union, and a host of other genuine big issues? But what does this President do? He calls a big issue the fact that 40 percent of U.S. poultry is produced in Arkansas, so it is a big issue between himself and President Yeltsin.

Mr. President, that is unacceptable conduct and shows again that on-the-job training has failed as the domestic policy; President puts his toe in the water on foreign policy.

Mr. President, I do not want to diminish the importance of selling chickens to Russia where sales were restricted until now. Poultry sales are a legitimate industry in the United States and surely deserve some consideration. Neither would I begrudge the President's concern for his own home State of Arkansas, which happens to produce about 40 percent of the poultry in the United States. But I would like to think that when the President of the United States sits down with the President of Russia to discuss big issues with him, areas of real security concern to the United States, there would be something somewhat higher on the agenda than chicken sales. I would also like to think that President Clinton would regard United States national security interests to be the priorities of United States policy with Russia, not anyone's reelection.

I assure the President, the satisfactory resolution of outstanding differences with Russia on the questions I have identified will do a lot more to restore the President's credibility as a statesman, and consequently enhance his reelection prospects, than will his efforts to boost chicken sales abroad.

What does the priority given by the President's Russian policy to narrow parochial interests say about his position on other questions which should concern us in Russia? It may say a great deal. The President encourages the IMF to approve one of the biggest loans in its history to Russia. Was this part of the President's plan for his and Mr. Yeltsin's reelection? Is our muted reaction to Moscow's brutality toward Chechnya a consequence of the bilateral Presidential campaign?

As we all read today, the leaked memo by Deputy Secretary of State Strobe Talbott, which referred to this Presidential discussion and President Clinton's intention to conduct our relations in a way that would have only a positive impact on President Yeltsin's reelection prospects, thereby reaffirming once again the administration's personality based Russian policy, has caused the administration to initiate an FBI investigation to determine the identity of the leaker. That endeavor, I am confident, will prove to be a colossal waste of the FBI's time.

What the classified memo really indicates is not some official's indiscretion, but the administration's abuse of the tool of security classification. Chicken sales and the reelection desires of President Yeltsin and President Clinton are not—I repeat, not—state secrets. Indeed, I believe it is very important for the American people to discover at last what interest the administration's policy to Russia, this most critically strategic of relationships, are intended to serve. Today, we have our answer: It is the same interests which most of the administration's policies are intended to serve—President Clinton's reelection.

Mr. President, let me say again, I strongly condemn the use of important U.S. diplomacy, which should be reserved for our most vital national security interests, to serve anyone's campaign interest, much less the President of the United States.

I yield the floor.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I got to the floor to speak about China, but first a word about chickens.

Mr. President, chickens may be an important industry in Arkansas, and they are, but the reason I think it is entirely legitimate—in fact, entirely important—for this President to speak to President Yeltsin about chickens is because Russia was denying entry into the Russian market of American chickens, perhaps grown in Arkansas, but grown in America by Americans, for the wrong reasons. That is, they were not permitting these chickens to come in because they did not want the competition.

Mr. President, this President, any President, has a great interest in open markets, particularly with a country which we are doing a lot to help and who we are encouraging to have open markets. I applaud this President for

seeking to do away with those barriers to open markets in Russia.

Mr. SARBANES. Will the Senator yield?

Mr. JOHNSTON. I yield for a question, yes.

Mr. SARBANES. In fact, the President's efforts, it would seem to me, are part of a strategy to try to bring Russia into the international economic system as a legitimate player like other countries that are playing by the rules of trade. Would that not be correct?

Mr. JOHNSTON. That is precisely right. One of the problems with Russia now is that they do not have open markets. We are trying to encourage that. It so happens that chickens are a huge business in Russia, and the American chicken is more economically produced, is a better quality, and is preferred by Russians.

Mr. SARBANES. It could have been any product, for that matter, but the basic point is that we are trying to move Russia toward a market economy, something that the former Soviet Union did not do. That was a command economy.

Everyone says Russia ought to become a market economy, and obviously the United States and other countries in the West have a role to play in that. It seems to me this effort of the President was part and parcel of trying to move Russia in the direction of becoming a free market system and of participating in the global economy.

Mr. JOHNSTON. This is not the only item of interest and not the only thing that the President discusses with President Yeltsin, but it certainly is a legitimate one.

I can say if those were Louisiana chickens, I would be calling him up and saying, "Mr. President, don't stand for this. Speak to your friend, President Yeltsin, about it."

Now, Mr. President, this time last week we had a very dangerous world situation where two American carrier battle groups were steaming in the vicinity of the Strait of Taiwan and where the People's Republic of China, the largest country in the world, was engaging in live-fire tests, close to Taiwan. It is not an understatement to say that the world was in real danger of a conflagration at that time, not because anyone desired war but because the close proximity of these forces involving live fire made the possibility of a misstep, of a bump in the night between two ships, of a misspent or misfired rocket or shell, a very great danger.

Today, Mr. President, we all breathe easier as the crisis has passed. Mr. President, the problem remains. The potential for a huge crisis remains.

I would like to speak to what I regard as a very fateful decision. That is, the pending legislation; the pending legislation, Mr. President, would move this country, in my view, from a policy of engagement with the largest country in the world to a policy of containment of the largest country in the world, and containment equals—make no mistake about it—a new cold war. I can assure my colleagues that if I know anything about China, they will not be contained, and you can get ready for a new cold war if this bill should pass and become law.

Now, this bill, Mr. President, in my view, is potentially the most insidious bill that has been passed by either House in my 24 years in the U.S. Senate. I believe it has the significance, if passed and signed into law, of the Tonkin Gulf resolution. I think Senator NUNN has called it a declaration of war. The President has promised to veto it.

Mr. President, make no mistake, it is a very serious step for the U.S. Congress to be considering. I believe the Senate should sober up before this ill-conceived policy takes root.

Now, just what is this bill, and why do I call it so insidious and potentially—potentially—a Gulf of Tonkin resolution? First, it says that the Taiwan Relations Act supersedes the Shanghai communique. Of course, the Taiwan Relations Act deals with the defense of Taiwan; the Shanghai communique deals principally with a one-China policy. What do we mean by one-China policy? One China, two systems, peaceful reunification. The three points of the triangle which have been repeated by everyone: one China, two systems, peaceful reunification.

To say that the Taiwan Relations Act supersedes the Shanghai communique is not simply to say, as my dear friend from North Carolina, Senator HELMS, says, simply to state the obvious—that is, that an act of Congress supersedes an executive agreement. We know that. What it is saying is that, in effect, it nullifies, it subsumes, it cancels out the Shanghai communique and that the United States Congress, in this case, because it is a sense-of-the-Congress provision, that the United States Congress is abandoning the Shanghai communique. That, Mr. President, is very serious.

It also encourages the Taiwanese to move toward independence. We also rename and upgrade the Taipei representative office. In itself, this does not constitute a move toward independence. But taken together, particularly with an invitation to President Li Teng-hui to visit the United States "with all appropriate courtesies," these three elements taken together, Mr. President, are unmistakable. They are abandonment of the one-China policy, a move for independence for Taiwan.

Now, Mr. President, the House, apparently sensing the seriousness of the step they were taking, adds a further element not contained therein that it is our intention to assist in the defense of Taiwan, which, indeed, might be necessary should we enact this ill-conceived piece of legislation—a fateful, fateful decision, Mr. President.

One thing is absolutely clear: The unilateral declaration of independence by Taiwan is unacceptable to the People's Republic of China and will be resisted. Now, up until last year, things were going along swimmingly. The United States, the People's Republic of China, and Taiwan were all reading off the same song book. We were all saying one China, two systems, peaceful reunification and, indeed, we have reinforced, many times over, the Taiwan Relations Act, which was not at all inconsistent with one China, two systems, peaceful reunification. That is what the Taiwanese were saying, what the PRC was saying, and that is what President Nixon said in the Shanghai communique; that is what President Carter said in the joint communique of 1979; that is what President Reagan said in the joint communique of 1982; that is what President Bush said, and that is what President Clinton is saying. All were saying the same thing.

Things were going along very well. There were 1½ million Taiwanese who visited the People's Republic of China. There were tens of billions of dollars of investment by Taiwan in China. Talks were going on between the leaders of the two countries, or two areas. And then what happens? Well, we had what the Congress regarded as a very innocent invitation by Cornell University to have their distinguished alumni, President Li Teng-hui, come back and make a speech. We, in the Congress—or at least almost everyone in the Congress said, "Look, this is not a State visit, there is no significance to this. This is simply a homecoming to the old university, the old school." Well, Mr. President, we may have thought that in the Congress—but, I did not share that view, and I was the only Member of the Senate who voted against that visit—but I can tell you that the world, and certainly the People's Republic of China, and certainly Taiwan, did not regard it as such an innocent visit. On the visit, he brought along government leaders from Taiwan. He promised no press conferences, but said, "I will be available if you stand behind this bush when I am walking on the Ellipse. You can ask your question and I will give you an answer." And that happened.

He was met by Members of Congress. It had all the trappings, Mr. President, of a State visit, and it was clearly regarded by the People's Republic of China as being something more than a homecoming to the old university. And that, in turn, Mr. President, has been accompanied by a whole barrage of acts and initiatives designed to move in the direction of independence.

Why does a province of China—if that is what Taiwan is, as the Chinese claim—need membership in the United

Nations? That upsets the PRC. We put that kind of language, also, in our resolutions, and, Mr. President, it constitutes still another act of this Congress moving toward unilateral independence of Taiwan.

Mr. President, just a few days ago, Deputy Foreign Minister Liu was meeting with us down in S-211, a stone's throw from where we stand. Ten Senators were there. We had an in-depth discussion with Deputy Foreign Minister Liu. He reiterated the peaceful unification theme. He reiterated the indelible, irrevocable friendship between the United States and the People's Republic of China. But he said, "The United States, of all countries, should understand our attitude in the People's Republic of China about Taiwan." He said, "You fought a civil war, the bloodiest war in the history of your country, about the question of unification, and about the question of unilateral declarations of independence. So you, America, ought to understand our feeling, because our feeling was just like President Lincoln's feeling about the American Civil War." He said, "The issue is sovereignty. We regard a declaration of independence by Taiwan as a matter of sovereignty, which we will safeguard." He said—and I took down these notes—"It is an overriding task. There is no other choice." He quoted Deng Xiaoping as saying this was an "explosive issue, as big as the universe; compared to it, all other issues are easy."

Mr. President, you can take solace from that in the repetition of the peaceful reunification. You can take solace from the fact that it is a one China, two systems, peaceful reunification system, which he repeated. You can take solace from the fact that he repeated the friendship of the People's Republic of China with the United States. But it is unmistakable—unmistakable—that a unilateral declaration of independence by Taiwan and moves by the United States Government to encourage that are unacceptable and are going to lead to trouble.

Now, if that is what we are going to do, Mr. President, as a nation, as a State Department, as an administration, as a Congress, I, for one, want this Congress to have its eyes wide open about what the implications are of that fateful move. This is not a series of moves to invite people back to universities for the old alumni to get together and give the old college yell. It is not about that. It is about war and peace, about the stability of Asia, and it is about the future of this country.

Now, Mr. President, one of the most important questions I think you can ask is: What is the defining international event of this era? Is it the war in Bosnia? Is it peace in the Middle East and all that that portends and all of its implications? Is it the demise of the Soviet Union and the rise of Russia and privatization, and all of the problems that are happening in Russia? I do not believe so. Mr. President, Sareed Zakaria, the managing editor of Foreign Affairs, stated in the New York Times of February 18 that, "The defining international event of this era is the rise of China to world power." It is happening so fast, its implications are so vast that it is an event that is being missed. And, certainly, the implications of the event are being missed by the vast proportion of Americans, and I submit, by most Members of this Congress. Indeed, I, myself, really missed the significance of what is happening.

I first went to China with a number of my colleagues in 1976. At that time, China was backward and poor and oppressive. It was depressing. Everybody dressed the same. No food. No travel. No automobiles. No jobs. No nothing. I remember the one particular riveting sight I saw was the cabbages piled on the street—and this was in November—for the winter. There was just a big mound of cabbages to be used by the people to eat. They were piled on the street, and they would come and grab a cabbage when they needed it. And you could go to the markets, which we did, and there was nothing there.

So, Mr. President, as I read about progress and growth in China, as the years passed since that trip in 1976, I intellectually could believe it. But I just did not really realize it until 1992 when I went to a conference where Larry Summers, who at that time was the chief economist of the World Bank, was making a speech. He said that China would be the largest economy in the world shortly after the turn of the century. These words rang in my head like an unbelievable statement—the largest economy in the world, that backward country that I saw, was impossible I thought.

So I made arrangements within a month to go to China. Mr. President, I was blown away. It was astonishing. It is one vast construction site in China. It is already the second or the ninth largest economy in the world depending on how you calculate those things, what figures you use. But it is arguably the second largest economy in the world. There are traffic jams. There is abundant food. There is colorful and even stylish clothing. Forty percent of the people have color televisions. Twelve percent of the people in China had VCR's. You have CNN, you have five-star hotels, and as I mentioned, you have traffic jams.

In 1976, when we landed in Shanghai, they did not even have automobiles. They had to bring the automobiles down from Beijing on railroad cars. Now when you go to China there are traffic jams. On my trip last year, going back to Beijing from where we were should have taken about 2½ hours. It took 7 hours because of the traffic jams.

The growth is so vast. Kwangtung Province, where I arrived, is larger than any country in the European Community, other than reunited Germany. They have had in the previous 10 years a cumulative growth of 440 percent—440 percent in 10 years. It is a growth rate today of three to four times the growth in the United States. We are very proud of our growth rate here. They continue to project a growth rate of 8 to 9 percent.

Mr. President, it is astonishing what is going on. I urge my colleagues, every Member of the Senate, to get over there and see. See for yourself, not just the growth, but make your own opinion about what kind of country this is and what kind of future they have.

In my view, Mr. President, 20 years from now our country will be judged by its success in foreign policy, in its stability, in the prosperity of its citizens, in the job rate, and in the growth rate, all of those things, but also by how successfully we deal with China and these other rapidly growing countries on the Pacific rim.

This is one area where we make or break, in my judgment, the future of this country.

So just what are the implications then of having a policy—of changing from a commitment to engagement to a policy of containment toward this rapidly growing country? I can tell you, this, Mr. President, a policy of containment, I believe, leads to cold war. Here is what I think is possible. A hot war is possible—not probable, but it is possible. The destabilization of Asia is an expected event.

What is Japan going to do when the area becomes destabilized? I can tell you what Japan is going to do. They are either going to insist that the United States come in with our nuclear umbrella in vastly greater numbers, or they are going to want to rearm. It is tit for tat. When Japan begins to rearm, the People's Republic of China is going to want to rearm that much more. What do they do in Indonesia? They will want to rearm. What about Vietnam, which has been a traditional enemy of the People's Republic of China? They are going to rearm. Pretty soon you have a real donnybrook of a cold war.

Mischief in Korea? Look at the People's Republic of China. They have played a very salutary and peacemaking role with the United States in trying to moderate North Korean policy. Believe me. Everybody knows that. As a member of the Intelligence Committee, I can tell you that everybody knows that. You can read it in the paper. But if they are suddenly our adversary, what is their role going to be with respect to Korea? Arms proliferation? Oh, I know, it has been prominently printed that they have violated

the MTCR, the Missile Treaty Control Regime, by shipping M-11 rockets to Pakistan and that they are shipping magnets which can be used for uranium enrichment also to Pakistan.

Mr. President, there is a lot of evidence printed in the paper about these things. I must tell you that, while I clearly do not countenance what they have done or what they have alleged to have done, these are hardly the kind of violations that rise to the level of what is possible. These enrichment magnets that they talk about can be used for uranium enrichment, no doubt. But they do not find themselves on the schedule of things that were prohibited. That is their argument at least; it is for uranium enrichment and not for making bombs. On the MTCR violations, they are not alleged to have shipped anything lately. None of that has appeared in the newspapers.

The administration, faced with the information, did not see fit to put sanctions for that reason. But whatever their present conduct is with respect to proliferation, it is nothing, compared to what they could possibly do. Do not forget what their capabilities would be on proliferation. They have the capacity to vastly increase their military spending. They are being criticized for increasing it way too much right now. But it is less than 12 percent of what we spend.

Mr. President, they have the capacity. If we want to provoke them, if we want to challenge China's pride and national feeling, believe me, they can increase way beyond 11.8 percent of what the United States spends.

What kind of damage would this do to the U.S. economy? Well, you can count on inflation because I guess we, along with all of this new cold war, revoke MFN. And all of these products which we import from them, we pay more for those. How much tax would we pay for this new cold war, for this new military buildup that would come? How many lost jobs in America? Most important, Mr. President, could we be successful? If we set out to contain China, could we be successful? I can tell you this, Mr. President. We successfully contained the Soviet Union, but it took us trillions of dollars, it took us 40 years, and it took the unified support of all of the countries of Western Europe all working together, all joining together in NATO.

Who is coming to the defense of the United States saying, "Yes, United States, let us contain China." Who is doing that? Name for me one country that is doing that outside of Taiwan. Do the Germans? No. Look, Helmut Kohl has been to the PRC—over there at least twice seeking commercial contracts. They have invited Li Peng to come to Germany. The British? Oh, no. They may disagree a little bit about Hong Kong, but, Mr. President, the British are not trying to contain the People's Republic of China. The French? No. The French are selling nuclear reactors to China and beefing up in contracts all the time.

Nobody would support a policy of containment. It is a cold war that we would have to sustain ourselves. So, if we are going to try to contain and have a new cold war with the People's Republic of China, we are going to have to do it alone, and it is going to be a very, very expensive endeavor.

We are not going to pass this kind of legislation on the cheap. It is going to be very expensive—not just in the dollars we put into defense, not just in the jobs lost in America, but what it does to the economy of this country.

To abandon one China, to abandon a policy of containment, to make China our adversary would constitute perhaps the greatest diplomatic failure in United States history.

The fault of all of this is that we are presented with two choices. They say it is either appeasement or it is containment. It is either you are weak or you are strong. You have no other choice in between.

Those are the wrong choices. We are told that if we are weak, you encourage and you reward misconduct. If you do not stand up and tell them exactly what to do on human rights, then you are countenancing all these violations. And there are violations of human rights, to be sure. And the same thing is true of trade and Taiwan and proliferation; you have to stand up and be strong, they say. And if you are strong, we can change it all. We have absolute power, so Americans think, or some Americans think, to change China. All we have to do is tell them what to do and they will do it.

As Orville Schell said in the New Yorker—Orville Schell is a great author. You remember he wrote that book about nuclear winter, so he certainly knows about the dangers of international conflicts. But just last week he said in effect: Mao taught his comrades in arms to respect real power.

The idea that, if you are strong, stand up and it will happen. Or Charles Krauthammer said, "We ought to revoke MFN. Send the fleet into the Taiwan Strait," said Krauthammer, and "After all," he says, "if you wait for war, you invite war."

I am not sure what he meant by that. I took it to mean that you ought to go ahead and risk war right now and let us have it sooner rather than later.

Mr. President, this kind of talk—be tough, challenge them, tell them exactly what to do—in my view are not the choices facing this country. Appeasement or containment are not the proper choices.

The faults of China are very well-known. I really believe that the press, to some degree, has done a job of demonizing China. Part of that is China's fault because reporters go to China and they are treated badly. They treat reporters in China like a lot of politicians in America would like to treat reporters if they thought they could get away with it. But we know better and so we smile all the while. How do you think George Bush would have treated reporters if he thought he could have gotten away with it, or Bill Clinton, how do you think he feels about some of these reporters who write about Whitewater? But the Chinese treat them that way and they get terrible press.

Look, China is not a democracy. They do not have a Bill of Rights. They have all kinds of human rights violations. Ask Wei Jen Sheng about that. No question about that. Trade abuses? Yes. Intellectual property abuses? Yes. Live fire was a provocative thing in the Strait of Taiwan. Proliferation, MTCR, all of these things are faults of China which have been publicly and widely chronicled all over the United States, so we know they have plenty of faults.

Mr. President, if they have faults, they are not nearly as bad as their harshest critics would indicate. This is not a hostile regime. This is not a regime that is threatening its neighbors. It is not threatening to invade Taiwan. It is certainly not threatening any of their other neighbors. They never have, Mr. President. They have committed themselves over and over again to what they called nonhegemony in the region. They are proceeding toward Westernization at an astonishing pace. Privatization.

It may not be a democracy, Mr. President, but it is certainly not communism. Their market is about half-and-half—half free open market and about half State controlled, and the proportion that is free is growing all the time. I remind my colleagues that this country does not have a 100-percent free market. There are vast areas such as the post office, such as the Government which are not free in the United States. But theirs is about 50-50. The products produced are free.

The difference between China in 1976 when I was first there and now is mind-boggling. There is travel now. Just to give you one example is the unit system they used to have in 1976. A block captain would give out the job, the ration stamps, and the housing of every person. They were tethered to and controlled by their block and their block captain. They could not travel. They would not have had the money to travel. There was no job to be had elsewhere.

Indeed, in 1989, Tiananmen Square was more of a revolt against the assignment of jobs, I believe, than it was about democratization. Today, the block system does not exist in vast areas of China. There are hundreds of millions of Chinese who travel and have traveled and take jobs on their

own without permission of the block captain.

You want to know what real freedom is, Mr. President, or what real oppression is. It is the inability to travel and get a job and work where you wish. But now there is this freedom to get jobs and jobs in Western-controlled companies where they are absorbing Western culture, Western ways, and Western freedom.

We hear that there are widespread death penalties in China. According to the New York Times, in the first 6 months of 1995 there were 1,865 death penalties meted out in China. That is not disproportionate to the amount of death penalties meted out in this country for those whose conduct merits the death penalty. I happen to be a supporter of the death penalty properly acquired. You may still disagree with 1,865 death penalties meted out in China in the first 6 months, but this is hardly Nazi Germany during their worst times.

The National People's Congress, Mr. President, is acquiring more and more power all the time. Indeed, there are some China watchers who say that Choa Zhenwei, who is the head of the National People's Congress, is a competitor with Jiang Zemin for power. I do not give that as my own view, but it is clear that the National People's Congress is getting additional power and is making a step, a real step in the direction of some kind of democracy. In fact, they fairly recently enacted measures which provide that you cannot be held for more than 30 days without charges being filed, a presumption of innocence.

That sounds fundamental, and it is, but they did not have it in China and they now have it and the National People's Congress gave it to us. You now have lawsuits in China about the environment, about zoning, consumer lawsuits. These did not exist a few years ago. They did not exist, indeed, at the time of Tiananmen Square in 1989.

Now, all of these things which I am telling you may not help Wei Jen Sheng, who is probably the most prominent of the dissidents at this time. But it is progress. And the point is, this is not a rogue regime. It may not be a saintly regime. It is neither. Just as the economy is not a Communist economy, it is not a total free market either. It is about 50–50. And you have to engage China as an emerging country, as a changing country.

What I believe this country needs is to determine what kind of China we want and devise a policy that has some possibility of getting us there. What do we want from China? Most important, we want a responsible member of the international community. We want a country that respects the rule of law—certainly in trade—and in human rights and in commerce and in every way that we can urge them to do so, a responsible member of the international community. We want them, I believe, to be a prosperous China. With 1.2 billion citizens and all that power, a country which is declining, which is not prosperous, is a dangerous country for all of Asia and all the world. Most of all, we want a friendly China.

It is clear, to get there, that China does not respond to a list of demands. I wish that it were true. I wish that we could give them our list and tack it on the church door and expect that these things would be done, but they have shown time and time again that public pressure and hectoring of the Chinese is counterproductive.

I would say the degree of success, of what we are able to extract from the Chinese in terms of our demands, is inversely proportionate to the amount of publicity that we give to those set of demands. Why is it that they are so inordinately sensitive, unreasonably sensitive to the demands of the United States? Very simple. They have one of the most searing histories of humiliation, certainly of a great power, that exists on the face of the Earth. In the last 150 years, they have been dominated at least four times by foreign powers. The opium wars in the 19th century—do you know, Mr. President, in the opium wars, the British invaded and subjugated China because they were trying to restrict their market of opium? Can you imagine anything less reasonable, less civilized, more to be criticized than that? That is what the British did.

The Japanese did not just attack China. You had the rape of Nanking.

When the British controlled Shanghai, as the great commercial center—and they had these clubs; they would not even admit Chinese in the clubs in their own city of Shanghai.

Mr. President, it is a series of humiliations, historically, that have been seared into the consciousness of the Chinese. The 1949 revolution was as much about nationalism as it was about communism, and I can tell you there are strong strands of nationalism that bind the Chinese, all 1.2 billion of them, in the strongest kind of way.

Add to the sensitivity that comes from that historical humiliation the fact that this country is a country in transition. Add to that the explosive growth. In that same article in the New York Times by Sareed Zakaria, the managing editor of foreign affairs, he says, "Nowhere in history has a country grown as fast as China without political and social upheaval."

So here you have a China that is in a power transition, with human growth almost double digits, and you have this sensitivity. So it requires, on our part, the most enormous amount of sophistication and sensitivity that we are capable of giving.

So, what, then, should we do? Mr. President, we ought to get a clear and consistent China policy and articulate it. I wish the President of the United States would make a statement of where we stand. Yes, he has stated that we continue to adhere to the Shanghai communique, but he needs to make that clear. We need to understand that Taiwan is central to this issue of engagement of the largest country in the world in population and soon perhaps to be the largest economy of the world. And what does that mean? It means we need to reassure the People's Republic of China that we will not be a party to unilateral declarations of independence, that the Shanghai communique, that the Nixon doctrine, that the Reagan communique, that the Carter communique are still our policy and are not subsumed and superseded by, but are consistent with, the Taiwan Relations Act.

At the same time, we should continue to reassure Taiwan that we will stand behind them when it comes to any threat of invasion; that unification needs to be peaceful. But that is what we have said all along. That is what China has said all along: One country, two systems, peaceful reunification. Now, what is wrong with that? And why can we not articulate that clearly?

We need to treat their leaders with respect and dignity. As I say, they are enormously sensitive and we frequently fail to recognize that this country, the Middle Kingdom, as it has been historically called, has not, in fact, been treated with the proper respect and dignity.

I do not believe that most Americans know what is going on in China in terms of the huge—not just huge growth, but huge strides forward that they are making. We need to recognize the limitations that there are on human rights. We just cannot give a list of demands, as much as we want to do so. We have to recognize those limitations. That does not mean we do not continue in the strongest way possible, that can be effective, to stand up for human rights and dignity all over the world, but it means that we do so in a way that is likely to be effective.

Mr. President, if we do those things, then it will allow us to be more firm on the missile treaty control regime. It will allow us to be more firm on trade. The problem is, when you have two carrier battle groups steaming in the Strait of Taiwan, then to invoke sanctions on trade looks like a further step toward containment and cold war and makes it inappropriate to take the kind of steps on trade or MTCR that you ought to do.

So that, in effect, by dealing with Taiwan in a traditional way that we should, that is to reassure all parties, one China, two systems, peaceful reunification—to reassure all parties that our policy allows us, then, to be more firm in areas that are likely to make it effective.

We have surely made our point. The Chinese, I submit, have made their point, that is, they are not going to stand for a unilateral declaration of independence. We have made our point with not one but two carrier groups—not one but two carrier battle groups. We have made that point strongly. We have stood up for Taiwan, our friend.

Now it is time for us to be more patient, to lower our voices, to have a greater engagement with the People's Republic of China, to have high level discussions and, most of all, to kill this very ill-considered piece of legislation.

This piece of legislation, at this sensitive time, could do more than anything I know to put us at odds and put us in a position of containment and cold war with the largest nation on Earth.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senate majority leader is recognized.

UNANIMOUS CONSENT AGREEMENT—H.R. 3136

Mr. DOLE. Mr. President, I think we have an agreement on the debt limit which will be coming from the House momentarily.

I ask unanimous consent that when the Senate receives from the House H.R. 3136, the debt limit bill, the bill be read a third time and passed and the motion to reconsider be laid upon the table, all without any intervening action or debate.

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

Mr. DOLE. I further ask unanimous consent that the following Senators be recognized for up to 10 minutes each with respect to the debt limit any time during the remainder of today's session: Senator GRAHAM of Florida and Senator PRYOR.

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

INCREASING THE PUBLIC DEBT LIMIT

Mr. ROTH. Mr. President, today the Senate considers H.R. 3136, a bill to increase the public debt limit to $5.5 trillion. The bill would also increase the earnings limit for all Social Security recipients as well as provide regulatory relief for small businesses. The regulatory relief package mirrors S. 942, which passed the Senate earlier this month by a vote of 100 to 0. As of last night, some details of that package were still being finalized. Senator BOND, chairman of the Small Business Committee, will explain that portion of this bill. I will focus my remarks on the Senior Citizens' Right to Work Act of 1996. However, before I do that, let me spend a few moments on the need for the debt-limit increase.

Earlier this year, we passed two bills, H.R. 2924 and H.R. 3021, to provide for temporary relief from the current debt limit. These two bills created new legal borrowing authority not subject to the debt limit for a short period of time. Today we will act on the long-term extension. According to the Congressional Budget Office, this increase should be sufficient through the end of fiscal year 1997.

Over the past decade, many have argued against raising the debt limit, however, let me remind my colleagues that last fall we passed a budget that would have achieved balance in 7 years. That legislation would have gone a long way to reduce the amount of debt limit increases which are always so painful to enact. Unfortunately, as we all know, President Clinton decided to veto the Balanced Budget Act of 1995.

If we fail to concur in the action of the House, or if President Clinton were to veto this bill, we would find ourselves in a fiscal and financial crisis. The Government could not borrow and bills would only be paid out of current receipts, leading to defaults on interest payments and payments to contractors as well as an inability to make all required benefit payments. These defaults would also lead to higher interest rates.

Congress has raised the debt limit 33 times between 1980 and 1995. Many of these increases were short-term temporary extensions. It is important to remember that the increase of $600 billion included in this bill is the third largest increase. The largest increase was in the 1990 budget deal and the second largest was in the 1993 Clinton tax-increase bill.

I hope that the Senate expeditiously enacts this critically important piece of legislation to preserve the full faith and credit of the U.S. Government.

Now let me turn to title I of this bill. The Senior Citizens' Right to Work Act is a big step toward providing greater economic opportunity and security for America's senior citizens.

Under current law, millions of men and women between the ages of 65 and 69 are discouraged from working because they face a loss of their Social Security benefits. If a senior citizen earns more than a certain amount—the so-called earnings limit—he or she loses $1 in Social Security benefits for every $3 earned. The current earnings limit is a very low amount—only $11,520.

Mr. President, this earnings limit is unfair to seniors and is a barrier to a prosperous economic future of all Americans.

For today's seniors, the earnings limit can add up to a whopping tax bite. According to both the Congressional Research Service and the Joint Committee on Taxation, seniors who have wages above the earnings limit can face marginal tax rates over 90 percent, when one factors in Federal and State taxes.

Mr. President, that is not right.

But as unfair as the earnings test is today, it will be an even bigger problem in the future, a future that is rapidly approaching.

We all know the statistics concerning the aging of America. In the same way, we realize more and more that much of our future economic growth will depend on the ability of older Americans to remain working.

Mr. President, why do we even have this earnings limit? Back in 1935, when the Social Security system was designed, it was widely believed that the economy could support only a limited number of workers. Perhaps this belief was understandable 60 years ago—when we were in the middle of the Great Depression. But today, few, if any, economists hold such a belief. In fact, most believe quite the opposite.

Mr. President, I also believe this bill will improve public confidence in the Social Security system.

Social Security is a contract with the American people. Everyone working today knows the taxes the Federal Government takes from them each payday will be returned by the Social Security program when they retire. For parents working to support a family, this sizable tax can be—and often is—overwhelming.

But what too many seniors find out, Mr. President, is that the Government can exact a high price when they reach 65. If they continue to work, seniors are allowed to earn very little before the Government starts taking back benefits. As I noted earlier, for every dollar a senior earns over the earnings limit—currently only $11,530—he or she loses 33 cents in benefits.

Mr. President, the bill now before the Senate would raise the earnings limit for seniors aged 65 to 69 to $12,500 this year, and to $30,000 by 2002. This legislation is entirely paid for with real savings, not gimmicks.

But we are not just spending money. This bill also provides $1.8 billion of deficit reduction over 7 years.

Even better, according to the Social Security Administration, title I of this bill actually improves the long-range health of the Social Security trust fund.

Mr. President, I ask unanimous consent that a memorandum from the Office of the Actuary of the Social Security Administration that makes this point be printed in the RECORD immediately following my remarks.

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

(See exhibit 1.)

Mr. ROTH. Mr. President, we all know the Social Security trust fund has a long-range solvency problem. Beginning in 2013, payroll taxes will no longer be enough to cover benefits, and by 2031 the trust fund surplus will be depleted.

Although this bill is in no way a complete solution to that problem, every little bit helps.

Lastly, let me note that title I contains two other provisions important to the health of the Social Security system.

First, the bill provides funding for continuing disability reviews. These reviews are supposed to be done periodically to determine if individuals receiving disability benefits under Social Security or SSI continue to be disabled. Historically, this important program integrity activity has not been well funded, and the Social Security Administration has a backlog of over 1 million reviews waiting to be done. Social Security itself admits that billions of dollars have been lost from not doing these reviews, and even more money will be lost in the future.

This bill will help fix that urgent problem.

Incidentally, the continuing disability review provision is supported by the Administration, and a very similar proposal is continued in the President's 1997 budget.

Second, title I of this bill contains a provision to protect the Social Security and Medicare trust funds from underinvestment or disinvestment—which has been endorsed by the Treasury Department.

Title I of this bill was reported out of the Finance Committee unanimously and a similar measure passed the House by the overwhelmingly bipartisan vote of 411 to 4.

I am grateful to Senators DOLE and MCCAIN, both champions of raising the earnings limit, for their tireless efforts on this issue. I am proud to join them in this effort.

Raising the earnings limit is also strongly supported by AARP.

Mr. President, I ask unanimous consent that a letter from AARP be printed in the RECORD immediately following my remarks.

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

(See exhibit 2.)

Mr. ROTH. Mr. President, in closing on the earnings limit, let me quote two distinguished experts from the Urban Institute, Eugene Steuerle and Jon Bakija. These experts have stated, "The simple fact is that the earnings test is a tattered remnant of a bygone era."

Mr. President, let us act now, and send the message to America's seniors that we value their experience and skills.

EXHIBIT 1

MARCH 22, 1996.

From: Stephen C. Goss, Deputy Chief Actuary.

Subject: Estimated, long-range OASDI financial effects of the Senior Citizens' Right to Work Act of 1966—Information.

To: Harry C. Ballantyne, Chief Actuary.

Enacting the "Senior Citizens' Right to Work Act of 1996" (Title II of H.R. 3136) would increase (improve) the long-range OASDI actuarial balance by a total amount estimated at 0.03 percent of taxable payroll. The long-range solvency of the OASDI program would thus be improved by reducing the long-range deficit from 2.17 percent of taxable payroll to 2.14 percent of taxable payroll. These estimates are based on the intermediate (alternative II) assumptions of the 1995 Trustees Report. The balance of this memorandum describes the long-range financial effects of the individual provisions of the title.

Sections 204 and 205 of this act would each increase (improve) the long-range OASDI actuarial balance by an estimated 0.01 percent of taxable payroll. Section 204 would require one-half support from a stepparent at time of filing for a stepchild to receive benefits on the stepparent's account, and terminate benefits to stepchildren upon the divorce of the stepparent and the natural parent. Section 205 would prohibit eligibility to DI (and SSI) disability benefits based on drug addiction or alcohol abuse, respectively. Section 202, which would raise the earnings test exempt amount for beneficiaries at or above the normal retirement age to $30,000 by 2002, would result in negligible (estimated at less than 0.005 percent of taxable payroll) changes in the long-range OASDI actuarial balance. Sections 206 (pilot study on information for OASDI beneficiaries), 207 (protection of the trust funds), and 208 (professional staff for the Social Security Advisory Board) would also result in negligible effects on the long-range actuarial balance.

Section 203 authorizes the appropriation of specific amounts to be made available for fiscal years 1996 through 2002 for continuing disability reviews. This provision will have the effect of increasing the number of continuing disability reviews through 2002, with the result that total costs of the DI program will be lower for the long-range period and that the solvency of the OASDI program will be improved throughout the long-range period. Additional savings will occur if continuing disability reviews continue at the same level beyond 2002 as is provided for in this provision through the year 2002. The effect of this provision, assuming the appropriation of the specified amounts through 2002, is estimated to be an additional increase (improvement) in the long-range actuarial balance estimated at 0.01 percent of taxable payroll.

STEPHEN C. GOSS.

EXHIBIT 2

AARP,
Washington, DC, March 27, 1996.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN ROTH: The American Association of Retired Persons supports the Senior Citizens Right to Work Act—the proposed increase in the Social Security earnings limit—on the pending debt limit bill. We should be encouraging, not penalizing, those who continue to work and contribute to the economy.

AARP has long supported an increase in the earnings limit. The current level of $11,520 penalizes beneficiaries age 65 through 69 who desire to continue in the workforce. Your proposal, which would increase the limit to $30,000 over a 7-year period, is a fiscally responsible way of enabling many moderate and middle-income beneficiaries to improve their economic situation. AARP commends you and your committee for your leadership in the effort to finally address this long-overdue reform.

AARP believes that the earnings limit increase should be financed in an appropriate manner in order to maintain the integrity of the Social Security trust funds. While tradeoffs within the program are necessary, such financing is the responsible course. Towards this end, the Association notes that the Social Security actuaries have projected that your proposal would result in an improvement in the long range actuarial balance of the Social Security trust funds.

The proposed increase in the earnings limit would also send a strong signal to working beneficiaries that their skills, expertise and enthusiasm are welcome in the workplace. The public policy of this nation should be to encourage older workers to remain in the workforce. Your proposal would further that goal.

The Association remains committed to increasing the earnings limit, and we are pleased that Congress and the Administration have agreed to raise the earnings limit in the 104th Congress. Again, we thank you for your leadership.

Sincerely,

HORACE B. DEETS,
Executive Director.

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

Mr. MOYNIHAN. Mr. President, I express the appreciation and relief of all Members of this body and Americans everywhere that we shall, in very short order, under this agreement extend the debt ceiling to $5.5 trillion. That will take us through this fiscal year and past the next election to about September 30, 1997. This particular drop-dead date is out of our way. We can have a good national debate on other issues.

I make the point, Mr. President, that while, again, we have to extend the debt ceiling, for the first time since the 1960's, the United States has a primary surplus in its budget, which is to say that the revenues from taxes and other activities exceed the costs of the operations of the Federal Government.

Debt service makes for a continuing deficit, but it is coming down. The total deficit this fiscal year will be approximately 2 percent of gross domestic product. It was 5.7 percent just a few years ago. This is a good development. It is a bipartisan one. The vote was bipartisan in the House. It is responsible behavior. I thank all concerned.

Finally, Mr. President, I particularly want to thank my colleague, the chairman of the Committee on Finance.

Mr. President, my friend and distinguished associate, Senator JEFF BINGAMAN, has some very laudable concerns to raise the earnings limit for the blind so that in future years it will increase in parallel with the increase for retirees under Social Security, a provision included in this bill.

In that regard, I would like to take this opportunity to thank Senator MCCAIN for his thoughtfulness in pressing a matter of concern to him. The earnings limitation is an obsolete provision from the 1930's. We are gradually going to get rid of it now. Senator

MCCAIN deserves great credit for that, and I would like to so express my appreciation.

With that, I yield the floor, and I thank the managers of this legislation for allowing us to interrupt. Otherwise, it was default by midnight—well, midnight tomorrow. Even so, we have averted that, and we can go on to the proper business of the Senate. I thank the Chair.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, I certainly thank our colleague from New York for his cordial management of this very important issue that had to be resolved.

Mr. BINGAMAN. Mr. President, I had hoped to offer an amendment to the debt limit bill that would have rectified an unjust situation in the legislation concerning the Social Security earnings limit increase for retirees. My amendment would have reestablished the linkage between earnings limit increases for retirees and the blind, a linkage that has existed since 1977. Unfortunately the bill we are considering ends that linkage which I believe is unfair and not supported by adequate policy considerations. However, Mr. President, I understand that passage of this amendment would have potentially damaged completion of the debt limit bill, a bill that has too long been delayed by extremist politics, so therefore I do not feel that now is an appropriate time to pursue my amendment.

However, Mr. President, it is my understanding that the ranking member of the Senate Finance Committee, Mr. MOYNIHAN, has given me his commitment to support my efforts in the Finance Committee and on the floor of the Senate, if necessary, to support an amendment that reestablishes some linkage between the blind and retirees on the next bill reported out of the Finance Committee that amends the Social Security Act. Am I correct in that understanding?

Mr. MOYNIHAN. The Senator from New Mexico is correct.

Mr. BINGAMAN. I also understand that my friend and colleague, Senator MOYNIHAN, will work with me to develop appropriate offsets that will insure that this amendment will not violate the provisions of the Budget Act when the amendment comes before the Senate during this Congress. Am I correct in that understanding?

Mr. MOYNIHAN. Yes, the Senator from New Mexico is correct.

Mr. BINGAMAN. I thank the Senator.

Mr. KYL. Mr. President, I rise in opposition to this bill to increase the public debt limit.

Twice last year, Congress passed legislation that properly coupled a debt limit increase with the steps necessary to balance the budget and thus preclude the need for additional debt limit increases in the future. Twice, the President vetoed the bills.

Let us be clear. If there is any possibility that the Federal Government will default on its obligations, it is a result of the President's insatiable appetite to spend the taxpayers' money.

President Clinton opposed the Balanced Budget Amendment last year. He vetoed the Balanced Budget Act—the first balanced budget to have passed the Congress in 26 years. He vetoed appropriations bills that comply with the strict budget limits for the current fiscal year.

It is the President's spending plan that, more than anything else, threatens to bankrupt the Nation and condemn future generations to a forever declining standard of living.

Mr. President, there is nothing in this bill that will ensure progress toward a balanced budget. The only reason the debt limit increase is going to pass is that it has been coupled with an increase in the Social Security earnings limitation and regulatory reform for small businesses.

Senior citizens and small businesses should not be held hostage to a debt limit increase. We should not have to vote to lead the Nation down the road to bankruptcy in order to ensure that seniors can keep more of their hard-earned income or to relieve small businesses of the regulatory burden that is hindering them.

My constituents know where I stand on the earnings limitation. I have cosponsored legislation in the past to repeal it. I voted four times last year on proposals relating to the repeal or raising of the earnings test, most recently on November 2, 1995.

No American should be discouraged from working, yet that is what the earnings limitation is specifically designed to do. The policy violates the very principles of self-reliance and personal responsibility on which America was founded. It is wrong. Not only does the earnings limit deny seniors the opportunity to work and supplement their retirement incomes, it denies American businesses a lifetime of expertise that many seniors bring to their work. The earnings limitation ought to be repealed.

The regulatory relief provisions of this bill passed the Senate just last week by a vote of 100 to 0. The vote was unanimous. It was unanimous for a reason: small businesses are being overwhelmed by federal rules and regulations.

Obviously, the regulatory relief measure could stand on its own merit. The only reason to include it here is that it will help win votes for the passage of the debt limit increase.

Mr. President, senior citizens, and small businessmen and women deserve better than to be made scapegoats for another debt limit increase. The earnings limit and regulatory reform provisions should be stripped from this bill and passed on their own merit. We should not, however, agree to any further increase in the debt limit until we first put the budget on a path to balance, and obviate the need for future debt limit increases.

Mr. McCAIN. Mr. President, once again we are debating whether or not to raise the Social Security earnings limit. The debt limit increase bill before the Senate contains what is basically the text of S. 1470, the Senior Citizens Right to Work Act.

I have discussed this issue many times on the Senate floor and I do not want to force my colleagues to listen to the same arguments that I have made here for the last 8 years. Therefore, I will be brief.

Passage of this bill will change a depression-era law that is designed to keep seniors out of the workplace. It is long overdue that we take this action.

Mr. President, this bill would raise the Social Security earnings limit from today's level of $11,280 per year to $30,000 per year over a 7-year period. Currently, if a senior citizen earns over the $11,280 earnings limit, the senior loses 1 of every $3 he or she earns. By raising the limit to $30,000, seniors who need to work would be allowed to do so without facing this onerous penalty.

Let me emphasize, this bill does not repeal the earnings limit. Although I would like to see the limit repealed in its entirety, this bill does not do that. It merely raises the limit to $30,000. And, Mr. President, I don't think anyone here in the Senate believes that $30,000 per year is much money.

Rich seniors—those who live of lucrative investments, stock benefit, trust accounts—are not effected by the earnings limit. Their income is safe and sound. The earnings limit only effects seniors who are forced to survive from earned income. Therefore, this bill has no effect on well-off seniors.

On the other hand, a working senior—one who works at McDonalds, or Disney or anywhere just to make ends meet—will benefit greatly by passage of this bill. And the 1.4 million seniors who are burdened by this onerous earnings test will be able to use the money they save due to its change to make their lives a little better.

Again, Mr. President, I don't want to belabor my colleagues with a long dissertation on this matter. They have all heard the arguments again and again. And I believe, if one is to believe the lofty statements that sometimes appear in the RECORD, that virtually every Member of this Senate supports taking action on this matter.

But year after year there have been one reason or another for Members to defeat this bill. There is always some excuse. Well, Mr. President, the time for excuses is over.

The bill before the Senate is not perfect. Many have concerns over technical aspects of it. But, Mr. President, now is the time to pass this measure. If any Members object to a pay for in this bill, then let them suggest an alternative. The sponsors of this bill are open to suggestions. But let me make the record completely clear, any Member who comes to the floor and argues on some technical parliamentary issue is working to defeat this bill.

Unlike the last time this bill was brought before the Senate, we pay for this bill without touching discretionary spending.

This bill is paid for. It is paid for 10 years. It is paid for out of mandatory spending. And specifically, it is paid for out of Social Security.

This bill is paid for by the following changes I will outline:

This bill pays for the increase in the earnings limit through two major changes in present law.

First, the bill ends entitlement to SSDI and SSI disability benefits if drug addiction or alcoholism are the contributing factors material to the determination of disability. Those individuals with drug addiction or alcoholism who have another severe disabling condition will still be able to qualify for benefits based on that disability. So the only individuals who will lose benefits are those whose sole disabling condition is drug addiction or alcoholism.

In fiscal years 1997 and 1998, $50 million of the savings from this change will be added to the Substance Abuse Prevention and Treatment Block Grant, providing additional funds for treatment services. This approach recognizes that while drug addicts and alcoholics need treatment, they are not in fact helped by cash benefits which can be used to pay for their addiction or drinking.

I would like to emphasize that those individuals with a drug addiction or alcoholism condition who have another severe disabling condition will still be able to qualify for benefits based on that disability. In these cases, the bill requires that benefits be paid to a representative payee if the Commissioner of Social Security finds that this would serve the interest of the individual. In addition, the bill requires that individuals whose benefits are paid to a representative payee be referred to the appropriate State agency for substance abuse treatment services. This approach recognizes that such individuals not only need substance abuse treatment but often need the assistance of others to ensure that their cash benefits are not used to sustain their addiction. Over a 5-year period, this change will save approximately $3.5 billion.

Second, the bill makes several changes in the entitlement of stepchildren to Social Security benefits. For a stepchild to receive benefits on the stepparent's account, the bill requires that a stepparent provide at least 50 percent of the stepchild's support, and for stepchildren to receive survivor's benefits, the bill requires that the stepparent provided at least 50 percent of the child's support immediately prior to death. In addition, a stepchild's Social Security benefits are terminated following the divorce of natural parent and the stepparent. These changes will ensure that benefits are only paid to stepchildren who are truly dependent on the stepparent for their support, and only as long as the natural parent and stepparent are married. Over a 5-year period, these changes will save approximately $870 million.

Taken together, these two changes will not only offset the cost of raising the earnings test limit, but will also improve the long term solvency of the Social Security system. In addition, the bill permits adjustments to the discretionary spending caps, so that spending for Continuing Disability Reviews [CDR's] can be increased. If these cap adjustments are fully used and the additional reviews are conducted, an additional savings of approximately $3.5 billion could result. Although these savings are not needed to pay for the increase in the earnings test limit, they would also increase the long term solvency of the Social Security System.

Mr. President, current law applies such an onerous and unfair tax to working seniors that they are effectively forced to stop working. This is unconscionable and it must be changed. Basically, passage of this bill will allow seniors who do not have enough in savings or pensions to work to make ends meet.

It does not help rich seniors who have stocks and bonds. Money derived from those sources is currently exempt from the earnings limit. This limit only affects earned income—money earned by seniors who go to work everyday for an hourly wage.

Mr. President, this bill would raise the Social Security earnings limit from today's level of $11,280 per year to $30,000 per year over a 7 year period.

I strongly believe this reform will result in a change in the behavior of our Nation's seniors. When we raise the earnings limit, seniors will work more, and thus pay more in taxes. I hope that all my colleagues understand this point. This bill will benefit working seniors—those most in need of our help.

Unfortunately, under a static scoring model—one used by the Congressional Budget Office—this amendment would be scored at costing just over $7 billion dollars.

And once again, I want to repeat, this bill is fully paid for without touching discretionary spending.

Mr. President, the Social Security earnings test was created during the depression era when senior citizens were being discouraged from working. This may have been appropriate then when 50 percent of Americans were out of work, but it is certainly not appropriate today. It is not appropriate today when seniors are struggling to get ahead and survive on limited incomes. Many of these seniors are working to survive and make it day to day.

Most people are amazed to find that older Americans are actually penalized by the Social Security earnings test for their productivity. For every $3 earned by a retiree over the $11,280 limit, they lose $1 in Social Security benefits. Due to this cap on earnings, our senior citizens, many of whom are existing on low incomes, are effectively burdened with a 33.3 percent tax on their earned income. Combined with Federal, State, and other Social Security taxes, it will amount to a shocking 55- to 65-percent tax bite, and sometimes even more—Federal tax—15 percent, FICA—7.65 percent, earnings test penalty—33.3 percent, State and local tax—5 percent. Obviously, this earnings cap is punitive, and serves as a tremendous disincentive to work. No one who is struggling along at $11,000 a year should have to face an effective marginal tax rate which exceeds 55 percent.

This is an issue of fairness. Why are we forcing people not to work? Why are we punishing people for trying to "make it." No American should be discouraged from working. Unfortunately, as a result of the earnings test, Americans over the age of 65 are being punished for attempting to be productive. The earnings test doesn't take into account an individual's desire or ability to contribute to society. It arbitrarily mandates that a person retire at age 65 or suffer the consequences.

Perhaps most importantly, the earnings cap is a serious threat to the welfare of low-income senior citizens. Once the earnings cap has been reached, a person with a job providing just $5 an hour would find that the after tax value of that wage drops to less than $3. A person with no private pension or liquid investments—which, by the way, are not counted as "earnings"—from his or her working years may need to work in order to meet the most basic expenses, such as shelter, food and health-care costs.

There is also a myth that repeal of the earnings test would only benefit the rich. Nothing could be further from the truth. The highest effective marginal rates are imposed on the middle income elderly who must work to supplement their income. Plus these middle income seniors are precisely the group that was hit hardest by the 85-percent tax increase included in President Clinton's Budget Reconciliation Act of 1993. This tax increase hits hardest those seniors who were frugal during their working lives in order to save toward their retirement since the tax

affects both their Social Security and their savings. The 85 percent increase has hit a group of seniors who are far from rich with a triple whammy and is a further disincentive to these seniors who could further contribute to our economic growth by working.

We have a massive Federal deficit. Studies have found that repealing the earnings test could net $140 million in extra Federal revenue. Furthermore, the earnings test is costing us $15 billion a year in reduced production. Taxes on that lost production would go a long way toward reducing the budget deficit. Nor, as it continues to become tougher to compete globally, can America afford to pursue any policy that adversely affects production or effectively prevents our citizens from working.

Mr. President, let me also note that changes to the earnings test will in no way jeopardize the solvency of the Social Security trust funds. Let me clarify for the record that the Social Security system will in no way be at risk if we alter the status quo in regards to the earnings test. To claim it would is a red herring and is unfortunately nothing more than a cruel scare tactic.

Let me also point out that one very disturbing consequence of the President's tax increase on Social Security is that it continues to punish those seniors who do work—what little they can due to the earnings test—in order to make ends meet. They are hit with both the tax on their benefits and the Social Security earnings test penalty. This is completely unfair.

It is certainly true that our Nation's seniors—as a group —are better off today that they were when Social Security was created in 1935. It is also true that many other groups in our society are suffering from declining standards of living. Deficit reduction and economic growth are of paramount concern for this Nation. But increasing the taxation of Social Security benefits is neither an appropriate nor effective way to achieve these goals.

Finally, it is simply outrageous to continue two separate policies that both keep people out of the work force who are experienced and want to work. We have been warned to expect a labor shortage. Why should we discourage our senior citizens from meeting that challenge? As the U.S. Chamber of Commerce, which strongly supports this legislation, has pointed out, "retraining older workers already is a priority in labor intensive industries, and will become even more critical as we approach the year 2000."

A number of our Nation's prominent senior organizations are lining up in favor of repealing both of these measures. Among these groups are the National Committee to Preserve Social Security and Medicare and the Seniors Coalition.

Mr. President, before I finish, I want to discuss the issue of delinking the blind. Let me clarify for the record that I support what my colleague from New Mexico, Mr. BINGAMAN had wanted to accomplish. The Social Security earnings limit effects more than just the elderly, it also effects the earnings of blind individuals who receive Government benefits. Unfortunately, the provisions of S. 1470 which were added to the debt ceiling bill breaks the link between the blind and the earnings limit.

Now we must act on the debt ceiling, which we must soon pass in order to ensure that the Government is not forced to close. There is not time to amend this bill and call a conference committee. We must send the debt ceiling to the White House as soon as possible. I was not pleased that the rule in the House did not allow for this issue to be fully addressed. But the House has acted and we are now limited by such action. This leaves us with few options.

I would hope, Mr. President, that perhaps the chairman of the Finance Committee, the Senator from New Mexico, and myself could agree on some date certain for the Finance Committee to address this issue. We could give our assurances to the blind community that the Finance Committee would act and that if they did not, then Mr. BINGAMAN and I would offer this amendment to another bill.

I would hope that we could take that path.

I know it is not the perfect solution. But I am doubtful that we will be able to solve this problem today.

Further, the Senator from New Mexico's amendment would not have fully relinked the blind to the earnings limit. The provisions of the Senior Citizens Freedom to Work Act raises the earnings limit from approximately $11,000 to $30,000 over a 7 year period. The Bingaman amendment would only raise the earnings limit for the blind from $11,000 to $14,000. Although this amendment offers the blind some relief, it does not offer full linkage.

I would hope that we could fully relink the blind to the earnings limit at the appropriate time.

I want all my friends in the blind community to know that I will work with them to see to it that this issue is properly addressed. I know that all of my colleagues are keenly aware of the problems associated with employment for the blind. But as I noted, we must pass this debt ceiling bill now. We cannot wait. We cannot risk closing the Government.

And I again, give every assurance I can to the blind community that we will address this issue and we will do it very soon.

Mr. President, in closing, America cannot afford to continue to pursue two separate policies that adversely effect production and are unfairly burdensome to one particular segment of society. Our Nation would be better served if we eliminate the burdensome earnings test and the grossly unfair tax increase and provide freedom, opportunity and fairness for our Nation's senior citizens.

For 8 long years I have fought to relax the Social Security earnings test. When the President signs this bill tonight or tomorrow, the battle will have been won and America's seniors have a right to rejoice.

Mr. COHEN. Mr. President, today, we are considering legislation which will extend the current $4.9 trillion debt ceiling to $5.5 trillion. I am pleased that the administration and the leadership on both sides were able to come together to take permanent action on this issue. However, I want to focus my comments on another important change included in this bill: Senator MCCAIN's proposal to raise the Social Security earnings limit.

This has been a priority for many years because of the earning limit's detrimental impact on retirees with low and moderate incomes who have to work out of necessity to maintain a decent standard of living. I hope that raising the limit will help these senior citizens who are just barely getting by with a Social Security check and whatever other income they can scrape together.

It is also clear that more and more retirees will need to work in the future. Retirement forecasters report that baby boomers did not get an early start on saving for retirement, so even more senior citizens will find it necessary to supplement their retirement savings and benefits with work to maintain a decent standard of living in the future.

To minimize the impact on the financial health of the trust fund that will occur when the limit is raised, we have had to accept tradeoffs. We will eliminate drug addiction and alcoholism as a basis for disability under the Supplemental Security Income Program and the Disability Insurance Program. This change is estimated to save about $5.5 billion in spending.

The operation of these two programs has a direct effect on the stability of Social Security. The public's positive perception of Social Security as our most successful Federal program is being threatened—not only because of the risk of insolvency—but also because of fraud and program inefficiencies in the Federal disability programs.

I want to remind my colleagues that we are already shifting payroll taxes away from the retirement side of Social Security to shore up the disability insurance trust fund. This reallocation has represented a shift of more than $38 billion in the last 2 years. By 2004, more than $190 billion will be transferred to the Disability Insurance Program. We must continue to guard against the abuse of these Federal benefits, particularly when we are taking

funds out of retirement and putting funds into a program that is deeply troubled.

A blatant example of how our Federal disability programs have gone haywire came to light more than 2 years ago in an investigation of SSI and SSDI benefits being paid to drug addicts and alcoholics. The investigation was conducted by my staff on the Special Committee on Aging with the General Accounting Office.

We found that the word on the street is that SSI benefits are an easy source of cash for drugs and alcohol. The message of the disability programs had been: "If you are an addict or an alcoholic, the money will keep flowing as long as you stay addicted. If you get off the addiction, the money stops."

Rather than encouraging rehabilitation and treatment, the disability programs' cash payments have perpetuated and enabled drug addiction and dependency.

At a hearing of the Senate Special Committee on Aging I chaired, we heard from Bob Cote, the director of a homeless shelter in Denver. Mr Cote told the committee in riveting testimony that he personally knew 46 drug addicts who had died from drug overdoses from the drugs they bought with SSI checks. Mr. Cote went on to testify that a liquor store down the street from his shelter was the representative payee for over $200,000 in SSI checks, and a bar just two doors down from his shelter was the representative payee for $160,000 in SSI checks.

Taxpayers were outraged to learn that situations like these have been going on for years with almost no oversight by the Social Security Administration on how these tax dollars and trust fund moneys have been used.

Congress took steps to place better protections on the disability payments made to addicts and alcoholics. We mandated that all persons receiving disability benefits due to alcohol or drug abuse must receive treatment, imposed a 3-year cutoff for benefits for addicts and alcoholics, and toughened the representative payee rules in order to get cash out of the hands of addicts.

These reforms are now in effect and early examination suggests that this carrot and stick approach has worked to stem abuses in the disability program. The referral and monitoring system which was overhauled in 1994 more than pays for itself and will save the Federal Government more than $25 million in 1996.

The legislation before us today allows the Commissioner of the Social Security Administration to continue to refer drug addicts and alcoholics to treatment. Eliminating drug addiction and alcoholism as a disability will result in only 25 percent of recipients diagnosed as drug addicts or alcoholics actually leaving the program. A substantial portion will stay on the rolls, continuing to receive checks without receiving treatment. It is very important that the treatment money be made available to the States to rehabilitate substance abusers.

The legislation continues to require the use of responsible representative payees who will ensure that the Federal checks are being used for living expenses—not drugs and not alcohol.

The legislation also takes the necessary step to allocate funding to conduct continuing disability reviews [CDR's]. Until now, our hands have been tied because of the appropriations caps on discretionary spending. I commend Senator MCCAIN's acknowledgment that it is short-sighted to ignore the need to provide more resources to SSA to comply with the mandate to perform CDR's. In the SSDI program, the agency is experiencing a backlog rate of more than 1.4 million cases. With that type of backlog, getting on disability means a lifetime of benefits, even for persons who could return to work. A recent HHS Inspector General report concluded that $1.4 billion could be saved if we could perform CDR's just on those backlogged cases.

Finally, we need to turn our attention to the current return to work policies in these two programs. Last year, the Senate Aging Committee began to review the record of SSA to promote rehabilitation for people with disabilities. Appallingly, only about 1 in every 1,000 persons on the disability rolls gets off the program through the SSA's rehabilitation efforts. The Federal disability programs have failed to keep pace with a more accessible workplace being created through the Americans With Disabilities Act and advances in medical technology.

More must be done to ensure that people with disabilities who can and want to return to the work force are given some assistance. There are a significant number of disabled recipients who want to work. Unfortunately, the program now discourages recipients from even trying to work, because they fail to take into consideration how recipients can be retrained and rehabilitated to eventually leave the rolls. I believe that we must pursue a policy which will put a greater emphasis on rehabilitation and return to work. At the same time we are acknowledging the benefits of allowing senior citizens to retain more of their earnings—a work incentive—we need to be open to the same ideas for people with disabilities.

Mr. SIMPSON. Mr. President, because we recently shouldered the important matter of extending the debt limit, I feel obliged to address the provision in that bill that increases the earnings limit for Social Security beneficiaries aged 65–69. As my colleagues know, this is a change that I have expressed serious concern about in the past. Now that enactment of this provision has come to pass, I want to state my views about the general issue of the earnings limit.

First, let me pay tribute to a fine chap, my esteemed colleague from the great State of Arizona, Senator JOHN MCCAIN for his dogged determination and tireless efforts to effect this change in the law. I know that my past intervention on this issue has not always been truly welcome to my colleague—but I trust that my intentions, which were always constructive, were apparent.

It has never been my intention to permanently forestall all changes to the earnings limit. I trust that the provision attached to the debt limit extension provides the best available means of achieving the objectives of my friend from Arizona and all others who are interested in raising the earnings limit for seniors.

Clearly, I appreciate the fundamental principle behind the earnings limit legislation. Americans are living longer, are productive for more years, and our retirement systems need to recognize these facts. As chairman of the Senate Finance Subcommittee on Social Security and Family Policy, I have a demonstrated interest and responsibility to see that we adapt wisely and properly to these changes. One of my charges is to monitor any changes in Social Security policy and to ensure that those changes are not detrimental to the long-range solvency of the Social Security system. I have expressed my misgivings about previous funding mechanisms to "pay for" this legislation, and I am pleased to note that the offsets now come in a more straightforward manner from Social Security spending.

Ultimately, Congress must come to grips with the fact that American society is aging. For the benefit of today's workers, we must act to address these issues very soon, or the cost to our children and grandchildren will be catastrophically high. We must make changes to ensure the solvency of future retirement programs—we should increase the retirement age while at the same time offering inducements for Americans to work longer without suffering penalties that discourage continued participation in our work force.

We can't have it both ways—handing out plums that allow workers to stay in the work force in a productive way, while at the same time avoiding the hard choices that must follow—meaning raising of the retirement age. I hope that this first step will lead Congress to confront the next necessary decision. Increases in the Social Security eligibility age must be enacted soon, and the change will have to be phased in over a long period—perhaps 20 years—in order to be fair and effective. Such a plan will allow today's workers to plan for these changes.

This legislation to increase the earnings limit is offset in large part by terminating the disability benefits for drug addicts and alcoholics. Many have considered the payment of benefits to these groups to be an abuse of the Social Security system. This measure passed by the Senate makes a clear choice that we will subsidize the continued working activity of senior citizens instead of subsidizing these addictions of alcohol and drug use. Clearly, the Senate is appropriately going on record as to what activity we wish to encourage and what we want to discourage.

Another change that will offset the cost of this legislation is the increase in reviews of those people who are currently receiving disability benefits. Such payments were never intended to be a lifetime allowance to substitute for employment or self-employment. For years, the Social Security Administration has been unable to complete these required reviews—the result of which is that people are receiving disability payments long after their disability has either ceased or improved to the point where a return to work is possible. Not only will these reviews result in savings for the trust funds, but they will place able Americans who can return to work back in the workplace.

I congratulate Senator MCCAIN for finding the offsets that enable us to pay for the increased earnings limits for seniors. I am very pleased—you can hardly know how much—to be able to speak to this issue without having thrown a monkey wrench into the works and frustrating my colleague from Arizona. I am most hopeful that this measure will be merely a prelude to Congress coming to grips with the much larger issue of the aging of America and the future of our retirement programs. The steps that we must take in the future will never—in any way—be as popular as this measure, but we must have the political fortitude to make those decisions as well. That is our job, that is our duty.

Mr. DASCHLE. Mr. President, it is important that my colleagues recognize two very important aspects of the legislation we are considering today.

First, this legislation increases spending on Social Security and offsets that spending, in part, by using savings that had been identified as necessary to bring about a balanced budget. The language was changed at the last minute so that a point of order against using non-Social Security savings to pay for Social Security spending could be avoided. But I do think my colleagues should be aware that this legislation uses savings that had been identified for reducing the deficit.

Second, the savings in this legislation exceeds the level that is needed to pay for the spending increase. According to the Congressional Budget Office, this legislation achieves $3.5 billion in on-budget savings, and $1.8 billion in net savings over 7 years.

The impact of these provisions on the deficit would actually be higher than the CBO numbers indicate. This is because the bill would allow the discretionary spending caps to be increased in order to conduct more continuing disability reviews. These reviews are conducted to verify that beneficiaries are still entitled to disability benefits. Because of budgetary pressures, and competing priorities, the Social Security Administration has not been able to conduct as many CDRs as they would like. CBO estimates that, if fully utilized, this provision could result in net savings of $800 million dollars by the year 2002.

Finally, the savings are understated because CBO does not take into consideration the fact that raising the earnings limit means that beneficiaries who work will receive higher Social Security benefits. Under current law, if their income is high enough, they will be obligated to pay higher taxes. Actuaries at the Social Security administration estimate the impact to be $726 million over the 7-year budget window.

In sum, Mr. President, the net impact of the legislation we are adopting today is, in effect, to make a down payment on deficit reduction of more than $3 billion over 7 years.

SENIOR CITIZENS' RIGHT TO WORK ACT

Mr. GRAHAM. Mr. President, in this Congress, we have talked a lot about reforming welfare, about empowering people to help themselves, about removing disincentives to work for able-bodied citizens. Well, Mr. President, here is our chance.

Here are citizens who are not looking for hand-outs, who are not looking for favors, who are not even looking for help. These people are not looking for anything but the right to contribute—as working, tax-paying citizens—to their country. Are we going to continue to say, no, you cannot work. No, you cannot contribute. No, you cannot be considered a valuable part of our Nation's workforce?

Mr. President, I submit to you that our senior citizens can be a valuable part of our workforce. They have the experience, the maturity, and the desire to contribute to the workforce. And many of them are able to work and contribute significantly.

Mr. President, the Social Security earnings test may be our Nation's biggest disincentive to allowing those who want to work, who have asked to work, to continue to contribute meaningfully. Isn't it ironic that we have been talking about removing disincentives to work for those who are on welfare, yet preventing our Nation's seniors from contributing in any meaningful way?

These seniors are not on welfare; rather, they have spent a lifetime contributing to the Social Security Program—they have earned their benefits. We should not use the reduction of these benefits to prevent our seniors from working.

For every $3 that seniors aged 65 to 69 earn over $11,520 this year, the Federal Government takes away $1 in Social Security benefits. According to the Social Security Administration, about 930,000 seniors in this age group are affected by the earnings cap. But let me bring this policy issue away from the statistics.

Each month, I take a different job to stay in touch with the people I represent. In 1991, I took a job bagging groceries at the Winn-Dixie supermarket in Pace, FL, which is near Pensacola. I worked with a man by the name of Jim Young, who is a father of three and grandfather of two. And Jim needs to work. Like many Americans, Jim is looking ahead to the legal age of retirement with full benefits, but without a big retirement savings account. Listen to Jim Young explain this issue: "I don't-have retirement savings, and there are a lot of other people who don't either."

Jim Young would like to work past the age of 65. He needs to work past the age of 65. And by current law, if Jim makes $18,000 when he turns 65—just $18,000, he will lose $1200 of his Social Security benefits. To people like Jim Young, to most older Americans, that's a lot of money. Why should the Government put up a barrier to block Jim Young from working, from supporting his family?

Some opponents of this legislation may make the argument that reform isn't needed because older Americans are well-off and therefore, don't need to work. To those people, I say: Talk to Jim Young, who now works in the produce department at Winn-Dixie. Talk to Winn-Dixie and find out whether employers want to hire the talents of older Americans like Jim Young.

True, when the Social Security earnings test was designed, it may have made sense to discourage older Americans from working, under the rationale that keeping seniors out of the job market would free up jobs for younger people who needed work.

But times have changed. The declining birth rate after the post-World War II baby boomer generation means that fewer teens are in the job market. Many employers are looking for seniors to fill jobs. And people like Jim Young are ready to work. They need to work. And to these people, we should say, "Go ahead. Support your family. Help yourself to improve your quality of life. We won't stand in your way."

Social Security was not designed to be the sole support of our senior citizens, but now, many seniors—like Jim Young—have little savings to supplement their benefits. And we have been saying to those seniors who can work,

to those senior who want to work, that we want to penalize them for their efforts? This policy is unfair to our seniors. And even worse, it doesn't make sense.

Without the earnings cap, more seniors would likely choose to continue working. Additional revenue would be generated through Social Security and income taxes paid on their wages. This would substantially offset the increase in benefit payments.

In addition, we have been struggling to find ways to improve the long-term solvency of the Old Age, Survivors, and Disability Insurance Program. The Social Security Administration estimates that the offsets in this legislation would pay for the increase in the earnings limit. But the offsets would also improve the long-term solvency of the OASDI program by about 0.03 percent. That's not a lot, but it's a step in the right direction.

So you see, Mr. President, we cannot afford to discourage our older population from working. We need their experience. We need their skills. And we need to allow them to provide for their families.

When I go home to Florida and I see Jim Young and all of the other Jim Youngs who are working to support themselves and their loved ones, I want to say, we are proud of your efforts. We salute your efforts. And we thank you for your valuable contributions to this great Nation of ours.

So as we continue to talk about welfare reform and look for ways to help able-bodied people get back to work, I say: Let us take this issue out of the welfare arena and apply it to those who are not on welfare, to those who simply want to receive the benefits they have earned while continuing to be a part of the workforce. Let us look to our mothers, our fathers, our grandparents. Let us look to Jim Young.

Mr. President, approving this legislation to allow our seniors to work is good policy. It is fiscally sound. And it is the right thing to do.

Mr. NICKLES. Mr. President, clearly, the American people believe that Washington has too much control over their everyday lives. They attribute much of this to a Federal bureaucracy that has grown out of control over the last several decades. Today, the Senate will take a major step toward holding regulatory agencies accountable for the rulemakings they issue. In an effort to return common sense to Federal regulations, we are sending to the President legislation which will provide a formal Congressional review process of regulations issued by Federal agencies.

The Congressional Review Act before us is similar to S. 219, the Regulatory Transition Act that passed the Senate 100–0 a year ago this week. I fully concur with changes made by the House to the Senate bill and believe this represents a workable consensus agreement.

It is estimated that the direct cost to the public and private sectors complying with Federal regulations was $668 billion in 1995. This translates into a cost of $6,000 annually for the average American household. This means higher prices for the cars we drive, the houses we live in, and the food we consume. It also means diminished wages, increased taxes, and reduced government services.

The Congressional Review Act provides for a 60-day review period following the issuance of any Federal agency final rule during which the Congress may enact a joint resolution of disapproval, under a fast-track procedure in the Senate. If the joint resolution passes both Houses, it must be presented to the President for his action.

As in the Senate-passed version, the Congressional Review Act provides for a formal congressional review procedure following the issuance of any final rule by a Federal agency, during which the Congress has an opportunity to review the rule and, if it chooses, enact a joint resolution of disapproval. An expedited review procedure is provided in the Senate for 60 session days beginning on the later of the date Congress receives the agency's report on the rule, or the date the final rule is published in the Federal Register.

Upon issuing a final rule, a Federal agency must send to Congress and GAO a report containing a copy of the rule and also send to GAO or if requested, to Congress, the complete cost-benefit analysis, if any, prepared for the rule and the agency's analyses required by the Regulatory Flexibility and Unfunded Mandates Acts.

For major final rules, GAO shall provide within 15 days to the appropriate committee an assessment of the agency's compliance with the regulatory flexibility, unfunded mandates, and cost-benefit analyses performed by the agency.

Any Senator or Representative may introduce a resolution of disapproval of an agency final rule. The joint resolution of disapproval, which declares that the rule has no force or effect, will be referred to the committees of jurisdiction.

As provided in the Senate version the agreement contains the look-back provision provided to permit congressional review of major final rules issued between March 1, 1996, and the date of enactment.

With regard to concerns raised about unnecessary legal challenges to rules, this act, as in the Senate-passed version, provides that "no determination, finding, action, or omission under this title shall be subject to judicial review."

The agreement does not provide for expedited procedures in the House, but terminates the use of the Senate procedures on the 60th session day, instead of the 45-calendar-day review that was provided in the Senate version.

The Senate expedited procedures can be used to consider a resolution of disapproval that may be introduced with respect to most Federal agency final rules. All final rules that are published less than 60 session days before a session of Congress adjourns sine die, or that are published during sine die adjournment, shall be eligible for review and for fast-track disapproval procedures in the Senate for 60 session days beginning on the 15th session day following the date the new session of Congress convenes.

If the Senate committees of jurisdiction have not reported the resolution of disapproval within 20 calendar days from the date Congress receives the agency's report on the rule, or on the date the final rule is published in the Federal Register, whichever is later, a petition signed by 30 Senators may discharge the committee from further consideration and place the resolution of disapproval directly on the calendar.

Under the Senate procedures, the motion to proceed to the joint resolution is privileged and is not debatable. Once the Senate has moved to proceed to the resolution of disapproval, debate on the resolution is limited to 10 hours, equally divided, with no motions—other than a motion to further limit debate—or amendments in order. If the resolution passes one body, it is eligible for immediate consideration on the floor of the other body.

As provided in the Senate version, the Congressional Review Act declares that no court or agency shall infer any intent of the Congress from any action or inaction of the Congress with regard to a rule unless the Congress enacts a joint resolution of disapproval regarding that rule. As all of my colleagues are well aware, the Congress at any time can review and change, or decide not to change, rules or their underlying statutes. Accordingly, it is my belief that the courts should not treat the mere introduction of a joint resolution of disapproval as grounds for granting a stay to any greater or lesser extent than the courts now take cognizance of any other bills that are introduced.

Major final rules, which the Congressional Review Act defines as final rules that meet the criteria for "major rules" set forth in the Reagan Administration's Executive Order 12291, may not take effect until at least 60 calendar days after the rule is published. However, major final rules addressing imminent threats to health and safety, or other emergencies, criminal law enforcement, matters of national security, or issued pursuant to any statute implementing an international trade agreement may be exempted by Executive Order from the 60-day minimum delay in the effective date. The decision by the President to exempt any

major final rule from the delay is not subject to judicial review.

Major final rules would not go into effect after the 60-day period if the joint resolution of disapproval has passed both Houses within that time. If the joint resolution of disapproval is vetoed, the effective date of the final rule will continue to be postponed until 30 session days have passed after the veto, or the date on which either House fails to override the veto, whichever is earlier.

To address statutory or judicial deadlines that apply to disapproved rules, these deadlines are extended for one year after the date of enactment of the joint resolution.

Currently, Congress must approve tax increases, and thanks to the Unfunded Mandates Act passed last year must also focus its attention on any major unfunded mandate. But Congress has virtually no formal role, other than oversight, over the promulgation of a Federal regulation, even if its impact on the economy is measured in billions of dollars. There may have been a time in our Nation's history where congressional review wasn't important. But agencies are now very large, with broad authorities and individual agendas. This new act will help Congress carry out its responsibility to the American people to ensure that Federal regulatory agencies are carrying out congressional intent.

Finally, I wish to extend my sincere appreciation to Senator HARRY REID who has worked tirelessly on this issue since its inception.

MIA'S IN NORTH KOREA—SECTION 1607—UNITED STATES-NORTH KOREA AGREED FRAMEWORK

Mr. MURKOWSKI. Mr. President, as we prepare to vote on the conference report on H.R. 1561, the Foreign Relations Revitalization Act of 1995, I would like to direct my colleagues' attention to one provision of the act that relates to what, I believe, is an often-overlooked issue. That issue is the fate of more than 8,100 American servicemen from the Korean war.

We have always demanded the fullest possible accounting in Vietnam for those listed as missing in action, and the question that I think must be asked is, why not North Korea as well?

Of the 8,100 servicemen not accounted for after the Korean war, at least 5,433 of these were lost north of the 38th parallel. In Vietnam, by contrast, the number of unresolved cases is 2,168, and Vietnam has cooperated in 39 joint field activities.

The United States Government recently announced plans to contribute $2 million through United Nations agencies to relieve starvation in North Korea. The donation was consistent with other instances where the United States seeks to relieve human suffering, despite disagreements with the government of the receiving country.

What is inconsistent with United States policy is our failure to ensure that the Democratic People's Republic of Korea addresses the humanitarian issue of greatest concern to the American people—the resolution of the fate of servicemen missing in action since the end of the Korean war.

I think the families of the servicemen see that same inconsistency. I would refer my colleagues to a March 26, 1996, front page story in the Washington Post, "The Other MIAs, Americans Seek Relatives Lost in Korea." In that story, the President of the Korean/Cold War Family Association of the Missing was quoted as saying: "North Korea wants humanitarian assistance, yet they won't give it themselves. Our families are starving to know what happened to their loved ones. We want an accounting for these men. They deserve an accounting. It's grossly dishonorable to walk away from them." I could not say it better.

I remind my colleagues that relations between the United States and Vietnam did not even begin to thaw until the Government of Vietnam agreed to joint field operations with the United States military to search for missing servicemen. The pace and scope of normalization was commensurate with Vietnam's cooperation on the MIA issue and other humanitarian concerns. In every discussion between United States Government officials and their Vietnamese counterparts, the MIA issue war paramount. The Vietnamese received very clear signals that progress in normalizing relations with the United States would come only after progress was made on the MIA issue.

In contrast to our Vietnam policy, United States policy toward North Korea lacks this focus. The recent announcement regarding food aid did not mention our interest in the MIA issue. The agreed framework between the United States and the DPRK does not talk about cooperation on MIA's—even though the framework commits the United States to give the DPRK free oil and supply two highly advanced light-water reactors; a total package that exceeds $5 billion—$4 billion for the reactors and $500 million for the oil, not counting potential future aid for the grid system to distribute the power that the reactors will produce. The agreed framework also envisions the United States lifting trade restrictions and normalizing relations—regardless of any movement on the MIA issue.

The most obvious difference between Vietnam and North Korea is North Korea's nuclear program. The United States has an overriding national security interest in stopping the North Korea nuclear program. Nevertheless, I do not believe we should have ignored the MIA issue. That is why I have introduced legislation (S. 1293) that would prevent establishing full diplomatic relations or lifting the trade embargo until the DPRK has agreed to joint field operations.

The conference report before us is consistent with S. 1293. Section 1607 states the sense of the Congress that:

> the President should not take further steps toward upgrading diplomatic relations with North Korea beyond opening liaison offices or relaxing trade and investment barriers imposed against North Korea without . . . obtaining positive and productive cooperation from North Korea on the recovery of remains of Americans missing in action from the Korean war without consenting to exorbitant demands by North Korea for financial compensation.

I urge the Clinton administration to pursue the policy that is laid out in section 1607.

I recently had the opportunity to sit down with our dedicated armed services personnel in Hawaii who are responsible for negotiating with the North Koreans on the MIA issue. It was clear from that briefing that joint field operations would have a high probability of considerable success because, unlike Vietnam, the United States has concrete evidence of the sites of mass U.N. burial grounds and prisoner-of-war camp locations. But United States personnel have no access in North Korea to these sites. The only thing preventing our personnel from going in and making these identifications is the North Koreans.

The North Koreans have been unilaterally turning over some remains. Unfortunately, the North Koreans, without training in the proper handling of remains, have turned over excavated remains that have not been properly handled, making identification vastly more difficult, if not impossible. Of the 208 sets of remains turned over since 1990, only 5 sets have been identified.

Despite United States aid flowing to North Korea, the Koreans have repeatedly attempted to link progress on the remains issue to separate compensation—amounts of money seemingly far in excess of reimbursement costs for recovery, storage, and transportation of remains. The U.S. Government must stand by its policy not to buy remains—this would degrade the honor of those who died in combat. Instead, the United States has offered to reimburse North Korea for reasonable expenses, as we do in Southeast Asia. Talks to try to move the MIA remains repatriation issue forward at this moment appear stalled.

While the United States has been careful not to link the nuclear issues with other policy concerns in North Korea, it is not unreasonable for the United States to consider North Korea's behavior on other issues, such as the MIA issue, when considering whether to provide humanitarian aid to the closed nation. For the families of the 5,433 soldiers and airmen still missing more than 40 years after the end of the conflict there is no more humane action that North Korea could

take than to let America have sufficient access to try to resolve as many of these cases as possible.

We have demanded fullest accountability from the Government of Vietnam on the MIA issue. We should demand the same of the Government of North Korea.

CONGRESSIONAL REVIEW AND SMALL BUSINESS REGULATORY FAIRNESS BILL

Mr. LEVIN. Mr. President, it has been 17 years that I have fought for and supported a mechanism for congressional review of agency rules before they take effect. Believe it or not I ran for the Senate in 1978 on the need for legislative veto. That's what we called the right of Congress to review important regulations and stop the ones that don't make sense before they take effect. After the Chadha case, we changed the name from legislative veto to legislative review since the Supreme Court ruled that legislative vetoes—involving only one or two houses of Congress without the President—were unconstitutional. This bill uses a joint resolution of disapproval which is a constitutional mechanism and which was the cornerstone of a bill I introduced with Senator David Boren from Oklahoma back in the early 1980's.

My proposal was adopted with respect to the Federal Trade Commission and the Consumer Product Safety Commission. It was passed by the Senate, with respect to all Federal agencies, on the omnibus regulatory reform bill, S. 1080, in the 96th Congress. But it didn't become law then, and despite repeated efforts over the year, it hadn't become law until this time.

As a longtime member of the Governmental Affairs Committee, I have worked on various regulatory reform proposals, but none has been as significant to me as legislative veto or legislative review. That's because it, alone, puts important regulatory decisions in the hands of the politically accountable, only directly elected branch of the Government, and that is the Congress. And that's where I think these important public policy decisions belong.

The provision we are adopting today, which is similar to the proposal we passed on S. 219 last year, is not exactly what I would have chosen to support, but it's close enough. I think it would have been wiser to have the legislative review apply only to major rules and not every rule issued by Federal agencies. We want to concentrate our energies—at least in the beginning—on the rules that have the greatest impact and not be overwhelmed with requests to review hundreds of rules at the same time. It's been estimated that over 4,000 rules are issued in any 1 year. That amount could simply overtake our ability to be effective with respect to any one rule. That is why I think it would be preferable to have this legislation apply to only major rules—that is, rules that have an economic impact of over $100 million of costs in any 1 year.

I am also concerned about the requirement that each agency physically send to each house of Congress and to the GAO a copy of the final rule, a description of the rule, and notice of the effective date. That is a large and unnecessary paperwork burden that must be met before any rule can take effect. That means for even a small, routine rule, the agency will have to send us the rule and required description. Almost all rules are already published in the Federal Register and we can read that as readily as the public can. I think this will prove to be an unnecessary requirement that needlessly generates paper, and takes precious staff time at both the agencies and in the office of the Secretary of the Senate and the Clerk of the House.

I am also concerned about the change the House made with respect to counting days as calendar days. The bill we have before us would allow a major rule to take effect within 60 calendar days, but would allow the expedited procedure for congressional review to occur within 60 legislative or session days. That's a very big difference in time. At the end of a session of Congress, that could mean we would have the opportunity to disapprove a rule possibly 6 months after it took effect. I think that opens the rulemaking process to unintended and unnecessary mischief. The rule would be in effect, the regulated community would be expected to comply with the rule, and then Congress could come along, using expedited procedures, and repeal the rule. That will create a great deal of uncertainty for businesses and governments alike.

Moreover, Mr. President, the fact that Congress retains the legal right, using expedited procedures, to overturn a rule should not be used by a court to stay the effective date of a rule or to allow a regulated person to delay compliance. That would violate the intent of this legislation. We are very clear in this legislation that major rules take effect within 60 calendar days and nonmajor rules take effect in after the rule is sent to Congress and in accordance with the agency's normal procedures. There is no basis in this legislation for delaying the effective date or the requirements for compliance with a rule other than what I just described. So a court would not have any basis for delaying compliance based on the longer period for expedited procedures.

The expedited procedures are Congress' internal mechanism for prompt consideration of a joint resolution to disapprove a rule. We could disapprove rules now, by using a joint resolution of disapproval. But being aware of that possibility does not permit a court to waive compliance or delay the effective date of a rule and it shouldn't just because we've added expedited procedures.

I expect we will monitor the implementation of these requirements carefully and make the necessary changes as we identify real-life problems. That will certainly be my intention.

These procedural problems aside, though, Mr. President, I am pleased with this legislation. No longer will be able to tell our constituents who complain about regulations that do not make sense, "talk to the agency," or "your only recourse is the courts." Now we are in a position to do something ourselves. If an agency is proposing a rule that just does not make sense from a cost perspective it will be easier for us to stop it. If a rule doesn't make sense based on practical implementation, we can stop it. If a rule goes too far afield from the intent of Congress in passing the statute in the first place, we can stop it. That's a new day, and one a long time in coming.

How much time these new responsibilities will take and how often the resolution of disapproval will be exercised, no one can predict. We may be surprised in either direction. But as we work with this process and learn from this process, we can make the necessary adjustments in the law. The important thing is that we get this review authority in place and I am very pleased that we are going to be able to do that in this legislation.

I'd like to comment on title III of this bill as well. As a member of both the Small Business Committee and the Governmental Affairs Committee, I am particularly familiar with and interested in the small business regulatory fairness provisions. I support adding judicial review to the Regulatory Flexibility Act and, like legislative review it's been a long time in coming. It will be the stick that forces the regulatory agencies to pay attention to their responsibilities with respect to small governments and small businesses

I have previously commented on my concerns about the provision establishing the SBA Enforcement Ombudsman. While I can support this provision, I do not think it goes far enough in using the traditional role of ombudsman to resolve enforcement disputes, and I will be pursuing legislation in the vein in the Governmental Affairs Committee. I am relieved, however, that we have made it clear that while a responsibility of the ombudsman is to evaluate and rate agencies based on their responsiveness to small business in the area of enforcement, it is not the responsibility of the ombudsman to rate individual personnel of those agencies. This is an important issue because, while we certainly want to promote and ensure fair treatment of small business with respect to regulatory enforcement, we do not want to weaken or intimidate our enforcement personnel so they fail to do the job we require

of them. Senator BOND made those assurances in a colloquy we had when this bill initially passed the Senate.

I also want to note that the Small Business Regulatory Fairness Board created by this legislation is subject to the requirements of the Federal Advisory Committee Act. This ensures that the business conducted by this panel is open to the public and that any potential conflicts of interest are known. Obviously, since the bill limits membership, the requirements of FACA for balanced membership would not apply. But to the extent the requirements of FACA can apply, they are expected to apply, and that is why this provision is acceptable.

The provision granting the small business advocacy review panel the opportunity to see a proposed rule before it is published in the Federal Register is a novel step. While the panel is comprised of Federal employees, the panel is directed to obtain comments and input from small entities. The purpose of this comment and review is to assess whether the agency lived up to its responsibilities under the Regulatory Flexibility Act. It is my understanding that the panel is not permitted or expected to share a copy of the draft proposed rule with the small entities with whom it confers, but rather to field comments and concerns about the nature of the rulemaking and its possible effects on small entities. This is an important limitation because to allow otherwise would be to give a unique advantage to one group that is not permitted to other persons affected by the proposed rule.

Mr. President, because this bill is attached to the debt ceiling bill, some of these provisions will take effect immediately. There will be start-up problems with some of these provisions, in particular the congressional review process, because there is no preparation time. We should recognize the reality of these problems and work diligently to mitigate them.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 AND 1997—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. COVERDELL. Mr. President, I yield myself as much time as I may need. I see several Senators who are waiting to give remarks. I alert them that I will not be long. I simply must make a remark or two about the statements that have been addressed before the Senate by my colleague from Louisiana.

He, obviously, is very much a student of the issues of China and Taiwan and the United States. He speaks with great sincerity and knowledge. I think he raises a significant dilemma. While we all acknowledge the scope of new China, the People's Republic of China, its size, its military prowess, its emerging economy, it almost reminds you of the Gold Rush, the oil booms, but given that, bigness in size and power alone cannot be the stanchions upon which we, or the rest of the world, establish our relationship with the People's Republic of China.

Yes, those are critical ingredients. They cannot stand apart from everything else. The 20 million people who live in the Republic of China Taiwan also have long claim to one-China policy, but it does not accept dictatorship or oppression or many others of the grievous policies of the People's Republic of China.

From the time Chiang Kai-shek retreated to that island in 1949, that was a conquest, in a sense, of Taiwan. The native Taiwanese, who outnumbered those who retreated, have long harbored the independent or nationalistic movement. I think a reality of contemporary review of this situation has to acknowledge that that movement is likely to grow, and a reality of this democratic election that just occurred was that President Li was faced, as we are, with contemporary issues in our own country, with the nationalistic spirit that is emerging there.

The one-China policy cannot, with the flick of a light, turn that way, even though it is much larger, much more powerful. It just cannot obviate this nationalistic movement, and I do not think we can ignore it.

I do not believe that the People's Republic of China—and I heard Dr. Kissinger when he appeared before the Foreign Relations Committee. He basically slapped the wrist of the United States and Taiwan and the People's Republic of China.

But for the People's Republic of China to come to the point where, because of their size and because of their prowess, they are going dictate to the United States who can visit here—I mean, what is a visit is not an abrogation of the one-China policy. Their leaders visit here, too. I think that does need to be confronted, or addressed; maybe that is a better word.

So, I think the Senator is right that it is not just appeasement and not just confrontation. But that projects appeasement as well as confrontation. In the tone of the remarks, I felt it was somewhat of an apology for our endeavoring to struggle with the People's Republic of China and we should accept their edicts because of their size and their power. I personally would reject that. I do not think that is what the Senator meant, but in the tone of it, the excusing of the sale of powerful weapons, human rights violations—that is still a rogue government. It is still a dictatorship.

While I think it is a delicate issue for us to struggle with, I do not accept appeasement because of their size nor because of their economy. I do not mean to dwell on that long, but I did want to comment.

Mr. JOHNSTON. If the Senator would yield, I was not suggesting—and I tried to make it clear—I was not countenancing any violations of the missile treaty control regime, which, by the way, I do not. If they violate it—my own opinion is they did. That violation was, what, 3, 4 years ago. I forget exactly when. They have the capacity to continue to violate it further, but are not at this time.

I do not excuse that. But I say that really what we ought to do is reassure Taiwan, as we have, that the law of the land is the Taiwan Relations Act, that we will not countenance any invasion of Taiwan, but that our policy ought to encourage peaceful reunification, one China, peaceful reunification, two regimes, which six Presidents have signed on to, and we should not change that—that is what I am saying—and reassure both parties.

Mr. COVERDELL. But if I might, six Presidents have reaffirmed that. That is a long time. As the Senator has said, the burgeoning economy of China has gotten to a place that even the Senator had missed, and the Senator has revisited and seen it. That is a massive change during this course of time. The point I am trying to make is, there are equally important changes that are occurring in Taiwan.

Mr. JOHNSTON. Exactly.

Mr. COVERDELL. Among them, that cannot be undone, is there a growing movement that it is a democracy. That is a democracy. The People's Republic of China is not. They are miles apart in that. There is a growing and emerging spirit within this island that they should be free and they should never be intimidated into the kind of government that the People's Republic of China still is, and they have empirical evidence of the way that government would operate by watching even the situation in Hong Kong today, which is a very disruptive situation, as you know, and very controversial.

So they have reason to be deeply concerned about their own freedom which they now own. That is a change in the flow of events among them.

Mr. JOHNSTON. Is the Senator saying that we should encourage a unilateral declaration?

Mr. COVERDELL. No, I am not. That phenomenon is as real and different as some of the changes the Senator pointed to that have occurred in the People's Republic of China. It cannot be ignored.

Mr. JOHNSTON. Would my friend find at fault this formulation, that the United States should make it clear to both sides that reunification, if it occurs, is a bilateral decision of the two countries, to be taken peacefully, and that the United States step aside, step out of the arena, having reassured both sides—Taiwan that we do not countenance any invasion, and the PRC,

that we are not encouraging a unilateral declaration of independence—and let those two parties make their decision?

Mr. COVERDELL. I think one of the things that the Senator said in his initial remarks, that would be my answer to that—and it goes back to the point I just made about massive changes occurring in the People's Republic of China and in Taiwan—would be that when you call upon the President to maybe articulate, as much of what all of us say are captured by views and attitudes that perhaps were obsolete.

So I do not know that I would specifically accept or embrace the point the Senator made just now, but I would acknowledge that there are major changes occurring in the geography of the area and it does require all of our attention. I admire the effort that the Senator has given to the subject, but I just wanted to remind us that there are two sets of phenomena and changes that are occurring. I do not believe President Li had any option but to acknowledge the winds of change and attitudes on his own island.

Mr. President, I was going to make some remarks about the drug policy, but I am going to defer that. I see the manager of the bill has returned to the floor. I know the Senator from California——

Mr. THOMAS. Would the Senator yield for a question?

Mr. COVERDELL. I certainly would.

Mr. THOMAS. With regard to the discussion that we are having, I wonder if the gentleman would agree that what we are talking about here basically is the bill before us, and some of the discussion has been about several of the components of that bill which I find do not place us on the side of being opposed to the one-China policy, and they do not place us on the side of being particularly supportive of one or the other of these parties, but rather indicate that we expect to stick with the agreements that are made on both sides.

Mr. COVERDELL. I would agree.

Mr. THOMAS. I was a little surprised that the suggestion was that all of the problems were because President Li came here. There are some problems on the other side, agreements that have not been lived up to. I wonder if the gentleman would agree that that is what this bill is about, is to have agreements with both of these sides and to expect that they be lived up to?

Mr. COVERDELL. I do agree. I appreciate the remarks by the Senator from Wyoming. I mentioned, in the colloquy between myself and the Senator from Louisiana, that, indeed, I do not find the visit by President Li as a reprehensible act. It seemed to me to be a rather normal exchange. I concede the sensitivities, but I do not believe the People's Republic of China should be carrying their concerns and sensitivities to the point that they are telling us who we might have visit the United States.

Mr. JOHNSTON. Will the Senator yield?

Mr. COVERDELL. I will.

Mr. JOHNSTON. When the statute says we should invite President Li, they should come with all appropriate courtesies, that is just not a casual visit, as if by a foreign tourist. "All appropriate courtesies" means, in effect, we ought to invite a head of state and have this, in effect, as a state visit. Is that not what the plain language means?

Mr. COVERDELL. I think you expand the interpretation of the language. That may be interpreted in the eye of the beholder, but it would certainly be viewed by President Li one way and the People's Republic of China another. But we extended appropriate courtesies to the leaders of the People's Republic of China that visited our country.

Mr. JOHNSTON. I know. But when it says we should seek a visit with "all appropriate courtesies," what does "all appropriate courtesies" mean?

Mr. COVERDELL. As I just said, it could be interpreted in many ways. But I would remind the Senator that that is nothing more than a sense of the Congress, and not law.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS addressed the Chair.

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

Mr. HELMS. I yield—how much time does the Senator want?

Mr. THOMAS. Ten minutes.

Mr. HELMS. I yield 5 minutes to the distinguished Senator. But before he begins, Mr. President, I have a little housekeeping task to do for the leader.

WAIVING CERTAIN ENROLLMENT REQUIREMENTS

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 168 received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 168) waiving certain enrollment requirements with respect to two bills of the One Hundred Fourth Congress.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. HELMS. Mr. President, I ask unanimous consent that the joint resolution be considered, read a third time, and passed, and the motion to reconsider be laid upon the table.

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

The joint resolution (H.J. Res. 168) was passed.

Mr. HELMS. I thank the Chair, and I thank the Senator.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 AND 1997—CONFERENCE REPORT

The Senate continued with consideration of the conference report.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for up to 5 minutes.

Mr. THOMAS. Mr. President, I rise in support of the conference report on H.R. 1561, the State Department Reorganization Act, and of the distinguished chairman of the Foreign Relations Committee.

I do not need to reiterate for my colleagues the tortuous route that this bill has followed to make it to the floor today; I believe we are all aware of it. Let me just note why I feel this bill is important.

This legislation was the first authorization measure to reach the floor of the Senate within budget targets, fulfilling the mandate the American people gave us last November. This bill is a promise kept: money is saved, redundant bureaucracies eliminated, and the ability of our Nation to conduct foreign policy enhanced.

We will hear all sorts of arguments against this legislation. Let me just address a few that fall within the jurisdiction of my Subcommittee on East Asia. Several of my Democrat colleagues circulated a "Dear Colleague" letter last week on the China-specific provisions of the conference report. In it, they expressed concern that "[s]everal provisions in this report are unnecessarily provocative to China and precipitate continuing destabilization of U.S.-Sino relations."

Let me say here that I am a great supporter of improving relations with the People's Republic of China; I am supportive of the one-China policy. But I have examined the sections with which they were concerned, and find them essentially to be strawman arguments, without impact on our adherence to the one-China policy. Let me go through them one by one.

First, they are concerned with section 1601, which declares that the provision of the Taiwan Relations Act (22 U.S.C. §§3301 et seq.) supersede provisions of the United States-China joint communique of August 17, 1992.

Frankly, as the chairman of the Subcommittee on East Asia and Pacific Affairs, I don't share their opposition to this particular provision. The Taiwan Relations Act, which governs our relationship with Taiwan, is a statute and as such is the law of the land. The only thing which could supersede it would be a treaty. The communique, however, is not a treaty; it was never presented

to the Senate for its advice and consent. Rather, it is simply an official announcement of the intentions of the respective parties. Consequently, it is not binding on either party, and has no force of law in the United States.

Section 1601 is therefore simply a restatement of legal fact. As such, I am at a loss to understand why it would be objectionable to the Chinese, objectionable to my colleagues, or a source of encouragement to pro-independence elements on Taiwan.

Second, they fault section 1708 which supports the admission of the President of Taiwan with all appropriate courtesies. Mr. President, while I myself am not a fan of this section, I would note first that the section does not mandate the admission of President Li. Second, I would note that just this week President Lee said we would not seek to make such a visit.

Third, they fault section 1606 which would according to them, and I quote, "impose unnecessary new reporting requirements on the State Department to provide detailed information and political judgments on the implementation of the Sino-British Joint Declaration on Hong Kong".

I find this the least compelling of their concerns. We regularly require the State Department to make these reports all the time; the Department probably prepares such a report on almost every country in the world save some of the smaller ones.

We have a real interest in assuring that the People's Republic of China lives up to their agreements, and such a report would be extremely important that they do so in relation to their promise to protect democracy there after 1997. An annual report would be especially helpful to this body in following developments there.

Their next complaint is that section 1603 would change the name of Taiwan's office here from Taiwan Economic and Cultural Representative Office to Taiwan Representative Office. I fail to see how this simple name change can cause so much consternation.

Finally, Mr. President, they oppose section 1303, regarding Tibet. I would note, however, that this section simply authorizes the President to appoint a special envoy; it does not require him to do so. If he finds the idea so objectionable, then he does not have to make the appointment.

Mr. JOHNSTON. Will the Senator yield?

Mr. THOMAS. I yield.

Mr. JOHNSTON. Mr. President, what I meant is sort of a precipitating event that caused this tit-for-tat thing, and the Chinese are clearly greatly to be criticized for all of those things that my colleague said, but I really meant the precipitating events. You can point to that as the events that started it all, and that has led from that point on.

Mr. THOMAS. I appreciate the comments. I do not think there is any question that we should understand how important that is to the People's Republic of China. It probably means more to them than it does to us and we need to recognize that.

So my colleagues can see that these five sections, taken independently, are of little if any import. Some of my colleagues have said that, while that may be the case, taken together they are alarming. Well, Mr. President, if separately these sections equal zero, then they still equal zero when added together.

I take exception to the argument of the Senator from Louisiana that United States-China relations were going along fine until we decided to admit President Li to the United States, and that these sections will simply make matters worse. Frankly, that's a statement I would expect to hear from the Chinese Ambassador here. What about their nuclear transfers to Pakistan? What about their failure to live to the intellectual property rights agreement? What about their pretensions in the Spratly Islands? What about human rights violations? What about their back-sliding regarding Hong Kong?

Mr. President, the present state of affairs is hardly the sole fault of the United States. And these give sections are hardly going to cause a precipitous downturn in those relations. As the Chinese say, it takes two hands to clap.

So again Mr. President, I rise in support of this proposal. I think it is one of the things that the voters said to us in 1994. They said we need to make some changes in the way the Federal Government operates; that the Government is too big, it spends too much, and that we should find better ways to deliver services, that we should find more efficient ways to use tax dollars.

This bill is the way to do that. Mr. President, every other sector of our Government is facing difficult cuts and reorganization; the foreign policy sector should have to bear the same burden as any other. This is not about isolationism, though many Democrats would have the public believe otherwise in a hope to obscure the issue, not about usurping the role of the executive branch, nor is it about a vendetta aimed at a particular set of bureaucrats.

I cannot commend Chairman HELMS enough on his hard work and persistence on this legislation; I urge my colleagues to support it.

DEBT LIMIT INCREASE

The PRESIDING OFFICER. The Chair announces that H.R. 3136 has just been received from the House, and under the previous order the bill is considered read a third time and passed and the motion to reconsider is laid upon the table.

So the bill (H.R. 3136) was considered read the third time and passed.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 AND 1997—CONFERENCE REPORT

The Senate continued with consideration of the conference report.

Mrs. FEINSTEIN. Mr. President, I believe I have an hour reserved and I yield myself such time as I may consume.

Mr. President, I rise as a member of the Foreign Relations Committee to express my strong opposition to the conference report to accompany H.R. 1561, the State Department authorization bill.

This bill has been the cause of much turmoil, as we all know. It began with the markup of a bill that the Democrats on the Foreign Relations Committee had no part in drafting, and that many felt contained an excessively far-reaching plan to eliminate three foreign affairs agencies: The Agency for International Development, the Arms Control and Disarmament Agency, and the U.S. Information Agency.

When that bill reached the floor, Republicans were unable to invoke cloture on it. Meanwhile, the Senate was prevented from taking action to confirm 18 ambassadors, several hundred Foreign Service officer promotions, and to consider two critical arms control treaties—START II and the Chemical Weapons Convention.

Finally, last December, after several arduous weeks of negotiating, the distinguished chairman of the Foreign Relations Committee, Senator HELMS, and the distinguished Senator from Massachusetts, Senator KERRY, reached a compromise version of the consolidation plan that allowed the bill to be voted out to conference.

This, in turn, resulted in the Senate immediately confirming the ambassadorial nominations that had been on hold, and taking action soon thereafter to ratify the START II treaty. In addition, hearings are now underway that will lead to a vote by the full Senate on ratification of the Chemical Weapons Convention by April 30. For that I am grateful.

I was among those who voted for S. 908 last December, in part because I felt the compromise consolidation plan reached by Senators HELMS and KERRY was a reasonable plan. However, my major motivation was to get it to conference so that we could take action on the ambassadors and treaties that were before the Senate.

Unfortunately, the bill that has come back from conference has many, many problems. First of all, the consolidation plan that came back from conference has moved considerably from the fairly reasonable compromise reached by Senator HELMS and Senator

KERRY. The conference report version requires the elimination of three agencies: USAID, ACDA, and USIA, two of which the President can later choose to preserve. This provision differs sharply from the preconference version which gave the President full discretion over whether or not to eliminate an agency. The new report also requires $1.7 billion in savings over 4 years, rather than over 5 years, as was in the Senate-passed bill.

Now, philosophically, Mr. President, it is my very strong belief that a President, any President, must and should be able to organize or reorganize the foreign affairs agencies of the United States as he or she sees fit.

I basically believe that foreign policy should be bipartisan, that we should work out our difficulties and speak as one Nation, as represented by our President. But I believe the President must be in charge of foreign policy. I came to that belief, Mr. President, ironically when I was a mayor. I was visited by the Chancellor of Germany, Helmut Schmidt. I saw, when I visited with him at the Fairmont Hotel, that he was chain smoking and was very upset. I said, "What is wrong?" He said to me an interesting thing. He said, "You know, you Americans have no idea what you do when you reinvent the wheel of foreign policy every 4 years. You have no idea what it does to your allies." He went home and, 2 weeks later, he resigned.

I thought that was very interesting, and I never forgot what he said. So I began to watch American foreign policy a little differently. I saw where it is very difficult for many countries to really understand with what voice this Nation really speaks. I understand the separation of powers. I understand the balance of powers. And yet, we must, as a nation, speak to other nations with one voice and with clearly defined policies. I am finding that becomes more and more difficult.

So, consolidation is not the issue. Many of us support consolidation, but we can only support it if it is done in such a way that we provide our President, whether he be Republican or Democrat, with flexibility in the organization of the foreign affairs agencies. Unlike the compromise version that passed the Senate, this conference report returns to a coercive approach that forces the President to eliminate at least one agency over his objections. I simply cannot support a consolidation plan structured in this manner.

Second, this conference report does nothing to address the unprecedented restrictions that were placed on U.S. international population and family planning assistance in the fiscal year 1996 foreign operations bill.

After months of stalemate on that bill, a conference report was sent to the President, which has the effect of cutting U.S. international population and family planning programs by some 85 percent. These restrictions will have a seriously negative effect on women and families around the world. Family planning assistance, which helps women plan and space their pregnancies, has proven to be a major factor in curbing poverty and starvation and overpopulation, and providing the opportunity for a decent way of life in many parts of the world that are badly overcrowded with children starving by the thousands because of lack of food.

Ironically, the restrictions in the foreign operations bill are advocated by those who oppose abortion and argue for a so-called pro-family agenda. But U.S. law already forbids the use of any U.S. foreign assistance for the provision of abortions.

As the distinguished chairman of the Appropriations Committee, who is a proud opponent of abortion, has pointed out time and time again, depriving millions of poor women of access to voluntary family planning services will only result in more unwanted pregnancies and more abortions. This bill fails to address these misguided restrictions.

Third, this bill prohibits any funds from being used to open, expand, or operate diplomatic or consular posts in Vietnam, unless the President certifies that the Vietnamese Government is fully cooperating with the U.S. in a number of areas related to the search for POW's and MIA's—a worthy statement. The problem is that these areas are effectively uncertifiable. In addition, failure to expand our new relationship with Vietnam could actually jeopardize the significant progress that has been made on the POW/MIA issue.

Furthermore, this provision unduly restricts the President's ability to conduct foreign relations according to his understanding of U.S. national interests. And by this I mean that it places conditions on whether or not the President can open an embassy.

Finally, at the time of the vote on S. 908, I made it very clear that there was an entire category of provisions in the bill, wholly separate from the consolidation aspect, that I found deeply troubling. These provisions related in various ways to the United States' relationship with the People's Republic of China, the largest country on Earth, and the most dynamically growing country in the world today.

At that time, I expressed the hope that these provisions would be ameliorated or removed in conference. In fact, I said that the resolution of these matters would be critical to my consideration of whether or not to support the conference report.

Unfortunately, virtually every one of these provisions remains in the bill. Some are in a slightly modified form, but they remain objectionable. There are even some new provisions on China in this conference report that were not in the original bill. Let me first list the provisions in this bill relating to China and then explain why they will result in my voting against this conference report.

Section 1601 declares that the provisions of the Taiwan Relations Act supersede provisions of the United States-China joint communique of August 17, 1982.

Section 1603 allows the Taipei Economic and Cultural Representative Office, TECRO, to change its name to the Taipei Representative Office.

Section 1606 imposes unnecessary new reporting requirements on the Department of State to provide detailed information and political judgments on the implementation of the Sino-British Joint Declaration on Hong Kong.

New in the bill, section 1702 imposes excessive reporting requirements on the President with respect to human rights in China, beyond those already required in the annual Human Rights Report, which I have just read. It is a detailed report, and I believe very strongly that it was inaccurately reported in the press. Section 1702 expresses the sense of Congress that the President should impose human rights-related preconditions on a possible future visit to China.

Section 1708 supports the admission of the President of Taiwan to the United States for a visit in 1996 "with all appropriate courtesies".

A new section, section 1709, supports the United States pushing for Taiwan's admission to the World Trade Organization [WTO], without respect to the status of China's application to join the WTO.

Section 1303 authorizes the President to appoint a special envoy for Tibet, and such a person would have to carry the rank of Ambassador.

Another new section in the bill, section 1701, provides that the President should condemn a prison system in China and, in essence, demand that China dismantle the prisons. What nation has ever told us to dismantle a prison? Would we listen to that, and would we be affected by it if they did that? I think not.

The simple fact of these eight provisions, and others, suggests something about this bill: It is excessively preoccupied with China. No other country receives half the attention China receives in this bill.

But far more serious than the preoccupation with China is the very serious damage that these provisions could do to our increasingly important and, I must say, increasingly strained relationship with China. I happen to believe strongly in the importance of the proper development of a relationship with the People's Republic of China, which is the most overlooked and most significant bilateral relationship in the world today.

I also happen to believe that there are those in China and in this country

who would like to see it became an adversarial relationship. Yes. Would they like to see a return to the dangerous, pivotal, bipolar superpower arrangements that existed all during the cold war? That is what is understood by their actions. Nations then line up. They are either in one camp or the other. It is good for weapons sales. I do not want to see that happen. This relationship is too important to peace and stability in Asia. And, yes, it is too important to the prevention of major misunderstanding which could lead to a potential and devastating third world war.

As my colleagues know, the past few weeks have seen tensions in the triangular United States-China-Taiwan relationship reach new heights. As Taiwan's first fully democratic presidential election approached, China felt compelled to vent its displeasure over what it has perceived as a pro-independence policy in Taiwan by conducting missile tests and live-ammunition military exercises in the Taiwan Strait. These tests and exercises by China were unnecessary, dangerous, and provocative. And I have said as much directly to the highest-level Chinese officials.

The administration responded prudently by expressing its deep concern, by sending the U.S.S. *Nimitz* carrier group to join the U.S.S. *Independence* carrier group in the region to monitor events there, and by making it clear to the Chinese that any attack on Taiwan would have very grave consequences. This is in anyone's book strong and definitive action.

Under these tense circumstances Congress, I believe, must be very careful right now, post-Taiwanese election, not to take any action that would make a potentially difficult situation worse. There is a real window of opportunity. There is a calling for the first democratically elected President of Taiwan to take some steps to clarify Taiwanese policy, to indicate the willingness to reinstitute the across-the-strait dialog, and to clarify once and for all—perhaps jointly with China—a One-China policy.

I believe, as far as the United States is concerned, that we do not need legislation to further inflame the situation. The point has been made. The election has been held. The Taiwanese President has been reelected. Now we need to play the pivotal role of encouraging the parties to get together and discuss a peaceful resolution of their difficulties.

Without firm United States adherence to the principle of one China we would be unable to conduct any kind of normal relations with Beijing. This is an undeniable fact of life, no matter what anybody in this body says.

If there is not a One-China policy, we drive the People's Republic of China into the adversarial Soviet Union-type of response and a cold war. I do not believe this is desirable United States policy. And that is the impact. That is the practical, as I would say, "on the streets" impact of this bill.

I do not believe that the United States is going to retreat on a One-China policy. But to amend the Taiwan Relations Act to explicitly supersede the 1982 joint communique is to give substance and credibility to China's fears. That is what they suspect we are up to. Why would we take that provocative step at this time? For what reason other than to enable ourselves to become incendiary? From the Chinese prospective, it would be tantamount to a declaration that we were about to send a new round of arms sales to Taiwan, that we no longer subscribe to the One-China policy, and that we are meddling deeply in their internal affairs.

Not only would passing this provision be foolhardy; it is also unnecessary. The Taiwan Relations Act is the law of the land. And, like any law, it carries greater weight than any diplomatic agreement, other than a treaty.

But to amend the act to explicitly state that it supersedes the 1982 joint communique would be seen by China as an outright repudiation of a critical and stabilizing element of our longstanding policy toward China subscribed to by six United States Presidents.

I want to commend the administration for listing this provision prominently among the principal reasons the President will veto this bill when it lands on his desk.

Elsewhere in this conference report Congress expresses its support for a visit to the United States by the President of Taiwan in 1996 "with all appropriate courtesies". I must ask my colleagues: How short are our memories? For over 10 months our relationship with China has been in crisis. Here is a country—Taiwan—that says it is in opposition to independence, that says as late as March 5 in a written directive by the Taiwanese premier, that "We are in opposition to independence." Why then would we ask a leader who is not representing an independent country to make an official visit? It does not make sense.

Li Teng-hui's visit to Cornell was the event that sparked the incendiary nature of the last few months. And remember, that visit was billed as a private one; an unofficial one. One can only assume by using the phrase "with all appropriate courtesies" the authors of this provision mean to imply some kind of an official visit despite America's commitment—we made a commitment—to maintain only economic, cultural, and unofficial relations with Taiwan. That is our commitment. If our relationship with China has suffered that much over an unofficial visit, one can scarcely imagine the damage it would suffer in the wake of an official one.

I think we face a similar problem with the proposed name change of the Taipei Economic and Cultural Representative Office. It was only a year ago that the Taiwanese reached an agreement with the administration to change the office's name from the Coordinating Committee for North American Affairs to its current title. Now some are advocating a change to the Taipei Representative Office. I have asked the Taiwanese if they asked for this change. They said no, they did not. Then why are we doing it? Only to tweak China? Is this really necessary? Is this how we want to make foreign policy, a tweak here and a tweak there? "We know your Achilles' heel, China, and now we are going to press on it a little bit." Oh, my goodness.

The current title of the office accurately reflects the unofficial nature of our relationship with Taiwan based primarily on economic and cultural relations. There is no need to create a new title that is not desired, that implies some kind of broader recognition, other than to tweak China.

The people of Taiwan are to be congratulated for the democratic elections they have recently held. They can be justifiably proud. But the crux of our difficulties with China is China's concern that we are in some way egging Taiwan on toward a declaration of independence.

That should not be the message we send.

These provisions give credible substance to China's fear. They suggest we are not satisfied with Taiwan's status and will undertake unilateral actions to nudge it in the direction of independence.

As I said, that is not our role. Our role as a friend of China and a friend of Taiwan is to encourage the peaceful resolution of the Taiwan issue by negotiation and mutual decision. The United States has no right to take actions that could lead to either a nonpeaceful outcome or a nonnegotiated outcome. Unilateral actions by any party in this matter are not acceptable.

There are other provisions which will be irritants of our relationship with China at best and counterproductive to our own goals at worst. For example, I am aware that the backers of the provision authorizing a special envoy for Tibet have only the best of intentions—to see life improved for the Tibetan people. However, I can assure my colleagues that the appointment of a special envoy for Tibet with the rank of Ambassador would be seen by the Chinese, once again, as an attempt to advocate for independence of an area they consider within their territorial boundaries. Even if this person never set foot in Lhasa—and we know that with the rank of Ambassador the Chinese would never let him set foot in Lhasa—we know the Chinese will view

such a special envoy as interfering in their internal affairs.

Now, I am as committed as any Member of this body to improving the lives of the Tibetan people. My husband and I both regard his Holiness, the Dalai Lama, as a personal friend. I first met him in Dharmsala in 1978 and have spent many hours with him and his representatives discussing ways to help Tibet and Tibetans. In January, in Hong Kong, I met with his older brother, Gyalo Thondup, who has been his representative in many negotiations with the Chinese, and had an extensive discussion.

In 1991, I carried a letter from his Holiness, the Dalai Lama, to President Jiang Zemin asking for negotiations between the two sides. As mayor of San Francisco in 1979, I was the first public official to invite the Dalai Lama to visit a city in the United States—San Francisco, an official visit to my city. And since then I have been trying to find ways to bring the two sides together and to encourage China to understand that it is to China's great advantage to see that the culture and religion of the Tibetan people are protected and that human rights for the Tibetan people are improved.

I recite this background merely to make the point that I am well acquainted with the issue of Tibet and have spent many years working on it. In my view, the appointment of a special envoy by the United States would be counterproductive. It would result in the Chinese being unwilling to talk with us or anyone else about ameliorating conditions for the Tibetan people.

What we need to do instead, through intense, continuing, low-key diplomacy, is to convince the Chinese that it is to their advantage to engage in talks with the Dalai Lama in which all issues other than Tibetan independence would be on the table. This I believe is an achievable goal but only if we avoid somehow injecting ourselves in the issue in such a way that the Chinese see us as advocates for Tibetan independence. You cannot have a special envoy with the rank of Ambassador and not create the impression that what we are trying to do is see Tibet as independent. Therefore, the Chinese will fight any improvements all the way. That is why I think this is not well thought out.

There has already been at least one missed opportunity to advance the cause of Tibet. After the last Panchen Lama died, the Chinese authorities invited the Dalai Lama to come to Beijing for a memorial service, but he declined the invitation. I believe that was a mistake because it would have given a new generation of Chinese leadership an opportunity to get to know the Dalai Lama as the fine person he truly is, as a caring, loving person, and a devout Buddhist.

By all means, we should continue to explore ways to achieve cultural and religious autonomy for Tibet and hopefully one day the return of the Dalai Lama and Tibetans in exile to their native soil. And in the words of an ancient Chinese proverb, "When water flows, there will be a channel." I am hopeful that the water of negotiations will flow before too long.

In my discussions with Chinese leaders over the last year, they have repeatedly raised their concern that the United States is pursuing a policy of containment with respect to China, perhaps in the guise of something else. I do not believe we have such a policy, and I have said so. However, when I look at a bill like this one, full of provisions that deal almost patronizingly with an independent nation, China, I must say it seems that some, for whatever reason, do genuinely want to pursue a policy of containment. One certainly could not blame a Chinese observer for drawing that conclusion.

I think we have discussed at length in the past why a containment policy is unworkable and unwise. China is a nation of 1.2 billion people. It is a nuclear power. It is a permanent member of the U.N. Security Council and one of the fastest growing and most dynamic economies in the world. China is not going to be contained. What we need to do is set a long-term strategic and conceptual, goal-oriented relationship with certain priorities in our policies, areas where we can work together, and a methodology for areas where there is a difference of opinion to be able to sit down over the long term at the table and make progress on those issues that divide us. I believe this is possible. We have enormous national interests in developing a peaceful and cooperative relationship with China, and we cannot do so by setting them apart, by making them the adversary that they do not want to be and that we do not want them to become.

I hope my colleagues will reconsider the wisdom of legislating in this area so excessively in the future.

Mr. President, for all of the problems contained in this bill, I urge my colleagues to oppose the conference report. If the bill is passed, I wish to commend the President for pledging to veto this legislation, and I look forward to congratulating him when he does.

I thank the Chair. I reserve the remainder of my time

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). Who yields time?

Mr. HELMS. Mr. President, I am assuming that Senator KERRY will yield. Would the Chair recognize that assumption?

The PRESIDING OFFICER. The Senator from Illinois is recognized on the time of the Senator from Massachusetts.

Mr. HELMS. Very well.

Mr. SIMON. I thank the Chair, and I will try not to impose on the time of Senator KERRY. I am going to vote against this, though I differ somewhat with my colleague from California, as I will explain very shortly.

I think the bill as a whole does harm to what we are trying to do in the area of foreign relations, and I say this with great respect for my friend from North Carolina, who chairs the Foreign Relations Committee, and who is my neighbor in the Dirksen Building and a friend.

We cut back on foreign aid. I know there is popularity to that. But when at town meetings people say, "Why don't we cut back on foreign aid and help the people in our country?"—as the Presiding Officer knows, I have been voting to help people in our country. Then I ask them, "What percentage of our budget do you think goes for foreign aid?" They usually guess 10 percent, 15 percent, 25 percent. And I say, "Less than 1 percent."

They are startled. We spend less, as a percentage of our budget, on foreign aid than any of the Western European countries and Japan. If you put all the Western European countries and Japan together, we spend less than any of them. It does not make sense.

We are authorizing $6.5 billion for fiscal year 1996–97. That is a $500 million cut, while at the same time, this year, we have given the Pentagon $7 billion more than they requested. U.S. security would be helped immensely if we were to give the Pentagon what they requested and use a portion of this for foreign aid.

For example, the housing guarantee programs in South Africa and Eastern Europe are totally eliminated. I know a little bit about South Africa. I do not know that much about Eastern Europe, but I think the situations are somewhat similar. In South Africa, it is vitally important for that country to show the people of that country that they are going to make some progress. Nelson Mandela is immensely popular today, both in the white and black community in South Africa. Public opinion polls are almost identical for whites and blacks there. But the reality is, he has to show that he can deliver for people who have been oppressed, and the housing program is an inexpensive way for the United States to help. Mr. President, 28 million poor people have been helped by our housing program in Eastern Europe and South Africa—and we want to eliminate that.

Regarding limitations on U.S. assistance on population, if you do not have population assistance, let me tell you, the abortion rates go up and other problems arise. It is very interesting. If you look at Japan, for example, where they have programs to tell people about contraception and other things, you have a very low abortion rate. You

also have less than 1 percent of children born out of wedlock. If you have assistance on planned parenthood and that sort of thing, we reduce the abortion rates.

We also reduce the problem—it depends on whose estimates you believe, but the world population is going to grow. It will roughly double in the next 45 to 60 years. The most conservative estimates are 45 years; the more optimistic are 60 years. We ought to be helping out.

The United Nations—and here I applaud my colleague who is the Presiding Officer for being very responsible in this area—the United Nations, we now owe them $1.4 billion. The budget for the United Nations, for New York, Geneva, and the six commissions, not counting peacekeeping, is $1.2 billion for a year. In other words, we owe more than a year's expenses for running the United Nations. Running the United Nations takes $500 million less than running the New York City police department. The No. 1 deadbeat in the world is the United States.

Do not kid yourself that we are not hurting ourselves. Here is today's newspaper, an Associated Press story, "World Bank Arrears Disqualify United States. American contractors can't bid on $2.1 billion in projects." Why? Because the World Bank has a rule, if you get too far back in what you owe, that country cannot bid on projects. So, contractors in Illinois and Arkansas and North Carolina and Vermont are hurt by our being a deadbeat here. I hope we will do better.

Then I would like to comment on the China situation a little bit. Real candidly, if I were to write the language in this resolution, I would write it differently. But I have to say, I do not think we should quake every time China growls. I share with the chairman of the Foreign Relations Committee a feeling that we should let Taiwan know that a freely elected government is regarded as a friend of the United States.

Perhaps inviting President Li officially here right now may not be the right thing while China's leadership is going through this turmoil, but to turn a cold shoulder constantly to Taiwan, when they have a free press, multiparty system, free elections—they are the seventh biggest trading partner of the United States, they are second only to Japan in the foreign reserves they have—to pretend there are not two countries there is just a mistake.

I heard my colleague from California, Senator FEINSTEIN, for whom I have high regard, I heard her talking about the Shanghai communique and, while we have said as a nation we recognize one China, frankly I think that was a mistake. We cannot reverse that overnight. But that was done at a time when we were worried about the Soviet Union and we were trying to keep China and the Soviet Union apart. But the reality is, we ought to treat China and Taiwan as we did West Germany and East Germany. Both East Germany and West Germany did not like it that we recognized the other side, but that did not prevent the two of them from eventually coming together again. But we said the reality is there are two governments and that is the reality today.

I think we have to be sensitive to the Chinese situation. I do not think, to use Senator FEINSTEIN's language, we should just be tweaking China whenever we can. I think we ought to be firm, solid, and let them know that military aggression is not going to be tolerated. We have not been as firm as we should be.

Senator FEINSTEIN is right when she says our policy has been one of zigzagging. Without going to the Presidential level, I frankly think we ought to have cabinet members from both sides appearing in each other's country. When I was in Taiwan, I do not know, 3 years ago or so, the Foreign Minister had a luncheon honoring me, but our representative in Taiwan—we do not even have the courage to call him an ambassador—our representative in Taiwan could not come because the luncheon was in a government building. He is not allowed to go into a government building.

That is just ridiculous. We have to recognize reality. When we face a choice of cuddling up to democracies or dictatorships, the United States of America should not have a difficult time. We ought to be siding with democracies rather than dictatorships.

I think we ought to say to China, "We want you to be our friend." But we also ought to say, just as firmly, "We are for democracies." And I hope gradually we will recognize that there are, in fact, two governments over there. To pretend anything else invites possible trouble.

Let me just add this. I heard Tibet mentioned. That is history now, not good history, but I am afraid that is done. But if we do not say very clearly "you cannot invade Taiwan or send missiles there," dictatorships are never satisfied with just one piece of property.

The reality is, if China takes Tibet, it will not be too long and they are going to go up and take Mongolia. Look at some of those Chinese maps. They already have Mongolia as part of China, and who knows where it goes next. We should learn the lessons from history, and we should side with democracies while we maintain reasonable relations with dictatorships.

Mr. President, I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. JEFFORDS). The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, what we are doing is alternating this side and that side. I suggest it is appropriate now for the Chair to recognize the distinguished Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. HELMS. I thank the Chair.

Ms. SNOWE. Mr. President, I want to thank the chairman, and I want to thank you, Mr. President.

I rise in strong support of the conference report to accompany H.R. 1561, the Foreign Relations Authorization Act for fiscal years 1996 and 1997. As chair of the Foreign Relations Subcommittee on International Operations, we have jurisdiction over these issues contained in this legislation, and I am very pleased with the report that the conference committee issued with respect to this important bill.

I commend the chairman of the Foreign Relations Committee, Chairman HELMS. I know this has been a long and difficult road to bring this authorization bill to this point. Regrettably, we did not have enough assistance from the administration or the State Department to work out the differences that developed between the committee and this administration and the State Department. But regardless, I think the bill that has come before the Senate and has come before the House is a bill that certainly should be accepted by both sides.

Frankly, as one who has been involved in this process as the ranking member of the similar subcommittee in the House for almost 10 years, I am somewhat surprised at the way in which the State Department or the President has refused to negotiate the differences on some of the issues that have been at the forefront of this authorization bill for more than 1 year.

I have never been in a situation in being responsible for this authorization bill in which the President has never submitted an authorization request. We have not yet to date ever received a State Department authorization bill for the issues before us referring to the State Department authorization and the other related agencies, such as international broadcasting activities, international exchanges, as well as international organizations and our contributions to the United Nations as well.

We have never yet in this entire process received a bill from the administration with respect to any one of these issues. And, as I said, this is the first time in all of the years in which I have had the responsibility of addressing the State Department authorization bill that a President has failed to submit a legislative authorization bill.

But be that as it may, we worked it through the process, as Chairman HELMS indicated. It was a difficult process, to say the least. But here in the Senate in December, the bill passed

by a margin of 82 to 16. It received tremendous bipartisan support. So I would expect that this conference report should receive the same bipartisan support. If anything, this conference report is even stronger than the bill that passed the Senate back in December.

But I think it is important to review what occurred over this last year to have reached this point and to demonstrate that the conference report that is before this body reconciled the differences, in fact, came a long way to accommodate the differences that the minority had in the committee or here on the floor or that the President had or that the State Department had, but every time we reconciled those differences, they moved the goal posts. They were unwilling to resolve and to reconcile the issues that are before us today.

But I think it is important to review exactly how much we have accommodated the administration's concern, as well as the minority.

First of all, when you are looking at the consolidation issue, it is important to remember that back in January of 1995, Secretary Christopher himself acknowledged that consolidation was possible. He, in fact, proposed to the administration that the consolidation of three agencies into the State Department was a realistic approach.

The Vice President recommended that we could achieve savings in the State Department and related agencies of approximately $5 billion over 4 years. So that is the point at which we started this whole proposition.

So the Senate Foreign Relations Committee, with Chairman HELMS, recommended that we consolidate three agencies with a savings of $3 billion.

We started working through the differences. The minority members of the committee said, "No, we don't want to support consolidating any agencies." But they did, in fact, agree to consolidating one agency with a savings of $2 billion over 4 years. The majority in the committee said we will consolidate three agencies with $3 billion over 4 years.

So here we are at this point with a conference committee report, and what do we have? We have a conference committee report that says we have to reconcile the differences between the Senate and the House. And so the Senate position going into conference was no agency consolidation but a mandate requiring $1.7 billion over the next 4 years.

The House, on the other hand, had a position of consolidating three agencies over the next 5 years, with no specified savings. So what did we do? We came out of the conference committee with one agency, a savings of $1.7 billion. That is very close to the position that was supported by the Senate back in December with a vote of 82 to 16.

I guess it is hard to understand why anybody would suggest that this is an unrealistic or unachievable consolidation proposal. We have come from the Vice President's proposal of $5 billion down to $1.7 billion, and even the minority on the committee supported $2 billion worth of savings, and in the conference report we have $1.7 billion in savings, so even less than what even they supported. They supported one consolidation, one agency to be consolidated in the State Department. That is what came out of the conference committee. We got one agency requirement for consolidation or merging into the State Department. So we have come a long way to reconcile those differences.

It is really hard to understand why there has been so much resistance to this effort and to make some accommodation to bridge the differences. We have certainly gone a long ways to reconciling those differences, not only within this body, but with the House as well.

Then we had the issue of the international family planning proposals. Well, again, the House bill contains some very restrictive language with respect to UNFPA and Mexico City policy provisions that, in fact, those are the same provisions that endangered the foreign operations appropriations bill last year. But we were able to remove those onerous provisions from the conference report. We removed all of them. But yet at the same time, again, we had objections from the other side, because they said, "Well, that's not enough. It is not enough that you took those provisions out. You should also have language in this conference report that overturns the restrictions and the reductions in international family planning programs in the appropriations bill."

That is an interesting recommendation considering the fact that the minority did not want to have any development assistance proposals in the State Department bill, and that is why almost all of the foreign aid language was removed, rightfully so, because the Senate never had that opportunity to consider that legislation. So it was removed. We took out all the international family planning restrictions and all the development assistance legislation. But yet at the same time, they are saying, "It is not enough because we think we should overturn the appropriations language."

Well, that process is occurring right now, hopefully, in the conference committee on the omnibus appropriations bill. But certainly the conference report is not the vehicle to do it, since we have taken out all the other foreign aid components.

I should say that the language that is in the current continuing resolution with respect to the international family planning programs are the very same programs in the very same continuing resolution that the President signed into law and was supported by Members of this body.

The appropriate vehicle for resolving the appropriation differences on international family planning funding is in the conference committee on the omnibus appropriations. That is where that debate should occur, not here in this conference report.

Our goal was to remove the restrictive language on international family planning and Mexico City provisions that would have set us back in those areas. We did that. That was a major accomplishment. There are important issues in this legislation that ought to be supported by all Members of this body.

This legislation contains several important policy initiatives, such as the McBride Principles. This would codify the McBride Principles and place them in permanent law.

The McBride Principles would establish a standard of nondiscrimination for any project or enterprise in Northern Ireland funded through our contributions to the International Fund for Ireland. This is a very important principle to uphold. I think this would be the first time that will provide an opportunity for all Members of this Senate to vote on the McBride Principles and to support codifying them into Federal law.

Another important policy initiative that this bill would place into permanent law is the Humanitarian Aid Corridor Act. This provision, first enacted on a 1-year basis in the foreign operations appropriations bill, would require that recipients of American aid not block the delivery of any humanitarian aid to any neighboring country. While drafted generically, it is intended to send a strong signal to Turkey, which in the past has frequently attempted to block the delivery of desperately needed humanitarian assistance to the people of Armenia.

A third major legislative initiative in this conference report is the Terrorist Exclusion Act, which I first introduced in the last Congress. This would restore the President's authority to exclude the entry into the United States of any individual who is a member of a violent terrorist organization. This is basically to restore the law prior to 1990.

So, I guess it is hard again, going back to the administration's position, to understand why the President and the State Department have gone on record in opposition to this legislation, because the agency reorganization is essential, even by the Secretary of State's own admission, even by the Vice President's own recommendations to save $5 billion.

I cannot imagine that anybody would suggest that we cannot merge one agency into the State Department,

that we cannot merge the Arms Control and Disarmament Agency. It is a modest agency of 250 people, that in this day and age when we need a new world order, when it comes to our own State Department and related agencies, we have to reorganize. It is important to have a unified, singular voice when it comes to delivering our foreign policy. That was the basic intent of this agency consolidation. But we have met resistance at every step of the way by the administration, even though at some point in time the administration or Members on the other side have indicated that they support such consolidation.

Let us talk about the funding levels. The authorization level in this conference report represents probably a high point in funding levels for these agencies. In fact, it is in conformance with the budget resolution. The reductions in funding are modest, no more than $500 million under the 1995 funding level.

The President has argued for cuts in domestic programs, but—this is the one area in which he is recommending an increase. In fact, the President recommended a $1 billion increase in the foreign aid accounts. I think it is interesting that the President would recommend cuts in so many domestic discretionary programs in order to achieve a balanced budget, but insist on continued growth in foreign spending. But that is exactly the case, because in the statement that was issued by the administration, they objected to the funding levels that were incorporated in this conference report.

There has been opposition by some because of the provision that addresses the International Housing Guarantee Program. This program is routinely criticized as one of AID's most ineffective and wasteful programs. In fact, GAO has conducted a study of this program which subsidized housing for citizens of other countries. The GAO found that this program is well on its way to wasting $1 billion in U.S. taxpayers' money—$1 billion.

I cannot believe that the administration again is objecting to this provision to remove this program when it has already been demonstrated to lose for the taxpayers more than $1 billion. The overall program represents a 40-percent loss to the American taxpayers with respect to the inefficiency and the ineffectiveness of this program. Yet, again, the administration states as one of its objections the fact that it cuts this International Housing Guarantee Program.

We come to the issue of Vietnam. The bill simply requires the President to certify that Vietnam is fully cooperating on the POW/MIA accounting prior to establishing even closer relations with Vietnam. Now, how can anyone find this objectionable? The President has already taken every opportunity to state his belief that Vietnam is fully cooperating.

I may disagree with the President on that assertion, but be that as it may, if the President certifies that they are fully cooperating—that is his own prerogative and initiative as described in this provision—then he can move forward to establish even broader diplomatic relations. So I cannot understand why the President would object to this language.

Mr. President, it has been a long process with respect to this conference report. As I said earlier, again, I think it is important to remind Members of this body that we had no guidance, no counsel, from this administration. The fact is, in the process during the conference committee and prior to the meeting of the conference committee, members of the State Department, representing the administration and the Department, refused to offer language or to cooperate in the process throughout the month-long effort.

I think we could have reached a consensus at some point. It is hard to believe they could not support this conference report, because I cannot imagine being more accommodating on all of the issues that were of concern to them originally in terms of how many agencies would be required to be merged into the State Department, or how much savings we would realize as a result.

I mean, we basically went from three to one agency, and we went from $3 billion to $1.7 billion worth of savings as a result of agency consolidation and reorganization. From my estimation, I think that is a pretty reasonable compromise. I want to further remind this body again the Vice President said that we could achieve $5 billion worth of savings, the Secretary of State said and recommended to the administration that we ought to be able to consolidate three agencies into the State Department. But we are only talking about one here now. We are only talking about saving $1.7 billion.

We have had no legislative recommendations from this administration with respect to this State Department authorization. Again, as I said earlier, for more than a decade that I have been working on this very issue, I have never had an administration not submit a legislative proposal with respect to authorization for the State Department and related agencies.

The President, of course, can veto this legislation and has indicated he will. I hope that he will not because I do believe this conference report does strike a compromise between the House and the Senate. It accommodates the concerns and the views of the administration. I think it is unfortunate if the President moves forward with a veto because he will have failed to seize an opportunity to move forward in this consolidation process and to reorganize our foreign policy structure.

It will be the President who vetoes that consolidation, and it will be the President who vetoes the savings in this bill. It will be the President who vetoes the McBride Principles and the codification of the Humanitarian Aid Corridor Act. It will be the President who denies himself the authority he needs to prevent members of terrorist organizations from entering the United States and endangering the lives of American people. That is the bottom line here with respect to this conference report.

I hope that Members will give this very serious consideration and adopt this conference report because it is, I think, a step toward the kind of goals we want to accomplish for our foreign policy structure, not only for the short term but for the long term.

Mr. President, I yield the floor.

Mr. BUMPERS. Mr. President, I ask unanimous consent to proceed for 2 minutes on the time of the Senator from Massachusetts, to be followed by Senator PRYOR, who has some time coming.

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

Mr. BUMPERS. Mr. President, I was sitting in my office earlier this afternoon and the senior Senator from Arizona came to the floor and chastised President Clinton for apparently discussing on the telephone with President Yeltsin the poultry embargo that the Russians had imposed against all American poultry. The Senator suggested that he hoped that the President had much greater things to discuss with the President of Russia.

Now, Mr. President, I do not know what they talked about, but I personally applaud President Clinton for bringing up that very difficult issue. The Russians import $2.1 billion worth of all products in the United States every year, a little over $2 billion, and one-third of that, over $700 million of that, is poultry. Not just my State—it is North Carolina, Mississippi, Alabama, Texas.

Now, the Senator from Arizona acted as though there were something small or childish about the President talking to President Yeltsin about that embargo, which has now been solved. The President did exactly what I would expect him to do.

I know that the Senator from Arizona is not speaking for Senator DOLE. Would he say the same thing if they embargoed rice or wheat? Would we have heard that same speech if President Clinton had called President Yeltsin about a wheat embargo? I do not think so. I know that if Senator DOLE ever became President and we had that kind of an embargo, in my opinion, he would not hesitate to pick up the phone and call the President of Russia about it.

I am just amazed. Here is a big trade issue, and trade is about all we talk about here anymore and about the so-called 301 retaliatory measures. I suspect, frankly, that President Clinton's intervention on that helped resolve it, and the people of my State are working today, the people in North Carolina, Alabama, and Texas are working today because the President called the President of Russia and said, "This is a funny issue. Why don't you let up?" I think that is what solved the problem.

I applaud President Clinton for his intervention. I deplore people trying to treat that in such a cavalier, simplistic manner.

Mr. PRYOR. Mr. President, I ask unanimous consent the Senator from Alaska be recognized for 8 minutes, and after the Senator from Alaska finishes, I be recognized for a 10-minute period. I ask that the time that I use be charged to Senator KERRY of Massachusetts.

The PRESIDING OFFICER. And the time of the Senator from Alaska?

Mr. MURKOWSKI. I believe Senator HELMS indicated a willingness to yield time.

Mr. HELMS. The Senator from Alaska, as far as I am concerned, can speak as long as he likes, but he has stipulated 8 minutes.

Mr. MURKOWSKI. I concur with the floor manager. Senator PRYOR was kind enough to allow me to go out of turn.

The PRESIDING OFFICER. Eight minutes is charged to Senator HELMS. The time of the Senator from Arkansas is charged to Senator KERRY.

Mr. SARBANES. Is it possible to continue the sequence of speakers, or does the chairman not wish to do that?

Mr. PRYOR. If I may respond, what we are doing is continuing the sequencing, because Senator BUMPERS, after finishing his presentation, we have asked that Senator MURKOWSKI on the other side be recognized, and then I would be recognized. I guess I would be recognized after Senator MURKOWSKI.

Mr. HELMS. In the natural course of things, Senator SARBANES would be recognized if time is yielded to him. I am sure that he can get that by unanimous consent, to be charged to Senator KERRY.

Mr. SARBANES. After Senator PRYOR?

Mr. HELMS. No, no, go back and forth. The Senator from Alaska is going to speak only 8 minutes.

Mr. MURKOWSKI. Mr. President, as we prepare to vote on the conference report on H.R. 1561, the Foreign Relations Revitalization Act of 1995, I rise to express my specific concerns that the statement of administration policy indicates that the President appears to be going to veto this bill based at least in part on section 1601, which reaffirms the primacy of the Taiwan Relations Act.

Mr. President, the opponents of the provision claim we are nullifying the joint communique. I totally disagree with this interpretation. Let me refer to the definition of the specific word "supersede" as used in section 1601. The Oxford dictionary say "supersede" means override. I was an original author of this language so I know a little about its legislative intent, and that is that the Taiwan Relations Act overrides the provisions of the communique only if the two are in conflict.

Now, section 3 of the Taiwan Relations Act commits the United States to sell Taiwan whatever defense articles it needs for self-defense and that the executive branch and the Congress will jointly determine what those needs might be.

In 1982, President Reagan pledged in a joint communique with China to decrease arm sales to Taiwan. That was the so-called bucket.

The Taiwan Relations Act was ratified by Congress and is the law of the land. Make no mistake about it. The 1982 communique is an executive agreement never ratified by the Congress.

Now, all that the provision in the conference report says is that the law of the land—the law of the land, Mr. President—the Taiwan Relations Act, will supersede the provisions of the joint communique if the two are in conflict. They have to be in conflict, Mr. President. That is the difference. This is simply a matter of legal precedence.

Mr. President, I ask unanimous consent that the reference from the Oxford dictionary be printed in the RECORD.

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

Supersede: To desist from, discontinue (a procedure, an attempt, etc.); not to proceed with -1750. †b. intr. To desist, forbear, refrain -1850. †2. To refrain from (discourse, disquisition); to omit to mention, refrain from mentioning -1689. †3. To put a stop to (legal proceedings, etc.); to stop, stay -1838. b. Law. To discharge by a writ of supersedeas 1817. †4. To render superfluous or unnecessary -1797. 5. To make of no effect; to render void, nugatory, or useless; to annul; to override. Now rare or Obs. 1654. 6. pass. To be set aside as useless or obsolete; (to be replaced by something regarded as superior 1642.) 7. To take the place of (something set aside or abandoned); to succeed to the place occupied by; to serve, be adopted or accepted instead of 1660. 8. To supply the place of (a person deprived of or removed from an office or position) by another; also, to promote another over the head of; pass. to be removed from office to make way for another 1710. b. To supply the place of (a thing) 1861. 9. Of a person: To take the place of (some one removed from an office, or †promoted); to succeed and supplant (a person) in a position of any kind 1777.

5. The Norman invader superseded Anglo-Saxon institutions 1863. 6. When this work must be superseded by a more perfect history 1838. 7 Oxen were superseding horses in farmwork 1866. 9. Captain Maling takes his passage to s. Captain Nisbet in the Bonne Citoyenne Nelson.

Mr. MURKOWSKI. For example, if the threat to Taiwan is increasing, defensive arm sales should go up. They should not be arbitrarily limited by the bucket. Prior administrations have followed this principle in practice, such as selling F-16's to Taiwan, even though they were outside the dollar limits of the bucket.

It was a matter of convenience. We wanted to do it, so we found a way to do it. I do not see why the administration is objecting to this provision, because it is consistent with current practice. I would also remind my colleagues that the identical language passed out of the Foreign Relations Committee in 1994 on a 20-0 vote when I was a member of that committee.

Mr. President, I again find it incredible that the administration would issue this veto threat over a provision that was intended merely to restate reality: The law of the land takes precedence over a statement of policy. I do not think you could find one constitutional scholar who would disagree with that proposition.

Secretary of State Christopher, in correspondence with me in 1994, acknowledged that it was the administration's position, as it was of previous administrations, that the Taiwan Relations Act as a public law takes legal precedence over the 1982 joint United States-China communique, an Executive communication that was never, as I said, ratified by Congress. Mr. President, I have that letter from Secretary of State Christopher. When the letter was given to me, I told the Secretary, at his request, that I would not release the letter. But I think that the State Department should look up that letter and find out what the Secretary said because I think what he said then is as applicable today, March 28, 1996, as it was April 22, 1994. So I suggest that the State Department do a little backtracking.

It is important to remember that the 1982 communique was based on the premise that the future of Taiwan would be settled solely—this is important—by peaceful means and was signed at a time when decreased tensions between China and Taiwan meant that Taiwan's self-defensive needs were not increasing.

The Senate voted 97-0 last week to reaffirm the commitments made in the Taiwan Relations Act. One of the commitments is that the President, in consultation with the Congress, will review whether the capabilities and intentions of the People's Republic of China have increased the threat to Taiwan. If so, defensive arms sales to Taiwan, obviously, should be adjusted upward accordingly, if indeed that is the case.

Well, we have seen, in recent weeks, the heightened tensions. I do not have to go into the significance of what the M-9 missile message was. It was that

China can indeed launch a missile from the mainland, and it can indeed go to Taiwan. Indeed it has a payload of about 1,200 pounds, and it drops its locomotion in entry, and, as a consequence, it is very difficult to pick up. I am not sure that the technology is available to counter that missile threat.

As we look at some of the other missile threats to the United States, including to my State of Alaska and to Hawaii, we find we are in the range of some of those, which the rest of the United States is not in the range of. I do not think Hawaii and Alaska are expendable, although some of my colleagues may differ from time to time.

Since 1994, China has mounted a series of military exercises near Taiwan. In September and October 1994, the People's Liberation Army conducted combined air, land, and sea exercises on Chou Shan Island, about 60 miles south of Quemoy. At that time, Assistant Secretary of State Winston Lord described these exercises as "the most expansive * * * that China has conducted in 40 or 50 years." In June and July of last year, the PLA conducted more exercises, including firing four medium range M-9 missiles—the first time China had used missiles to threaten an opponent. Right before the Legislative Yuan elections in November, China conducted large-scale combined-arms, amphibious and airborne assault exercises designed to simulate an invasion of Taiwan.

Then, on the eve of the first direct democratic presidential election in Taiwan, China began a series of three more tests. First, China fired four more M-9 missiles into closures within 25 to 35 miles of the two principal northern and southern ports of Taiwan. China followed the missile tests with live ammunition war games in a 2,390-square-mile area in the southern Taiwan Strait, followed by another live ammunition exercise between the Taiwan islands of Matsu and Wuchu.

China may not yet have the capability to invade and conquer the Republic of China on Taiwan, but it does have the capability to do significant harm by mining ports, undertaking a limited blockade with its 5 nuclear-powered and 45 conventional-powered attack submarines, and conducting a terror campaign with missiles capable of carrying nuclear or chemical warheads. Taiwan lacks a reliable missile defense and has only two modern conventional submarines.

I do not consider myself an expert on defense matters, but it appears that Taiwan needs additional deterrence capability, especially with regard to missile defenses. I commend the Clinton administration for sending our carriers into the area of the Taiwan Strait recently to monitor China's war exercises. This exercise should put the Defense Department in a very good position to evaluate the threat to Taiwan from China in determining the level of future arms sales.

Mr. President, I only hope that the diplomats in the State Department do not ignore the military reality in making decisions about future arms sales to Taiwan because of a fear of China's reaction. But, unfortunately, that is what I believe is the driving force behind the veto threat. The administration states that section 1601 "would be seen as a repudiation of a critical and stabilizing element of longstanding U.S. policy toward China, increasing risks at a time of heightened tensions."

Mr. President, the most critical element in U.S. policy toward China is the peaceful resolution of Taiwan's future. If China, by force, repudiates that element, then the basis of the United States' one-China policy is simply stripped away.

We should recognize that that provision in the Foreign Relations Authorization Act does not repudiate U.S. policy, it reaffirms it. I call on the administration to drop this veto threat and implement the law as required.

Mr. President, I am grateful to my good friend from Arkansas, who has accommodated me and my schedule. I thank the floor manager.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

THE DEBT CEILING LEGISLATION

Mr. PRYOR. I thank the Chair. Mr. President, I am going to revert back to a measure that we just passed in the Senate, I think, less than an hour ago, which is the debt ceiling legislation.

On that legislation, the distinguished Senator from Arizona, Senator MCCAIN, had included an amendment he had long fought for, and I support that amendment very strongly, Mr. President. That was an amendment relative to the social security earnings test. It was on that particular amendment that I had told the leadership in times past that should that amendment come to the floor, I was going to attempt to amend that particular provision with a measure that would basically clear up, once and forever more, a mistake we made in the GATT Treaty legislation that we passed last year in the U.S. Senate.

In other words, Mr. President, I was going to use that as a vehicle to amend this provision, which allows one particular drug company—Glaxo, for example—to absolutely continue taking advantage of not only the taxpayer, but also the consumer, the aging American, taking this particular drug called Zantac, and prohibiting, precluding generic competition from coming into the marketplace.

Mr. President, on December 13, 1995, I received a letter from my friend and colleague, the distinguished chairman of the Judiciary Committee. In the letter it says, "Please be assured that I intend to honor my commitment. I will begin a hearing on pharmaceutical patent issues February 27, 1996, and I plan to hold a markup by the end of March."

Well, Mr. President, our friend and colleague, the distinguished chairman of the Judiciary Committee, Senator HATCH, did in fact hold a hearing on February 27, 1996. However, the markup on this particular matter, the Glaxo issue, has not been scheduled. It has not been scheduled for any time in March. To the best of my knowledge, it has not been scheduled for April, May, and who knows—I just hope it will be scheduled someday.

But what is at issue is this fact: Every day we refuse in the Senate and in the House of Representatives, the other body, to correct this mistake that we made through this system, in not clearing up the issue of the patent extension for this particular drug company, and about six other drug companies, every day that we refuse, every day that we delay, Mr. President, we are fattening their pocketbooks to the extent of $5 million a day. That is $5 million each day that is being paid for by the consumer, the taxpayer, the Veterans Administration, the HMO's, right on down the line—any consumers that buy Zantac. We have been told that a generic that is ready to go into the marketplace immediately could absolutely walk into that marketplace today, begin competition with Zantac at one-half of the price of this prescription drug. But, Mr. President, we have refused to do it. We have had a vote in December, and we failed by two votes to get enough votes in this body to close this loophole and to state that we are no longer going to continue this very major windfall for one or two or three drug companies.

We made a mistake. We extended all patents from 17 to 20 years in GATT, and we said that a generic company could market their product on the 17-year expiration date, if they already made a substantial investment and were willing to pay a royalty.

We think that is a fair balance of interest. The other thing we did in GATT was that we said we are going to allow every human, every company, every product to have the same extension of their patent rights. However, we set out a perfectly illegitimate reason to give to a few drug companies a unique opportunity to not be included in the GATT legislation. So, therefore, we excluded a few pharmaceutical manufacturers, and we said to them that you are going to have an extra 3 years on your patent. You are not going to have any competition whatsoever in this particular drug marketing and in the sales of the particular drug.

During the February hearing held by Senator HATCH, the chairman of the

Judiciary Committee, we had the evidence, we had the testimony of our U.S. Trade Ambassador, Ambassador Kantor, we had the Patent Office, and we had everyone representing this administration that we could think of say that this was never intended to be a part of the GATT Treaty. The negotiators never intended to carve out a special reason, or a special status, for a very few—if I might say, a handful—of drug manufacturers.

Mr. President, during that testimony that day in late February of 1996, during all of the discussions that we have held on the floor of the U.S. Senate, during the committee meetings that have been addressing this issue, including the Finance Committee, there is not one scintilla of evidence—not one—that one individual has ever maintained that this was a deliberate act by the negotiators, that this was a deliberate act by the Congress of the United States to carve out this special exemption for a handful of drug manufacturers.

We have competition-ready to come to the marketplace. We have cheaper prices ready to be able to come into the marketplace to provide quality drugs at competitive prices—more than competitive prices. For us to believe that we can continue this great windfall, I think is very wrong indeed.

I urge the chairman of the Judiciary Committee to proceed forthwith with a markup for this particular issue. He knows what the issues are.

Mr. President, I further state that at the proper time on the proper legislative vehicle, I will offer to the Senate once again the opportunity to correct the record, once again the opportunity to set things right, because every day that we delay is another $5 million in profits to the pharmaceutical companies that make Zantac and these other drugs. We are delaying now about another 15 to 20 days at least because we are leaving on a 2-week recess tomorrow. That is another $75 million to $80 million for these drug companies in extra profits for them at this time.

We had a vote in December, and we have seen since that time and since that vote another $450 million of profits being given to them in a windfall nature.

I think the American people certainly are calling on us to be responsible to set the record straight and to admit that we made a mistake.

I am going to give the Senate—and hopefully the other body—an opportunity to correct that mistake in the very near future. I will be offering that on the first legislative vehicle that I see the opportunity to attach it to after we return from our Easter break.

Mr. President, I yield the floor.

Mr. HATCH. Mr. President, I was dismayed to hear the comments our colleague, Senator PRYOR, just made with reference to the Judiciary Committee's deliberations on the GATT/pharmaceutical patent issue.

My colleague was correct in stating that I wrote him a letter in December indicating the committee would hold a hearing and a markup on this issue.

In fact, we held a hearing on February 27 on the specific issue he raised, and 1 week later, March 5, held another hearing on the more general issue of pharmaceutical patent life at which the GATT issue was also commented upon by a number of individuals.

Perhaps my colleague was not aware, that, on Tuesday, I notified the committee that this would be a possible agenda item for markup this week. However, it was not possible to forecast the arduous, time-consuming immigration markup, which extended much longer than any of us had anticipated. In addition, Senator KENNEDY, the ranking member of the Labor Committee and a top member of Judiciary, expressed concerns about how the Judiciary Committee's agenda was conflicting with the FDA reform markup this week in Labor. Accordingly, at the outset of the Judiciary Committee's deliberations on the immigration bill this morning, I made the following statement:

> Finally, let me say a few words the Committee's consideration of how certain GATT transition rules should apply to the generic drug industry—this is the so-called GATT patent issue.
>
> This was the subject of a lengthy floor debate on December 7th and a Committee hearing on February 27th.
>
> As I have stated on a number of occasions, my preference is to achieve some sort of compromise on the issue. But this is a very complex issue that involves the confluence of three interrelated statutes: the GATT implementing law, the Federal Food, Drug, and Cosmetic Act, and the patent code.
>
> I am aware that there are discussions taking place in an attempt to fashion a compromise proposal. I have directed my staff to continue to facilitate these discussions.
>
> Frankly, the Immigration Bill has taken longer that any of us would have liked or could have planned for. It became apparent earlier this week that we would not have time to complete a GATT mark-up before Friday.
>
> We still have many amendments to dispose of on the Immigration Bill. I also know that Chairman Kassebaum's Labor Committee is in the middle of the FDA reform mark-up and that Senator Kennedy wanted to closely coordinate our schedules today. Other members have scheduling conflicts as well.
>
> For these reasons, I am announcing my intent to schedule mark-up on the GATT issue when we return from recess. I would like to consider a compromise that most of us can support. I don't think the PRYOR bill meets that test. I hope we will continue working toward an agreement over the recess.

I wish to make amply clear for the record that Senator PRYOR's staff had informed me that he did not anticipate, nor wish for, a markup on this issue in Judiciary, but rather he wished to pursue a dialogue on the floor. Thus, I was heartened to hear his remarks just now in which he stated he wanted the Judiciary Committee to mark up a bill.

Before closing, I would like to address one specific comment Senator PRYOR made. Those who advocate change in the law argue that the Congress clearly intended to achieve the results of the Pryor/Chafee/Brown amendment when we originally passed the Uruguay Round Agreements Act (URAA). They continue to argue to this day that it was merely a "technical oversight" which led to this "unfair" outcome.

I find it strange that not one person has come forward, that there has been not one shred of evidence, not one memo, nor paragraph of a memo, nor even a sentence in any document supporting Senator PRYOR's contention.

In fact, the Court of Appeals for the Federal circuit, a completely disinterested party, could find no definitive evidence on this issue at all. In the November, 1995 Royce decision, the Federal circuit stated:

> The parties have not pointed to, and we have not discovered, any legislative history on the intent of Congress, at the time of passage of the URAA, regarding the interplay between the URAA and the HATCH-Waxman Act."

I do not wish to rehash the arguments related to the GATT at this time. It is an extraordinarily complex issue, and is not as simple as it might appear to some. It is no secret to this body that I am not supportive of the Pryor amendment as drafted in December.

What I do want to emphasize is that a fair resolution of this issue remains my priority and, as I said at the markup this morning, I am hopeful we can fashion a compromise that is acceptable to the majority of Senators. I hope that my colleagues Senators PRYOR, BROWN and CHAFEE, will be willing to work with us in that regard and I look forward to their suggestions for areas in which a resolution can be crafted.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 AND 1997—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. MCCAIN. Mr. President, I was one of the first Members of the Senate to support Senator HELMS' efforts to consolidate U.S. foreign policy agencies. This bill does not go as far as I or many of my colleagues on the Foreign Relations Committee had hoped it would in this respect. I, and I know the chairman, had envisioned a consolidation which would require the dismantlement of three agencies—USAID, USIA, and ACDA. But just getting the bill into and out of the conference committee was a major accomplishment and I commend the chairman for it.

I support the bill and I will vote for it. A savings of $1.7 billion over 4 years and the merging into the State Department of at least one foreign policy

agency is a proposition simply too good to pass up.

However, I do want to register my steadfast opposition to one particular provision in the bill. The conference report conditions funding for any expansion in United States diplomatic relations with Vietnam on Presidential certifications in a number of areas related to missing United States servicemen. The Senate wisely refrained from including similar language in its bill, and despite its several efforts to address the issue in previous legislation, the House included only sense-of-the-Congress language.

Given that neither House decided to legislate in this area, I was quite dismayed to find out that somehow during the proceedings of the conference committee, the conferees actually decided to make the House language tougher. One reasonably expects—and common sense would indicate—that a compromise develops midway between two positions. But in this case, compromise involved not only caving to the House position, but giving House conferees something for their trouble.

This is the third time that I have come to the floor to register my opposition to the same language in different conference reports. I know that conferees often have a difficult time dealing with this issue. On one side of the debate are those who seek to block the President's decision to normalize relations with Vietnam at every opportunity. They are extraordinarily focused and unrelenting. In contrast, those on the other side of the debate either have an understandable predominate interest in reaching a real compromise, or truly see no harm in forcing the President's hand.

As was the case with the CJS conference report, the balance of sentiments on this issue in this conference has contributed to the certainty of a Presidential veto. I know that the President would have likely vetoed the bill anyway. He has fought the idea of State Department reorganization since Secretary Christopher first proposed it. However, I think we have complicated the case for consolidation with this provision on Vietnam. In short, we have given the President one more reason to veto the bill. And unlike some of his reasons, to my mind, this one is legitimate.

When the bill returns to the Senate for a possible veto override, I hope the conference will revisit the issue of United States-Vietnam relations and approve language which reflects the will of at least one House of Congress. Consistent with his constitutional powers, the President last year made a decision to normalize relations with Vietnam. As I have pointed out to my colleagues a number of times, this is a fact. The President should not be constrained in his efforts to carry out his decision. If we cannot respect President Clinton's decision on its merits, we ought to at least respect the power his office entitles him to exercise.

Mr. DODD. Mr. President, I oppose H.R. 1561. I do so for many reasons.

I believe that this bill is not only myopic, but it is dangerous. H.R. 1561 calls upon the President to eliminate one of three foreign policy agencies and includes authorization levels that would force the United States to withdraw from some international organizations. It overlooks the successful efforts the administration has already undertaken to reduce its expenditures. Mr. President, the United States is unquestionably the strongest Nation in the world. These foreign affairs agencies are essential to U.S. leadership. H.R. 1561 undermines our strength and leadership in the world.

In addition to objection to the general direction the bill takes us, there are also specific provisions that are seriously flawed. Specifically, look at how this bill treats relations with Vietnam. Section 1214 makes funding for a U.S. Embassy in Vietnam dependent upon a Presidential certification that Vietnam is fully cooperating on the POW/MIA issue. Most certainly we all want to resolve any outstanding POW/MIA cases. However, this provision isn't likely to facilitate that end. This provision, if enacted, could threaten the progress that has already been made on the POW/MIA issue. Moreover, it could restrict the President's ability to pursue our national interests in Vietnam and put United States firms at a competitive disadvantage.

Second, it in terms of U.S. participation in the United Nations, this bill provides inadequate funding levels for fiscal years 1996 and 1997. The United States is already $1.2 billion in arrears to the United Nations. Besides being irresponsible, this outstanding obligation thwarts our influence in the United Nations and impedes our diplomatic efforts to reform the institution. Even Namibia, one of the poorest countries in the world with a GDP 86 times less than the United States, has paid up. That, Mr. President, is shameful.

Third, H.R. 1561 fails to resolve the limitations on U.S. population assistance programs placed in the fiscal year 1996 foreign operations appropriations legislation. Such restriction will have a serious, detrimental impact on women and families in the developing world. These restrictions will cause an estimated 7 million couples in developing countries to be without access to safe, voluntary family planning services. And what will the result be? Millions of unwanted pregnancies and abortions. Mr. President, I am sure that none of my colleagues want to see this happen.

Mr. President, I conclude my statement by reiterating that H.R. 1561 is shortsighted, dangerous, and that I vigorously oppose it. I encourage my colleagues to join me in voting against the conference report.

Mrs. KASSEBAUM. Mr. President, today, we have before us significant legislation which, if it becomes law, will restructure the principal institutions used to conduct America's foreign policy. The process leading to this point may have been less bipartisan and less open than some of us would have desired. But I want to commend the chairman of the Foreign Relations Committee, Senator HELMS, for his determination in shepherding this difficult bill through the legislative process.

The heart of this bill is its reorganization of our Nation's foreign policy bureaucracy. While I still have reservations about the continued deep cuts in our foreign affairs spending—an account that already has sustained deep cuts since the late 1980s—that is not the issue here. Congress made the decision to continue cutting our foreign affairs spending when we passed the budget resolution last year. The purpose of this authorizing legislation is to try to shape those cuts in a manner that will best protect our ability to carry out the Nation's foreign policy.

I believe this conference report's approach to streamlining and consolidation—an approach dramatically different from the original versions introduced a year ago in both Houses—is reasonable. In essence, this legislation would require the abolition of one of our four principal foreign policy agencies and would require a savings of $1.8 billion over 4 years. It wisely vests in the President, however, the maximum possible flexibility to determine the details of reorganization.

Because the reorganization provisions are, in my judgment, reasonable, I intend to vote for this legislation. However, I very much regret that the legislation also contains many foreign policy provisions which have been less scrutinized and which, in my view, would have been better omitted. Let me outline my specific concerns with the legislation:

First, the bill contains a number of provisions that may further irritate our relations with China. Most important among these is the provision asserting that the Taiwan Relations Act takes precedence over the 1982 Sino-United States joint communique. The triangular relationship between Washington, Beijing and Taipei is a delicate diplomatic balance in each of its legs, and in this legislation Congress is needlessly seeking to strengthen one leg—the leg between Washington and Taipei—without regard for the effect on the other two.

Second, the bill unwisely reopens the difficult debate about our relations with Vietnam. In 1994, after weighing the arguments on both sides, Congress concluded that normalizing relations with Vietnam best serves America's

national interests in that region. I do not believe we should roll back that decision today.

Third, the bill creates a new category of political asylum for persons fleeing coercive population practices. I have opposed this provision from its inception because I believe it may open a floodgate of false claims for immigrants from certain countries not otherwise able to enter the United States.

Fourth, the conference report restores several provisions that require withholding of U.S. contributions to the United Nations—provisions that were struck from the Senate bill at my request. I believe that we have reached the limits of this nickel-and-dime approach to reforming the United Nations and that these narrow withholding requirements have become counterproductive. What is needed, in my view, is a broader approach to reform. Unfortunately, a provision that I added to the Senate bill to require the administration to submit to Congress an overall proposal for reforming the United Nations consistent with several specific objectives has been dropped from the conference report.

Fifth, this legislation has cherry picked the foreign aid authorization bill, incorporating a small handful of its most politically popular provisions into the broader State Department Authorization bill. This approach ensures that no other foreign aid authorization will be enacted this year. I worry we are creating a situation in which no foreign aid program other than the few in this bill will be authorized and, as a result, funding for any others may be blocked.

Sixth, this authorization legislation does not deal with the difficult population issue of international family planning, despite the compromise reached in the Foreign Operations Appropriations debate stipulating that the matter would be handled in this bill.

Seventh, the legislation ends the United States housing guarantee program, with an exception for our program in South Africa. I tend to believe this is an important program that should not be banned by statute.

Mr. President, this is a long list of objections. To weigh them against the strengths of the bill's reorganization provisions was no easy task. I concluded, however, that the bill on balance is worthwhile—largely because its reorganization provisions will bring an order to the inevitable downsizing of these agencies that otherwise might not exist. I also want to support the Chairman of the Foreign Relations Committee. However, I understand the President has reached a different conclusion and intends to veto this legislation. If that occurs, I cannot give assurances that I would vote to override his veto.

Mr. NICKLES. Mr. President, I want to compliment my friend from North Carolina for moving forward a proposal to reduce the size of government that was opposed by the Administration and those on the other side of the aisle. I think through his persistence we have a bill that may not go as far as most of us in the Senate would like to see, but at least it is a step in the right direction.

I do think, however, that the debate on this bill helps to magnify the fundamental differences between those on this side of the aisle and those on the other side of the aisle.

When this bill was originally proposed it would have eliminated three government agencies, The Agency for International Development [AID], The Arms Control and Disarmament Agency [ACDA] and The United States Information Agency [USIA] and folded these functions back into the State Department. By doing this, the American taxpayer would have saved $3.66 billion during the next four years.

Now we have a bill that calls for the elimination of these three agencies, but the bill allows the President to issue a waiver for the elimination of two of these three agencies. The result is that the American taxpayer will only realize about half of the $3.66 billion in savings as originally proposed.

I want to remind my colleagues how we got from the original version of the bill to the Conference Report. This is especially enlightening because when the bill was originally proposed, it was hailed as the Helms-Christopher plan because the bill mirrored a plan outlined by Secretary of State Warren Christopher to eliminate these agencies.

This is what the January 12, 1995 edition of the Washington Times had to say about this bill:

> If imitation is the sincerest form of flattery, then Secretary of State Warren Christopher and Deputy Secretary of State Strobe Talbott ought to be basking in the glow of admiration beaming upon them from Capitol Hill. Jesse Helms and Rep. Benjamin Gilman, chairmen of the Senate and House Foreign Affairs Committees, recently unveiled their plan for the re-invention of the U.S. State Department and—Ta-da—it bore more than a passing resemblance to the plan produced by Messrs. Christopher and Talbott.

However, when Vice-President GORE and his re-inventing government staff got a hold of Secretary Christoper's plan it was fundamentally altered. Instead of adopting it, the Vice-President decided to streamline these agencies. And since then, according to the August 5, 1995 edition of Congressional Quarterly, "the administration * * * has mounted a furious effort to kill the Helms bill."

Once again, I want to compliment my friend from North Carolina for continuing to move this plan as originally proposed forward in the face of opposition. He moved the bill through his committee, but when the bill got to the floor of the Senate, the Democrats here carried the administration's torch and frustrated efforts to eliminate these agencies.

Twice the Senate tried to cut-off debate, and twice, along party lines, the Senate was prevented from moving forward on the bill.

I wish to remind my friends on the other side of the aisle and the American people, that the bill does not eliminate the functions of The Agency for International Development [AID], The Arms Control and Disarmament Agency [ACDA] and The United States Information Agency [USIA]. Some have argued that the bill in its original form would have eliminated important government functions. I ask how? The bill transfers the functions of these agencies to the State Department and eliminates the bureaucracy created by these independent agencies.

I wish to point out again for my colleagues in the Senate, that the first bill of the 104th Congress that would have eliminated three government agencies faced vigorous opposition by the Democrats in its original form. And the watered down version, which we are about to pass which would eliminate only one government agency, faces a certain veto by the President. This despite the fact that in his state of the union address the President said "the era of the big government is over."

I don't think the American people could get a more clear picture of who is doing what about the size of government.

Mr. COHEN. Mr. President, much of the debate today has addressed issues that are important but peripheral to the focus of this bill, which is the size and organization of the State Department and associated foreign policy agencies.

Going back to the Nixon administration, numerous reviews have been conducted by the Foreign Relations Committee, its House counterpart, and many executive branch-appointed groups to determine how best to streamline the array of foreign policy agencies that exist. My staff at the Oversight of Government Management has studied this issue, as well. A common theme of these reviews has been that more efficiencies can be achieved, and this probably should include the merging of some existing agencies. The conference report now before the Senate directs, in essence, the elimination of at least one of three agencies—the Agency for International Development [AID], the Arms Control and Disarmament Agency [ACDA], or the U.S. Information Agency [USIA]—with primary focus on AID and ACDA.

The 1989 House Foreign Affairs Committee report coauthored by Congressmen HAMILTON and GILMAN called for AID's elimination. A 1992 report by a bipartisan group appointed by AID, itself, called for AID's merger into the State Department.

A decade ago, I cochaired with Harold Brown a study group at the Johns Hopkins School of Advanced International Studies. We commissioned a paper on why ACDA should not be merged into the State Department. Quite frankly, despite the best efforts of the author who was an advocate of ACDA, the resulting paper produced only weak arguments for keeping ACDA as an independent agency.

Three years ago, Lynn Davis, a protege of Secretary Brown, was appointed by the Clinton administration to be Under Secretary of State. One of her first initiatives was to push to merge ACDA into the State Department, but her effort failed in the face of congressional opposition.

Last year, Secretary Christopher, himself, proposed merging these three agencies into the State Department, but his proposal was not accepted.

So the concept of merging ACDA, at least, into the State Department is hardly radical. And few would argue that, in after the "reinvention" initiatives undertaken by the current administrator, more must be done to reduce the size and improve the effectiveness of AID.

This bill makes clear the desire of Congress to see genuine streamlining, talked about for so many years, finally and effectively implemented.

At the same time, legitimate questions have been raised as to whether the specific mechanism in the conference report is the best way to go about it. Throughout the Reagan and Bush administrations, Republicans criticized congressional micromanagement of the President's foreign policy. Some will ask why now, in 1996, we seem to be shifting direction and trying to impose restrictions on the President. Even more than in the case of the reorganization provisions of the conference report, this is true for many of the conference report's policy provisions.

In this regard, I would highlight sections dealing with the Housing Investment Guarantee Program, Vietnamese migrants, and China. Besides being unrelated to the core function of this bill, many such provisions contain unwise policy prescriptions.

We should encourage, for example, aid programs that leverage private international investment, not terminate such programs as the conference report would do. We should encourage enhanced dialogue between United States and Chinese officials, rather than discourage it as the conference report would do.

Despite these deficiencies, however, the bill does make progress on the decades-old project of streamlining the various foreign policy agencies, and so I intend to vote for it.

If the President does veto the conference report, I hope that we can act promptly to rework it into a bill that can be enacted by deleting or modifying these objectionable provisions.

Mr. HELMS. Mr. President, I suggest the absence of a quorum with the time to be charged proportionately.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered. The time will be charged proportionately, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina, managing the bill, was seeking recognition.

The Senator from North Carolina.

Mr. HELMS. Let us be fair about this thing. This is two Democratic Senators. The Senator from Maryland has been waiting around to speak, and I want to be sure that he is agreeable to being preceded.

Mr. BINGAMAN. Mr. President, I yield the floor.

Mr. HELMS. Mr. President, in the case of the Senator from Maryland, will the Chair deem that he has been yielded time by Senator KERRY?

The PRESIDING OFFICER. That is the Chair's understanding. The Senator from Maryland.

Mr. HELMS. Very well.

Mr. SARBANES. Mr. President, I yield myself 10 minutes. How much time is still available to Senator KERRY?

The PRESIDING OFFICER. He has 67 minutes and 45 seconds.

Mr. SARBANES. I yield myself 10 minutes of Senator KERRY's time. I am authorized to do that.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. I thank the Chair, and I thank the distinguished chairman of the committee.

Mr. President, I rise in opposition to the conference report. I regret that should be the case, because I really do think we should make a very strong effort here to develop a bipartisan approach toward our foreign policy. But this bill takes us in so many of the wrong directions that I simply cannot support it.

First of all, we must understand that we are in a new period with respect to foreign policy. Now that the cold war is over, in my judgment the United States needs to bolster its diplomatic, economic, and political capacities to influence events around the world. We need to anticipate and prevent conflicts through mediation and negotiation. We need to promote sustainable development and support human rights in order to avoid conflicts, which would then lead to even larger economic and human costs. We need to protect our citizens—indeed, all of the world's citizens—from disease, environmental degradation, exhaustion of natural resources, the proliferation of weapons of mass destruction, terrorism, and trafficking in narcotics.

These are all issues that transcend national borders. They are sapping the vitality and strength of societies all across the world. And as the focus shifts to economic matters, we need to expand markets for U.S. goods and services and to create a level international playing field for American workers.

Frankly, I think that these things often can be accomplished more safely, more effectively, and at lesser cost through carefully designed foreign assistance programs and skillful diplomatic engagement than by retreat back to our shores, to a new form of isolationism, or by resorting routinely to unilateral military intervention. The reliance on military force is, of course, our ultimate protection. But many of the problems we are now dealing with are amenable to resolution or subject to influence well short of that. This is a major change from the cold war.

This legislation undertakes, in effect, to impose on the executive branch a reorganization of the foreign policy functions of the Government. I am very frank to tell you that I think if the political situation were reversed and there were a Democratic Congress trying to impose this upon a Republican President, my colleagues on the other side of the aisle would be protesting very loudly that this was an inappropriate intrusion into the functions of the Chief Executive, an improper effort to limit the executive's ability to determine the organization of the foreign policy agencies.

Unfortunately, there is not a shared approach on this bill. It was reported out of the committee on a straight party-line vote. It confronted a similar situation on the floor until some concessions were made. Unfortunately, when we got to conference, most of those concessions were abandoned. So the bill now before us is markedly different than the bill that passed the Senate.

I did not support the bill that passed the Senate, and since it has worsened in conference, by definition I would not support the conference report. But for those who did support the Senate bill, I want to underscore the fact that the bill now before us is markedly different from what moved out of the Senate. Moreover, in my judgment, in virtually every instance it is different in the wrong direction. In other words, there is even less reason to support this legislation, and more reason to oppose it.

There are many troubling provisions in this legislation. Let me just touch on some of them. I am not going to try

to cover them all. I know the hour is late, and others wish to speak.

I have talked about the reorganization proposal that provides for mandatory elimination of at least one of the foreign policy agencies. I happen to think that these agencies are doing a good job, particularly under the restructuring efforts that are taking place internally, and in that regard I particularly cite for commendation the efforts at AID. Under the able leadership of the Administrator, Brian Atwood, that agency has been streamlined and energized in order to do its job more effectively.

Secondly, this authorization bill would have the effect of providing caps on appropriations—in other words, of setting ceilings on spending—which are far below the levels necessary to conduct foreign policy and to sustain our interests overseas. I think we are going to face important challenges in the coming years. I do not think we ought to hamstring the ability of the Executive to deal with them. I simply offer to my colleagues on the other side the proposition that they have one of their own now seeking to be the Chief Executive, and they ought to stop and think twice whether they would want him hobbled and hamstrung, as I believe this legislation would do.

This legislation imposes very severe cuts in terms of U.S. participation at the United Nations. I know for many people, the United Nations is not the most popular agency, but let me simply submit to you, if we did not have the U.N., we would have to invent it. In many instances, the United Nations helps us to achieve important U.S. foreign policy objectives. Often when a situation breaks out around the world, the first reaction everyone has is, "Well, the United Nations ought to do something about it," and, in many instances, the U.N. has done something about it very successfully.

We are now the largest deadbeat at the U.N. in terms of meeting our dues and assessments. I think for a Nation which constantly asserts that it is the world's leader, this is a sorry state of affairs. Unfortunately, the conference report before us would only exacerbate this situation.

Furthermore, this legislation makes such drastic changes with respect to AID that I doubt very much that that agency would be able to continue to function in any meaningful manner.

In that regard, I ask unanimous consent that a letter from 20 religious and faith-based organizations be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. SARBANES. Mr. President, this is a letter from 20 religious and faith-based organizations urging opposition to H.R. 1561.

Let me quote from that letter urging this opposition to the conference report:

> . . . The bill would eviscerate further the U.S. commitment to self-help development for poor people in the developing world.
>
> We are particularly troubled by the bill's proposal to abolish the Agency for International Development.

They then go on to say that this would be a misordering of U.S. priorities; that support for poverty eradication and self-help development should be a primary objective of U.S. foreign aid and that it should be administered by an independent agency.

They then discuss other matters in the legislation about which they are very concerned. I think this is a very thoughtful letter, and I hope my colleagues will examine it very closely.

Mr. President, the administration has indicated that they will veto this legislation, as I think they should. I have not discussed some of the particular regional matters. A number of my colleagues have discussed the Taiwan Relations Act and the impact that this has on the United States relationship with Taiwan and on our relationship with the People's Republic of China. I do not think the provisions that are in this legislation have been carefully thought through, and if they were adopted we could run a high risk of destabilizing the situation and contributing to heightened tensions in the region.

Others, I know, have talked also about the family planning implications of this legislation and the fact that it misses an opportunity to correct appropriations restrictions that are having a deleterious impact on women and families in the developing world. This is voluntary family planning services that we are talking about. It is not the abortion issue. I am talking about programs that are designed to make family planning information and services safe and accessible, programs that have had a positive impact around the world. In fact, U.S. foreign assistance does not provide funding for abortion. What we are talking about here are international family planning programs which have been in place for many, many years and traditionally are strongly supported on both sides of the aisle.

So, in summary, Mr. President, I think this legislation falls well short of what we should be enacting into law. I very much regret that the end product is, in my view, essentially a partisan affair. We ought not to be formulating our foreign policy that way, but that is what has happened here.

I would also like to commend Senator KERRY of Massachusetts, who has made a yeoman's effort to reach out in an inclusive way and to try to shape reasonable legislation. I very much regret that that was not achieved, and I urge my colleagues to vote against the conference report.

Mr. President, I yield the floor.

EXHIBIT 1

20 RELIGIOUS AND FAITH-BASED ORGANIZATIONS URGE OPPOSITION TO H.R. 1561, THE FOREIGN RELATIONS REVITALIZATION ACT OF 1995

DEAR SENATOR: We strongly urge your opposition to the conference report on H.R. 1561, the Foreign Relations Revitalization Act of 1995, when it is considered by the full Senate. The bill would eviscerate further the U.S. commitment to self-help development for poor people in the developing world.

We are particularly troubled by the bill's proposal to abolish the Agency for International Development. The harm posed by such a proposal is not undone by the provision allowing a presidential waiver of the requirement to abolish two foreign policy agencies. While we support the reform of AID, we do not believe that transferring its functions to the State Department would accomplish such reform. To the contrary, we believe strongly that U.S. assistance for development should be administered by an agency separate from the State Department so that the long-term needs for sustainable development are not sacrificed for short-term political objectives. Assistance in support of political objectives already accounts for the majority of U.S. foreign aid. This, in our view, represents a serious misordering of the priorities that should govern U.S. foreign assistance. We believe that support for poverty eradication and self-help development should be the primary objective of U.S. foreign aid and that it should be administered by an independent agency.

We are also concerned about the funding levels for a number of programs as authorized in the legislation. We believe that funding for U.S. contributions to international organizations, including the general budget of the United Nations, is inadequate. We also believe that funding for U.N. peacekeeping activities for FY 97 is insufficient. We believe that it is imperative that funding be approved that, at a minimum, will not increase the arrearages in U.S. contributions to the U.N., including peacekeeping activities. Continued U.S. disregard for treaty obligations related to assessed contributions will further undermine U.S. leadership in the world.

We oppose the militarization of the international narcotics control program and are especially concerned that funding would nearly double in FY 97 to $213 million. The program has proven largely ineffective in reducing the volume of illicit drugs entering the U.S. At the same time it has strengthened foreign militaries that have engaged in serious and systematic human rights violations.

The bill contains a number of constructive refugee and migration policy provisions that deserve support. We regret that these provisions may not be enacted because of objectionable provisions throughout the rest of the bill.

We are encouraged by the Administration's statement that the President will veto the bill if it is presented to him in its current form. We hope that there will be sufficient opposition in the Senate to defeat the measure, making such a veto unnecessary. We urge you to oppose the bill.

Sincerely,

David Bechmann, President, Bread for the World; Mark Brown, Associate Director for Advocacy, Lutheran Office for Governmental Affairs, Evangelical Lutheran Church in America; Imani

Countess, Executive Director, Washington Office on Africa; Michael Dodd, Director, Columban Fathers Justice and Peace Office; Bill Dyer, Justice and Peace Officer, Missionaries of Africa; Richelle Friedman, Lobbyist, NETWORK, A national Catholic Social Justice Lobby; Jaydee R. Hanson, Assistant General Secretary, Ministry of God's Creation, General Board of Church and Society, United Methodist Church; Maureen Healy, Africa Liaison, Society of St. Ursula; Rev. Dan C. Hoffman, Area Executive, Global Ministries of the United Church of Christ/Disciples of Christ; Rev. Elenora Giddings Ivory, Director, Presbyterian Church (U.S.A.), Washington Office; Kathryn J. Johnson, Interim Director, Asia Pacific Center for Justice and Peace; Jay Lintner, Director, Office for Church in Society;/United Church of Christ; Erich D. Mathias, Program Associate, Global Ministries of the United Church of Christ/Disciples of Christ; James Matlack, Director, Washington Office, American Friends Service Committee; Timothy A. McElwee, Director, Washington Office, Church of the Brethen; Terence W. Miller, Director, Maryknoll Justice and Peace Office; Richard S. Scobie, Executive Director, Unitarian Service Committee, Lawrence Turnipseed, Executive Director, Church World Service; George Vickers, Executive Director, Washington Office on Latin America; Kathryn Wolford, President, Lutheran World Relief.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I yield myself up to 6 minutes off the time Senator KERRY has reserved.

Mr. President, I also oppose the Foreign Relations Revitalization Act of 1995. In my view, it is wrongheaded legislation and, if enacted, it will undermine our national interests. The legislation, in fact, does undermine the President's constitutional mandate to conduct the foreign affairs of the Nation. By passing a bill such as this, we would be trying to run America's foreign policy out of this Chamber rather than allowing the Executive to conduct the Nation's foreign policy.

Among my concerns about this act is the forced consolidation of agencies. By passing the act, we would tell the President that he is required to eliminate at least one foreign affairs agency, either the Arms Control and Disarmament Agency, the U.S. Information Agency, or the Agency for International Development. When the goal becomes putting the Government out of business and wrecking departments and agencies in some haphazard approach without carefully considering the consequences that a particular agency's termination might have, then something has gone very wrong.

Furthermore, the authorization levels that are provided in the bill will force other organizations to retreat further from engagement in world affairs.

America needs to pursue its interests vigorously in international affairs and to assure that the interests of American citizens are promoted. Withdrawing from the world will only help to make our citizens victims of emerging problems to which we will be ill-equipped to respond if this bill becomes law.

The legislation sets authorization ceilings in fiscal years 1996 and 1997 that are far below the levels necessary to conduct the President's foreign policy and to properly maintain U.S. interests abroad in such areas as overseas posts, foreign affairs agencies, arms control and nonproliferation activities, international organizations and peacekeeping, public diplomacy and sustainable development.

In this bill, the Congress is recklessly venturing into an already stressful set of complex problems between the People's Republic of China and Taiwan. By amending the Taiwan Relations Act to state that the act supersedes the provisions of the 1982 joint communique between the United States and China, as the bill instructs, we are certain to pour oil on a smoldering flame. Many commentators and scholars argue that this would be seen as a repudiation of a critical and stabilizing element of the longstanding United States policy toward China.

This bill also expresses the sense of Congress that the President of Taiwan should be admitted to the United States for a visit this year with all appropriate courtesies. We have already gone down that road once. It seems clear to me that it is foolish, if not dangerous, for us to do so once again.

My list of concerns continues in that that bill prohibits any funds from being used to open, expand or operate a diplomatic or consular post in Vietnam unless a number of compliance items are met by Vietnam.

I am not going to debate whether those compliance guidelines are important. I believe that they are probably valid things to pursue, but not as a condition to establishing an embassy or getting it operating. This is cold war legislation that does not appear to recognize that the cold war is over and that the world has moved on. It is not appropriate for this Chamber to micromanage the President's foreign affairs initiatives in this manner.

On other fronts, the Foreign Relations Revitalization Act compels the United States to downgrade its participation in the United Nations, significantly restricts our country's ability to coordinate peacekeeping efforts and intelligence activities, when global stability issues are at stake. Our role in the United Nations is something that certainly deserves national discussion and debate, but this bill presupposes the answer to that discussion.

Mr. President, this act should be rejected. It clearly does not further the best interests of the American public. I urge my colleagues to vote against its passage.

Mr. President, I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 117 minutes.

Mr. NUNN. I will not need all that time. But could I inquire of the Chair what happened to my 3 minutes?

The PRESIDING OFFICER. There were three quorum calls, equally divided. Each one took 1 minute.

Mr. NUNN. I thank the Chair. I can assure my colleagues I will not need all of my time.

Mr. President, I rise in strong opposition to the conference report on H.R. 1561, the Foreign Relations Authorization Act for fiscal years 1996 and 1997. Although I have a number of problems with the conference report, Senator BINGAMAN from New Mexico and others have identified a number of problems that I will identify myself with. I would like to focus my remarks on the provisions relating to China.

Mr. President, I am relieved that tensions in the Taiwan Strait appear to be easing in the aftermath of Democratic elections in Taipei. We are already very proud of what occurred in Taipei and proud of the people in Taiwan for carrying out their democratic elections under great pressure from the mainland.

I am pleased that the Governments of the People's Republic of China and Taiwan are now making conciliatory statements. I hope a high level of dialogue between these two Governments can take place in the near future.

Mr. President, it would be truly ironic if China and Taiwan begin moving down the road to improving their relations while we take actions in the U.S. Congress that will further the deterioration in the relations between the United States and China. I would find that very ironic. But I am afraid that that is what this act will do.

Before I discuss the specific provisions of this conference report, I would note that the Senate passed a concurrent resolution last Thursday expressing the Sense of Congress regarding missile tests and military exercises by China. As I noted in my floor speech on that concurrent resolution, which had bipartisan support and passed by a vote of 97 to 0, it was "well-reasoned and responsible and * * * designed to make a constructive contribution to the situation."

The concurrent resolution reviewed the history of the three joint communiques under three different Presidents, noted the adherence to a one-China policy by the administrations of Presidents Nixon, Ford, Carter, Reagan, Bush, and Clinton, and "deplored" China's missile tests and military exercises as "potentially serious threats to the peace, security, and stability of Taiwan, and not in the spirit

of the three United States-China Joint Communiques."

The concurrent resolution went on to cite provisions of the Taiwan Relations Act and ended by stating that—

The Government of Taiwan should remain committed to the peaceful resolution of its future relations with the People's Republic of China by mutual decision.

Mr. President, the concurrent resolution the Senate passed last week was responsible and was designed to make a constructive contribution to the situation. Unfortunately, the China provisions of the conference report are, in my view, not responsible and not constructive.

I will just go into detail on a couple of the most troublesome provisions. Section 1601 of the Foreign Relations Authorization Act now pending would amend the Taiwan Relations Act to provide that the Act supersedes the provisions of the 1982 Joint Communique issued under President Reagan.

Mr. President, if it is a matter of law, and it is, that the Taiwan Relations Act supersedes the communique, then that already happened without any declaration of the Senate. Less than a week after the Senate, without one dissenting vote, specifically pointed to the three United States-China Joint Communiques, this act, if it becomes law, could be interpreted as nullifying the validity of one of those joint communiques.

Just to go into details of the 1982 Reagan Joint Communique, it stated in part that—

The Chinese Government reiterates that the question of Taiwan is China's internal affair. The message to compatriots in Taiwan, issued by China on January 1, 1979, promulgated a fundamental policy of striving for peaceful reunification of the motherland. The Nine-Point Proposal put forward by China on September 30, 1981, represented a further major effort under this fundamental policy to strive for a peaceful resolution to the Taiwan question.

Then section 5:

The United States Government attaches great importance to its relations with China, and reiterates that it has no intention of infringing on Chinese sovereignty and territorial integrity, or interfering in China's internal affairs, or pursuing a policy of "two Chinas" or "one China, one Taiwan."

Then section 6:

Having in mind the foregoing statements of both sides, the United States Government states that it does not seek to carry out a long-term policy of arms sales to Taiwan, that its arm sales to Taiwan will not exceed either in qualitative or quantitative terms, the level of those supplied in recent years since the establishment of diplomatic relations between the United States and China, and that it intends to reduce gradually the sales and arms to Taiwan, leading over a period of time to a final resolution. In so stating, the United States acknowledges China's consistent position regarding the thorough settlement of this issue.

Mr. President, I believe it is instructive and very important for the Senate, because this is an important vote—I do not know whether people are listening. I do not know whether people have studied this act. I do not know whether people understand the far-reaching implications of this, but this is one of the most important votes we will make this year.

I believe it is instructive, particularly for colleagues on the Republican side of the aisle, to note that President Reagan issued a statement in conjunction with the 1982 Joint Communique, which was prepared by the Reagan administration.

In that statement President Reagan stated that—I am quoting—

Regarding future U.S. arms sales to Taiwan, our policy, set forth clearly in the communique, is fully consistent with the Taiwan Relations Act.

Mr. President, if President Reagan was right in that carefully crafted statement—this was not a speech off the cuff or a remark he made on television or anything of that nature. This was a very carefully crafted statement by President Reagan in 1982, that went along with the communique with China.

Again, I want to point out the most important sentence that he said in that statement that relates to this act tonight. He states:

Regarding future U.S. arms sales to Taiwan, our policy, set forth clearly in the communique, is fully consistent with the Taiwan Relations Act.

Mr. President, the pending legislation strongly implies that President Reagan was wrong in this carefully crafted statement in 1982. If the Taiwan Relations Act is inconsistent with the 1982 Joint Communique, President Reagan was wrong, and this act would be viewed as creating a new interpretation of United States-China policy.

Make no mistake about it: If President Reagan was right in his statement, then there is absolutely no need for this act to refer to any kind of superseding of the joint communique—if he was correct. If he was wrong, all these years under both President Reagan, President Bush and under President Clinton, then we have had a communique which the State Department, our policy, our three Presidents, have felt was consistent with the Taiwan Relations Act and which we have been following regarding arm sales and so forth, that, in effect, is now being implicitly overruled.

Do we really want to implicitly take a step tonight that could be viewed and certainly will be viewed by China and by others in the world as creating a new interpretation of United States-China policy by law? Are we prepared to do that? That is what this legislation does. If that is what the Senate wants to do tonight, people can go right ahead and vote for it. It will pass, and the President will have to decide what to do.

I do not believe the Senate of the United States is focused on this, and I do not believe my colleagues thoroughly understand the very profound implications of this, in effect, declaration, or implied declaration, that the Taiwan Relations Act is inconsistent with President Reagan's joint communique with China of 1992.

To continue quoting President Reagan in the statement he made after the joint communique, not part of the joint communique: "Arms sales will continue in accordance with the Act and with the full expectation that the approach of the Chinese Government to the resolution of the Taiwan issue will continue to be peaceful."

Do we want to implicitly overrule that sentence? Do we want to implicitly overrule the first sentence that I have already read twice, but will read again, "Regarding future United States arms sales to Taiwan, our policy, set forth clear in the communique, is fully consistent with the Taiwan Relations Act"? Which of those sentences do we want to implicitly state has been superseded by the Taiwan Relations Act?

"Arms sales will continue in accordance with the Act and with the full expectation that the approach of the Chinese Government to the resolution of the Taiwan issue will continue to be peaceful." Is that statement wrong? Is the first statement wrong? That seems to be what we are saying.

"We attach great significance," again, President Reagan's statement, "We attach great significance to the Chinese statement in the communique regarding China's 'fundamental' policy; and it is clear from our statements that our future actions will be conducted with this peaceful policy fully in mind."

Continuing from President Reagan, "The position of the United States Government has always been clear and consistent in this regard. The Taiwan question is a matter for the Chinese people, on both sides of the Taiwan Strait to resolve. We will not interfere in this matter or prejudice the free choice of, or put pressure on, the people of Taiwan in this matter. At the same time, we have an abiding interest and concern that any resolution be peaceful. I shall never waiver from this fundamental position."

Mr. President, this legislation, in effect, says that President Reagan did not know what he was doing when he made that statement, that the Taiwan Relations Act itself superseded the joint communique, because it was inconsistent with it. There is no reason for it to supersede the joint communique unless there is an inconsistency. If there is no inconsistency, there is no reason to say it supersedes it, because the consistent joint communique would not be overruled by a consistent United States law, which the Taiwan Relations Act is—it is law. There is no doubt about that.

President Reagan made it clear in his Presidential statement that the reduction in arms sales to Taiwan is based upon the premise, as expressed in the joint communique, that the Taiwan question will be settled peacefully.

Mr. President, China believes that Taiwan has acted in ways that are inconsistent with the one-China policy. No question but that is what China believes and is the basis of a lot of their action. Taiwan contends it does not seek independence. President Li has said that. President Li has also restated his desire for peaceful reunification with the mainland.

China, in my view, has greatly overreacted to its perceptions by conducting missile launches and military exercises which I believe are inconsistent with the other fundamental principle of settling the Taiwan question peacefully. I happen to believe that what China has done in recent weeks is counterproductive to its own purpose, which is, as stated, eventual peaceful reunification.

The Taiwan Relations Act of 1979 was enacted at the time of the establishment of diplomatic relations between the United States and China, a diplomatic act which established the principle of one China. The Taiwan Relations Act was needed to create a foundation for dealing with Taiwan in the aftermath of the end of diplomatic relations with the Republic of China. It did not, nor did it need to, refer to the one-China principle, because it focused instead on ensuring that the Taiwan question was settled peacefully by ensuring that Taiwan had the means to defend itself.

Enactment of section 1601 of this act pending before us now, which is the pending conference report, could be interpreted—and I say would be interpreted by many—to say that the Taiwan Relations Act is inconsistent and even supersedes the principle of one China. I do not believe that is what the authors intended to do here. Perhaps they can clarify that.

I am fearful that a number of people in the world, including China itself, could very well interpret this legislation as superseding the principle of one China. This is a complex, complicated area where words really do matter. I think we should be very careful this evening.

Mr. President, I believe China's provocative military actions have been dangerous and counterproductive to China's interest and certainly to the interest of stability in that area of the world. I believe that China has greatly overreacted on the subject of Taiwan. The enactment of this conference report will make the situation worse because it would undercut one of the two main principles of our relationship with China and could give the Chinese—probably would give the Chinese—the impression that the United States was no longer willing to live up to its commitments as set out in the three joint communiques by President Nixon, President Carter, and President Reagan, and followed by the other Presidents, including President Bush and President Clinton.

Mr. President, I believe this legislation, if it passed and became law, would be a very, very serious mistake, one of the most profound mistakes this Congress has made and probably any Congress has made in recent years. I think it would take our troubled relations with China and turn them into a real downward spiral of additional trouble.

Mr. President, I also would like to call the Senate's attention to section 1702 of the act, the Declaration of Congress Regarding U.S. Government Human Rights Policy Toward China. Within this section, it is expressed in the sense of the Congress that "The President should decline the invitation to visit China until and unless there is a dramatic overall progress on human rights in China and Tibet and communicate to the Government of China that such a visit cannot take place without such progress."

Mr. President, this is exactly what we have done in this country under two Presidents, President Bush and President Clinton, for the last 7 years. It does not appear to be working very well. This is basically a freezing, if we took the sense of the Congress seriously—if the President did—a freezing of the status quo.

Mr. President, while I believe it is counterproductive to our own goals to make human rights in China the centerpiece and the be-all and end-all of United States-Chinese relations, I do not think we further our goals when we do that, including our human rights goals. The United States has a strong interest in seeing respect for human rights improve in China and, indeed, all over the world. The enactment of this provision or any provision similar to it would run counter to the very actions the United States must take in order to address and help constructively resolve the differences between the United States and China, including, but not limited to, progress on human rights.

Mr. President, I think a lot of people forget that the United States has 38,000 troops in Korea. We have the most isolated regime in the world, North Korea, that is not only on a quest—or has been up until the last year—to become a nuclear power, but also has, according to reports, increasing problems with starvation, including predictions by most organizations that the problems are going to get worse in the next 3 or 4 months.

Mr. President, one of the things that people do not recognize is that China has been very, very constructive in terms of the United States' position on the Korean Peninsula, both in terms of encouraging North Korea to behave in the nuclear area and also encouraging the parties there to resolve their differences with dialogue and without a war.

This is a dangerous situation in Korea. We have 38,000 troops there. In our relationship with China, we appear to forget altogether about the connection between China and the situation in Korea.

I do not see how we can do that and keep our minds on our duty to our own military forces that are stationed there. But it seems to be completely ignored in all of our debates about China. I would say, on the one side, people on the left seem to believe that, in China, 10 dissidents is on the same level, at least, with the whole United States question on the Korean Peninsula. People on the right seem to believe that we can take positions that basically unravel, or at least implicitly unravel, communiques entered into by Presidents Reagan, Carter, and Nixon, and we can do that with impunity, and we can forget any relationship between what we do vis-a-vis China in terms of keeping our agreements, and what they may do regarding helping us resolve the Korean situation peacefully.

There are a lot of other mutual interests we have with China, but they get lost in this atmosphere. Perhaps they will continue to get lost until we have the kind of high-level dialogue between the President of the United States and the President of China, and between our Secretary of State and their Foreign Minister, that can begin to talk about mutual interests and resolve the differences, which are differences of considerable importance, within the framework of working as partners with mutual interests. That is not possible in the current atmosphere.

But what this bill says is that we should place human rights in China and in Tibet above anything else. The Korean Peninsula, the nuclear quest for arms in Korea, the 38,000 American troops that are in Korea, the stability of Northeast Asia, and even Taiwan-China relations. We are saying—if you take this seriously—that the President should not have any kind of visit to China until they act, in American terms, acceptably on human rights both in China and Tibet.

Mr. President, on human rights, I think the United States is unique. But we will really be unique if we take this resolution seriously, because we would be the only country in the world that takes that position. Not a single ally—not one—has taken the position that their head of State should not visit China. That is what we are saying here—that the President should not visit China.

Mr. President, maybe we do not take these sense-of-the-Congress resolutions seriously. They are not law, and would

not be binding the President. If we do not take them seriously and they are not important, how do we expect anybody else to take them seriously? Unfortunately, when we put resolutions like this in the bill, the only people that take them seriously are the people they affect adversely. And they react adversely. So I do not know what we are really trying to say here. But I know it is counterproductive. It would postpone, if not preclude, efforts to establish a much-needed strategic dialogue between the United States and China. Clearly, the dialog with China is more important than ever at this time— unless we really want to go into a period of years of cold war and dangers of something far worse than cold war, in that part of the world.

For the strategic dialogue between the United States and China to be successful in working to resolve our differences, participation is required on the highest levels of leadership. That means the President of the United States has an active role to play, whether it be President Clinton or President DOLE in 1997. How soon this resolution would apply to "President" DOLE, saying to him, "You should not have any Presidential visit or dialog with China until they meet our terms on human rights"—I really have a hard time believing that we are serious about saying this.

So whichever President is elected in 1996, that is what this resolution is saying. This is indefinite. This resolution says we do not think you should ever visit China until you have resolved the human rights questions in China and Tibet to our satisfaction.

Mr. President, we have not treated any other country in the world this way. We do not treat Russia that way right now. We expect the President of the United States to meet with President Yeltsin, but most of us deplore what is happening in Chechnya, the continued killing of a tremendous number of innocent people there. We do not say to the President, "Do not visit Russia."

Mr. President, people forget that we are very proud of what Taiwan has done. Taiwan had an election under very serious pressure. We are proud of their economic progress. All of us have very close friends in Taiwan. These are some of the most productive, energetic people in the world. And this country is always going to have a very friendly relationship with the people in Taiwan.

We were very patient with Taiwan. They were not a democracy, in our sense of the word, for years and years. We are celebrating democracy now. For 35 years, we supported Taiwan when they were not a democracy. We have had the same thing with the South Koreans. We celebrate what is happening in South Korea now, with the democratic election of a President. We went for years and years and years, where we spent literally billions of dollars helping defend South Korea when they did not meet our definition of human rights. It is only in recent years that they have. And now we single out China and say, "We do not want our President talking to you, or visiting you, or having any dialogue with you, until you meet our definition of human rights."

I really do not believe the Senate of the United States wants to say this tonight. That is what we will say if we pass this resolution.

Mr. President, 7 years have passed since an American President, or Vice President, has journeyed to Beijing, or the President, or premier, of China has been in Washington. This provision would say to the President: "please do not change this situation. This is a great policy. It is really working." Well, is it working? Does anybody think that helped our relations? I think this is a fundamental error that would be damaging to United States-China relations and United States foreign policy.

This conference report's provisions attempt to deal with differences with China by prohibiting initiatives and efforts that would help resolve the very differences that we are frustrated about.

Quoting from a speech I gave on China about 3 weeks ago:

> Not only must our expectations be realistic, but we cannot wait to engage extensively with China until it has become more like us. . . . We must engage with China and its current leaders now. . . . China's transition and its potential impels America, insofar as possible, to be actors on the scene.

Mr. President, China is determined to preserve the areas it considers part of China, including Taiwan, Hong Kong, Macao, and Tibet. Passage of this legislation will inevitably cause China to harden its position. We should not make miscalculations regarding this.

From the Chinese perspective, Tibet, like Taiwan, is considered to be an issue of sovereignty to be resolved internally by China and Tibet. In the Foreign Relations Authorization Act pending before us, it is expressed as the sense of Congress that "Tibet * * * is an occupied country under the established principles of international law." That is what we are saying in this bill.

Mr. President, as a matter of fact, longstanding United States policy is that Tibet is part of China. That is not a new policy by the Clinton administration. We have had that policy through a number of administrations. This is also shared by every member of the United Nations. Even the Dalai Lama does not go as far as this conference report. What are we doing? What are we doing? Do we know?

Mr. President, I view with concern section 1303 of the act, which advocates establishing a special envoy for Tibet. That is what we are voting on. This provision would have the United States establish a level of official relations with Tibet—if you take it seriously—that undermines our longstanding, established Tibetan policy. More important, this provision would weaken our ability to influence Chinese policies in Tibet and would greatly weaken our influence to protect the people in Tibet from abuses, which we all know have occurred.

My specific concerns are as follows: The proposed duties of the special envoy would duplicate and, I believe, greatly undercut responsibilities already being discharged by the United States State Department—that is, promoting dialog between the Dalai Lama and the Chinese Government concerning the religious and cultural integrity of Tibet and discussing the human rights problems in Tibet with Chinese Government officials.

The President has already appointed, the Senate has confirmed, and the Chinese Government has accepted an envoy to all of China—and that is the United States Ambassador, resident in Beijing—our former colleague, Ambassador Sasser.

The Chinese Government, in my view, would refuse to accept a special envoy for Tibet, and would in all likelihood make regular travel to Tibet impossible for United States diplomats.

Is that what we want? Do we want to imply that Tibet is separate from China, and do we want to have a separate United States envoy, and probably in all likelihood result in virtually cutting off access of the United States to Tibet? Is that what we want? Because that is what we are voting on.

Mr. President, this provision in my view would be counterproductive to its intended purpose. I am sure the purpose of the provision is to help the people of Tibet. My view is that it would be totally counterproductive to that end. The United States can maintain and promote good relations between the Dalai Lama and his representatives. We can promote the need for substantive negotiations to take place between the Dalai Lama, or his representatives, and senior members of the Government of China. We can coordinate United States Government policies, programs, and projects concerning Tibet, and we can carry out any other actions the President deems necessary with regard to Tibet without the need to establish a special envoy in the process.

The United States cannot solve the question of Tibet on the floor of this Congress. Only the people in Tibet and the people all over China, including Tibet, can resolve their differences. A special envoy could neither contribute to this dialogue nor foster a solution, but is likely to be totally counterproductive.

I will close by making just one additional observation on another provision, without getting into detail. Some

of my other colleagues have already spoken on this. Section 1708 of the pending authorization bill states that "the President of Taiwan should be admitted to the United States for a visit in 1996 with all appropriate courtesies." Mr. President, this provision, to say the least, is unwise at this point in time—unless we want to deploy our aircraft carriers, several of them, to the region, and spend a great deal of the next several years in the Taiwan Strait.

PRIVILEGE OF THE FLOOR

Mr. NUNN. Mr. President, I ask unanimous consent that Maurice Hutchinson, legislative fellow of my staff, be admitted privileges of the floor during the consideration of the bill.

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

Mr. NUNN. Mr. President, I reserve the remainder of my time.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. NUNN. Does anyone else have time at this point?

The PRESIDING OFFICER. The Senator from Massachusetts has 52 minutes, and the Senator from North Carolina has 37 minutes.

Mr. NUNN. I yield to the former chairman of the Foreign Relations Committee and ranking Democrat, Mr. PELL, whatever time he desires.

Mr. PELL. Mr. President, I thank my colleague.

Mr. President, I regret that I am unable to support this conference report on H.R. 1561, the Foreign Relations Authorization Act, fiscal years 1996 and 1997. I recognize that House and Senate Republican conferees have attempted to find a middle-ground between the respective bills passed by each House and that this conference report is an improvement over the House-passed bill. Although there are some provisions in the bill that I support, I believe the bill is fundamentally flawed in four areas—reorganization of the foreign affairs agencies, funding for the Arms Control and Disarmament Agency and for our contributions to the United Nation, and American policy toward China.

This bill requires the President to abolish one of the foreign affairs agencies—AID, USIA, or CDA. There is no doubt that this is an improvement over the original language in the House bill, which mandated the abolishment of all three of these agencies. However, this conference report falls far short of the Senate bill, which sought to force consolidation through savings rather than the mandatory abolition of agencies. The Senate bill preserved the President's constitutional right to determine how to organize those agencies which carry out the foreign policy directives of the President of the United States. The conference report takes that away. I cannot support a bill which crosses this line and abolishes an important foreign affairs agency simply for the sake of abolishment. On an issue such as this I feel it is important for the Congress to acknowledge the prerogative of the President to organize the foreign affairs agencies in a manner which best serves the nation's interests and the President's foreign policy priorities.

As a strong supporter of ACDA and its mission, I am deeply disturbed by the inadequate funding levels for ACDA in this bill. The fiscal year 1996 authorization of $35.7 million represents a 28 percent reduction from the fiscal year 1995 level. The fiscal year 1997 authorization of $28 million is not only a 44 percent reduction from the fiscal year 1995 level, but cuts ACDA so deeply that it can no longer carry out its core missions, such as being our watchdog on proliferation, verifying arms control agreements, and monitoring compliance with new agreements. This is a foolish and costly approach at a time when our needs in the area of arms control are increasing, not decreasing.

The conference report also fails to authorize the necessary funds for the United States to pay assessed contributions to the United Nations and its related agencies. I agree that we need to do all that we can to force the United Nations to adopt serious management and financial reforms but failing to meet our treaty obligations is not the way to achieve this goal. It simply diminishes our influence and encourages other nations to take the same, ill-advised approach.

Finally, section 1601 of the conference report amends the Taiwan Relations Act [TRA] of 1979, to say that the provisions of the Act relating to arms sales to Taiwan supersede any provision of the joint communique, signed between the United States and China in 1982, limiting such arm sales. I believe this provision was added out of genuine concern for the people of Taiwan, a concern I share. But I also believe that this is the wrong approach to Taiwan's security problem and the wrong time to take it.

Our relationship with the People's Republic of China is at one of its lowest points in history, certainly the lowest point since the Tiananmen massacre. We have major disputes with the Chinese on a number of serious issues, ranging from trade to human rights to proliferation of weapons of mass destruction. While we will not back away from any of these issues, it is important that both governments act prudently and not unnecessarily damage the relationship further. But this bill does the opposite, by undercutting the basis for United States-Chinese relations. Section 1601 constitutes a unilateral revision of one of the cornerstones of the bilateral relationship. Adopting a measure like this would certainly cause a backlash from Beijing, by playing into the hands of hard liners in the Chinese leadership and aiding them in their attempt to promote an anti-Western, anti-United States agenda.

I also think this approach is likely to fail in its fundamental purpose of advancing Taiwan's security. For almost 3 weeks, we saw tensions rise in the Taiwan Strait as China tested M-9 missiles and held massive military exercises in an attempt to intimidate a Taipei it fears is heading toward a declaration of independence, aided by foreign powers. Just this week, after Taiwan's historic presidential election on Saturday, we are seeing some initial positive signs that both governments are reaching out to each other in order to move back toward a more stable relationship. A reversal of U.S. arms sales policy at this time would certainly hamper those efforts. It is very much in Taiwan's security interest that all three capitals work to defuse tensions, not inflame them. Section 1601 would further damage already strained relations with Beijing and likely endanger, rather than strengthen Taiwan. It is the wrong policy at the wrong time.

Mr. President, for these reasons, I intend to vote against this conference report. The President has indicated that he will veto this bill over the issues I have discussed as well as some others, and I ask unanimous consent that the administration's statement to that effect be printed in the RECORD.

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

STATEMENT OF ADMINISTRATION POLICY H.R. 1561—FOREIGN RELATIONS REVITALIZATION ACT OF 1995

If the conference report on H.R. 1561 is presented to the President in its current form, the President will veto the bill. While steps have been taken to improve the bill, it still contains numerous provisions which do not serve U.S. foreign policy or U.S. national interests.

The principal reasons for the veto are:

Forced Consolidated of Agencies. The legislation interferes with the President's prerogatives to organize the foreign affairs agencies in a manner that best serves the Nation's interests and the Administration's foreign policy priorities. This bill mandates the abolition of at least one foreign affairs agency, and includes authorization levels that would force other organizations to retreat further from engagement in world affairs. The Administration has already implemented significant reinvention of and reductions in international programs and is working towards further streamlining and reorganization. H.R. 1561 fails to provide, however, the necessary flexibility for the Administration to manage the agencies that implement foreign policy, which is essential to United States leadership.

Authorization of Appropriations. The authorization levels included in the bill for FYs 1996 and 1997, which constitute ceilings on appropriations, are below the levels necessary to conduct the President's foreign policy and to maintain U.S. interests overseas in such areas as operating overseas

posts of foreign affairs agencies, arms control and nonproliferation, international organizations and peacekeeping, public diplomacy, and sustainable development. In addition, these levels would cause reduction-in-force (RIFs) of highly skilled personnel at several foreign affairs agencies.

Taiwan Relations Act. Section 1601 amends the Taiwan Relations Act to state that the Act supersedes the provisions of the 1982 Joint Communique between the United States and China. This would be seen as a repudiation of a critical and stabilizing element of long-standing U.S. policy towards China, increasing risks at a time of heightened tensions.

Relations with Vietnam. Section 1214, concerning the use of funds to further normalize relations with Vietnam, unduly restricts the President's ability to pursue national interests in Vietnam, and in particular could threaten the progress that has been made on POW/MIA issues and put U.S. firms at a competitive disadvantage. Legislation which restricts the opening of missions also raises constitutional concerns.

U.S. Participation in International Organizations. Provisions related to U.S. participation in the United Nations, which provide inadequate funding levels for FYs 1996 and 1997, and unworkable notification requirements would undermine U.S. diplomatic efforts to reform the U.N. and to reduce the assessed U.S. share of the U.N. budget. Furthermore, the provisions could interfere with ongoing Executive-Legislative Branch discussions aimed at achieving a consensus on UN funding and reform issues.

Housing Guaranty Program. Section 1111 would terminate several worthwhile country program, such as those in Eastern Europe and would eliminate any future programs, including those for South Africa. Additionally, this provision could inadvertently cause the cut-off of development assistance to many of the poorest countries of the world, as well as the cut-off of Economic Support Fund (ESF) anti-crime and narcotics-related assistance.

Family Planning. The conference report fails to remedy the severe limitations on U.S. population assistance programs placed in the FY 1996 foreign operations appropriations legislation. These restrictions will have a major, deleterious impact on women and families in the development world. It is estimated that nearly 7 million couples in developing countries, will have no access to safe, voluntary family planning services. The result will be millions of unwanted pregnancies and abortions.

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

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

Mr. HELMS. Mr. President, I am going to suggest the absence of a quorum, but I want to ask unanimous consent that all quorum calls henceforth be charged proportionately.

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

Mr. HELMS. I thank the Chair.

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. Without objection, it is so ordered.

Mr. HELMS. Mr. President, this has been cleared on both sides. I ask unanimous consent that the vote on the conference report occur at 9 p.m. tonight, with the time between now and the vote to be divided as follows: Senator BIDEN, for up to 20 minutes, and all remaining time under the control of Senator DOLE, the majority leader, or his designee.

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

Mr. HELMS. I thank the Chair. 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. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

THE RUSSIAN POULTRY MARKET

Mr. BIDEN. Mr. President, I have two comments I would like to make. I first would like to respond very briefly to a speech earlier in the day made by one of my colleagues before I discuss the foreign relations authorization bill pending before the Senate. I would like to address briefly the earlier comments of my good friend, the distinguished Senator from Arizona, regarding the President's involvement in resolving our trade impasse with Russia. The distinguished Senator suggests that it was inappropriate for the President to impress upon Mr. Yeltsin that the poultry industry is important to Mr. Clinton's home State, as well as to many other parts of America; I must say forthrightly, the single most important industry in my State.

Since Russia announced over a month ago that it was banning the import of all American poultry, I have been in daily contact with the White House, our Trade Ambassador Mickey Kantor, and our Agriculture Secretary Dan Glickman, to keep this $500 million market open to American poultry growers.

Fortunately, the hard work of the administration has paid off. Just this week the Russians announced that they are backing down. This would not, in my view, have been possible without the direct involvement of the President, the Vice President, Ambassador Kantor and Secretary Glickman.

Since 1982, Sussex County, one of our counties in Delaware, has remained the No. 1 broiler-producing county in the United States of America. The Delmarva peninsula is home to 21,000 poultry workers, and produces more than 600 million birds per year. It is a major supplier of the Russian poultry market.

Last year, for example, one major Delaware producer exported 1,300 tons of frozen poultry to Russia. Another exported $10 million worth of poultry products.

Those of us who understand this industry know that it is under increasing competitive pressure as grain prices soar and the price of other meats fall. But, they know how to prosper in a competitive environment. That is why we can ship higher quality poultry to Moscow and Saint Petersburg and still beat their prices. In turn, it is the responsibility of this and, I believe, every administration to maintain the open international markets that they need, not only for American poultry but for all American products. Keep in mind that Russia's market was closed as recently as 1991. Now, Russia purchases $500 million worth of poultry every year, and the market has been growing. This is just one of the many products they purchase.

This has been a real success story for American exports. Of American exports, the agricultural community is the only real success story in American exports of continuing, year-in-and-year-out consequence.

I, for one, think it is perfectly appropriate, as a matter of fact absolutely necessary, for the President of the United States, in this case President Clinton, to let President Yeltsin know just how important these exports are. I cannot think of any better way for a President to drive the point home than to make this issue personal.

I wanted very much for the President to successfully resolve this problem of the poultry industry. As any negotiator on the floor of this Senate understands, the one way in which, on a close call, we all appeal to our colleagues ultimately is we say: This is personal to me. This is personal to me.

Mr. Yeltsin is a politician. Every world leader is a politician. Politicians in international relations react no differently than politicians on the Senate floor.

I think it was perfectly appropriate and necessary for the President to use everything in his arsenal to convince the Russians not to violate international trade agreements with regard to poultry or anything else.

Mr. President, I believe that the people who disagree with the President acknowledge he is a master communicator. You can bet Yeltsin got the message.

So let us keep the big picture in mind and not get hung up on questions of style. The results, which are keeping 500 million dollars' worth of export markets open, speak for themselves. I

think this is an important achievement on President Clinton's part and an important international trade issue. Had he failed, it would have set the precedent for significant trade consequences for the United States, and not just in poultry. I think most Americans, regardless of political party, feel the President did the right thing. I know I think he did the right thing.

AGAINST BACKDOOR ISOLATIONISM

Mr. BIDEN. Mr. President, I would now like to register my strong opposition to the question we are about to vote on, the conference report on H.R. 1561, the Foreign Relations Authorization Act.

In spite of some modifications, this report still, in my view, suffers from the fatal flaws that afflicted the Senate bill which we voted upon in December and I voted against.

This conference report would abolish three agencies that continue to serve the interests of the American people: The Arms Control and Disarmament Agency, the U.S. Information Agency, and the U.S. Agency for International Development.

While unwisely folding these agencies into the Department of State, it would severely cut funding for diplomatic activities, thereby further undermining our ability to carry out a coherent foreign policy.

The report also includes a sadly inadequate sum for foreign assistance, contains language that would be extremely damaging to POW/MIA identification in Vietnam, unwisely tampers with the 1982 joint communique with China, and generally attempts to give the impression that it is an internationalist piece of legislation.

Mr. President, the intent and impact of this legislation is not internationalist at all. No, the report is, in fact, yet another attempt at backdoor isolationism, in my view.

The legislation has its genesis in a deeply flawed ideological belief that no matter what the objective facts are, less Government tomorrow is better than whatever level of Government we have today. Following this simplistic logic, we have three independent agencies today so let us have two, or one, or even none tomorrow.

Never mind that all three agencies—ACDA, USIA, and AID—have all made significant strides in restructuring their activities and saving large sums of money and large sums of taxpayer dollars on their own accord.

Never mind that the missions of all three of these agencies are even more important today than they were during the cold war.

Less is more, so hack away. If this act were anything more than a numbers game, it would not blithely give the President a waiver authority to save up to any two agencies of his choice. It is like picking draft choices. I will trade you one and you pick any two you want.

It has nothing to do with anything other than the notion that less is better. For, if it were otherwise, we would say, "Mr. President, you must deal specifically with this agency or that agency." This, however, is like giving up future draft choices.

The legislation appears at first glance to have been crafted in blissful ignorance, both of what has been going on in our foreign policy apparatus for years and what it takes to conduct American foreign policy around the globe today.

How else could one explain ignoring ACDA's increasingly critical watchdog role in nuclear nonproliferation. It does not matter that the cold war is over. We now face the danger of nuclear weapons in the hands of several new countries, including rogue States like Iran and Libya.

Moreover, terrorist groups threaten to get ahold of nuclear material for the purpose of blackmailing entire cities and potentially nations. Now, more than ever, we need the proven expertise and independent judgment of ACDA.

Can we really believe that the drafters of this legislation are unaware of USIA's technologically sophisticated efforts to bring America's message to the world? Do they also not know that American public affairs officers are often our embassies' most proactive diplomats? Can they not see that merging them into a large bureaucracy would inevitably smother their creativity?

Mr. President, is it credible to believe that the innovative public-private enterprise funds that USAID has pioneered in Central and Eastern Europe have escaped the notice of the sponsors of this legislation? Do they really not comprehend that development aid is a cost-effective way to head off crises around the world?

No, I think the answer to all these questions is clear: Less is more, so let us slash, let us slash.

It is bad enough that absorbing these agencies would rob them of their independence that has served this Nation so well for decades. But, Mr. President, this legislation adds insult to injury by denying the State Department the necessary funding to adequately carry out the new functions it will now inherit, along with its current duties as the principal vehicle for the carrying out of U.S. foreign policy.

The sponsors of this legislation would have us believe that a profligate and bloated bureaucracy needs to be cut down to size. In my view, nothing can be further from the truth.

The international affairs budget is now 45 percent lower than it was in 1984.

Altogether, it represents only 1.3 percent of Federal spending.

Over the past 3 years alone, the State Department's budget has been cut in real terms by 15 percent, at the same time the Department's responsibilities have been increased with the birth of many new countries out of the wreckage of the Soviet Union.

We see what is happening in Bosnia. We know what is happening in all the former Soviet republics, and it makes sense for us not to have a presence there? It makes sense for us not to be involved? It makes sense for us to close embassies? It makes sense for us not to open consulates?

I cannot believe that is what is motivating this legislation. It is simply this notion that we should cut and slash.

Forced to respond to these fiscal stringencies, the State Department has taken some very painful measures:

It has cut its total work force by 1,700 persons.

It has downsized the Senior Foreign Service by almost one-fifth, and, in my opinion, this measure is a thoughtless waste of a national resource.

It had to cancel, for example, the 1995 and 1996 Foreign Service examinations—in effect, a tragic waste of a future national resource, namely, the best and the brightest college and university graduates who will be unable to join our diplomatic corps and serve this Nation.

It has cut its administrative expenses by nearly $100 million. Anyone visiting an American embassy abroad has seen our highly trained professionals doubling- and even tripling-up in cramped office space, even as they routinely work 12 hours a day or more.

Yet, Mr. President, some politicians see fit to use the Foreign Service and other agencies as whipping boys in an attempt to fuel this mindless anti-Government feeling that afflicts some of our fellow citizens.

I regret to say that last summer, one of our colleagues and a good friend of mine castigated American diplomats for allegedly working in "marble palaces" and "renting long coats and high hats" only a few weeks after Bob Frasure, Joe Kruzel, and Nelson Drew were killed on the Mt. Igman Road above Sarajevo—working not in a marble palace, but in an armored personnel carrier, and wearing fatigues, not long coats and high hats.

Finally, the State Department has been forced to close a string of diplomatic posts, thereby severely hampering our ability to carry out political, economic and cultural diplomacy in an increasingly competitive world.

I come from a State where there are a number of multinational corporations. They have historically—not solely, but in part—had access and information provided to them through economic and commercial officers at our consulates and our embassies. Why are we closing them? In the name of economy, in the name of the long-term future of American economic growth? What is the reason?

From all this, any objective observer, in my view, can see that the foreign policy apparatus of the United States has already been pared down to the bone.

What does this legislation do? After mandating that the State Department assume the functions of ACDA, USIA and AID, it calls for further budget cuts of $1.7 billion over the next 4 years.

I think this is a shell game which ends with nothing left under any one of the shells.

In effect, this legislation will also cripple our ability to head off crises around the world through diplomacy that this President and future Presidents of the United States will be faced with the stark choice of either doing nothing or sending in the military.

Let me make a truly radical suggestion, Mr. President. This year we gave the Pentagon $7 billion more than it asked for. I have consistently supported keeping the U.S. military the strongest military in the world, and I continue to do so.

But why not give the Pentagon only $5 billion more than it asked for and transfer the remaining $2 billion to the international affairs budget, keep the three agencies functioning, and enable this country to get back into the big leagues of international diplomacy?

Unfortunately, with our backdoor isolationists in control of this Congress, this perfectly sensible suggestion, I believe, is totally impossible.

No, Mr. President, this conference report is a triumph of ideologically driven romanticism. It speaks to an earlier, simpler age.

Unfortunately, though, we are approaching the turn of the 21st century. The world is ever more complex, not simple, and closing our eyes will not make the complexity go away.

This bogus administrative reform, combined with purposefully punitive budget cuts, is no more than backdoor isolationism, in my view.

This conference report ought to be titled "The Smoot-Hawley Foreign Policy Act of 1996."

It is a blueprint for the affairs of an inward looking, minor nation, not the world's only remaining superpower.

As you might guess, I will cast my vote against this backdoor isolationism, and I urge my colleagues on both sides of the aisle to do the same.

This is not a time to turn inward. This is a time to look outward. This is a time to claim our mantle, to engage in diplomacy, and to help shape a world that will make it safer and economically more viable for Americans to live in.

I thank my colleagues for their indulgence and yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

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

Mr. HELMS. Mr. President, the majority leader has suggested that in order to enable Senators to get home a few minutes earlier, that we start the rollcall vote immediately, but to run it on for there to be plenty of time for Senators to arrive. So I make that unanimous consent request.

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

Mr. HELMS. Mr. President, I ask for the yeas and nays. I thought they had already been ordered.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on agreeing to the conference report to accompany H.R. 1561. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Arkansas [Mr. PRYOR], and the Senator from Nebraska [Mr. EXON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 44, as follows:

[Rollcall Vote No. 59 Leg.]

YEAS—52

Abraham	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Pressler
Brown	Grassley	Roth
Burns	Gregg	Santorum
Campbell	Hatch	Shelby
Chafee	Hatfield	Simpson
Coats	Helms	Smith
Cochran	Hutchison	Snowe
Cohen	Inhofe	Specter
Coverdell	Jeffords	Stevens
Craig	Kassebaum	Thomas
D'Amato	Kempthorne	Thompson
DeWine	Kyl	Thurmond
Dole	Lott	Warner
Domenici	Lugar	
Faircloth	McCain	

NAYS—44

Akaka	Dorgan	Kerry
Baucus	Feingold	Kohl
Biden	Feinstein	Lautenberg
Bingaman	Ford	Leahy
Boxer	Glenn	Levin
Bradley	Graham	Lieberman
Breaux	Harkin	Mikulski
Bryan	Heflin	Moseley-Braun
Bumpers	Hollings	Moynihan
Byrd	Inouye	Murray
Conrad	Johnston	Nunn
Daschle	Kennedy	Pell
Dodd	Kerrey	
Reid	Sarbanes	Wellstone
Robb	Simon	Wyden

NOT VOTING—4

Exon	Pryor
Mack	Rockefeller

The conference report was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the conference report was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

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

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, on behalf of the majority leader, Senator DOLE, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

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

COMMUNICATIONS DECENCY ACT

Mr. EXON. Mr. President, I would like to make reference to this, and will ask for this to be printed in the RECORD. I notice with great interest a full-page ad in the New York Times of March 26, 1996, and the startling information here in dark type is "Does Sex Turn You off?" Then it goes on to say—this is published by Penthouse—entitled "The Facts of Life."

It says:

It is a touchy subject. But an important one. Especially if you're a marketer who wants to reach men. If you've never experienced the satisfaction of advertising in Penthouse, there are some facts you should know. Facts that help explain why Penthouse is a savvy business decision, and why it performs as well as it does. For starters, Penthouse's efficiency far surpasses Playboy, GQ, Sports Illustrated and Esquire. We also reach a higher concentration of 25 to 49 year old men. And at newsstands, where a full purchase price helps gauge a magazine's true value to readers, Penthouse's sales are routinely on top.

What's more, study after study has found that the more involved readers are with a magazine's editorial, the more they're involved with its advertising. And no magazine's readers are more involved than Penthouse's. The appeal and leadership of Penthouse extends beyond print, however. On site on the Internet —http://www.penthousemag.com—attracts over 80,000 people daily—(not hits, people.) This not only makes Penthouse one of the Internet's most popular sites, it enables us to guarantee advertisers an audience of 2.4 million people every month. This proposition is

encouraging more and more marketers to take advantage of both Penthouse Magazine and Penthouse Internet. If you're an advertiser who wants the special stimulation Penthouse offers, contact Ms. Audrey Arnold, Publisher, at 212-702-6000.

And it says down here:

Penthouse, The Facts Of life.

Mr. President, when Congress considered the Communications Decency Act, commonly called the CDA, as part of the telecommunications bill, opponents of the Communications Decency Act raised all kinds of concerns that passage of the Communications Decency Act would restrict free speech of adults and end the commercial viability of the Internet.

Let me repeat that last part again: And end the commercial viability of the Internet.

The Washington Post in this regard printed an editorial that the Exon Communications Decency Act would interfere with the matter of making money on the Internet.

I have only cited the article that appeared in a full-page ad in the New York Times and intend to make these remarks tonight to thank the Penthouse magazine for printing that full-page ad, which is their right—pretty expensive but it is their right, and obviously they are a pretty good free enterprise, money-making concern. But I think it points out more than anything else how all of the opponents to the Communications Decency Act are way off base.

The recent full-page ad in the New York Times both refutes and makes meaningless the claims of the elimination of free speech of adults and the end of commercial viability on the Internet. Penthouse Magazine, which until enactment of the Communications Decency Act, offered free adult fare to Internet users of any age, was one of the first purveyors of sexual material to take steps to comply with the new law. That law is clearly working and has already been instituted to create a great success story.

Before our law was introduced and before it was passed, there was thunderous silence, thunderous silence, Mr. President, from both the industry and those loud voices that are now hammering away at the Communications Decency Act.

Published reports have indicated that Penthouse and Hustler Internet sites, referencing great numbers in the wording from the ad that I just read, and maybe some others now require, after passage of the act, a card to access these offerings.

Like it or not, Mr. President, this is the type of electronic pornography that is legal and constitutionally protected for adults. If their actions are as reported of requiring a credit card before you can access this particular part of the Internet that is widely, widely used according to Penthouse, if they have indeed instituted the procedure of having a credit card, then Penthouse and Hustler and their like appear to be in compliance with the new law, and I applaud them for that.

Adult material remains available then to adults but children are not provided pornography. This is precisely what the Communications Decency Act was designed to do, and it is working. The fully anticipated court challenge that is now underway apparently is not aware of this fact or it would be a defense on its face to some of the constitutional challenges that are being made.

The fear that keeping pornography away from children on the Internet would destroy this great medium and all of those charges that have been made are erroneous, they are unfounded, and it is nonsense.

During the year the Communications Decency Act was fully debated, Internet use doubled, and Internet growth has continued since the passage of the bill. Already, AT&T, MCI, and several local telephone companies have announced plans to offer easy Internet access and the Internet is coming to help other media as well and will come as I understand it to cable and satellite television.

Penthouse boasts, as I have just read, that it attracts over 80,000 people daily to its Internet site and an audience of 2.4 million each month. The ad's enthusiasm for the Internet is in keeping with the Communications Decency Act. We know that great system called the Internet that provides information and help to a lot of people is not only important but I simply say that the scare tactics that continue to be used by the Communications Decency Act's opponents are not well founded. It is not censorship, the word opponents of the Communications Decency Act throw around at will, to responsibly protect our children from pornography and, I might add, pedophiles.

The Communications Decency Act was fully debated, extensively negotiated and carefully designed to strike the right balance between the protection of children and the growth of this exciting and promising new technology. Revisionists like to paint a picture of Congress rushing to judgment on computer technology especially as it affects the spread of pornography. In my nearly 18 years in the Senate, I have won passage of many pieces of legislation dealing with the most important issues of the day including bills affecting national security, law enforcement, transportation, safety and deficit reduction. No bill that I have worked on has had as much attention, discussion or debate as the Communications Decency Act. For one full year, the Nation has talked about the Communications Decency Act. And that is good.

The hands-off crowd, though, have argued that protection of children was exclusively and totally the responsibility of the parent. For families to safely enjoy the benefits of the Internet, the family had to be there turning on the computer or turning it off, making sure that whatever the child brought up on the screen was acceptable to them.

The Communications Decency Act does not lessen—and I emphasize again, Mr. President, does not lessen—the need for parents to be vigilant, ever vigilant. But, by putting the law on the side of the families and the children, the Communications Decency Act recognized, as our First Lady might say, "It Takes A Village."

I am also pleased that the President of the United States and the U.S. Department of Justice fully support the Communications Decency Act. I am delighted that the computer industry has been working to develop blocking software and parental control software as well. Before the Communications Decency act was introduced, these products did not exist. But all the blocking software in the world should not absolve an adult from the responsibility for allowing the abuse or the corruption of a child. The Communications Decency Act holds those who attempt to harm children responsible for their acts.

To all of those who are worried, the Communications Decency Act is law, and the Internet, in the meantime, is doing just fine. They should be applauding the article and ad that I read, published by Penthouse.

Adults still have access to their legal vices. But most important, children are steadily gaining protection when they travel on the information superhighway.

Mr. President, I ask unanimous consent that a letter from the President's counsel to me be printed in the RECORD, and I yield the floor.

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

THE WHITE HOUSE,
Washington, February 28, 1996.

Senator JIM EXON,
U.S. Senate,
Washington, DC.

DEAR SENATOR EXON: Thank you for your recent letter to the President concerning the Telecommunications Reform Act of 1996. The President has asked me to respond on his behalf.

On February 8, 1996, the President was pleased to be able to sign the historic Telecommunications Reform Act into law. I know that the President was equally pleased that you were able to participate in the event.

Your letter also referred to Title V of the Telecommunications Reform Act, otherwise known as the Communications Decency Act. As you know, the President is committed to defending efforts to protect children from harmful material whether it is targeted at them via the computer or other media. Accordingly, the President firmly supports the Communications Decency Act.

As you accurately predicted, various challenges to the Communications Decency Act

have been filed. The Department of Justice is vigorously defending the Act against these challenges as a proper and narrowly tailored exercise of Congress' power to regulate the exposure of children to computer pornography.

Again, thank you for your letter and for your expression of support for our endeavors to defend the Communications Decency Act.

Sincerely,

JACK QUINN,
Counsel to the President.

A SALUTE TO KANSAS

Mr. DOLE. Mr. President, Kansas Senator Richard L. Bond delivered a moving tribute to the State of Kansas on the occasion of the 135th anniversary of statehood. During our annual celebration in Topeka, WI, Governor Tommy G. Thompson served as the keynote speaker for the evening of celebration and appreciation.

In his narrative, Senator Bond captured the heart and strengths of our State, and I ask unanimous consent that his remarks be printed in the RECORD.

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

A SALUTE TO KANSAS

Governor Graves, Governor Thompson, Senator Kassebaum, Chairman Miller, Distinguished Guests and fellow Kansans, it is my pleasure to offer a salute to Kansas on the occasion of her 135th birthday of statehood. Having turned sixty years of age in the past year I am pleased whenever I'm invited to a birthday party for something older than I am.

This past summer a book titled "Vacation Places Rated" was published which listed Kansas dead last as a desirable vacation spot. The vacationers surveyed apparently felt Kansas had little to offer. Such sentiments are not new. In 1867 Henry Stanley wrote, "Tourists through Kansas would call this place dull enough . . . For a passing traveler in search of pleasure, it certainly possesses few attractions."

If one is in search of a sandy sea-side shore or a snow-capped mountain peak Kansas is not the place to look.

For those of us who call Kansas home we know what may be lost on the casual visitor.

The beauty of Kansas resides in the subtle grace of its geography, the strength of its people's character and the spirit of hope that shapes its future.

America may not turn to Kansas when its looking for a tropical resort but America looks to Kansas for so much more . . .

Today, when Americans want the finest grain in the world they call on Kansas.

Today, when Americans want the finest steak in the world they call on Kansas.

Today, when Americans want oil and natural gas to heat their homes and cook their food they call on Kansas.

Today, when Americans want the finest aircraft in the world they call on Kansas.

And yes, Governor Thompson, we even make some pretty good cheese.

And today, when America needs leadership it calls on Kansas—

Congresswoman Jan Meyers, the first Republican woman to chair a standing committee in the U.S. House.

Congressman Pat Roberts, reshaping farm policy as Chairman of the House Agriculture Committee.

Senator Nancy Kassebaum, the first woman elected to the U.S. Senate in her own right, working to reform welfare, education and job training as Chair of the Senate's Labor and Human Resources committee.

And, Senator Bob Dole who has served as Senate Majority Leader longer than any other person.

We are blessed with an abundance of Republican leaders that reflect the virtues of Kansas—persistence, hard work, common sense and hope. Congressmen Brownback and Tiahrt continue this tradition.

But this Kansas tradition of leadership is nothing new.

Sixty years ago in the depths of the dust bowl and depression Governor Alf Landon worked to balance our state budget and serve as our party's standard bearer in the Presidential election. His dignity and sense of compassion were not victims to the fiscal austerity of the time.

More than fifty years ago when America faced the challenge of World War, Gen. Eisenhower lead our forces to victory in Europe and secured the peace. The boyhood lessons learned in Abilene served him well in that endeavor and during the eight years he served our nation as President. The 34th President whose boyhood home was in the 34th state.

Today, when the need for leadership on the national level has never been greater, Americans again call on Kansas. The man from Russell tested by war and tested in the public arena stands ready to lead our country into the next millennium. His greatest strengths are the gifts of Kansas. A character shaped by faith and family, a determination to confront challenges and an ingenuity to overcome them. When America calls on Kansas we always offer our best. President Bob Dole will be no exception.

Kansas has historically been willing to make tough choices. The choice to reject slavery caused our state to be born in the midst of a bloody struggle. A struggle for which Kansas paid a high price—Kansas suffered the highest mortality rate in the nation during the Civil War. But our birth in troubled times only made Kansans appreciate the price of freedom even more.

From the prairie, Kansans built a way of life—not focused on the value of possessions but on the importance of family, neighbors, faith and community. Obstacles were merely opportunities for innovation and the creative spirit of Kansans always rose to meet the challenge. We have always sought the stars through difficulties.

Floods, grasshoppers, dust storms, drought, tornadoes—all have caused the Kansas spirit to bend but it has never broken.

Tonight, on the occasion of 135 years of statehood Kansas remains a great place to call home. But regardless of our contributions much remains to be done. As President Eisenhower said, "Accomplishment will prove to be a journey, not a destination." Kansas is a young state—one with its best years ahead—full of possibilities. We must work to accomplish the full potential of these possibilities—creating an even better Kansas for future generations.

Some may seek to exploit divisions within our party but I believe many more will seek to focus on that which unites us. Since the Republican Party in Kansas was organized in 1859 in Osawatomie it has known its share of controversy but it has also provided our state with leaders united by a belief that government isn't the solution to every problem and that a limited government that encourages individual opportunity and freedom best serves the citizens of Kansas. With candor, respect and trust we as Republicans can continue to provide such leadership for Kansas. The contrasts that define our differences can be a source of strength not division. We have a great leader in our governor, Bill Graves. His vision for Kansas is worthy of our continued mutual investment.

One hundred years ago a young editor, having recently purchased, The Emporia Gazette, published an editorial entitled, "What's the Matter with Kansas?" With it's publication William Allen White garnered his first national attention. A century later upon revisiting that question we know that there is nothing the matter with Kansas that the people of Kansas can't fix—working together.

It is true that some may look at Kansas and see only what Zebulon Montgomery Pike first described as "The Great American Desert." But those of us that call Kansas home know better. We know that Kansas is a fount of commerce, prosperity, and hope—a place occupied by those who know the importance of faith and family and who believe in a future of unlimited potential. A land of open vista and friendly people. Regardless of where we roam Kansans are sure of one thing—there's no place like home. For all the blessings of Kansas we give thanks.

Happy Birthday Kansas and Many Happy Returns.

TROY SYSTEMS, INC.

Mr. WARNER. Mr. President, I am pleased today to have the opportunity to recognize a company, TROY Systems, Inc., located in the great city of Alexandria, VA. TROY Systems is a shining example of the vitality of the American Dream, having grown from a small disadvantaged section 8(a) company into a national and award winning federal contractor. I would like to especially congratulate their CEO and President, K. David Boyer, for TROY's incredible success. While TROY may soon be graduating from the 8(a) program, I am confident of their continued success.

In 1984, in a small apartment in Alexandria, David Boyer and Felicity Belford started on an entrepreneurial journey. Their plan was to build a company providing information systems and technology support to the Federal Government. Starting with just two employees, TROY Systems has grown to a work force of over 350 employees and revenues in 1995 of almost $25 million.

In 1995, TROY was named by TechNews, Inc. and Deloitte and Touche to their National Technology "Fast 500" list of the fastest growing technology-intensive companies in the United States. The company shared this honor with such heavyweight and well-known corporations such as Microsoft, Dell Computer, and Novel. TROY Systems has received other such awards such as being named to Inc. magazine's list of the 500 fastest growing companies, receiving Ernst & Young's Entrepreneur of the Year award, and being selected by the Virginia Chamber of Commerce as one of

the "Fantastic 50" fastest growing small private companies in the commonwealth.

I would like to submit for the record an article which appeared in the November edition of InSight magazine describing TROY Systems' impressive growth and achievements, as well as their involvement in the important Department of Defense Defense Messaging System project.

TROY Systems is a fine example that the American Dream is alive and well and I am proud to salute them for their hard work and accomplishments.

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

DMS SPOTLIGHT—TROY SYSTEMS, INC.

One member of the DMS contract team is a small business, minority-owned firm with a strong background in government information systems support. TROY Systems, Inc., of Alexandria, Virginia, will be providing training courses to help DMS users get up to speed with products procured through the contract.

TROY became involved with Loral through the Mentor/Protege program sponsored by the Department of Defense. The program encourages large prime contractors to seek out small businesses that can benefit from such an alliance. During the course of the relationship, both companies have learned from the other, and contracts have been pursued with either party acting as the prime. According to K. David Boyer, Jr., President & CEO of TROY, "The major benefit of our relationship with Loral has been the mutual re-engineering of corporate processes, as a result of our learning experience as we work together." Boyer started the business working from a home office in October of 1984. Since its inception, TROY has grown from two people to a staff approaching three hundred people, and has been listed in the INC 500.

TROY has operated under the Small Business Set Aside 8(a) Program and is currently looking forward to graduation in 1996. To position itself as a strong information technology company into the next decade, TROY has built an impressive list of federal and corporate clients. Winning large government contracts over a diverse customer base has led to significant expansion of TROY's capabilities. Since 1990, TROY has developed and conducted worldwide user training for the U.S. Army health care community, the Navy Recruiting Command, and the Veteran's Benefits Administration. TROY currently performs on contracts with three Department of the Navy agencies (NAVSEA, NAVAIR, and NAVSUP), the Air Force, and numerous civilian agencies including GSA, GAO, and the RTC. In addition, TROY serves as IV & V (Independent Verification & Validation) analyst for the Resolution Trust Corporation's massive software systems, which were built by IBM and tested by Troy Systems, Inc.

What seems to set TROY apart from other SDBs (Small, Disadvantaged Businesses) is the consistency between its walk and its talk. Boyer states, "I built this company with the philosophy that 8(a) and other such programs were not necessary for us to succeed. We are a leader in our area of technology expertise. That is why we have won so many contracts."

Loral's award of DMS provides yet another opportunity for TROY to utilize its expertise. Once curricula are completed, approved, and made available, DMS users will be able to choose from the following courses offered through the DMS contract: Basic User; Operating Systems Administrator; Directory System Administrator; Message Handling System Administrator; and Management Workstation System Administrator.

Harry H. Hagenbrock is the senior manager at TROY, responsible for the DMS program. Hagenbrock comments, "Due to the tremendous number of users (projected to be 2,000,000) that will ultimately be on line with DMS, TROY will be building its staff and resources to present the courses in the field, or "train the trainer," for those commands who wish to provide DMS training internally.

TROY Systems, Inc., is ramping up its capabilities, and working closely with Loral Corporation to bring its DMS training and support resources to a state of readiness. CEO Boyer, a former Air Force Officer, is looking forward to the DMS challenge. Boyer concludes, "Our many commercial and military contracts have prepared us to train DMS users. We are looking forward to help make DMS happen."

RECOGNITION OF EDWARD L. KING

Mr. NUNN. Mr. President, I rise today to recognize the contributions to the Senate and to the Nation that have been made by Edward L. King who is leaving the staff of the Senate for the private sector.

Ed King retired from the U.S. Army as a lieutenant colonel in 1969 after a distinguished military career, including combat infantry duty in Korea and assignments in important staff positions with an emphasis on NATO and inter-American matters.

After his military service, Ed turned his hand to writing and authored "The Death Of the Army: A Pre-Mortem" which was selected by the New York Times Review of Books as one of the 12 best current events books of the year for 1972.

In 1971, Ed came to the Hill for the first time, serving as a staff consultant to the Congressional Joint Economic Committee and later that same year as special consultant for NATO affairs to Senator Mike Mansfield. Ed returned to the Hill in 1975 and served as Administrative Assistant to Senator William Hathaway until 1979. Ed subsequently served as special assistant to Senator Paul Tsongas in 1984, during which time he acted as an intermediary to the La Palma—El Salvador—peace talks. From 1985 to 1987, Ed served as a consultant on Central America to Senator ROBERT BYRD. Finally, Ed served on the Senate Democratic Policy Committee from 1987 to the present time. Over the last 10 years, Ed has worked as a senior foreign policy advisor for Majority Leaders ROBERT BYRD and George Mitchell and for Minority Leader THOMAS DASCHLE.

I first came to know Ed King while he was working on the Democratic Policy Committee. I also came to respect and admire Ed as he went from legislative crisis to crisis with the same calm but determined and effective demeanor that I am sure served him and his troops so well as a combat infantry officer. Whether the issue was pop-up legislation dealing with the Persian Gulf, Somalia, Haiti, or Bosnia or setting up a routine meeting for Senators with a visiting foreign official Ed was always on top of the situation, always in full control of the facts, and ready with a solution to bridge ostensibly irreconcilable positions. And despite the stress and the raised voices on the part of some, Ed never lost his good nature and sense of humor.

But what I remember most of all were the numerous occasions on which a long stint of negotiations ended with the parties agreed on the general framework of a solution and leaving it to Ed to come up with the specific text that embodied that general solution. And you knew that the specific text would be ready the first thing the next morning and that it would have been agreed to on all sides at the staff level and vetted with and acceptable to the administration.

Mr. President, the Senate is losing one of its finest staff members. The Nation is losing a fine public servant whose contributions will, for the most part, remain unknown. I, for one, want the record to reflect that this Senator appreciates the service that Ed King has rendered to the Senate and the Nation. I know that he will be successful in the private sector and that he will continue to make a contribution in whatever he does in the future.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, March 27, 1996, the Federal debt stood at $5,069,500,044,702.95.

On a per capita basis, every man, woman and child in America owes $19,165.10 as his or her share of that debt.

It is no wonder that babies come into this world crying.

A TRIBUTE TO GERTRUDE MALLARD PRITCHER

Mr. HOLLINGS. Mr. President, I would like to take this opportunity to wish a very happy birthday to Gertrude Mallard Pritcher of St. George, SC. Mrs. Pritcher will turn 100 years old on April 13.

The 11th of 12 children, Gertrude Pritcher was born in Colleton County in 1896 to John Behlin and Annie Eliza Liston Hucks. In the history of her life, one can trace the history of the South Carolina Lowcountry. She grew up in Smoaks, where she taught school in a one-room schoolhouse, and Sunday school at a Methodist Church. Throughout the 1930s,'40s and '50s, she lived in Beaufort County where she was active in home demonstration clubs,

specializing in gardening, cooking and sewing. A member of Daughters of the American Revolution, Mrs. Pritcher has three daughters and one son by her first husband, William Daniel Mallard of Summerville. They were married for almost 50 years, until his death in 1965. Mrs. Pritcher married Asbury Pritcher of Beaufort County in 1972 who has also passed away.

Like a true Southerner, she has a love of and flair for storytelling. With her knowledge of the counties of South Carolina, and with all the family and friends she has, you can bet she has some good ones to tell. She enjoyed a healthy and active life for 85 years, until a stroke in 1981. The condition curtailed her activity somewhat, but she continues to live comfortably in St. George where her children and grandchildren enjoy her company, and her tales. Let's all hope that we can have as rich a life.

THE FLAG AMENDMENT

Mr. HATCH. Mr. President, the February, 1996 issue of the American Legion Magazine contains a column entitled, "We Will Continue To Stand By Our Flag," by Daniel A. Ludwig, national commander of the American Legion. As my colleagues know, the American Legion, other veterans and civics groups, the Citizens Flag Alliance, and countless individuals undertook an effort to pass a constitutional amendment authorizing protection of the American flag. There was nothing in it for any of the participants in that great effort. This effort fell just short in the Senate. But, I note that in 1989 an amendment received 51 votes; in 1990, 58 votes; and in 1995, 63 votes. In the other body, the effort went from falling short in 1989 to an overwhelming win in 1995.

I said in December that the effort to enact a constitutional amendment authorizing protection of the American flag will be back. And so it will, as the column by Commander Ludwig makes clear. I ask unanimous consent that the column be printed in the RECORD.

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

[From the American Legion Magazine, Feb. 1996]

WE WILL CONTINUE TO STAND BY OUR FLAG

(By Daniel A. Ludwig)

By the time you read this, the postmortems on the Senate vote on the flag amendment will largely have subsided. The media may finally have stopped smirking their smirks of (supposed) intellectual superiority. The constitutional scholars who were thrust into an unaccustomed limelight will have gone back to their universities to continue the debate in quieter fashion. The public-interest groups who took sides against us—and, we always believed, against the public interest—will have turned their attention to other cherished aspects of traditional American life that need to be "modernized," which is to say, cheapened or twisted or gutted altogether.

Observers have suggested that we, too, should give up the fight. Enough is enough, they say. "You gave it your best, now it's time to pack it in." Those people don't understand what the past six years, since the 1989 Supreme Court decision, have really been about.

From the beginning of our efforts, debate centered on the issue of free speech and whether the proposed amendment infringes on it. But whether flag desecration is free speech, or an abuse of free speech, as Orrin Hatch suggests (and we agree), there is a larger point here that explains why we can't—shouldn't—just fold up our tents and go quietly.

Our adversaries have long argued that opposition to the amendment is not the same as opposition to the flag itself, that it's possible to love the flag and yet vote against protecting it. Perhaps in the best of all possible worlds we could accept such muddled thinking.

Sadly, we do not live in the best of all possible worlds.

In the best of all possible worlds it would not be necessary to install metal detectors in public schools, or have drunk-driving checkpoints on our highways, or give mandatory drug tests to prospective airline employees. Indeed, in the best of all possible worlds, the Pope would not have to make his rounds in a bulletproof vehicle. In all of these cases, we have willingly made certain sacrifices in freedom because we recognize that there are larger interests at stake. In the case of the metal detectors, for example, the safety of our children, and our teachers, and the establishment of a stable climate for instruction to take place, is paramount.

If the flag amendment is about anything, it's about holding the line on respect, on the values that you and I asked our lives to preserve. We live in a society that respects little and honors still less. Most, if not all, of today's ills can be traced to a breakdown in respect—for laws, for traditions, for people, for the things held sacred by the great bulk of us.

Just as the godless are succeeding at removing God from everyday life, growing numbers of people have come to feel they're not answerable to anything larger than themselves. The message seems to be that nothing takes priority over the needs and desires and "rights" of the individual. Nothing is forbidden. Everything is permissible, from the shockingly vulgar music that urges kids to go out and shoot cops, to "art" that depicts Christ plunging into a vat of urine—to the desecration of a cherished symbol like the U.S. Flag.

Are these really the freedoms our forefathers envisioned when they drafted the Bill of Rights? Thomas Jefferson himself did not regard liberty as a no-strings proposition. His concept of democracy presupposed a nation of honorable citizens. Remove the honorable motives from a free society and what you have left is not democracy, but anarchy. What you have left, eventually, is Lord of the Flies.

Amid all this, the flag stands for something. If respect for the flag were institutionalized, and children were brought up to understand the unique collection of principles it represents, there would be inevitable benefits to society, benefits that would help turn the tide of today's chaos and disrespect. For no one who takes such principles to heart—no one who sees the flag as an untouchable symbol of democracy, of decency—could possibly do the things that some people do, these days, in the name of freedom.

The flag stands for something miraculous that took life upon these shores more than two centuries ago and, if we only let it, will live on for centuries more. It stands for a glorious idea that has survived every challenge, that has persevered in the face of external forces who promised to "bury" us and internal forces which promised to tear us apart. Let us never forget this.

And let us not forget that 63 out of 99 senators voted with us, or that we won over 375 legislators in total. Our efforts were no more wasted than were the efforts to take remote outposts in the Pacific a half-century ago. Those efforts, too, failed at first, but eventually we prevailed.

We undertook a noble fight in trying to save our flag, and the fact that we have suffered a temporary setback does not diminish the nobility of what we fought for. This is not over by a long shot. They will hear from us again.

Mr. BYRD. Mr. President, on the Op Ed page of today's edition of the New York Times there is a column I want to call to my colleagues' attention entitled "Line-Item Lunacy" by David Samuels. Even though the current debate on this matter is over for now, I encourage my fellow Senators to take the time to read this thoughtful opinion. Mr. President, to that end, I ask unanimous consent that the column be printed in the RECORD.

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

[From the New York Times, Mar. 28, 1996]

LINE-ITEM LUNACY

(By David Samuels)

It's a scene from a paranoid thriller by Oliver Stone: A mercurial billionaire, elected President with 35 percent of the vote, holds America hostage to his minority agenda by vetoing item after item in the Federal budget, in open breach of the separation of powers doctrine enshrined in the Constitution. Impossible? Not anymore.

With the announcement by Republican leaders that they plan to pass the line-item veto this spring, the specter of a Napoleonic Presidency has moved from the far reaches of poli-sci fiction, where it belongs, to the brink of political possibility.

At the moment, of course, a Presidential dictatorship is far from the minds of the G.O.P. leadership and White House Democrats, who hope that the line-item veto would encourage the President to eliminate pork-barrel giveaways and corporate tax breaks. But to see the measure as a simple procedural reform is to ignore the forces that have reconfigured the political landscape since it was first proposed.

Back in the 1980's, President Ronald Reagan ritually invoked the line-item veto while shifting blame onto a Democratic Congress for ballooning deficits. Part Republican chestnut, part good-government gimmick, the line-item veto became part of the Contract With America in 1994, and this month rose to the top of the political agenda.

What the calculations of Democrats and Republicans leave out, however, is that the unsettled politics of the 1990's bear little relation to the political order of the Reagan years.

In poll after poll, a majority of voters express a raging disaffection with both major parties. With Ross Perot poised to run in November, we could again elect our President with a minority of the popular vote (in 1992, Mr. Clinton won with 43 percent). The line-item veto would hand over unchecked power to a minority President with minority support in Congress, while opponents would have to muster two-thirds support to override the President's veto.

By opening every line in the Federal budget to partisan attack, the likely result would be a chaotic legislature more susceptible than ever to obstructionists who could demand a Presidential veto of Federal arts funding or sex education programs or aid to Israel as the price of their political support.

And conservatives eager to cut Government waste would do well to reflect on what a liberal minority might do to their legislative hopes during a second Clinton term in office.

Nor would the line-item veto likely result in more responsible executive behavior. The zigs and zags of Bill Clinton's first term in office give us a clear picture of the post-partisan Presidency, in which the executive freelances across the airwaves in pursuit of poll numbers regardless of the political coherence of his message or the decaying ties of party. With the adoption of the line-item veto, the temptation for Presidents to strike out on their own would surely grow.

The specter of a President on horseback armed with coercive powers might seem far away to those who dismissed Ross Perot as a freak candidate in the last election. Yet no law states that power-hungry billionaires must be possessed of Mr. Perot's peculiar blend of personal qualities and doomed to fail. Armed with the line-item veto, a future Ross Perot—or Steve Forbes—would be equipped with the means to reward and punish members of the House and Senate by vetoing individual budget items. This would enable an independent President to build a coalition in Congress through a program of threats and horse-trading that would make our present sorely flawed system seem like a model of Ciceronian rectitude.

President Clinton has promised to sign the line-item veto when it reaches his desk. Between now and then, the historic breach of our constitutional separation of powers that the measure proposes should be subject to a vigorous public debate. At the very least, we might reflect on how we intend to govern ourselves at a time when the certainties of two-party politics are dissolving before our eyes.

Mr. BYRD. Mr. President, Mr. Samuels eloquently points out just one of the many concerns this country could very well face with the adoption of this legislation. He focuses on what might happen should our two-party system dissolve and allow for a rogue individual to be elected president by a minority of the American people. In this scenario, the possibility of a tyrannical oppressor freely and recklessly wielding power has to be considered. While at the present time the likelihood of such an event seems farfetched, it is just this type of concern that we elected members of the people's branch must consider.

Indeed, if there is one bright spot on this day after Senate passage of S. 4, it is that in eight years the Congress will revisit this issue. It is my hope that at that time, wisdom will prevail.

EDMUND S. MUSKIE

Mr. DODD. Mr. President, I wanted to take a few moments today to speak about the death of former Senator Edmund Muskie.

I first met Ed Muskie during his visits to my family's house in Connecticut more than 30 years ago as he traveled back to Maine from Washington.

And like my father before me—I was honored to serve with him in Congress. I came to greatly admire and respect his leadership, his conviction, his knowledge and his great devotion to public service.

Edmund Muskie was a truly dedicated member of this body for 22 years. He served both the people of Maine and all the American people as a committed and able legislator.

And when his party and his President called on him he answered. He twice ran for national office as a Democrat: Once for Vice-President in 1968 and once for the Democratic nomination for President in 1972. And he finished his career as Secretary of State, under President Carter in 1980.

Throughout his more than two decades of public service Ed Muskie was ahead of his time in his efforts to keep our environment clean and America's fiscal house in order.

He earned the apt nickname "Mr. Clean" for his pioneering work on the Clean Air Act and Clean Water Act, both of which he shepherded through the Senate. Generations from now, when Americans are enjoying our safe and healthy air and water, they should thank Edmund Muskie for having the foresight and vision to place a clean environment on top of the political agenda.

And even before the era of exploding federal deficits in the 1980's, Edmund Muskie strived to bring fiscal discipline to Congress, as chairman of the Senate Budget Committee.

Yesterday, former President Jimmy Carter said he had "never known any American leader who was more highly qualified to be President of the United States." And it is to the American people's misfortune that a man of such principle never had the opportunity to reach the Oval Office.

As a fellow Democrat and Northeasterner I remain committed to the policies that Edmund Muskie so energetically championed as a U.S. Senator.

My thoughts and prayers go out to his wife Jane, his children, his friends and the people of Maine.

THE CONSTITUTIONALITY OF THE LINE ITEM VETO CONFERENCE REPORT

Mr. HEFLIN. Mr. President, I rise today to explain my opposition to this so-called line-item veto conference report, which passed on March 27. I have been a strong supporter of a line item veto and feel that such legislation would provide the President with an effective weapon to fight wasteful spending. I have voted for several line item veto bills that I felt were constitutional. However, I did not support this legislation, as it violates the plain reading of the Constitution.

In Article I, section 7, the Constitution sets out fundamental procedures for the enactment of a law. It states that every bill should be passed by both houses and then presented to the President to either sign or veto. If the bill is vetoed each house may override such a veto by two-thirds vote. The bill then becomes law once it is signed or a veto is overridden by each house of Congress.

This conference report allows the President, after a bill has become a law, to go back and review that law and to pick and choose what portions of the law he desires to repeal, and to do so in an unconstitutional manner. This flies in the face of the fundamental principal of "separation of powers" and the "checks and balances" of our government. Article I, section 1, of the Constitution states that "[a]ll legislation Powers herein granted shall be vested in a Congress of the United States.

The Supreme Court in INS versus Chadha discussed the importance of the "separation of powers" provisions in Article I, section 1. The court stated that

> [t]hese provisions of Art. I are integral parts of the constitutional design for the separation of powers. We have recently noted that "[t]he principle of separation of powers was not simply an abstract generalization in the minds of the Framers: it was woven into the document that they drafted in Philadelphia in the summer of 1787."

The Court further expressed that,

> [i]t emerges clearly that the prescription for legislative action in Art. I, sections 1, 7, represents the Framers' decisions that the legislative power of the Federal Government be exercised in accord with a single, finely wrought and exhaustively considered, procedure.

This conference report would allow the President, in effect, to repeal an existing law; thereby violating the provisions of Article I. The Court in Chadha held that "[a]mendment and repeal of statutes, no less than enactment, must conform with Art. I." The Court went further by stating that

> [t]he bicameral requirement, the Presentment Clauses, the President's veto, and Congress' power to override a veto were intended to erect enduring checks on each Branch and to protect the people from the improvident exercise of power by mandating certain prescribed steps. To preserve those checks, and maintain the separation of powers, the carefully defined limits on the power of each Branch must not be eroded.

This highlights the importance of maintaining the legislative procedures set out by the Constitution and the separate powers the Constitution has bestowed upon the three branches of our government.

Mr. President, this bill chips away at the constitutionally prescribed "checks and balances" set forth by our Founding Fathers. I believe that a line-item veto can be a useful weapon against wasteful spending if drafted so as to protect the fundamental procedures set out by our Constitution; however, this bill as presented cannot sustain constitutional muster.

HELEN KELLY—A FAITHFUL PUBLIC SERVANT

Mr. BYRD. Mr. President, I have been a member of this body for nearly thirty-eight years. During this time, I have come to treasure the traditions of this institution and the unique place it holds in our system of government. Through the Senate I have worked with men and women who possess some of our country's finest and ablest minds, and with them, I have witnessed and been part of history.

While this history will attest to the importance of my fellow Members of the Senate, often what goes unnoticed is the behind-the-scenes work of our staffs. I feel confident in saying that there is not a Member of this body who could represent his or her constituents in this day and age without the diligent, hard work of Senate staffers. And it is to pay tribute to one of these dedicated staffers that I speak on the Senate floor today.

Twenty years ago, on March 8, 1976, Helen B. Kelly came to work in my office as a receptionist. She came with Hill experience, having previously worked for Congressman Broyhill from Virginia. This knowledge, combined with her natural interest and compassion for people, was quickly noted, and Helen was promoted to the position of caseworker.

In my office, as in other Congressional offices, there is no greater matter of importance than constituent services. As we all know, sifting through the federal bureaucracy can be a daunting and often exasperating experience. Well, Helen has mastered the art of cutting through Washington's red tape. Whether it be working out a visa problem for a constituent's family member or giving guidance to a military academy nominee, Helen has shown the dedication and perseverance to get the job done.

I want to say thanks and congratulations to Helen Kelly on behalf of my fellow West Virginians and the Senate. This is a demanding but rewarding profession. Were it not for people like Helen who breathe life and vitality into it, I believe the Senate would not be the premier legislative body that we treasure today.

JAPAN-UNITED STATES EXCHANGES

Mr. LUGAR. Mr. President, I rise today to discuss an important issue in our relationship with Japan. It has come to my attention that for every American student studying in Japan, 20 Japanese study in the United States. This puts the United States at a comparative disadvantage in dealing with issues of economic competitiveness and strategic cooperation that confront and will continue to confront our bilateral ties for many years.

Japan possesses the second-most powerful economy in the world. Its resources and expertise affect the health and vitality of international trade and finance. United States-Japan cooperation and understanding will be required if issues pertaining to the global economy, development, health, peacekeeping, weapons proliferation, the environment, and others are to be addressed constructively. At the same time, Japan's economic prowess poses significant challenges to and opportunities for improving the economic well-being of the United States. We simply must learn how to gain the trust and cooperation of the Japanese people, its entrepreneurs, and policy makers. We need to do better and be better informed about Japan if we hope to correct the nagging imbalance in trade. Historically, we have been ill-prepared for this task. We must be better prepared in the future.

One part of the solution to this problem lies in the education of young Americans in the language, culture, and society of Japan. It is the young Americans of today who will take the lead in dealing with their Japanese peers in a language and style the latter will respect and appreciate. Back channel politics has worked well through the years, but it is insufficient for the future. We now want to make certain there is a very large network of United States students studying in Japan that will make a difference in building the kind of bridges that are required if our relationship with Japan is to be more productive now and in the future.

Finally, Mr. President, I would like to mention that a coalition of public and private organizations is mounting a new program known as the Bridging Project to address this need to educate more Americans in and about Japan. In a time of fiscal stringency and belt tightening, public funds for this and other initiatives are gong to become even more scarce. The private sector must get more involved. Private-public partnerships and other creative solutions involving the private sector will be required if we are going to keep pace with our Japanese competitors. We should encourage this coalition to do everything it can to ensure that the United States remains competitive with Japan in the future.

HABEAS CORPUS REFORM

Mr. HATCH. Mr. President, just short of a year ago, this country was rocked by an attack on the Alfred Murrah Federal building in Oklahoma City, OK. In the wake of that horrible tragedy, this body took up antiterrorism legislation. I fought for the inclusion of meaningful habeas corpus reform legislation in the Senate bill over the initial hesitation of President Clinton. The House bill contains identical language. We will shortly be delivering a conference report to the President for his signature. At long last, after well over a decade of effort, we are about to curb these endless, frivolous appeals of death sentences.

I might add that this is one of the most important criminal law changes in this country's history, and it is about time we get it on track.

To be sure, there are many other important antiterrorism measures which will be included in the final terrorism bill including increased penalties, antiterrorism aid to foreign nations, plastic explosives tagging requirements, and important law enforcement enhancements. But let us make no mistake about it—habeas corpus reform is the most important provision in the terrorism bill. In fact, it is the heart and soul of this bill. It is the only thing in the Senate antiterrorism bill that directly affected the Oklahoma bombing. If the perpetrators of that heinous act are convicted, they will be unable to use frivolous habeas petitions to prevent the imposition of their justly deserved punishment. The survivors and the victims' families of the Oklahoma tragedy recognized the need for habeas reform and called for it to be put in the bill.

The Clinton Administration, which initially opposed meaningful habeas corpus reform, came to its senses and the President himself said he supported our habeas reform proposal. The antiterrorism bill, with the Hatch-Specter habeas proposal passed this body in an overwhelming vote.

Most of those familiar with capital litigation know that support for true habeas reform—support for an end to frivolous death penalty appeals—is the most authentic evidence of an elected official's support for the death penalty. It is against this backdrop that I was surprised to learn recently that on the eve of House debate on the antiterrorism bill—a bill that includes this important habeas reform proposal—the White House had sent emissaries to key Members of the House to lobby for weakening changes to the habeas reform package. Former White House Counsel Abner Mikva, accompanied by White House staff, met with key Members of the House and proposed that the bill be amended to essentially restore the de novo standard of review in habeas petitions. This would have gutted habeas corpus reform by allowing Federal judges to reopen issues that had been lawfully and correctly resolved years earlier. I had

thought we had a President who was committed to meaningful habeas reform.

When I first learned of this effort, I was surprised. After all, President Clinton promised that justice in the Oklahoma bombing case would be swift. Indeed, he recognized that an end to frivolous death penalty appeals was critical when he said,

[Habeas corpus reform] ought to be done in the context of this terrorism legislation so that it would apply to any prosecutions brought against anyone indicted in Oklahoma.

[Larry King Live, June 5, 1995].

But then I began to consider all of the steps this President has taken to undermine the death penalty. For example, President Clinton vetoed legislation late last year which contained language identical to the terrorism bill's habeas corpus proposal. Veto message to H.R. 2586, the temporary debt limit increase, Nov. 13, 1995. Prior to that, in 1994, the Clinton Justice Department lobbied the Democrat controlled House for passage of the so-called Racial Justice Act. This provision, in the guise of protecting against race-based discrimination, would have imposed a quota on the imposition of the death penalty. It would have effectively abolished the death penalty.

When the Senate refused to accept this death penalty abolition proposal, President Clinton decided to issue a directive implementing a so-called Racial Justice Act-type review of all Department of Justice decisions involving the Federal death penalty. [Wall Street Journal, July 21, 1994]. On March 29, 1995, Attorney General Reno issued the directive. Ironically, the Clinton Administration did not see fit to provide the victims' families in death penalty eligible cases with any right to petition the Department on the issue of whether the death penalty should be sought. [A.G. Reno directive on title 9 of the U.S. Attorneys' Manual, March 29, 1995].

To further gauge President Clinton's position on the death penalty and the streamlining of habeas corpus reform, one should consider whether his Department of Justice has supported State efforts to impose capital sentences. According to testimony provided to the Senate Judiciary Committee, the Clinton Justice Department considers the fact that a case involves the death penalty as a factor against filing amicus briefs in support of the State. [Testimony of Paul Cassell, Associate Professor of law, University of Utah, November 14, 1995]. The Bush Administration filed briefs in support of the State in 44.4 percent of the cases on appeal where a defendant's death sentence was being challenged. Briefs were filed in 42.9 percent of these cases and in 1991 and in 37.5 percent of the cases in 1992. In 1994, the Clinton Justice Department failed to file a single brief in support of States trying to carry out capital sentences. Many of these cases presented opportunities to protect the Federal death penalty but the Clinton administration sat on its hands.

On March 14, President Clinton said that, in his opinion, the terrorism bill's habeas corpus provision is not as good as it could be, and that there are some problems in the way that it's done but that he may go along with the version contained in the terrorism bill. [U.P.I. March 14, 1996].

Ironically, President Clinton's support for the terrorism bill seems to be dwindling as the likelihood for passage of habeas corpus reform seems to be increasing. Some Democrats appear to be preparing to scuttle the bill by arguing that it may not go far enough. Indeed, one of my colleagues on the other side of the aisle has gone so far as to call the House terrorism bill useless. We now hear that there is talk within the White House of a possible veto threat unless the terrorism bill is changed.

What I find interesting is that most of the provisions the President and his brethren are flexing their muscles over were not in the administration's original terrorism bill. For example, the President has been critical of the House's bipartisan votes to drop a ban on so-called cop killer bullets and a provision allowing law enforcement to conduct roving wiretaps. On February 10, 1995, Senator BIDEN introduced the administration's original terrorism bill, S. 390. Neither of these provisions were contained in S. 390. Indeed, the House-passed terrorism bill is more comprehensive than the President's original bill.

So I ask my colleagues: Why is a bill which is substantially similar to—in fact broader than—the original Clinton-Biden bill of 1995 useless in 1996? Could the fact that the final terrorism bill will contain tough, true habeas corpus reform be what's really at issue here?

President Clinton's newfound tough on crime rhetoric must be balanced against his administration's record of hostility toward true habeas corpus reform. In a few weeks, the Congress will deliver to President Clinton a tough terrorism bill which will contain our habeas corpus reform provision—a provision to end frivolous death penalty appeals. This reform measure has already been vetoed once and President Clinton has tried to weaken it. If he chooses to veto the terrorism bill, that will be a decision he and the families of murder victims across this country will have to live with. But let's not kid ourselves about why he may do so. To borrow a phrase—keep your eye on the ball. The ball here is habeas corpus reform.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE NATIONAL ENDOWMENT FOR THE ARTS FOR FISCAL YEAR 1994—MESSAGE FROM THE PRESIDENT—PM 137

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

It is my special pleasure to transmit herewith the Annual Report of the National Endowment for the Arts for the fiscal year 1994.

Over the course of its history, the National Endowment for the Arts has awarded grants for arts projects that reach into every community in the Nation. The agency's mission is public service through the arts, and it fulfills this mandate through support of artistic excellence, our cultural heritage and traditions, individual creativity, education, and public and private partnerships for the arts. Perhaps most importantly, the Arts Endowment encourages arts organizations to reach out to the American people, to bring in new audiences for the performing, literary, and visual arts.

The results over the past 30 years can be measured by the increased presence of the arts in the lives of our fellow citizens. More children have contact with working artists in the classroom, at children's museums and festivals, and in the curricula. More older Americans now have access to museums, concert halls, and other venues. The arts reach into the smallest and most isolated communities, and in our inner cities, arts programs are often a haven for the most disadvantaged, a place where our youth can rediscover the power of imagination, creativity, and hope.

We can measure this progress as well in our re-designed communities, in the buildings and sculpture that grace our cities and towns, and in the vitality of the local economy whenever the arts arrive. The National Endowment for the Arts works the way a Government agency should work—in partnership with the private sector, in cooperation with State and local government, and in service to all Americans. We enjoy a

rich and diverse culture in the United States, open to every citizen, and supported by the Federal Government for our common good and benefit.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 28, 1996.*

MESSAGES FROM THE HOUSE

At 10:26 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agree to the amendments of the Senate to the bill (H.R. 1833) to amend title, United States State Code, to ban partial-birth abortions.

The message also announced that pursuant to the provisions of section 1 of Public Law 102–246, the Speaker appoints Mrs. Marguerite S. Roll of Paradise Valley, AZ, as a member from private life, to the Library of Congress Trust Fund Board on the part of the House to a 3-year term.

The message further announced that pursuant to the provisions of 22 U.S.C. 276d, the Speaker appoints Mr. Houghton of New York, chairman, on the part of the House to the United States Delegation of the Canada-United States Interparliamentary Group.

The message also announced that the House agrees to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 102. Concurrent resolution concerning the emancipation of the Iranian Baha'i community.

ENROLLED BILL SIGNED

At 12:07 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2969. An act to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897.

At 2:49 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House of Representatives to the bill (S. 4) to grant the power to the President to reduce budget authority.

At 5:35 p.m., a message from the House of Representatives, delivered by Mr. Hays, 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. 3136. An act to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit.

At 6:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

S. 4. An act to give the President line item veto authority with respect to appropriations, new direct spending and limited tax benefits.

H.J. Res. 168. Joint resolution waiving certain enrollment requirements with respect to two bills of the One Hundred Fourth Congress.

The enrolled bill and joint resolution were signed subsequently by the President pro tempore [Mr. THURMOND].

MEASURE PLACED ON THE CALENDAR

The following concurrent resolution was placed on the calendar:

H. Con. Res. 102. Concurrent resolution concerning the emancipation of the Iranian Baha'i community.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on March 22, 1996 he had presented to the President of the United States, the following enrolled joint resolution:

S.J. Res. 38. A joint resolution granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2199. A communication from the Secretary of Labor, transmitting, pursuant to law, a report entitled "Core Data Elements and Common Definitions for Employment and Training Programs"; to the Committee on Labor and Human Resources.

EC–2200. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the Hellenikon International Airport, Athens, Greece; to the Committee on Commerce, Science, and Transportation.

EC–2201. A communication from the Deputy Administrator of the General Services Administration, transmitting, pursuant to law, the report of a building project survey; to the Committee on Environment and Public Works.

EC–2202. A communication from the Chairman of the National Endowment for the Humanities, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act; to the Committee on Governmental Affairs.

EC–2203. A communication from the Administrator of the U.S. Small Business Administration, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2204. A communication from the Chairman of the U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–537. A resolution adopted by the Council of the City of Willowick, Lake County, Ohio relative to the Internet; to the Committee on Commerce, Science, and Transportation.

POM–538. A resolution adopted by the Legislature of the Virgin Islands; ordered to lie on the table.

"RESOLUTION No. 1551

"Whereas, the global spread of HIV infection and AIDS necessitates a worldwide effort to increase communication, education and preventive action to stop the spread of HIV and AIDS; and

"Whereas, the World Health Organization has designated December 1st of each year as World AIDS Day, a day to expand and strengthen the worldwide effort to stop the spread of HIV and AIDS; and

"Whereas, the World Health Organization now estimates that 18.5 million people have been infected with HIV and that more than 1.5 million of them have developed AIDS; and

"Whereas, the American Association for World Health is encouraging a better understanding of the challenge of HIV and AIDS nationally as it recognizes that the number of people diagnosed with HIV and AIDS in the United States continues to increase; and

"Whereas, an estimated 1 in 250 Americans are currently HIV positive and over 441,528 AIDS cases have been reported (as of December 31, 1994); and

"Whereas, of these 441,528 people, 85% were men and 13% were women; and

"Whereas, the remaining 2% were children less than 13 years old; and

"Whereas, through 1994, a total of 870,270 AIDS related deaths have been reported to the Center for Disease Control (CDC); and

"Whereas, the United States has the highest reported rate of AIDS in the industrialized world; and

"Whereas, World AIDS Day provides an opportunity to focus on HIV infection and AIDS, to show care for people with HIV infection and AIDS, and to learn about HIV and AIDS; and

"Whereas, World AIDS Day focuses on "Shared Rights and Shared Responsibilities; and

"Whereas, the Legislature of the Virgin Islands urges Virgin Islanders to protect everyone's right to HIV and AIDS prevention and care; and

"Whereas, the Legislature of the Virgin Islands recognizes that everyone shares the same human rights regardless of their HIV status; and

"Whereas, the Legislature of the Virgin Islands emphasizes the shared responsibilities of individuals, families, and governments and the international community to promote prevention; and

"Whereas, December 1, 1995, has been declared as "World AIDS Day"; and

"Whereas, all Virgin Islanders are urged to take part in activities and observances designed to increase the awareness and understanding of HIV and AIDS as a global challenge by wearing a red ribbon; and

"Whereas, the wearing of a red ribbon unifies the many voices seeking a meaningful response to the AIDS epidemic and shows a commitment to the fight against this disease; and

"Whereas, the red ribbon symbolizes the hope that one day soon the AIDS epidemic

will end, that the sick will be healed, and that the stress upon our society will be relieved; and

"Whereas, the red ribbon also serves as a constant reminder of the many people in these Virgin Islands, as well as the world over, suffering as a result of this disease, and of the many people working to find a cure; and

"Whereas, the red ribbon demonstrates compassion for people with AIDS and their caretakers, and shows support for education and research leading to effective treatments, vaccines, and a cure; Now, therefore, be it

"*Resolved by the Legislature of the Virgin Islands:*

"SECTION 1. The Legislature of the Virgin Islands, on behalf of the people of the Virgin Islands, officially recognizes World AIDS Day and joins the global effort to prevent the further spread of HIV and AIDS.

"SECTION 2. Copies of this resolution shall be forwarded to the President of the United States, each member of the United States Congress, and the President of the American Association for World Health.

POM-539. A resolution adopted by the Western Legislative Conference relative to congratulatory message; ordered to lie on the table.

POM-540. A resolution adopted by the Western Legislative Conference relative to export finance assistance; ordered to lie on the table.

POM-541. A resolution adopted by the Western Legislative Conference relative to appreciation; ordered to lie on the table.

POM-542. A resolution adopted by the Western Legislative Conference relative to appreciation; ordered to lie on the table.

POM-543. A resolution adopted by the Western Legislative Conference relative to Federal Medicaid proposals; ordered to lie on the table.

POM-544. A resolution adopted by the Western Legislative Conference relative to long-term care insurance partnerships; ordered to lie on the table.

POM-545. A resolution adopted by the Western Legislative Conference relative to the designation of wilderness areas; ordered to lie on the table.

POM-546. A resolution adopted by the Western Legislative Conference relative to Federal rangeland reforms; ordered to lie on the table.

POM-547. A resolution adopted by the Western Legislative Conference relative to nuclear materials management; ordered to lie on the table.

POM-548. A resolution adopted by the Western Legislative Conference relative to wetlands management; ordered to lie on the table.

POM-549. A resolution adopted by the Western Legislative Conference relative to Federal environmental statutes; ordered to lie on the table.

POM-550. A resolution adopted by the Western Legislative Conference relative to regulatory reform principles; ordered to lie on the table.

POM-551. A resolution adopted by the Western Legislative Conference relative to the Clean Water Act; ordered to lie on the table.

POM-552. A resolution adopted by the Western Legislative Conference relative to the cleanup of hazardous and radioactive wastes at Federal facilities; ordered to lie on the table.

POM-553. A resolution adopted by the Western Legislative Conference relative to coordinated ecosystem management and marine biodiversity; ordered to lie on the table.

POM-554. A resolution adopted by the Western Legislative Conference relative to the management of Pacific fishery resources; ordered to lie on the table.

POM-555. A resolution adopted by the Western Legislative Conference relative to the coastal and ocean management; ordered to lie on the table.

POM-556. A resolution adopted by the Western Legislative Conference relative to economic zones; ordered to lie on the table.

POM-557. A resolution adopted by the Western Legislative Conference relative to the Pacific Ocean; ordered to lie on the table.

POM-558. A resolution adopted by the Western Legislative Conference relative to water issues; ordered to lie on the table.

POM-559. A resolution adopted by the Western Legislative Conference relative to public lands; ordered to lie on the table.

POM-560. A resolution adopted by the Western Legislative Conference relative to the Bureau of Land Management; ordered to lie on the table.

POM-561. A resolution adopted by the Western Legislative Conference relative to higher education programs; ordered to lie on the table.

POM-562. A resolution adopted by the Western Legislative Conference relative to educational technology; ordered to lie on the table.

POM-563. A resolution adopted by the Western Legislative Conference relative to school-to-work systems; ordered to lie on the table.

POM-564. A resolution adopted by the Western Legislative Conference relative to WLC meetings; ordered to lie on the table.

POM-565. A resolution adopted by the Western Legislative Conference relative to Federal transportation grants; ordered to lie on the table.

POM-566. A resolution adopted by the Western Legislative Conference relative to trade; ordered to lie on the table.

POM-567. A petition from a citizen of the State of Wisconsin relative to scholarships; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1596. A bill to direct a property conveyance in the State of California (Rept. No. 104-247).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

H.R. 255. A bill to designate the Federal Justice Building in Miami, Florida, as the "James Lawrence King Federal Justice Building".

H.R. 869. A bill to designate the Federal building and U.S. Courthouse located at 125 Market Street in Youngstown, Ohio, as the "Thomas D. Lambros Federal Building and U.S. Courthouse".

H.R. 1804. A bill to designate the United States Post Office-Courthouse located at South 6th and Rogers Avenue, Fort Smith, Arkansas, as the "Judge Isaac C. Parker Federal Building".

H.R. 2415. A bill to designate the United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Ysleta in El Paso, Texas, as the "Timothy C. McCaghren Customs Administrative Building".

H.R. 2556. A bill to redesignate the Federal building located at 345 Middlefield Road in Menlo Park, California, and known as the Earth Sciences and Library Building, as the "Vincent E. McKelvey Federal Building".

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PRESSLER, from the Committee on Commerce:

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

William L. Wilson, of Minnesota, to be a Member of the Advisory Board of the Saint Lawrence Seaway Development Corporation.

COMMUNICATIONS SATELLITE CORPORATION

Barry M. Goldwater, Sr. of Arizona, to be a Member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1998. (Reappointment)

COMMUNICATIONS SATELLITE CORPORATION

Peter S. Knight, of the District of Columbia, to be a Member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1999. (Reappointment)

COAST GUARD

The following regular officers of the U.S. Coast Guard for promotion to the grade of rear admiral:

John E. Shkor	Douglas H. Teeson
Paul E. Busnick	Edward J. Barrett
John D. Spade	

The following regular officers of the U.S. Coast Guard for promotion to the grade of rear admiral (lower half):

Joseph J. McClelland, Jr.	Paul J. Pluta
John L. Parker	Thad W. Allen

COAST GUARD

Vice Admiral James M. Loy, U.S. Coast Guard, to be Chief of Staff, U.S. Coast Guard, with the grade of vice admiral while so serving.

Vice Admiral Richard D. Herr, U.S. Coast Guard, to be vice commandant, U.S. Coast Guard, with the grade of admiral while so serving.

Vice Admiral Kent H. Williams, U.S. Coast Guard, to be commander, Atlantic Area, U.S. Coast Guard, with the grade of vice admiral while so serving.

Rear Admiral Roger T. Rufe, Jr., U.S. Coast Guard, to be commander, Pacific Area, U.S. Coast Guard, with the grade of vice admiral while so serving.

The following-officer of the U.S. Coast Guard Reserve for promotion to the grade of rear admiral:

Richard W. Schneider

The following officer of the U.S. Coast Guard Reserve for promotion to the grade of rear admiral (lower half):

Jan T. Riker

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PRESSLER. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably six nomination lists in the Coast Guard, which were printed in full in the CONGRESSIONAL RECORD on November 28, 1995, January 22, 1996, February 9, 1996, February 20, 1996, March 5, 1996, and March 11, 1996, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of November 28, 1995, January 22, 1996, February 9, 1996, February 20, 1996, March 5, 1996, and March 11, 1996, at the end of the Senate proceedings.)

The following officers of the United States Coast Guard Reserve for promotion to the grade indicated:

To be captain

George J. Santa Cruz
Gregory E. Shapley

To be commander

James E. Litsinger
Dale M. Rausch
Maury A. Weeks
Donald E. Bunn

To be lieutenant commander

Pinkey J. Clark
Kevin M. Pratt

The following individual for appointment as a permanent regular commissioned officer in the United States Coast Guard in the grade of lieutenant:

Sherry A. Comar

Pursuant to the provisions of 14 USC 729, the following-named commanders of the Coast Guard Reserve to be permanent commissioned officers in the Coast Guard Reserve in the grade of captain:

Steven D. Poole
Thomas J. Falvey
John P. Miceli
Gerald P. Fleming
Catherine A. Bennett
Roderick L. Powell
Richard T. Walde
Frank A. Freisheim
Brian J. McDonnell
Ivan R. Krissel
Richard E. Tinsman
Kevin J. MacNaughton

The following Regular officers of the United States Coast Guard for promotion to the grade of lieutenant commander in the Coast Guard:

Michael S. Fijalka
Joseph P. Sargent, Jr.
Gerald E. Anderson
Kristopher G. Furtney
George E. Butler
Gary A. Schenk
Margaret S. Bosin
Guy R. Theriault
Richard A. Sparacino
Mark S. Hemann
Gregory A. Cruthis
Ralph Haes
Charles D. Dahill
Steven R. Godfrey
Wesley E. Driver
Edward B. Swift
Walter B. Wrzesniewski
Francis J. Elfring
Philip F. Dolin
Michael A. Walz
Nicholas F. Russo
Bryan R. Emond
Dale M. Jones, Jr.
Christopher P. Scraba
Stephen C. Rothchild
Byron H. Romine
Michael W. Shomin
Meredith L. Austin
Gary D. Lakin
Stephen S. Scardefield
Joseph D. Phillips
Carlyle A. Blomme
Kelly S. Strong
Thomas J. Hughes
Wayne D. Cawthorn
Joseph C. McGuiness
Frank H. Kingett
Daniel J. Christovich
Robin E. Kane
Robert B. Watts
Keith J. Turro
Lori A. Mathieu
Davis L. Kong
Edward J. Gibbons
Manuel R. Raras III
Edwardo Gagarin
Mathew E. Miller
David M. Singer
Douglas H. Olson
Lincoln H. Benedict
Scott A. Fleming
Brian F. Poskaitis
Kevin P. Crawley
Terry L. Hoover
Duane F. Rumpca
Daniel S. Rotermund
Adolph L. Keyes
Ronald L. Roddam
John T. Fox
Mark R. Dix
James R. Manning
Nancy R. Goodridge
Gregory C. Busch
James J. Fisher
Robert T. Vicente
Timothy A. Cook
Brian C. Emrich
Catherine A. Haines
Todd K. Watanabe
Brendan C. Frost
Michael R. Hicks
Jacob R. Ellefson
James L. Knight
Laura L. Schmitt
James F. Martin
Christine C. Pippenger
Elizabeth A. Lasicki
Steven C. Truhlar
Gary M. Thomas
Jay Jewess
Christopher Yakabe
David A. Vaughn
Geoffrey A. Trivers
Steven V. Carleton
Robert S. Burchell
Robert E. Brogan
Terance E. Keenan
Laurie J. Mosier
Mark S. Ogle
Wayne P. Brown
Steven A. Weiden
Joseph J. Turosky III
Eric J. Forde
Thomas A. Saint, Jr.
Charles A. Schue III
Frederick A. Salisbury
Michael C. Ryan
Wesley S. Trull
Guy A. McArdle
Roger V. Bohnert
George J. Bowen II
John A. Meehan
William J. Ziegler
Douglas W. Stephan
Douglas R. McCrimmon, Jr.
David P. Dangelo
Douglas W. Simpson
Brian L. Dunn
Kenneth J. Reynolds
Douglas I. Hatfield
Brenton S. Michaels
Joseph A. Lukinich, Jr.
Rondal B. Litterell
David C. Hoard
Carl B. Hansen
Gregory S. Omernik
Ernest M. Gaskins
Brian A. Sanborn
Howard R. White
Alberto L. Perez-Vergara
William F. Imle
Linn M. Carper
Jerry R. Honeycutt, Jr.
Joseph B. Kolb
Frederick E. Bartlett
Andrew W. Connor
Gerald A. Green
Carolyn M. Deleo
Robert B. Burris
Christopher L. Roberge
Jon G. Beyer
Patrick Little
John D. Sharon
Michael B. Christian
Michael F. McAllister
Tommey H. Meyers
Matthew Von Ruden
Karl J. Gabrielsen
James S. Plugge
Daniel T. Pippenger
Werner A. Winz
Thomas E. Hickey
Christopher J. Tomney
Mark T. Lunday
James R. Lee
John N. Healey
Kurt A. Van Horn
Mark Dietrich
Hung M. Nguyen
John R. Caplis
Steven T. Baynes
Todd S. Turner
Timothy P. Leary
Brandt G. Rousseaux
James M. Heinz
Mark P. Peterson
Byron E. Thompson
Michael A. Mohn
Gregory J. Sundgaard
Richard K. Hunt
Paul S. Szwed
Mark A. True
Mark A. Cawthorn
Kathryn L. Oakley
Barry A. Compagnoni
Robert J. Klapproth
Craig L. Eller
Mark E. Dolan
Frederick G. Myer
Charles A. Turner
Christopher D. Brewton
Dale A. Bouffiou
Chris A. Nettles
Lia E. Debettencourt
John G. Hornbuckle
Mark J. Metoyer
Richard E. Petherbridge
Craig A. Lindsey
Kimberly J. Nettles

The following Regular and Reserve Officers of the United States Coast Guard to be permanent commissioned officers in the grades indicated:

To be lieutenant

Gerald E. Anderson
Charles D. Dahill
Nancy R. Goodridge
Douglas I. Hatfield
James J. Jones
Mark A. Willis
Stephen E. Schroeder
Timothy J. Gilbride
James J. Mikos
Paul A. Gummel
Edward J. Vandusen
David M. Flaherty
John L. Beamon
Hewitt A. Smith III
Marcus X. Lopez
Sean D. Salter
James Q. Stevens III
Charles H. Simpson, Jr.
Daniel J. Molthen
Rogers W. Henderson
Scott H. Olson
Brian W. Roche
Robert T. Hendrickson, Jr.
Paul E. Gerecke
David W. Mooney
Gerald M. Charlton, Jr.
Kurt A. Lutzow
Gerald A. Williams
Jose A. Saliceti
Timothy A. Mayer
Todd C. Hall
Michael L. Gatlin
Christine R. Gustafson
James Borders, Jr.
Kevin R. Sheer
Thomas S. MacDonald
James W. Bartlett
Peter J. Clemens
James A. Stewart
Carla J. Grantham
Kevin A. Jones
Susan R. Klein
Jeffrey K. Pashai
Wesley K. Pangle
Karen L. Brown
Neil H. Shoemaker
Brian P. Washburn
Kristin K. Barlow
Lara N. Burleson
Christel A. Dahl
Mark A. Emmons
Jose M. Zunica
Andres V. Delgado
Garth B. Hirata
David E. Hoten
George R. Lee
Robert L. Smith
Robert C. Gaudet
Mark J. Morin
Jeffrey A. Baillargeon
Barbara N. Benson
Michelle R. Webber
Darnell C. Baldinelli
Michael H. Day

To be lieutenant (junior grade)

Jeffrey R. McCullars
Paul E. Dittman
Daniel H. Mades
Christopher B. O'Brien
Peter V. Nourse
David R. Simeur II
Dean J. Dardis
Patrick S. McElligatt
Nancy L. Peavy
Edward A. Westfall
William A. Birch
Randall G. Wagner
Douglas R. Campbell
Karl D. Dornburg
Joyce E. Aivalotis
Melvin Wallace
Andre L. McGee
Charles G. Alcock
Thomas J. Salveggio
Tony M. Cortes
Steven E. Vigus
Matthew X. Glavas
Lisa A. Ragone
Ronald K. Grant
Eric L. Tyson
Gregory N. Delong
David A. Bullock
Timothy J. Cotchay
Bob I. Feigenblatt
Stephen A. McCarthy
Ramon E. Ortizvalez
Thomas W. Harker
Kyle A. Adams
Daniel R. Norton
Bruce D. Cheney, Sr.
Christopher K. Bish
Kevin L. Rebrook
Mark P. Doran
Kathleen M. McNulty
Brendan C. Bennick
William E. Runnels
Michael R. Charbonneau
Bradley J. Ripkey
Michael Sakaio
Christina M. Bjergo
James E. Elliott
Brett A. Taft
Joseph F. Rock, Jr.
Joseph M. Fierro
Charles A. Caruolo
Karl I. Meyer
Michael A. Baroody
Robert I. Coller
Robert R. Harper, Jr.
Joseph Ponseti, Jr.
William R. Timmons
Peter A. Yelle
Claudia C. Gelzer
Daniel D. Unruh
Mark Marchione
Matthew D. Woodward
John A. Denard
John B. Milton
John A. Cromwell
Scott A. Hinton
Orin E. Rush, Jr.
Mitchell A. Morrison
Christopher B. Hill
Alan L. Blume
Jeffery W. Thomas
Larry L. Littrell
Christopher M. Holmes
Thomas N. Thomson
Bryan P. Rorke
David H. Anderson
Edward W. Price, Jr.
Thomas J. Robinson II
Richard M. Klein
Jerry J. Briggs
William G. Lutman
Gregory L. Carter
Roger A. Smith
James V. Mahney, Jr.
Kevin N. Knutson
Donna G. Urban

Raymond C. Milne III
Joel B. Roberts
Dale Dean
David J. Wierenga
Mark J. Bruyere
Thomas J. Goldberg
Michael F. Trevett
John G. White
Timothy A. Tobiasz
Christopher S. Nicolson
Dale A. Bluemel
Lawrence A. Kiley
Whitney L. Yelle
James F. Blow
Edward W. Sandlin II
Scott D. Stewart
Ismal Curet
Michael A. Vanvoorhees
Lewis M. Werner
Charles A. Roskam II
James A. Nussbaumer
Kevin Y. Pekarek
Michael T. Lingaitis
Erich M. Telfer
Constantina A. Stevens

The following cadets of the United States Coast Guard Academy for appointment to the grade of ensign:

Stephen Adler
Todd Adrian
Andrew Aguilar
Christopher Allan Ahearn
Kristina Marie Ahmann
Lee Allison
Brian Robert Anderson
Pete Agrao
David Lewis Arritt
Scott Aten
Jonathan Dickinson Baker
Alain Velasco Balmacedo
Clifford Ronald Bambach
Agustus James Bannan
Timothy James Barelli
Che Jeremy Barnes
Jennifer Alice Beaver
Eric Michael Belleque
Scott David Benson
John Berry
Robert Humber Bickerstaff
Jeff Brian Bippert
Dawn Black
Chad Eric Bland
Jed Robert Boba
George Charles Bobb
Michael Bolz
Fred Van Boone
Russell Eugene Bowman
Sean Terrence Brady
Paul Brooks
Andy Scott Brown
Heath Michael Brown
Jessica Irene Brown
Thomas Russell Brown
Timothy Tyson Brown
William Alan Budovec
Marc Alan Burd
Erva Jennifer Burhans
Travis Lance Burns
Colin Edward Campbell
Rachelle Lyn Cannon
Willie Lee Carmichael
Scott Eric Carroll
Anthony Cella
Adam Abraham Chamie
Casey Louis Chmielewski
Bradley Clare
Kathryn Nadene Clevenger
Eric Mitchell Cooper
Phillip Alexander Cowall
Phillip Allen Crigler
Timothy Patrick Cronin
Christopher Francis Dabbieri
Quincy Lamont Davis
Seth Joo Yong Denning
Jared Colin Dillian
Patrick Dougan
William Albert Dronen
William Earle Duncan
Michael P. Duren
Michael Arthur Edwards
Timothy Aaron Mahr
Zachary Joseph Malinoski
Gary Mason
Gregory Alen Matyas
Austin Joseph McGuire
Eileen Patricia Meehan
Tracy Walsh Mehr
Brian Arthur Meier
Peter Neal Melnick
Sally Messer
Brian Miles
Christopher Michael Milkie
Gabrielle Genevieve Miller
Emily Minbiole
Erica Lea Mohr
Robert Thomas Moorhouse
Joe L. Morgan
Seal Gregory Morrissey
Jesse Clate Morton
Todd William Moyer
Michael Shawn Moyers
Jonathan Edward Musman
Adam Eric Nebrich
Benjamin Louis Nicholson
Craig Mickael O'Brien
John Kenneth O'Connor
James Joseph O'Kane
Thomas Andrew Olenchock
Matthew Orendorff
Drew Francis Orsinger
Brian Palm
Michael John Paradise
Andrew Thomas Pecora
Scott Thomas Peterein
Hillary Genelle Peterson
Ty Jeremy Peterson
Christopher Brian Phelan
Lena Michele Piazza
Richard Charles Pokropski
Michelle Lee Quach
Brian Kevin Riemer
Erick Roane
Keith Michael Ropella
Michael Ray Roschel
Andrew Eric Rosenbaum
Brad Rosello
Herbert Henry Eggert
Michael James Ennis
Philip Allan Ero
Salvatore Jason Fazio
Michele Flaherty
Taina Fonseca
Anthony F. Franzago
Michael Shariff Fredie
Ernie Toledo Gameng
Juan Garcia
Christofer Lyle German
Michael Ryan Gesele
William Raymond Gibbons
Steven Gilbert
Kevin David Glynn
Raja Goel
Peter Ward Gooding
Dennis Michael Gordon
Michael Patrick Guldin
Fernando Gutierrez
Timothy Dale Hammond
Colin Harding
Mark Koffman Harris
Rebecca Pearl Harvey
Chris S. Hayter
Jalyn Gail Heil
Robert Hengst
John Hennigan
Mark Donald Heupel
Eric Edwards Hoernemann
Christy Lynn Hogan
Eli Hoory
Eric Kenneth Horn
Walter Laurence Horne
Robert Anthony Hueller
John Paul Humpage
Mark Alan Jackson
Benjamin Alexandea Janczyk
Merle Johnson
Reese Parker Johnson
Samuel Johnson
Anthony Raymond Jones
Alexander Sarol Joves
Eirik Thomasson Kellogg
Carl Martin Kepper
Robert John Keramidas
Adam Lincoln Kerr
Timothy James Kerze
Fair Charlie Kim
Jooyi Kim
William Anderson King
Heather Kristine Klemme
Chris Kluckhuhn
Sean Adam Komatinsky
Gabrielle Nicole Krajenski
Jason A. Kremer
Paul Emil Lafond
Karl David Lander
James Willis Larson
Ryon L. Little
Scott Stanley Littlefield
Katherine Mary MacDonald
Ryan Alexander Roslonek
Anthony Lee Russell
Michael Ryan
Olav Magnus Saboe
Andrea Lynn Sacchetti
Jerry Wayne Saddler
Matthew J. Salas
Aaron Michael Sanders
Derek Thomas Schade
Daniel Schaeffer
Tabitha A. Schiro
Michael Schoonover
Cynthia Seamands
Edward See
Richard Servantez
John Edward Shkor
Jeremy Charles Smith
Christain Jared Souter
Eric Ryan St. Pierre
Nell Baynham Stamper
Jane Elizabeth Stegmaier
Scott Allan Stoermer
Brian Patrick Storey
Tracy Ann Strock
Daniel Matthew Stulack
Jonathan Theel
Michael David Thomas
Randall Thomas
Paul Edward Tressa
Woodrow E. Turner
Todd David Vance
Mark Aaron Voris
Gretchen Anne Wagner
Michael Anthony Walsh
Daniel Ward
Eric Ward
Donis Wayne Waters
Michelle Renee Watson
Andres Michael Went
William Edward Whitaker
Laurina Mae-Anne Wilcox
Mark Wilcox
Anthony Wade Williams
Douglas Erhardt Williams
Torrence Bement Wilson
Kimberly Zust

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. HUTCHISON:

S. 1648. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Herco Tyme;* to the Committee on Commerce, Science, and Transportation.

By Mr. KERREY (for himself, Mr. DOLE, Mr. EXON, and Mrs. KASSEBAUM):

S. 1649. A bill to extend contracts between the Bureau of Reclamation and irrigation districts in Kansas and Nebraska, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HARKIN (for himself, Mr. KERRY, Mr. SIMON, Mr. LEAHY, Ms. MIKULSKI, and Mr. INOUYE):

S. 1650. A bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WARNER:

S. 1651. A bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to medicare to enroll in the Federal Employees Health Benefits program; to the Committee on Armed Services.

By Mr. McCONNELL:

S. 1652. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to establish a national resource center and clearinghouse to carry out training of State and local law enforcement personnel to more effectively respond to cases involving missing or exploited children, and for other purposes; to the Committee on the Judiciary.

By Mr. CONRAD:

S. 1653. A bill to prohibit imports into the United States of grain and grain products from Canada, and for other purposes; to the Committee on Finance.

By Mrs. BOXER (for herself and Mr. BRADLEY):

S. 1654. A bill to apply equal standards to certain foreign made and domestically produced handguns; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. PELL, Mr. D'AMATO, Mr. PRESSLER, Mr. LEVIN, and Mr. FEINGOLD):

S. Con. Res. 50. A concurrent resolution concerning human and political rights and in support of a resolution of the crisis in Kosova; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERREY (for himself, Mr. DOLE, Mr. EXON, and Mrs. KASSEBAUM):

S. 1649. A bill to extend contracts between the Bureau of Reclamation and irrigation districts in Kansas and Nebraska, and for other purposes; to the Committee on Energy and Natural Resources.

THE IRRIGATION PROJECT CONTRACT EXTENSION ACT OF 1996

• Mr. KERREY. Mr. President, I introduce legislation to extend the water service contracts for irrigation projects in Nebraska and Kansas.

Mr. President, a little over 50 years ago, Congress authorized construction of a set of water management projects as a part of the Flood Control Act of 1944. These projects were designed to provide control, conservation, and use of water resources throughout the Missouri River basin. Known as the Pick-Sloan Missouri Basin Program, the system has provided flood control, power generation and irrigation to over 3.7 million acres, as well as stream pollution abatement, sediment control, water supplies for cities and industry, enhancement of fish and wildlife, and recreation opportunities.

Each of the projects had 40-year water service contracts for irrigation with the Bureau of Reclamation, in the Department of the Interior. These contracts are beginning to expire. In fact, three of those 40-year contracts will expire on December 31 of this year. Though the procedures for contract renewal were not spelled out, it is clear that contract renewal was considered when the original agreements were made. It is also clear that an immediate extension of the service contracts is necessary. Extending these contracts will give the Bureau of Reclamation the necessary time to complete the contract renewal process as well as provide us time to collect input to fully evaluate our options and maximize the benefits of the best option.

The legislation I introduce today is straight-forward and simple: It would extend each of 10 water service contracts upon expiration for a period of 4 years. The terms of each contract would be the same as those originally negotiated.

I am glad to be able to say that this legislation has the full and bipartisan support of each Senator from both of the affected States, Nebraska and Kansas. It has been a real pleasure to work with each of my cosponsors on an issue where we found such clear and easy agreement, both about what needed to be done and how to get there. So, on behalf of myself, the majority leader, BOB DOLE, my friend and fellow Nebraskan JIM EXON, NANCY KASSEBAUM, and the thousands of Nebraskans, Kansans, and visitors who benefit from these projects, I introduce the Irrigation Project Contract Extension Act of 1996.•

By Mr. HARKIN (for himself, Mr. KERRY, Mr. SIMON, Mr. LEAHY, Ms. MIKULSKI, and Mr. INOUYE):

S. 1650. A bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes; to the Committee on Labor and Human Resources.

THE FAIR PAY ACT OF 1996

• Mr. HARKIN. Mr. President, the Equal Pay Act, passed in 1963, made it illegal to discriminate against women when determining pay levels for the same job. Since then, we have made some progress in reducing employment discrimination against women. But we cannot have equality of opportunity in the workplace without equality and fairness in wages and salary. Even though many women have moved up and out of traditionally female jobs, stereotypes and historical discrimination remain firmly imbedded in pay scales.

Current law has not done enough to combat wage discrimination when employers routinely pay lower wages to jobs that are dominated by women. That is why I am introducing the Fair Pay Act of 1996. The Fair Pay Act is designed to pick up where the Equal Pay Act left off by paying women equally for equivalent work.

The heart of the Fair Pay Act will make it illegal to discriminate against employees on the basis of sex, race, and national origin by requiring equal pay for work in jobs that are comparable in skill, effort, responsibility, and working conditions. Women and minorities make up 57 percent of the workforce and their salaries are an essential component of family income. It is a fundamental issue of fairness to provide equal pay for work that is of equal value to an employer.

Wage gaps can result from differences in education, experience, or time in the workforce and the Fair Pay Act does not interfere with that. But, just as there is a glass ceiling in the American workplace, there is also what I call a glass wall—where women are on the exact same level as their male coworkers. They have the same skills, they have the same type of responsibilities, but they are still obstructed from receiving the same pay. It is a hidden barrier, but a barrier all the same. And it is keeping out equality, opportunity, and above all fairness. The Fair Pay Act is about knocking down the glass wall.

To illustrate, consider a study done in the county of Los Angeles that compared the job requirements and salaries of children's social service workers who were mostly women and probation officers who were mostly men. The two jobs required the same skills and education, and the working conditions were similar. However, the social service workers were paid an average of $35,000 a year while the probation officers were paid an average of $55,000 a year—a $20,000 difference in salary.

Over a lifetime, that kind of wage gap adds up. The average woman loses $420,000 over a lifetime due to unequal pay practices. Such gaps in income are life changing: it can mean the difference between welfare and self-sufficiency, owning a home or renting, sending your kids to college or to flip burgers, or having a decent retirement instead of an uncertain old age.

The Fair Pay Act is a commonsense business issue. Women and minorities make up over half of the work force and fair pay is essential to attract and keep good workers.

The Fair Pay Act is an economic issue. Working women, after all, don't get special discounts when they buy milk. They can't get a special rate buying clothes for their kids. Bread and gasoline don't cost less for working women than working men. And women and minorities are certainly taxed at the same rate as men are, yet they don't get any break when April 15 rolls around.

The Fair Pay Act is a family issue. Family budgets are getting squeezed by the day. When women are discriminated against in their pay, they aren't the only ones who lose. When women aren't paid what they're worth, husbands and children get cheated too.

Now, I've heard the critics. Some say there is no discrimination in the workplace. It's just the natural economic forces paying workers their fair share.

Others say that this is a decision that should be left to the private sector alone. If the private sector wants to discriminate, they say, that should be their right. Well, we as a society have said discrimination in any form should not be tolerated and that's what this bill is about.

There is perhaps no other form of discrimination that has as direct an impact on the day-to-day lives of workers as economic discrimination. The Equal Pay Act was designed to end that. And it has helped. But we need to go further to address economic discrimination for equivalent work.

And most importantly, the American people want fair pay legislation. The Fair Pay Act has already been endorsed by a wide variety of groups and organizations. In addition, polling data consistently show that over 70 percent of the American people support a law requiring the same pay for men and women in jobs requiring similar skills and responsibilities. Please join me in supporting the Fair Pay Act of 1996. I welcome your ideas and suggestions.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

WE SUPPORT THE FAIR PAY ACT

A. Philip Randolph Institute.
Adams National Bank.
AFL–CIO.
AFSCME.
American Association of Retired Persons.
American Association of University Women.
American Civil Liberties Union.
American Federation of Government Employees.
American Library Association.
American Nurses Association.
American Physical Therapy Association.
Americans for Democratic Action.
Bakery, Confectionery, Tobacco Workers International Union.
B'nai B'rith Women.
Business and Professional Women/USA.
Center for the Advancement of Public Policy.
Coal Employment Project.
Coalition of Black Trade Unionists.
Coalition of Labor Union Women.
Dulles Area NOW.
Episcopal Church Center, Women in Mission & Ministry.
Equal Rights Advocates.
Federally Employed Women.
Federation of Organizations for Professional Women (FOPW).
Financial Women International Fund for the Feminist Majority.
General Federation of Women's Clubs.
Industrial Union Department, AFL–CIO.
Institute for Research on Women's Health.
International Brotherhood of Teamsters.
Int'l Union of Electronic, Electrical, Salaried, Machine & Furn. Workers Union.
International Union, United Auto Workers.
Hubbard and Revo-Cohen, Inc.
Kentucky Commission on Women.
League of United Latin American Citizens.
MANA: A National Latina Organization.
National Association for Commissions for Women.
National Association for Girls and Women in Sport.
National Association of Social Workers.
National Association for the Advancement of Colored People.
National Committee on Pay Equity.
National Council of Jewish Women.
National Council of Negro Women.
National Education Association.
National Federation of Federal Employees.
National Organization for Women.
National Treasury Employees Union.
National Urban League.
National Women's Law Center.
Network: A National Catholic Social Justice Lobby.
Office and Professional Employees Int'l Union.
Self Help for Equal Rights.
Service Employees International Union.
The Newspaper Guild.
UNITE! Union of Needletrades, Industrial and Textile Employees.
United Food and Commercial Workers Union.
United Methodist Church.
Utility Workers Union of America.
Wider Opportunities for Women.
Women Employed.
Women in Communications, Inc.
Women on the Job.
Women of the Job Taskforce.
Women Work! The National Network for Women's Employment.
Women's Information Network.
Women's Legal Defense Fund.
Women's Self Employment Project.
YWCA of the USA.•

• Mr. LEAHY. Mr. President, today, more than half our population faces discrimination every day. Hard to believe, but it is true.

Women currently earn, on average, 28 percent less than men. That means for every dollar a man earns, a woman earns only 72 cents. Over a lifetime, the average woman will earn $420,000 less than the average man based solely on her sex. This is unacceptable. We must correct this gross inequity, and we must correct it now.

How is this possible with our Federal laws prohibiting discrimination? It is possible because we in Congress have failed to protect one of the most fundamental human rights—the right to be paid fairly for an honest day's work.

Unfortunately, our laws ignore wage discrimination against women and minorities, which continues to fester like a cancer in workplaces across the country. The Fair Pay Act of 1996 would close this legal loophole by prohibiting discrimination based on wages.

I do not pretend that this act will solve all the problems that women and minorities face in the workplace. It is, however, an essential piece of the puzzle.

Equal pay for equal work is often a subtle problem that is difficult to combat. And it does not stand alone as an issue that women and minorities face in the workplace. It is deeply intertwined with the problem of unequal opportunity. Closing this loophole is not enough if we fail to provide the opportunity for women and minorities, regardless of their merit, to reach higher paying positions.

The Government, by itself, cannot change the attitudes and perceptions of individuals or private businesses in hiring and advancing women and minorities, but it can set an example. Certainly, President Clinton has shown great leadership by appointing an unprecedented number of women to his administration. Earlier this week, the Department of Defense, the Nation's largest employer of women, reached a milestone when President Clinton appointed the first female three-star general, Maj. Gen. Carol Mutter of the U.S. Marine Corps. I share her sentiment when she said she could not wait until there were no more firsts for women. The Government has a long way to go, however, since General Mutter will be the lone woman out of more than 100 three-star officers.

The private sector also has a long way to go to provide equal opportunity. The report released by the Glass Ceiling Commission last year found that 95 percent of the senior managers of Fortune 1000 industrial and Fortune 500 companies are white males. The Glass Ceiling Commission also found that when there are women and minorities in high places, their compensation is lower than white males in similar positions. This wage inequality is the issue we seek to address today.

In the next decade, the changing nature of the workplace—women and minority men will make up 62 percent of the work force by the year 2005—will force businesses to look at the larger pool of qualified Americans to continue to be competitive in the marketplace. As this change occurs, we must demand fair pay for equal work.

For the first time in our country's long history, this bill outlaws discrimination in wages paid to employees in equivalent jobs solely on the basis of a worker's sex, race, or national origin. I say it is about time. I commend Senator HARKIN for introducing the Fair Pay Act, and I am proud to be an original cosponsor of it.

The Fair Pay Act would remedy gender and race wage gaps under a balanced approach that takes advantage of the employment expertise of the Equal Employment Opportunity Commission [EEOC], while providing flexibility to small employers . In addition, it would safeguard legitimate wage differences caused by a seniority or merit pay system. And the legislation directs the EEOC to provide educational materials and technical assistance to help employers design fair pay policies.

It is a basic issue of fairness to provide equal pay for work of equal value. The Fair Pay Act makes it possible for women and minorities to finally achieve this fundamental fairness. I urge my colleagues to support this legislation.•

By Mr. WARNER:

S. 1651. A bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to medicare to enroll in the Federal Employees Health Benefits program; to the Committee on Armed Services.

MILITARY RETIREES HEALTH BENEFITS LEGISLATION

Mr. WARNER. Mr. President, today I am pleased to introduce legislation which will return a sense of fairness to the military health care system by providing Medicare-eligible uniformed services retirees the same health care plan that is currently available to every other retired federal employee. This proposed legislation would allow all Medicare-eligible military retirees and family members to participate in the Federal Employee Health Benefits Plan [FEHBP].

Under the current system, military retirees are the only group of Federal employees whose health plan is taken away at age 65, requiring them to rely exclusively on Medicare. This is a broken promise, one made as they took their oath of office. I am sure that my colleagues would agree that this situation is not only inherently unfair, but that it also breaks a long standing health care commitment to our military retirees. It is worth noting that

nearly all of the largest U.S. corporations, such as General Motors, IBM and Exxon, provide their retirees with substantial employer-paid health coverage in addition to Medicare. The commonly held belief that the health care provided for military retirees is second to none is a myth. The truth is that when compared to what is provided by other large employers including the rest of the Federal Government, the health care that is provided to our Medicare-eligible military retirees and their family members has become second to almost all others.

This legislation is a major step toward the application of equitable standards of health care for all Federal Employees and honors our commitments to those veterans who served our Nation faithfully through many years of arduous military service. I invite my colleagues to join me as cosponsors of this bill. I would like to thank Jack Hoggard, Commander, USN(RET) and Mike Matthes, Commander, USN for their efforts in producing this important legislation.

By Mr. McCONNELL:

S. 1652. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to establish a national resource center and clearinghouse to carry out training of State and local law enforcement personnel to more effectively respond to cases involving missing or exploited children, and for other purposes; to the Committee on the Judiciary.

THE JIMMY RYCE LAW ENFORCEMENT TRAINING CENTER ESTABLISHMENT ACT OF 1996

• Mr. McCONNELL. Mr. President, I am pleased to introduce a bill to establish the Jimmy Ryce Law Enforcement Training Center for the Recovery of Missing and Exploited Children.

Each year tens of thousands of children are reported missing from their homes. The Department of Justice estimates that 3,000 to 4,000 children are taken coercively by nonfamily members. And the National Center for Missing and Exploited Children gets involved with almost 300 cases a year which involve children abducted by strangers intending harm. Many of these children are never seen again.

This is the most critical factor in a missing child investigation. And too, often, local law enforcement officials lack the experience and the resources to conduct a swift and effective investigation which will maximize the chances for a safe recovery.

The Jimmy Ryce Center, which will be established by this bill, will combine the resources of the National Center for Missing and Exploited Children with those the F.B.I.'s National Crime Information Center and Child Abduction and Serial Killer Unit, as well as the Office of Juvenile Justice and Delinquency Prevention. The Jimmy Ryce Center will be a national training center for law enforcement officials from all over the United States and its programs will address: identifying the elements of a missing and exploited child case investigations; applying research regarding missing and exploited child case investigations and analyzing successful and unsuccessful investigative techniques; and educating about the national resources available to assist local efforts in a missing and exploited child case investigation.

The Jimmy Ryce Center will also make it a priority to provide comprehensive nationwide training for law enforcement regarding report taking and NCIC entry of missing child information. And, the training center will expand current training done by the Office of Juvenile Justice and Delinquency Prevention and coordinate programs in all 50 States and the District of Columbia.

I am confident the bill will have the support of the Department of Justice. It already has the support of the Fraternal Order of Police, and I ask unanimous consent that the FOP's letter, as well a copy of the bill, be included in the RECORD.

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

S. 1652

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

SECTION 1. FINDINGS.

The Congress finds that—

(1) an investigation to find a missing child presents unique circumstances for law enforcement agencies, including the need for specialized training and the capability of swift response to maximize the chances for the safe recovery of the child;

(2) local law enforcement officials often lack experience and are unaware of the Federal resources available to assist in the investigation of cases involving a missing child; and

(3) a national training facility should be established to assist State and local law enforcement agencies in—

(A) providing comprehensive training in investigations of cases involving missing or exploited children;

(B) ensuring uniform, consistent, and meaningful use of reporting systems and processes; and

(C) promoting the use of vital national resources.

SEC. 2. AMENDMENT.

Section 404(b)(2)(D) of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended by striking "children; and" and inserting "children, including—

"(i) the establishment of an onsite training center at the national clearinghouse to be known as the Jimmy Ryce Law Enforcement Training Center for the Recovery of Missing Children, designed to—

"(I) assist high-level law enforcement leaders from across the country, selected by State officials, to develop effective protocols and policies for the investigation and prosecution of cases involving a missing or exploited child; and

"(II) introduce those officials to resources available from the clearinghouse and Federal agencies to assist in cases involving a missing or exploited child;

"(ii) nationwide training in report-taking and data entry in cases involving missing or exploited children for information specialists, conducted at State and local law enforcement facilities by employees of the national clearinghouse and the National Crime Information Center of the Federal Bureau of Investigation, designed to ensure that necessary information regarding cases involving missing or exploited children is gathered and entered at the local level in a timely and effective manner; and

"(iii) State-based basic investigation training in cases involving missing or exploited children for State and local police investigators selected by State officials, conducted by employees of the national clearinghouse and the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice, designed to provide practical instruction in the investigation of cases involving missing or exploited children; and".

FRATERNAL ORDER OF POLICE,
NATIONAL LEGISLATIVE PROGRAM,
Washington, DC, March 27, 1996.

Hon. MITCH McCONNELL,
U.S. Senate, Washington, DC.

Hon. PETER DEUTSCH,
U.S. House of Representatives, Washington, DC.

GENTLEMEN: On behalf of the 270,000 members of the Fraternal Order of Police, this is to express our strong support for your legislation to provide funding and facilities to train state and local law enforcement officers in investigative techniques for utilization in missing and exploited children case.

As a member of the Board of the National Center for Missing and Exploited Children (NCMEC), I am thoroughly familiar with the wonderful work of the Center, and with the strong bond which the NCMEC has forged with state and local officers. The proposed Jimmy Ryce Law Enforcement Training Center for the Recovery of Missing Children, which would operate within the framework of the NCMEC, can only enhance that relationship, and will make it even more productive.

We thank both of you for your leadership on this issue, and in the many other areas where both of you have weighed in on the side of tough yet progressive law enforcement.

Sincerely,

GILBERT G. GALLEGOS,
National President.•

By Mr. CONRAD:

S. 1653. A bill to prohibit imports into the United States of grain and grain products from Canada, and for other purposes; to the Committee on Finance.

THE IMPORT PROHIBITION ACT OF 1996

Mr. CONRAD. Mr. President, on another matter, we learned yesterday that Canada is banning all imports of United States durum as a result of the karnal bunt fungus found in Arizona. Mr. President, this ban means that no durum may be exported to Canada. Durum is the wheat that makes pasta. So all the pasta lovers should understand most of the durum that makes pasta in this country is grown in North Dakota. Eighty-seven percent of the durum wheat that makes pasta is grown in North Dakota. And our Canadian friends from the north have now

banned all imports of U.S. durum wheat. What does that mean? Well, it means a lot.

It means that our durum is not going to be able to leave through the Great Lakes. That is where the grain that is grown in North Dakota and the rest of the Midwest is transferred to what we call lakers, ships that go on the lake to transoceanic vessels. Those transfers are made in Canadian ports.

This ban will mean that our grain cannot leave through those Canadian ports. That means our grain is going to have to go south through the gulf adding a lot of cost and expense. That means we are going to be less competitive against the Canadians.

Mr. President, one might understand what the Canadians are doing here if in some way they were threatened. They themselves have acknowledged they are not threatened. They themselves have acknowledged that karnal bunt cannot survive in the cold of Canada. And there is no karnal bunt that has been found in the Midwest. The only place it was found was on isolated farms in some southwestern States.

So the Canadians are engaged, I believe, in a deception. They are saying they are banning our exports of durum wheat through their ports to protect their producers. But by their own statements they know—and they have acknowledged—that they are not threatened.

So what is really going on, Mr. President? I believe it is an attempt to secure a competitive advantage, and we should not allow it. We should fight back.

Today, I am introducing two bills: One that will ban imports of Canadian durum until Canada drops its restriction on our grain. And the second bill would ban the imports of all cattle and beef from Canada given the fact that we have seen the mad cow disease develop in England. We know there have been shipments of cattle from England to Canada in the past.

If they are going to threaten us because of karnal bunt found in Arizona, we can threaten them in the same way and shut off all imports from Canada of their beef and their cattle because of the mad cow syndrome in England when we know there have been shipments of beef from that country to Canada.

It makes just as much sense to ban imports of cattle and beef from Canada where there is no known BSE as it does to ban imports of wheat from the upper midwest where there are no known outbreaks of karnal bunt.

That is equivalent treatment. That is standing up for America. I hope that other of my colleagues will join me in supporting this legislation to send a clear message to our neighbors to the north that we are not going to accept their refusal to take our exports of durum through their markets.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1653

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

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) The Canadian Government has imposed a ban on the importation of durum wheat from the United States because of an outbreak of karnal bunt in Arizona.

(2) The ban applies to all imports of durum wheat from the United States, including wheat from States where no evidence of karnal bunt has been found.

(3) No karnal bunt has been found in any wheat produced in Montana, North Dakota, South Dakota, Minnesota, or in the Great Lakes region.

(4) The Canadian Government has stated that due to the cold climate in Canada there is no risk of an outbreak of karnal bunt in Canada.

(5) Canada's ban on shipments of durum wheat through the Great Lakes ports is unjustifiable and the ban places unnecessary restrictions on shipments of other wheat through the Great Lakes ports.

SEC. 2. PROHIBITION AGAINST ENTRY OF CERTAIN CANADIAN GRAIN PRODUCTS.

(a) IN GENERAL.—Not later than 15 days after the date of the enactment of this Act, the President shall prohibit the entry, or withdrawal from warehouse for consumption, of all grain products (described in heading 1001 or 1101.00.00 of the Harmonized Tariff Schedule of the United States) which are produced, grown, or manufactured in Canada.

(b) DURATION.—The prohibition imposed under subsection (a) shall remain in full force and effect until the Secretary of Agriculture and the United States Trade Representative—

(1) determine that Canada has removed the prohibition on imports described in subsection (c), and that durum wheat products produced in the United States are permitted full and fair access to the markets of such country; and

(2) submit to the Congress the determination under paragraph (1), together with the reasons underlying the determination.

(c) PROHIBITION DESCRIBED.—The prohibition described in this subsection is a prohibition on the importation of durum wheat products produced in the United States where there is not sufficient evidence that karnal bunt exists with respect to such wheat.

By Mrs. BOXER (for herself and Mr. BRADLEY):

S. 1654. A bill to apply equal standards to certain foreign made and domestically produced handguns; to the Committee on the Judiciary.

THE JUNK GUN VIOLENCE PROTECTION ACT OF 1996

• Mrs. BOXER. Mr. President, I am introducing, along with my distinguished colleague from New Jersey, Senator BRADLEY, a bill to give equal treatment to the manufacture, transfer, and possession of both foreign made and domestically produced junk guns.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1654

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 "Junk Gun Violence Protection Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the prohibition on the importation of handguns that are not generally recognized as particularly suitable for or readily adaptable to sporting purposes, often described as junk guns or Saturday night specials, has led to the creation of a high-volume market for these weapons that are domestically manufactured;

(2) traffic in junk guns constitutes a serious threat to public welfare and to law enforcement officers, and the use of such firearms is increasing;

(3) junk guns are used disproportionately in the commission of crimes;

(4) of the firearms traced in 1995, the 3 firearms most commonly traced to crimes were junk guns; and

(5) the domestic manufacture, transfer, and possession of junk guns should be restricted.

SEC. 3. RESTRICTION ON MANUFACTURE, TRANSFER, AND POSSESSION OF CERTAIN HANDGUNS.

(a) RESTRICTION.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(y)(1) It shall be unlawful for a person to manufacture, transfer, or possess a junk gun that has been shipped or transported in interstate or foreign commerce.

"(2) Paragraph (1) shall not apply to—

"(A) the possession or transfer of any junk gun otherwise lawfully possessed under Federal law on the date of the enactment of the Junk Gun Violence Protection Act;

"(B) any firearm or replica of a firearm that has been rendered permanently inoperative;

"(C) the manufacture for, transfer to, or possession by the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, or a transfer to or possession by a law enforcement officer employed by such an entity for law enforcement purposes (whether on or off duty); or

"(D) the manufacture, transfer, or possession of a junk gun by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.".

(b) DEFINITION OF JUNK GUN.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(33)(A) The term 'junk gun' means any firearm that is not described in section 925(d)(3), and any regulations issued under such section.".•

ADDITIONAL COSPONSORS

S. 704

At the request of Mr. SIMON, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 1219

At the request of Mr. MCCAIN, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 1219, a bill to reform the financing of Federal elections, and for other purposes.

S. 1483

At the request of Mr. KYL, the names of the Senator from Wyoming [Mr. THOMAS], the Senator from Texas [Mr. GRAMM], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of S. 1483, a bill to control crime, and for other purposes.

S. 1487

At the request of Mr. GRAMM, the names of the Senator from Nevada [Mr. REID], the Senator from North Carolina [Mr. HELMS], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of S. 1487, a bill to establish a demonstration project to provide that the Department of Defense may receive Medicare reimbursement for health care services provided to certain medicare-eligible covered military beneficiaries.

S. 1612

At the request of Mr. HELMS, the names of the Senator from New Hampshire [Mr. SMITH], and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of S. 1612, a bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

S. 1623

At the request of Mr. WARNER, the names of the Senator from Oklahoma [Mr. INHOFE], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 1623, a bill to establish a National Tourism Board and a National Tourism Organization, and for other purposes.

SENATE CONCURRENT RESOLUTION 26

At the request of Mr. LOTT, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of Senate Concurrent Resolution 26, a concurrent resolution to authorize the Newington-Cropsey Foundation to erect on the Capitol Grounds and present to Congress and the people of the United States a monument dedicated to the Bill of Rights.

SENATE RESOLUTION 215

At the request of Mr. LAUTENBERG, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of Senate Resolution 215, a resolution to designate June 19, 1996, as "National Baseball Day."

SENATE RESOLUTION 226

At the request of Mr. DOMENICI, the names of the Senator from Indiana [Mr. COATS], the Senator from Florida [Mr. MACK], the Senator from Arizona [Mr. MCCAIN], the Senator from Wyoming [Mr. SIMPSON], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Resolution 226, a resolution to proclaim the week of October 13 through October 19, 1996, as "National Character Counts Week".

SENATE CONCURRENT RESOLUTION 50—RELATIVE TO KOSOVA

Mr. DOLE (for himself, Mr. PELL, Mr. D'AMATO, Mr. PRESSLER, Mr. LEVIN, and Mr. FEINGOLD) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 50

Whereas the Constitution of the Socialist Federal Republic of Yugoslavia, adopted in 1946 and the amended Yugoslav Constitution adopted in 1974, described the status of Kosova as one of the 8 constituent territorial units of the Yugoslav Federation;

Whereas the political rights of the Albanian majority in Kosova were curtailed when the Government of Yugoslavia illegally amended the Yugoslav federal constitution without the consent of the people of Kosova on March 23, 1989, revoking Kosova's autonomous status;

Whereas in 1990, the Parliament and Government of Kosova were abolished by further unlawful amendments to the Constitution of Yugoslavia;

Whereas in September 1990, a referendum on the question of independence for Kosova was held in which 87 percent of those eligible to participate voted and 99 percent of those voting supported independence for Kosova;

Whereas in May 1992, a Kosovar national parliament and President, Dr. Ibrahim Rugova, were freely and fairly elected, but were not permitted to assemble in Kosova;

Wherease according to the State Department Country Reports on Human Rights for 1995, "police repression continued at a high level against the ethnic Albanians of Kosova * * * and reflected a general campaign to keep [those] who are not ethnic Serbs intimidated and unable to exercise basic human and civil rights";

Whereas over 100,000 ethnic Albanians employed in the public sector have been removed from their jobs and replaced by Serbs since 1989;

Whereas the government in Belgrade has severely restricted the access of ethnic Albanians in Kosova to all levels of education, especially in the Albanian language;

Whereas the Organization on Security and Cooperation in Europe observers dispatched to Kosova in 1991 were expelled by the government in Belgrade in July 1993, and have not been reinstated as called for in United Nations Security Council Resolution 855 of August 1993;

Whereas following the departure of such observers, international human rights organizations have documented an increase in abuses;

Whereas the United Nations announced on February 27, 1995, that Serbia had granted it permission to open a Belgrade office to monitor human rights in Serbia and Kosova;

Whereas Congress directed the State Department to establish a United States Information Agency (U.S.I.A.) cultural center in Prishtina, Kosova, in section 223 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993;

Whereas Secretary of State Warren Christopher announced on February 27, 1996, that Serbian leader Slobodan Milosevic has agreed to the establishment of such center and that preparations for the establishment of the center are proceeding;

Whereas with the signing of the Dayton agreement on Bosnia, future peace in the Balkans hinges largely on a settlement of the status of Kosova; and

Whereas the President has explicitly warned the Government of Serbia that the United States is prepared to respond in the event of escalated conflict in Kosova caused by Serbia: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the situation in Kosova must be resolved before the outer wall of sanctions against Serbia is lifted and Serbia is able to return to the international community;

(2) the human rights of the people of Kosova must be restored to levels guaranteed by international law;

(3) the United States should support the legitimate claims of the people of Kosova to determine their own political future;

(4) international observers should be returned to Kosova as soon as possible;

(5) the elected government of Kosova should be permitted to meet and exercise its legitimate mandate as elected representatives of the people of Kosova;

(6) all individuals whose employment was terminated on the basis of their ethnicity should be reinstated to their previous positions;

(7) the education system in Kosova should be reopened to all residents of Kosova regardless of ethnicity and the majority ethnic Albanian population should be allowed to educate its youth in its native tongue;

(8) progress toward the establishment of a United States Information Agency cultural center in Prishtina, Kosova, is to be commended and the Secretary of State should redouble efforts to open the center as soon as possible; and

(9) the President should appoint a special envoy to aid in negotiating a resolution to the crisis in Kosova.

Mr. DOLE. Mr. President, I rise to submit a concurrent resolution regarding human rights in Kosova and in support of resolving the crisis in Kosova. I am pleased to be joined by Senator PELL, Senator D'AMATO, Senator PRESSLER, Senator LEVIN and Senator FEINGOLD.

This resolution is being submitted today in the House by Representatives ENGEL, MOLINARI, and KING. We are submitting this resolution because Kosova has been pushed to the sidelines by this administration—as well as the previous administration. And, without resolving the crisis in Kosova there is little, if any, hope of achieving a lasting peace in the Balkans.

This resolution cites the course of events since 1989, during which the Albanian people in Kosova have been denied their fundamental human and political rights by the Milosevic regime. The 1995 State Department country human rights reports stated the following about the deplorable situation in Kosova, and I quote, "Police repression continued at a high level against the ethnic Albanians of Kosova, and reflected a general campaign to keep [those] who are not ethnic Serbs intimidated and unable to exercise basic human and civil rights."

Since martial law was imposed in Kosova more than 7 years ago, Albanians have been fired from their jobs, restricted access to all levels of education, especially in their own language, denied basic political rights, and subjected to severe human rights abuses, including torture.

Among other things, this resolution calls on the Clinton administration to maintain the so-called outer wall of sanctions against Serbia until the situation in Kosova is resolved, to redouble efforts to open a USIA cultural center in Pristina, Kosova, and to appoint a special envoy to aid in negotiating a resolution to the crisis in Kosova.

Since the Dayton accords were signed, there are those who claim that peace in the Balkans has been achieved. That is wishful thinking. Let me be clear: There will be no lasting peace or stability in the Balkans unless and until the situation in Kosova has been resolved. Indeed, ignoring Kosova could lead to yet another violent conflict that could bring in our NATO allies on opposite sides. Therefore, the United States must pressure the Milosevic regime diplomatically and economically to end its repression of the 2 million Albanians in Kosova.

Mr. President, we must bring Kosova from the back burner to the front burner. We need a comprehensive approach to the Balkans which includes Kosova. I hope that the submission of this resolution will send a message to the administration that it is high time to exercise U.S. leadership on this critical matter.

Mr. PELL. Mr. President, I am pleased to join Senator DOLE in submitting this resolution on Kosova. Congressman ENGEL has taken the lead in submitting a companion resolution in the House.

I remain concerned about the situation in Kosova, where the majority Albanian population continues to suffer severe human rights abuses. If left unchecked, the situation in Kosova could be the spark that ignites another powder keg of violence in the former Yugoslavia.

Since 1989, more than 100,000 ethnic Albanians employed in the public sector have been removed from their jobs and replaced by Serbs. The Belgrade Government has severely restricted the access of ethnic Albanians in Kosova to all levels of education, and has pursued a general campaign of intimidation and repression. This country has invested a great deal in creating and maintaining peace in Bosnia. Our diplomats and our military personnel are to be commended for the fine job that they are doing with regard to Bosnia. I am concerned, however, that if the situation in Kosova is not resolved, our diplomatic, economic, and military investment in Bosnia will be for naught. A comprehensive solution to the former Yugoslavia must address Kosova.

This resolution is designed to focus attention on Kosova—as a key component to stability in the region. It expresses the sense of Congress that among other things, the situation in Kosova must be resolved before the outer wall of sanctions be lifted against Serbia. In other words, Serbia would continue to be denied access to international financial institution assistance and to be denied full diplomatic relations with the United States and its allies pending the resolution of Kosova and other issues. There are signs that international consensus on maintaining this outer wall is cracking, and this resolution is therefore useful in keeping attention focused on Kosova. I believe it is important to send a signal to Serbian President Milosevic that he cannot hope to bring Serbia back into the international community's fold unless and until he agrees to address the issue of Kosova.

The resolution also welcomes the progress that has been made toward the establishment of a USIA office in Kosova. As one who sponsored legislation several years ago that authorized the creation of such a center, I am particularly interested in ensuring that the United States establish a presence in Kosova. Secretary Christopher should be commended for securing President Milosevic's approval to establish such a center.

The resolution also calls on Serbia to allow international observers to return to Kosova, and urges the President to appoint a special envoy to help in negotiating a resolution to the Kosova issue.

I believe it is in our interest to maintain a spotlight on Kosova, and I would encourage my colleagues to join me in supporting this resolution.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, March 28, 1996, at 10 a.m., in open session, to receive testimony from the unified commanders on their military strategies and operational requirements in review of the Defense authorization request for fiscal year 1997 and the future years defense program.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, March 28, 1996, to conduct a hearing on S. 1547, "a bill to limit the provision of assistance to the Government of Mexico using the exchange stabilization fund established pursuant to section 5302 of title 31, United States Code, and for other purposes".

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Thursday, March 28, 1996 session of the Senate for the purpose of conducting an executive session and markup.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, March 28, 1996, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony on the issue of competitive change in the electric power industry.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. LUGAR. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet to consider pending business Thursday, March 28, at 9:15 a.m., hearing room SD-406.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 28, 1996 at 10 a.m. to hold hearing, agenda attached.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to conduct an oversight hearing during the session of the Senate on Thursday, March 28, 1996, on the recent settlement and accommodation agreements concerning the Navajo and Hopi land dispute. The hearing will be held at 9 a.m. in room 485 of the Russell Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, March 28, 1996, at 10 a.m., to hold an executive business meeting.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LUGAR. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 28, 1996 at 2 p.m., in SH-219, to hold a closed briefing on intelligence matters.

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

SPECIAL COMMITTEE ON AGING

Mr. LUGAR. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Thursday, March 28, 1996, at 9:30 a.m., to hold a hearing to discuss adverse drug reactions and the effects on the elderly.

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

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. LUGAR. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 28, 1996, at 2 p.m., to hold hearing.

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

SUBCOMMITTEE ON SEAPOWER

Mr. LUGAR. Mr. President, I ask unanimous consent that the Subcommittee on Seapower be authorized to meet at 2:30 p.m. on Thursday, March 28, 1996, to receive testimony on the multiyear procurement proposal for the C-17 strategic airlifter.

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

ADDITIONAL STATEMENTS

COST ESTIMATE ON S. 1467

• Mr. MURKOWSKI. Mr. President, when the Committee on Energy and Natural Resources filed its report on S. 1467, the Fort Peck Rural County Water Supply System Act, the estimate from the CBO was not available. We have now received the estimate and I ask that it be printed in the RECORD for the information of the Senate. The CBO estimate states that enactment of S. 1467 would not affect direct spending or receipts and does not contain any unfunded mandates.

The estimate follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 27, 1996.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1467, the Fort Peck Rural County Water Supply System Act of 1995.

Enactment of S. 1467 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

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

Sincerely,

JUNE E. O'NEILL,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 1467.

2. Bill title: Fort Peck Rural County Water Supply System Act of 1995.

3. Bill status: As reported by the Senate Committee on Energy and Natural Resources on March 15, 1996.

4. Bill purpose: The bill would authorize the construction of the Fort Peck Rural County Water Supply System and authorize assistance to the Fort Peck Rural County Water District, Inc., a nonprofit corporation, for the planning, design, and construction of the proposed water system.

5. Estimated cost to the Federal Government: Assuming appropriation of the authorized amounts for fiscal year 1997, S. 1467 would result in discretionary spending totaling $6.6 million over the 1996-2000 period. This estimate reflects the basic authorization of $5.8 million, increased, as specified in the bill, by the estimated impact of inflation during the time between October 1, 1994, and the construction period. Outlays are estimated based on historical spending rates for similar water projects. Funding for the Fort Peck project would constitute new spending—to date, no amounts have been appropriate for this project.

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000
Spending subject to appropriations action:					
Authorization level	0	7	0	0	0
Estimated outlays	0	1	5	1	0

The costs of this bill fall within budget function 300.

6. Pay-as-you-go considerations: None.

7. Estimated impact on State, local, and tribal governments: S. 1467 contains no intergovernmental mandates as defined in Public Law 104-4 and would impose no direct costs on state, local, or tribal governments.

The bill would limit the federal share of this project to 80 percent. The Fort Peck Rural County Water District would have to provide matching funds of about $1.5 million in order to receive the full amount of federal assistance authorized. This project would be voluntary on the part of the district, however.

8. Estimated impact on the private sector: The bill would impose no new federal/private sector mandates, as defined in Public Law 104-4.

9. Previous CBO estimate: None.

10. Estimate prepared by: Federal cost estimate: Gary Brown. State and Local Government Impact: Marjorie Miller. Private Sector Impact: Patrice Gordon.

11. Estimate approved by: Robert A. Sunshine, for Paul N. Van de Water, Assistant Director for Budget Analysis.•

U.S. MARSHAL SERVICE'S DISTINGUISHED SERVICE AWARD

• Mr. LEVIN. Mr. President, I rise today to honor U.S. Marshal Barbara C. Lee and the Western District Office of Michigan, United States Marshals Service in Grand Rapids, MI. On March 1, 1996, in a special ceremony in Oklahoma City, Marshal Lee was presented the U.S. Marshals Service's Distinguished Service Award for the district office she heads. I am proud to note that I nominated Marshal Lee, who was sworn into office by President Clinton in 1994.

Before her current appointment, Marshal Lee served as a Deputy U.S. Marshal and as a Special Agent with the Internal Revenue Service. Marshal Lee studied criminal justice and accounting at Grand Valley State University, in Allendale, MI. Marshal Lee was nominated for the Laura Cross Award, the Federal Government's highest honor for career achievement by a female law enforcement officer.

Marshal Lee's office was selected for the district award because of its leadership in accomplishing court security tasks within the confines of a tight budget. The district office shuffled personnel, travel and overtime expenses while continuing to provide exceptional security. During the presentation of the award, Director Eduardo Gonzalez noted the special security Marshal Lee's operation provided for several judicial conferences and high-threat trials.

Despite diminishing resources, Marshal Lee and her office have continued to provide the exceptional security services for which the U.S. Marshals Service is known. I know that my Senate colleagues join me in congratulating U.S. Marshal Barbara C. Lee and the Western District Office of Michigan for being awarded the U.S. Marshals Service's Distinguished Service Award.•

HONORING THE ROTARY CLUB OF MERIDEN

Mr. LIEBERMAN. Mr. President, I rise today to honor the Rotary Club of Meriden, CT, on the occasion of their 75th anniversary.

On April 26, 1921, Meriden joined the nationwide movement of Rotary Clubs under Charter 898. Numbering only 27 businessmen, the club had no idea then that they would grow into one of the pillars of the community. Ever since their founding, the club has immersed itself in the every-day life of Meriden, constantly striving to make the city a better place through the sponsoring of various activities and events.

The Rotary Club of Meriden reaches out to the people in numerous ways. They were the first organization in the city to sponsor Little League Baseball, the great American game. The youth of Meriden are also assisted through college scholarships provided by the Rotary Club, as well as through the Meriden Public Library Career Center, which the club has long supported.

The Rotary Club not only contributes to Meriden's spiritual beauty, but to its physical beauty as well. The club is responsible for planting over one thousand trees in the city. They work closely with other humanitarian

groups, either bell ringing for the Salvation Army or sponsoring bloodmobiles for the Red Cross.

The Rotary Club also strives to help those outside Meriden, its influence reaching as far as the international community. Their exchange study groups bring business and professional people to Meriden from countries such as France, Germany, and Japan, so that all may learn from one another.

Meriden and the entire State of Connecticut is fortunate to have had a group such as the Meriden Rotary Club in its service for 75 years. Another 75 years of service and support is eagerly anticipated.

CAMPAIGN FINANCE REFORM

Mr. KOHL. Mr. President, I rise today to discuss one of the most difficult issues facing our democracy—campaign finance reform. First, we must recognize that our democratic system has come a long way in the last 30 years. Information on who finances campaigns and how that money is spent is now available to any citizen. With the advance of the Internet, most of this information can be found through your home computer.

But, while disclosures laws passed in the 1970's have worked largely as intended, other reforms instituted at that time have created a new set of problems. In order to more clearly identify who was contributing to campaigns, Congress created a new mechanism for democratic involvement—Political Action Committees. Twenty years ago, PAC's were seen as positive vehicles to channel special interest dollars through public organizations.

Unfortunately, the proliferation of PAC's and special interest contributions in our election system has overtaken most other forms of democratic involvement. Because of the high costs of running campaigns, especially the cost of purchasing television ads, American political campaign funding is dominated by special interest contributions.

It should not surprise us that the American public has become increasingly cynical as this trend has become worse. This public disillusionment contributes to pessimism about the future of our Government and has led to a disturbing lack of faith in our democratic institutions. Despite the good efforts of many grassroots citizen organizations and elected officials, every attempt in Congress to reform the campaign finance system since 1979 has failed.

This lack of progress is not the fault of one political party or one branch of government. Democrats and Republicans have tried to push through meaningful reform for the last two decades, and reasonable people can disagree about the best course for the future. But, this gridlock must not be allowed to stand any longer. The American public is demanding a fundamental change in the way campaigns are financed and we must act this year to implement that change.

These are the reasons that I am cosponsoring S. 1219, the Senate Campaign Finance Reform Act. This legislation, sponsored by Senator MCCAIN and my Wisconsin colleague Russ FEINGOLD, is the first meaningful bipartisan campaign finance bill to be seriously considered in two decades. The fact that the House of Representatives has a similar bipartisan bill only adds credibility to this proposal.

S. 1219 strikes at the heart at much of what is wrong with our campaign finance system: it eliminates PAC contributions; caps the amounts that can be spent in campaigns; curtails the practice of bundling contributions; and closes the loopholes allowing so-called "soft money" contributions. The legislation establishes many of these limits through a voluntary system, thereby conforming with Supreme Court rulings governing campaign financing.

Like many Senators, if I had drafted my own bill, I would have omitted some provisions of this legislation and included others. But any meaningful bipartisan reform must be a compromise between competing proposals. And campaign finance reform must be done in a bipartisan fashion—legislation crafted by one party and rammed through the Congress will not and should not get the support of the American people.

Mr. President, I recognize there are deep divisions among Members of Congress over the how to reform our campaign finance system. These divisions have led to stalemate after stalemate over twenty years. And without serious reform the American public will continue to mistrust not only the way we elect candidates, but the very fundamental precipes of our Government. This must not go on.

S. 1219 is the best option currently moving through the Congress to renew America's faith in our elections and curtail the influence of special interest contributions. I am pleased to add my name as a cosponsor of this bill, and urge my colleagues to join us in this important effort.

TRIBUTE TO PLYMOUTH STATE COLLEGE ON THEIR 125TH ANNIVERSARY

• Mr. SMITH. Mr. President, I rise today to pay tribute to Plymouth State College on the occasion of their 125th anniversary. I would like to congratulate this outstanding educational institution on reaching such an important milestone. The trustees, faculty, and students should be proud of the academic excellence and high education standards the college represents; not just in the State of New Hampshire but all over New England.

Located in the foothills of the White Mountains in New Hampshire, Plymouth State College, originally named the Plymouth Normal School, first opened its doors on March 15, 1871 to 80 students pursuing teaching degrees. Today, over 125 years later, 4,000 students attend Plymouth State College, pursuing degrees in the performing arts, the sciences, social work, languages, humanities, interdisciplinary studies, the social sciences, business, and many other academic fields.

The history of Plymouth State College originally stemmed from the Holmes Plymouth Academy, which dates back to 1808, as one of the first teaching institutions in New England. In 1871, the academy buildings were presented to the State of New Hampshire and the campus was renamed the Plymouth Normal School. The school began to grow at a steady rate during the late 1800's. Rounds Hall, which included a library and classrooms, was dedicated in August 1891. The growth of the Normal School under Dr. Charles C. Rounds caused the State legislature to appropriate funds for a new dormitory called Normal Hall. During the turn of the century, the enrollment of the Normal School increased, approaching 150 students.

From 1911 to 1946, Dr. Ernest Silver served as the college's principal. In 1911, Dr. Silver hired the famous American poet and New Hampshire native, Robert L. Frost, to teach psychology and the history of education. Robert Frost also shared Dr. Silver's residence, a house opposite Normal Hall that had recently been purchased. During Dr. Silver's administration, the school saw another period of campus expansion and modernization including the opening of the new training school providing added space in Rounds Hall for manual training and other classes. Two new dormitories were constructed, a modern library was built, and facilities for recreation and physical education were improved.

In 1939, Plymouth Normal School changed its name again to Plymouth Teacher's College. Construction and expansion increased during the 1950's and the new Lamson Library was built across Highland Street in 1964. Boyd Hall, a new fieldhouse and gym were built in 1968 and 1969. The fieldhouse contains an indoor track, gymnasium, swimming pool, and other facilities for the physical education program at the college.

Just last year, the Hartman Union Building opened its new facility on the property where the old high school once stood. This student center contains a full-size court, weight room, snackbar, bookstore, the college radio station, the college newspaper, a sidewalk cafe, complete U.S. Postal Mail Service, and many more student services.

Most recently, Plymouth State College added a business program to the

numerous choices of degrees students can pursue at the college. Today's president of the college, Donald Wharton, believes that every student must receive a strong education and specialized instruction in a particular field. The faculty and staff at Plymouth State College are proud of the fine reputation the teaching program has received over the years, and the specialized degrees in liberal arts majors.

Congratulations to 125 years of academic excellence. Plymouth State College has provided outstanding instruction and a superior learning environment for New Hampshire students for years. Best wishes for continued success and expansion in the years to come.•

TRIBUTE TO DAVID PACKARD

• Mr. BINGAMAN. Mr. President, the Nation lost a great leader Tuesday with the death of David Packard. He was the first and greatest of the acquisition reformers in the top reaches of the Pentagon. As Deputy Secretary of Defense in the first Nixon administration, he fostered competition in a wide range of programs, including the Air Force fighter program that produced the F-16 and F-18. He helped found the Defense Systems Management College at Fort Belvoir in order to bring modern management techniques to the defense acquisition system. And throughout the almost quarter century since he stepped down as Deputy Secretary of Defense, he continued in an advisory capacity to the most senior reaches of Government to argue for the need for change in the way the Pentagon develops and buys weapon systems.

It is perhaps fitting that under Secretary Bill Perry's leadership, the reforms which Mr. Packard advocated for so long are now taking firm root throughout the military services. Dr. Perry and all the reformers with whom I have had the pleasure of working during my 13 years service in the Senate point to David Packard as the first to show the way toward a more rational acquisition system.

Mr. President, I am grateful that I was able to work with David Packard over the last decade on several important issues. He was at an age when most people stop work and take up retirement. But not David Packard. He would answer the call of public service whenever it sounded. He suffered from a bad back, and taking transcontinental plane flights forced him to endure real pain to serve his country, but serve he did.

David Packard always was focused on the art of the possible. He knew that change was incremental and he would take what progress he could make today to build for another day. I first met him in 1985. He came to me, a Democrat then in the minority here in the Senate, because I had indicated an interest in a report he had written in 1983 for the White House Science Council. Its topic was how to improve the Federal Government-operated research laboratories. He had called for significant changes in personnel policy, in acquisition of laboratory equipment, and in improving laboratory infrastructure.

The most important change he and his panel had advocated was to allow all the laboratories to go to a more flexible personnel system along the lines of the system then in place at the Naval Weapons Center at China Lake, CA. Mr. Packard had been frustrated by the slow pace of the Reagan administration in considering his panel's proposals. He wanted to jumpstart congressional consideration with my help and that of then Congressman Don Fuqua, another Democrat.

Unfortunately, all we were able to win in the short run was the adoption of a flexible personnel system at the National Bureau of Standards, now the National Institute of Standards and Technology. As predicted, that personnel system has worked very well and helped NIST maintain its leadership in a broad range of technologies. As usual, David Packard was ahead of his time. What he recommended more than a decade ago on lab personnel reform is now part of the effort to reinvent the Pentagon's laboratories.

Mr. President, I will miss David Packard's wisdom and guidance, and so will many of my colleagues on both sides of the aisle. There's a passage from T. E. Lawrence's book Seven Pillars of Wisdom, which reads:

> All men dream, but not equally. Some dream by night in the dusty recesses of their minds, and wake in the day to find it is vanity. But the dreamers of the day are dangerous men. For they act their dream with open eyes to make it possible.

David Packard was a dreamer of the day who deserves to be remembered by a grateful Nation for the dreams he made possible. I am glad to have known him.•

SAGINAW HIGH SCHOOL TROJANS

• Mr. LEVIN. Mr. President, I rise today to honor the Saginaw High School boys basketball team. On Saturday, March 23, 1996, the Trojans from Saginaw, MI, won the Michigan Class A State basketball championship over Southfield Lathrup by a score of 67 to 60. The game took place in front of 11,000 raucous fans at Michigan State University's Breslin Center.

The Trojans showed great character in their journey to the State championship. In their semifinal game, the Trojans rebounded from a 19-point deficit to win and move on to the championship. Once again in the championship game, the Trojans had to come back from a large deficit to win—this time they were behind by 12 points.

In the championship game, the Trojans succeeded against great odds. The story of David and Goliath comes to mind when envisioning the game between Saginaw and Southfield Lathrup. Saginaw High faced a team with a considerable size advantage, but the Trojans were not intimidated and continued to play the way they had all season long, stressing teamwork and defense. The Trojans caused 21 turnovers, scoring 22 points off those turnovers.

The Trojans' hard work and determination which marked their championship victory is nothing new to those familiar with the team. The Trojans' coach, Marshall Thomas, said after the game, "No other team will outwork us." The Trojans have surely shown us how hard they will work and what heart they have in coming back from two large deficits to win the Michigan State championship.

But it wasn't just the team who showed great heart in winning the State championship, as the players and coaches are quick to point out. Support from the students, faculty and community was vital for the Trojans to overcome such long odds. Trojans' fans traveled all over the State to cheer their team on to victory. The fans continued to give their team strong support regardless of the score of the game.

I know that my Senate colleagues join me in congratulating Saginaw High School on winning the Michigan Class A State basketball championship.•

THE DEATH OF HUNG WO CHING

• Mr. AKAKA. Mr. President, I rise to pay tribute to a very dear friend and pioneer Hawaii businessman, Hung Wo Ching, Aloha Airgroup vice chairman, who died on March 26, 1996, in Honolulu. Since 1958, Mr. Ching served on the interisland carrier's board of directors and held a number of executive positions with the company. Under his leadership, Aloha Airlines Inc. grew from an upstart airline to become the dominant interisland carrier in the State of Hawaii.

Hung Wo Ching was raised in Hawaii by immigrant parents from Canton, China. He graduated from Honolulu's McKinley High School in 1931 and attended the University of Hawaii. Following his freshman year, he studied liberal arts at Yenching University in Beijing, China.

In 1935, he returned to the United States and completed his undergraduate education at Utah State University, where he earned a bachelor's degree in agricultural economics. In 1945, he received his doctorate in agricultural economics from Cornell University. When he was 41 years old, he attended Harvard University as a visiting scholar.

In 1945, Mr. Ching traveled to Tientsin, China to start a sugarbeet industry. The outbreak of civil war in China

2 years later put an end to those dreams, and he returned to Hawaii to concentrate on his real estate investments. Shortly after his return to Hawaii, the founder of Trans Pacific Airlines encouraged him to invest in his upstart airline.

In addition to being on Aloha's board of directors, Mr. Ching was also a director for Bishop Insurance of Hawaii, Inc., and the chairman of the board of directors of Diamond Head Memorial Park and Nuuanu Memorial Park. He was an honorary trustee of the U.S. Committee for Economic Development and the Bishop Museum, and a member of the advisory councils of Cornell University and Utah State University. He was a member of the Judicial Council of the Supreme Court of Hawaii, the Hawaiian Civic Club, and the advisory board of Liliuokalani Trust.

Over the years, Mr. Ching has held trusteeships and directorships with many Hawaii companies and charitable foundations, including Bishop Estate, Bank of Hawaii, Alexander and Baldwin, Matson Navigation Co., Hawaiian Telephone, Hawaiian Life Insurance Co., Ltd., Hawaiian Western Steel, Ltd., and Hauoli Sales, Ltd.

Mr. President, I ask my colleagues in the Senate to join me in paying tribute to the memory of Hung Wo Ching, and pass along our deepest sympathies to his wife, Elizabeth, and his children and grandchildren.•

THE LEARNING WINDOW

• Mr. CONRAD. Mr. President, Newsweek magazine on February 19, 1996, published an article regarding research that is underway by several pediatric neurobiologists in the United States on the development of a child's brain. The research examined the significance of early childhood experiences, particularly for children ages 0–3, on the development of the brain.

According to researchers, "it's the experiences of early childhood, determining which neurons are used, that wire the circuit of the brain as surely as a programmer at a keyboard reconfigures the circuits in a computer. Which keys that are typed—which experiences a child ahs—determines whether the child grows up to be intelligent or dull, fearful or self-assured, articulate or tongue-tied." According to the researchers, almost anything is possible provided children are exposed to the right experiences at an early age. As one researcher, Harry Chugani of Wayne State University remarked, "early experiences are powerful, they can completely change the way a person turns out."

Mr. President, the findings of these neurobiologists support a much closer examination by Congress of whether we are providing sufficient support at the Federal level for Head Start programs, and especially the Zero-to-Three initiative for infants and toddlers. As my colleagues may recall, during consideration of Head Start reauthorization in 1994, authority for a new infant and toddler initiative was adopted as part of the reauthorization of Head Start programs. Under the reauthorization, 3 percent of total appropriations for fiscal year 1995—$3.5 billion—was set aside for Zero-to-Three programs.

Currently, funding for the Zero-to-Three initiative totals $106 million. By 1998, the level of funding for the Zero-to-Three initiative will increase to 5 percent of total appropriations. President Clinton has requested $3.9 billion for Head Start in his fiscal year 1997 budget. Under Head Start fiscal year 1995 appropriations, more than 750,000 children between the ages of 3 and 4 are participating in Head Start programs nationwide.

Mr. President, the research of neurobiologists suggests that we may be missing an opportunity to ensure that our children develop to their fullest potential during the early years in life, ages 0–3. The neurobiologists point out that there is a narrow window of opportunity to develop the brain's potential and that to wait until the ages of 3 and 4 when most children begin Head Start programs may be too late to have a significant impact on the brain's development.

I urge my colleagues to examine the research regarding the development of a child's brain that is discussed in the February 19 issue of Newsweek. I ask that the text of the article from Newsweek appear in the RECORD at the conclusion of my remarks.

[From Newsweek, Feb. 19, 1996]

YOUR CHILD'S BRAIN

(By Sharon Begley)

(A baby's brain is a work in progress, trillions of neurons waiting to be wired into a mind. The experiences of childhood, pioneering research shows, help form the brain's circuits—for music and math, language and emotion)

You hold your newborn so his sky-blue eyes are just inches from the brightly patterned wallpaper, *ZZZt:* a neuron from his retina makes an electrical connection with one in his brain's visual cortex. You gently touch his palm with a clothespin; he grasps it, drops it, and you return it to him with soft words and a smile. *Crackle:* neurons from his hand strengthen their connection to those in his sensory-motor cortex. He cries in the night; you feed him, holding his gaze because nature has seen to it that the distance from a parent's crooked elbow to his eyes exactly matches the distance at which a baby focuses. *Zap:* neurons in the brain's amygdala send pulses of electricity through the circuits that control emotion. You hold him on your lap and talk . . . and neurons from his ears start hard-wiring connections to the auditory cortex.

And you thought you were just playing with your kid.

When a baby comes into the world her brain is a jumble of neurons, all waiting to be woven into the intricate tapestry of the mind. Some of the neurons have already been hard-wired, by the genes in the fertilized egg, into circuits that command breathing or control heartbeat, regulate body temperature or produce reflexes. But trillions upon trillions more are like the Pentium chips in a computer before the factory preloads the software. They are pure and of almost infinite potential, unprogrammed circuits that might one day compose rap songs and do calculus, erupt in fury and melt in ecstasy. If the neurons are used, they become integrated into the circuitry of the brain by connecting to other neurons; if they are not used, they may die. It is the experiences of childhood, determining which neurons are used, that wire the circuits of the brain as surely as a programmer at a keyboard reconfigures the circuits in a computer. Which keys are typed—which experiences a child has—determines whether the child grows up to be intelligent or dull, fearful or self-assured, articulate or tongue-tied. Early experiences are so powerful, says pediatric neurobiologist Harry Chugani of Wayne State University, that "they can completely change the way a person turns out."

By adulthood the brain is crisscrossed with more than 100 billion neurons, each reaching out to thousands of others so that, all told, the brain has more than 100 trillion connections. It is those connections—more than the number of galaxies in the known universe—that give the brain its unrivaled powers. The traditional view was that the wiring diagram is predetermined, like one for a new house, by the genes in the fertilized egg. Unfortunately, even though half the genes—50,000—are involved in the central nervous system in some way, there are not enough of them to specify the brain's incomparably complex wiring. That leaves another possibility: genes might determine only the brain's main circuits, with something else shaping the trillions of finer connections. That something else is the environment, the myriad messages that the brain receives from the outside world. According to the emerging paradigm, "there are two broad stages of brain wiring," says developmental neurobiologist Carla Shatz of the University of California, Berkeley: "an early period, when experience is not required, and a later one, when it is."

Yet, once wired, there are limits to the brain's ability to create itself. Time limits. Called "critical periods," they are windows of opportunity that nature flings open, starting before birth, and then slams shut, one by one, with every additional candle on the child's birthday cake. In the experiments that gave birth to this paradigm in the 1970, Torsten Wiesel and David Hubel found that sewing shut one eye of a newborn kitten rewired its brain: so few neurons connected from the shut eye to the visual cortex that the animal was blind even after its eye was reopened. Such rewiring did not occur in adult cats whose eyes were shut. Conclusion: there is a short, early period when circuits connect the retina to the visual cortex. When brain regions mature dictates how long they stay malleable. Sensory areas mature in early childhood; the emotional limbic system is wired by puberty; the frontal lobes—seat of understanding—develop at least through the age of 16.

The implications of this new understanding are at once promising and disturbing. They suggest that, with the right input at the right time, almost anything is possible. But they imply, too, that if you miss the window you're playing with a handicap. They offer an explanation of why the gains a toddler makes in Head Start are so often evanescent: this intensive instruction begins

too late to fundamentally rewire the brain. And they make clear the mistake of postponing instruction in a second language. As Chugani asks, "What idiot decreed that foreign-language instruction not begin until high school?"

Neurobiologists are still at the dawn of understanding exactly which kinds of experiences, or sensory input, wire the brain in which ways. They know a great deal about the circuit for vision. It has a neuron-growth spurt at the age of 2 to 4 months, which corresponds to when babies start to really notice the world, and peaks at 8 months, when each neuron is connected to an astonishing 15,000 other neurons. A baby whose eyes are clouded by cataracts from birth will, despite cataract-removal surgery at the age of 2, be forever blind. For other systems, researchers know what happens, but not—at the level of neurons and molecules—how. They nevertheless remain confident that cognitive abilities work much like sensory ones, for the brain is parsimonious in how it conducts its affairs: a mechanism that works fine for wiring vision is not likely to be abandoned when it comes to circuits for music. "Connections are not forming willy-nilly," says Dale Purves of Duke University, "but are promoted by activity."

LANGUAGE

Before there are words, in the world of a newborn, there are sounds. In English they are phonemes such as sharp ba's and da's, drawn-out ee's and ll's and sibilant sss's. In Japanese they are different—barked *hi's*, merged rr/ll's. When a child hears a phoneme over and over, neurons from his ear stimulate the formation of dedicated connections in his brain's auditory cortex. This "perceptual map," explains Patricia Kuhl of the University of Washington, reflects the apparent distance—and thus the similarity—between sounds. So in English-speakers, neurons in the auditory cortex that respond to "ra" lie far from those that respond to "la." But for Japanese, where the sounds are nearly identical, neurons that respond to "ra" are practically intertwined, like L.A. freeway spaghetti, with those for "la." As a result, a Japanese-speaker will have trouble distinguishing the two sounds.

Researchers find evidence of these tendencies across many languages. By 6 months of age, Kuhl reports, infants in English-speaking homes already have different auditory maps (as shown by electrical measurements that identify which neurons respond to different sounds) from those in Swedish-speaking homes. Children are functionally deaf to sounds absent from their native tongue. The map is completed by the first birthday. "By 12 months," says Kuhl, "infants have lost the ability to discriminate sounds that are not significant in their language, and their babbling has acquired the sound of their language."

Kuhl's findings help explain why learning a second language after, rather than with, the first is so difficult. "The perceptual map of the first language constrains the learning of a second," she says. In other words, the circuits are already wired for Spanish, and the remaining undedicated neurons have lost their ability to form basic new connections for, say, Greek. A child taught a second language after the age of 10 or so is unlikely ever to speak it like a native. Kuhl's work also suggests why related languages such as Spanish and French are easier to learn than unrelated ones: more of the existing circuits can do double duty.

With this basic circuitry established, a baby is primed to turn sounds into words. The more words a child hears, the faster she learns language, according to psychiatrist Janellen Huttenlocher of the University of Chicago. Infants whose mothers spoke to them a lot knew 131 more words at 20 months than did babies of more taciturn, or less involved, mothers; at 24 months, the gap had widened to 295 words. (Presumably the findings would also apply to a father if he were the primary caregiver.) It didn't matter which words the mother used—monosyllables seemed to work. The sound of words, it seems, builds up neural circuitry that can then absorb more words, much as creating a computer file allows the user to fill it with prose. "There is a huge vocabulary to be acquired," says Huttenlocher, "and it can only be acquired through repeated exposure to words."

MUSIC

Last October researchers at the University of Konstanz in Germany reported that exposure to music rewires neural circuits. In the brains of nine string players examined with magnetic resonance imaging, the amount of somatosensory cortex dedicated to the thumb and fifth finger of the left hand—the fingering digits—was significantly larger than in nonplayers. How long the players practiced each day did not affect the cortical map. But the age at which they had been introduced to their muse did: the younger the child when she took up an instrument, the more cortex she devoted to playing it.

Like other circuits formed early in life, the ones for music endure. Wayne State's Chugani played the guitar as a child, then gave it up. A few years ago he started taking piano lessons with his young daughter. She learned easily, but he couldn't get his fingers to follow his wishes. Yet when Chugani recently picked up a guitar, he found to his delight that "the songs are still there," much like the muscle memory for riding a bicycle.

MATH AND LOGIC

At UC Irvine, Gordon Shaw suspected that all higher-order thinking is characterized by similar patterns of neuron firing. "If you're working with little kids," says Shaw, "you're not going to teach them higher mathematics or chess. But they are interested in and can process music." So Shaw and Frances Rauscher gave 19 preschoolers piano or singing lessons. After eight months, the researchers found, the children "dramatically improved in spatial reasoning," compared with children given no music lessons, as shown in their ability to work mazes, draw geometric figures and copy patterns of two-color blocks. The mechanism behind the "Mozart effect" remains murky, but Shaw suspects that when children exercise cortical neurons by listening to classical music, they are also strengthening circuits used for mathematics. Music, says the UC team, "excites the inherent brain patterns and enhances their use in complex reasoning tasks."

EMOTIONS

The trunk lines for the circuits controlling emotion are laid down before birth. Then parents take over. Perhaps the strongest influence is what psychiatrist Daniel Stern calls attunement—whether caregivers "play back a child's inner feelings." If a baby's squeal of delight at a puppy is met with a smile and hug, if her excitement at seeing a plane overhead is mirrored, circuits for these emotions are reinforced. Apparently, the brain uses the same pathways to generate an emotion as to respond to one. So if an emotion is reciprocated, the electrical and chemical signals that produced it are reinforced. But if emotions are repeatedly met with indifference or a clashing response—Baby is proud of building a skyscraper out of Mom's best pots, and Mom is terminally annoyed—those circuits become confused and fail to strengthen. The key here is "repeatedly": one dismissive harrumph will not scar a child for life. It's the pattern that counts, and it can be very powerful: in one of Stern's studies, a baby whose mother never matched her level of excitement became extremely passive, unable to feel excitement or joy.

Experience can also wire the brain's "calm down" circuit, as Daniel Goleman describes in his best-selling "Emotional Intelligence." One father gently soothes his crying infant, another drops him into his crib; one mother hugs the toddler who just skinned her knee, another screams "It's your own stupid fault!" The first responses are attuned to the child's distress; the others are wildly out of emotional sync. Between 10 and 18 months, a cluster of cells in the rational prefrontal cortex is busy hooking up to the emotion regions. The circuit seems to grow into a control switch, able to calm agitation by infusing reason into emotion. Perhaps parental soothing trains this circuit, strengthening the neural connections that form it, so that the child learns how to calm herself down. This all happens so early that the effects of nurture ean be misperceived as innate nature.

Stress and constant threats also rewire emotion circuits. These circuits are centered on the amygdala, a little almond-shaped structure deep in the brain whose job is to scan incoming sights and sounds for emotional content. According to a wiring diagram worked out by Joseph LeDoux of New York University, impulses from eye and ear reach the amygdala before they get to the rational, thoughtful neocortex. If a sight, sound or experience has proved painful before—Dad's drunken arrival home was followed by a beating—then the amygdala floods the circuits with neurochemicals before the higher brain knows what's happening. The more often this pathway is used, the easier it is to trigger: the mere memory of Dad may induce fear. Since the circuits can stay excited for days, the brain remains on high alert. In this state, says neuroscientist Bruce Perry of Baylor College of Medicine, more circuits attend to nonverbal cues—facial expressions, angry noises—that warn of impending danger. As a result, the cortex falls behind in development and has trouble assimilating complex information such as language.

MOVEMENT

Fetal movements begin at 7 weeks and peak between the 15th and 17th weeks. That is when regions of the brain controlling movement start to wire up. The critical period lasts a while: it takes up to two years for cells in the cerebellum, which controls posture and movement, to form functional circuits. "A lot of organization takes place using information gleaned from when the child moves about in the world," says William Greenough of the University of Illinois. "If you restrict activity you inhibit the formation of synaptic connections in the cerebellum." The child's initially spastic movements send a signal to the brain's motor cortex; the more the arm, for instance, moves, the stronger the circuit, and the better the brain will become at moving the arm intentionally and fluidly. The window lasts only a few years: a child immobilized in a body cast until the age of 4 will learn to walk eventually, but never smoothly.

There are many more circuits to discover, and many more environmental influences to

pin down. Still, neuro labs are filled with an unmistakable air of optimism these days. It stems from a growing understanding of how, at the level of nerve cells and molecules, the brain's circuits form. In the beginning, the brain-to-be consists of only a few advance scouts breaking trail: within a week of conception they march out of the embryo's "neural tube," a cylinder of cells extending from head to tail. Multiplying as they go (the brain adds an astonishing 250,000 neurons per minute during gestation), the neurons clump into the brain stem which commands heartbeat and breathing, build the little cerebellum at the back of the head which controls posture and movement, and form the grooved and rumpled cortex wherein thought and perception originate. The neural cells are so small, and the distance so great, that a neuron striking out for what will be the prefrontal cortex migrates a distance equivalent to a human's walking from New York to California, says developmental neurobiologist Mary Beth Hatten of Rockefeller University.

Only when they reach their destinations do these cells become true neurons. They grow a fiber called an axon that carries electrical signals. The axon might reach only to a neuron next door, or it might wend its way clear across to the other side of the brain. It is the axonal connections that form the brain's circuits. Genes determine the main highways along which axons travel to make their connection. But to reach particular target cells, axons follow chemical cues strewn along their path. Some of these chemicals attract: this way to the motor cortex! Some repel: no, that way to the olfactory cortex. By the fifth month of gestation most axons have reached their general destination. But like the prettiest girl in the bar, target cells attract way more suitors—axons—than they can accommodate.

How does the wiring get sorted out? The baby neurons fire electrical pulses once a minute, in a fit of what Berkeley's Shatz calls auto-dialing. If cells fire together, the target cells "ring" together. The target cells then release a flood of chemicals, called trophic factors, that strengthen the incipient connections. Active neurons respond better to trophic factors than inactive ones, Barbara Barres of Stanford University reported in October. So neurons that are quiet when others throb lose their grip on the target cell. "Cells that fire together wire together," says Shatz.

The same basic process continues after birth. Now, it is not an auto-dialer that sends signals, but stimuli from the senses. In experiments with rats, Illinois's Greenough found that animals raised with playmates and toys and other stimuli grow 25 percent more synapses than rats deprived of such stimuli.

Rats are not children, but all evidence suggests that the same rules of brain development hold. For decades Head Start has fallen short of the high hopes invested in it: the children's IQ gains fade after about three years. Craig Ramey of the University of Alabama suspected the culprit was timing: Head Start enrolls 2-, 3- and 4-year-olds. So in 1972 he launched the Abecedarian Project. Children from 120 poor families were assigned to one of our groups: intensive early education in a day-care center from about 4 months to age 8, from 4 months to 5 years, from 5 to 8 years, or none of all. What does it mean to "educate" a 4-month-old? Nothing fancy: blocks, beads, talking to him, playing games such as peek-a-boo. As outlined in the book "Learningames," each of the 200-odd activities was designed to enhance cognitive, language, social or motor development. In a recent paper, Ramey and Frances Campbell of the University of North Carolina report that children enrolled in Abecedarian as preschoolers still scored higher in math and reading at the age of 15 than untreated children. The children still retained an average IQ edge was 4.6 points. The earlier the children were enrolled, the more enduring the gain. And intervention after age 5 conferred no IQ or academic benefit.

All of which raises a troubling question. If the windows of the mind close, for the most part, before we're out of elementary school, is all hope lost for children whose parents did not have them count beads to stimulate their math circuits, or babble to them to build their language loops? At one level, no: the brain retains the ability to learn throughout life, as witness anyone who was befuddled by Greek in college only to master it during retirement. But on a deeper level the news is sobering. Children whose neural circuits are not stimulated before kindergarten are never going to be what they could have been. "You want to say that it is never too late," says Joseph Sparling, who designed the Abecedarian curriculum. "But there seems to be something very special about the early years."

And yet . . . there is new evidence that certain kinds of intervention can reach even the older brain and, like a microscopic screwdriver. rewire broken circuits. In January, scientists led by Paula Tallal of Rutgers University and Michael Merzenich of UC San Francisco described a study of children who have "language-based learning disabilities"—reading problems. LLD affects 7 million children in the United States. Tallal has long argued that LLD arises from a child's inability to distinguish short staccato sounds—such as "d" and "b." Normally, it takes neurons in the auditory cortex something like .015 second to respond to a signal from the ear, calm down and get ready to respond to the next sound; in LLD children, it takes five to 10 times as long. (Merzenich speculates that the defect might be the result of chronic middle-ear infections in infancy: the brain never "hears" sounds clearly and so fails to draw a sharp auditory map.) Short sounds such as "b" and "d" go by too fast—.04 second—to process. Unable to associate sounds with letters, the children develop reading problems.

The scientists drilled the 5- to 10-year-olds three hours a day with computer-produced sound that draws out short consonants, like an LP played too slow. The result: LLD children who were one to three years behind in language ability improved by a full two years after only four weeks. The improvement has lasted. The training, Merzenich suspect, redrew the wiring diagram in children's auditory cortex to process fast sounds. Their reading problems vanished like the sounds of the letters that, before, they never heard.

Such neural rehab may be the ultimate payoff of the discovery that the experiences of life are etched in the bumps and squiggles of the brain. For now, it is enough to know that we are born with a world of potential—potential that will be realized only if it is tapped. And that is challenge enough.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. GRASSLEY. Again, for the majority leader, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Executive Calendar nominations Nos. 502, 531, 532, 533, 535, 536, 537, 538, 539, and all nominations placed on the Secretary's desk in the Air Force, Army and Navy.

I further ask unanimous consent that the nominations be confirmed en bloc, 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, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

AIR FORCE

The following named officer for appointment to the grade of general while assigned to a position of importance and responsibility under Title 10, United States code, Section 601:

To be general

Lt. Gen. Michael E. Ryan, 505-54/9889, U.S. Air Force.

DEPARTMENTOF DEFENSE

Kenneth H. Bacon, of the District of Columbia, to be an Assistant Secretary of Defense. (New Position)

Franklin D. Kramer, of the District of Columbia, to be an Assistant Secretary of Defense.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Joseph J. DiNunno, of Maryland to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 2000. (Reappointment)

AIR FORCE

The following-named officer for promotion in the Regular Air Force of the United States to the grade indicated under title 19, United States Code, section 624:

To be brigadier general

Col. Timothy J. McMahon, 138-38-1034

The following-named officer for appointment to the grade of lieutenant general wile assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be lieutenant general

Maj. Gen. Kenneth E. Eickmann, 456-72-2203, United States Air Force

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be lieutenant general

Maj. Gen. Richard T. Swope, 051-34-6942, U.S. Air Force

ARMY

The following-named officer for reappointment to the grade of lieutenant general in the United States Army while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Lt. Gen. John G. Coburn, 364-38-3232, U.S. Army

The following-named officer for appointment to the grade of lieutenant general in the United States Army while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. John J. Cusick, 196-32-4700, U.S. Army

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

APPOINTMENTS BY THE MAJORITY AND MINORITY LEADERS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that pursuant to Public Law 103-432, the following members be named to the Advisory Board on Welfare Indicators:

Jo Anne B. Barnhart, of Virginia; Martin H. Gerry, of Kansas; Gerald H. Miller, of Michigan, upon the recommendation of the majority leader, and Paul E. Barton, of New Jersey, upon the recommendation of the minority leader.

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

ORDERS FOR FRIDAY, MARCH 29, 1996

Mr. GRASSLEY. Mr. President, I further ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Friday, March 29; further, that immediately 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, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business until the hour of 12:30, with Senators to speak for up to 5 minutes each except for the following: Senator THOMAS, 30 minutes; Senator DORGAN, 20 minutes; Senator HATCH, 20 minutes; Senator COHEN, 15 minutes; Senator FAIRCLOTH, 10 minutes; Senator HUTCHISON, 5 minutes; Senator WELLSTONE, 10 minutes; Senator MURKOWSKI, 15 minutes; Senator GLENN, 15 minutes; and Senator MCCONNELL, 10 minutes.

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

Mr. GRASSLEY. I thank the Chair.

PROGRAM

Mr. GRASSLEY. Mr. President, the leader would like me to inform all of our colleagues that there will be a period for morning business for 2½ hours to accommodate a number of requests by Members. It is hoped that during tomorrow's session, the omnibus appropriations conference report will become available. Senators should therefore be aware rollcall votes are possible during Friday's session. The Senate may also be asked to turn to any other legislative or executive items for action.

ORDER FOR ADJOURNMENT

Mr. GRASSLEY. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order immediately following my remarks.

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

Mr. GRASSLEY. Mr. President, for the benefit of everybody, this is probably going to be something less than 10 minutes. I ask permission to speak for a period of time as if in morning business.

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

THE VOID IN MORAL LEADERSHIP PART IV

Mr. GRASSLEY. Mr. President, last week I began giving a series of speeches about the void in moral leadership in the White House.

By moral leadership, I don't mean morality. I mean simply setting a good example for the American people: Being trustworthy, honest, candid, and so on, simple, basic values that all Americans share, and that all Americans expect to see in their leaders.

Frankly, there has been a failure by this White House to set a good example.

And I have been very specific about my observations, what the President, the First Lady and others have done, and where the good example broke down.

I began this series of speeches with the words of two great American presidents in mind.

The first was a pronouncement by Franklin Delano Roosevelt.

FDR said that, the Presidency is preeminently about moral leadership.

It's not about being a good engineer or a good decisionmaker or a good speaker.

It's about moral leadership.

The second was from Teddy Roosevelt.

He talked about the obligation we have to tell the truth about the President, more than any other American.

To not do so, he said, was both base and servile.

And so I have felt an obligation to make this observation, Mr. President:

There has been a failure in this White House of setting a good example for the American people.

Today, I will further support my claim.

I will refer to a new Washington Post-ABC News poll, conducted March 14-17 of 1,512 randomly selected adults.

In the survey, half of the respondents said they thought the First Lady is not telling the truth about Whitewater.

Questions about the candor and straight-forwardness of the First Lady go right to the heart of my point.

It goes beyond the issue of anyone calling anyone dishonest, or a liar.

That would not be proper!

My point is that there is a growing perception out there in grassroots America that the First Lady has not told the truth.

How can the moral authority to lead survive such a perception with this White House?

At this point, the most qualified outside observer of the Whitewater and Travelgate issues is James B. Stewart. Mr. Stewart was given access to sources by the White House. Mr. Stewart is also described as ideologically akin to the Clintons. He is a respected, Pulitzer Prize-winning journalist, formerly with the Wall Street Journal. His bona fides are generally recognized as impeccable.

On March 11, Mr. Stewart was interviewed by ABC's Ted Koppel on "Nightline."

Mr. Koppel asked the following question:

> And to those who say, has all of this investigation, the congressional investigations, the independent prosecutors, the time that you have spent in putting this book together * * * was it all worth all the money and the time and the effort and the pain?

Here is Mr. Stewart's reply:

> I think in the end we'll find that it was—that the truth is important in our society, that justice is important in our society.
>
> I don't think you can put a pricetag on those things.
>
> Yes, It's terribly expensive, and at times it seems very wasteful, and at times it's nasty and partisan.
>
> It often is a blood sport, as Vince Foster said. But why is that?
>
> It's because the truth was never honored in the first place, and I hope if there's any lesson that comes out of that, that people in the future will recognize that.

Mr. President, that is a hard punch taken at the White House.

That truth was never honored in the first place.

But it is a fair punch.

It is observations like Mr. Stewart's which are having an impact out at the grassroots.

The Washington Post ran a story about the new Post-ABC poll in its March 24 edition.

The article was written by R.H. Melton, and was entitled, "First Lady Bears the Brunt of Unfavorable Opinion on Whitewater."

One grocery store manager in Pontiac, MI, seems to support the contention of Mr. Stewart on "Nightline."

The store manager, Dwight Bradford, age 27, said:

> This is something he should have settled before becoming president.

By him not taking action, the Republicans have made him look a little dumbfounded.

And if she knew something, she's been withholding evidence.

And that is wrong for a government official.

It makes the United States look bad.

The Post article also showed that the Whitewater response by the White House is having repercussions that cut across party affiliation.

Rouvain Benison, a Democrat, is also quoted in the story, saying the following:

Whitewater is a symptom, the lack of moral leadership, of moral integrity, strength, courage—all the good things in a person's character.

These were not my words, Mr. President.

In fact, this gentleman stated the case more eloquently than I did in each of my speeches of the past week.

It is a symptom of a lack of moral leadership.

Word is getting out in the countryside, Mr. President.

The people we serve know when their leaders are failing to lead.

They know that moral leadership is not coming from their White House.

Since the time of the Post-ABC survey, a new revelation from the White House has reinforced the perception of a lack of candor.

I am referring to the First Lady's March 21 responses to formal questions from the House Committee on Government Reform and Oversight.

The subject matter was, who knew what, when, about the firing of innocent workers in the White House Travel Office.

Never mind that the White House released her responses too late for the evening news shows to do any serious reporting.

That is an old trick in this town.

If there is bad news, or if you want to minimize coverage, just wait till the TV news shows are over to release it.

But the real news in this story—the real news in the First Lady's responses—was the fueling of the perception of a lack of straight forwardness, of candor.

In a 25-page response, only 16 pages of which contained actual responses, here is what appeared: the words "I do not recall" appeared 21 times; the words "I do not believe" appeared 9 times; the words "I believe" appeared 7 times; the words "I may have" appeared 5 times; the words "it is possible that" appeared 3 times; the words "no specific recollection" appeared 2 times; in one case, she reports "she had heard" something, which is hearsay, yet in three other cases she reports merely that she had "no first-hand knowledge"; and, the following phrases were used once each: "I cannot recall"; "he may have mentioned"; "a vague recollection"; "I do not remember"; "it is hard to remember"; and "a general recollection."

In other words, Mr. President, these were not necessarily totally forthcoming answers.

I believe the First Lady may be totally sincere in these responses, as opposed to taking the advice of some clever lawyer and doing a soft shoe routine.

But, given the White House's history of not being forthcoming, do you not see how this could further fuel the perception of a lack of candor.

Do you not now see why honoring the truth in the first place—as "Blood Sport" author Jim Stewart put it—is so important for our national leaders.

Do you not now see my point about the need for our leaders to set a good example.

That Washington Post-ABC poll tells me that about half the people of this country do not have the level of confidence they should in their leadership in the White House.

In my view, Mr. President, setting the example is the most important thing for our leaders in the White House.

In that respect, I agree with FDR—who I quoted earlier—but I do not believe we are getting that example, and a growing number in this country apparently agree with me.

It is a serious erosion of leadership and public confidence, and it must be restored.

I yield the floor.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10 a.m., Friday, March 29.

Thereupon, the Senate, at 9:46 p.m., adjourned until Friday, March 29, 1996, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 28, 1996:

TENNESSEE VALLEY AUTHORITY

JOHNNY H. HAYES, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR A TERM EXPIRING MAY 18, 2005. (REAPPOINTMENT)

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

GEN. JOHN H. TILELLI, JR. [redacted] U.S. ARMY.

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT AS ASSISTANT COMMANDANT OF THE MARINE CORPS, HEADQUARTERS, U.S. MARINE CORPS, AND APPOINTMENT TO THE GRADE OF GENERAL WHILE SERVING IN THAT POSITION UNDER THE PROVISIONS OF SECTION 5044, TITLE 10, UNITED STATES CODE:

ASSISTANT COMMANDANT OF THE MARINE CORPS

To be general

LT. GEN. RICHARD I. NEAL [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER SECTION 601, TITLE 10, UNITED STATES CODE:

To be lieutenant general

MAJ. GEN. TERRENCE R. DRAKE [redacted]

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE NAVY OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

UNRESTRICTED LINE

To be rear admiral

REAR ADM. (LH) JAMES F. AMERAULT [redacted] U.S. NAVY.
REAR ADM. (LH) LYLE G. BIEN [redacted] U.S. NAVY.
REAR ADM. (LH) RICHARD A. BUCHANAN [redacted] U.S. NAVY.
REAR ADM. (LH) WILLIAM V. CROSS II, [redacted] U.S. NAVY.
REAR ADM. (LH) WALTER F. DORAN, [redacted] U.S. NAVY.
REAR ADM. (LH) JAMES O. ELLIS, JR. [redacted] U.S. NAVY.
REAR ADM. (LH) WILLIAM J. FALLON, [redacted] U.S. NAVY.
REAR ADM. (LH) THOMAS B. FARGO [redacted] U.S. NAVY.
REAR ADM. (LH) DENNIS V. MCGINN, [redacted] U.S. NAVY.
REAR ADM. (LH) JOSEPH S. MOBLEY, [redacted] U.S. NAVY.
REAR ADM. (LH) EDWARD MOORE, JR., [redacted] U.S. NAVY.
REAR ADM. (LH) DANIEL J. MURPHY, [redacted] U.S. NAVY.
REAR ADM. (LH) RODNEY P. REMPT [redacted] U.S. NAVY.
REAR ADM. (LH) NORBERT R. RYAN, JR. [redacted] U.S. NAVY.
REAR ADM. (LH) RAYMOND C. SMITH, JR. [redacted]
REAR ADM. (LH) ANTHONY J. WATSON [redacted]

RESTRICTED LINE

To be rear admiral

REAR ADM. (LH) GEORGE P. NANOS, JR. [redacted] U.S. NAVY.
REAR ADM. (LH) CRAIG E. STEIDLE [redacted] U.S. NAVY.
REAR ADM. (LH) JAMES L. TAYLOR [redacted] U.S. NAVY.
REAR ADM. (LH) PATRICIA A. TRACEY [redacted] U.S. NAVY.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 28, 1996:

DEPARTMENT OF DEFENSE

KENNETH H. BACON, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

FRANKLIN D. KRAMER, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

JOSEPH J. DINUNNO, OF MARYLAND, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 2000.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. MICHAEL E. RYAN, [redacted] U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR PROMOTION IN THE REGULAR AIR FORCE OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be brigadier general

COL. TIMOTHY J. MCMAHON, [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. KENNETH E. EICKMANN, [redacted] U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. RICHARD T. SWOPE, [redacted] U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

to be lieutenant general

LT. GEN. JOHN G. COBURN [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

to be lieutenant general

MAJ. GEN. JOHN J. CUSICK [redacted] U.S. ARMY.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING HAROLD E. BURCHAM, AND ENDING KEVIN W. MORRILL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 26, 1996.

AIR FORCE NOMINATIONS BEGINNING DOUGLAS W. ANDERSON, AND ENDING HAROLD D. HITES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 5, 1996.

AIR FORCE NOMINATIONS BEGINNING ROBERT J. ABELL, AND ENDING LEO R. SHOCKLEY, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 11, 1996.

IN THE ARMY

ARMY NOMINATION OF GARY N. JOHNSTON, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 20, 1996.

ARMY NOMINATIONS BEGINNING PAT W. SIMPSON, AND ENDING WARNER J. ANDERSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 20, 1996.

ARMY NOMINATIONS BEGINNING MARGARET B. BAINES, AND ENDING *JEFFREY S. WILLIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 20, 1996.

ARMY NOMINATIONS BEGINNING ANTHONY C. CRESCENZI, AND ENDING ALBERT R. SMITH, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 20, 1996.

ARMY NOMINATIONS BEGINNING PATRICK V. ADAMCIK, AND ENDING JOSEPH M. ZIMA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 26, 1996.

IN THE NAVY

NAVY NOMINATION OF JOHN M. COONEY, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 7, 1995.

NAVY NOMINATION OF REX A. AUKER, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 20, 1996.

NAVY NOMINATIONS BEGINNING RICHARD D. BOYER, AND ENDING EDWARD J. POSNAK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 20, 1996.

NAVY NOMINATIONS BEGINNING MARK A. ADMIRAL, AND ENDING ALICE A. ZENGEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 5, 1996.

NAVY NOMINATIONS BEGINNING MICHAEL P. CAVIL, AND ENDING CHARLES K. NIXON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 11, 1996.

NAVY NOMINATIONS BEGINNING JAMES L. ABRAM, AND ENDING ROBERT E. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 14, 1996.

HOUSE OF REPRESENTATIVES—*Thursday, March 28, 1996*

The House met at 10 a.m.

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

We recognize, O God, that we as a people have been blessed with means both spiritual and material, that we have been given knowledge and insight into the workings of the world and the revelations of the human spirit. Yet, we know too that we have not always aspired to use our resources in ways that strengthen our land and give vision and hope to every person. May Your word, O God, speak to us, may Your spirit inspire us, and may Your grace encircle us this day and every day. 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 gentlewoman from Missouri [Ms. MCCARTHY] come forward and lead the House in the Pledge of Allegiance.

Ms. MCCARTHY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agreed to the following resolution:

S. RES. 234

Whereas, the Senate fondly remembers former Secretary of State, former Governor of Maine, and former Senator from Maine, Edmund S. Muskie;

Whereas, Edmund S. Muskie spent six years in the Maine House of Representatives, becoming minority leader;

Whereas, in 1954, voters made Edmund S. Muskie the State's first Democratic Governor in 20 years;

Whereas, after a second two-year term, he went on in 1958 to become the first popularly elected Democratic Senator in Maine's history;

Whereas, Edmund S. Muskie in 1968, was chosen as Democratic Vice-Presidential nominee;

Whereas, Edmund S. Muskie left the Senate to become President Carter's Secretary of State; and

Whereas, Edmund S. Muskie served with honor and distinction in each of these capacities: Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Edmund S. Muskie, formerly a Senator from the State of Maine.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Senator.

The message also announced that the Senate had passed without amendment concurrent resolutions of the House of the following titles:

H. Con. Res. 146. Concurrent resolution authorizing the 1996 Special Olympics Torch Relay to be run through the Capitol Grounds; and

H. Con. Res. 147. Concurrent resolution authorizing the use of the Capitol grounds for the fifteenth annual National Peace Officers' Memorial Service.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4) "An act to grant the power to the President to reduce budget authority."

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 49. Concurrent resolution providing for certain corrections to be made in the enrollment of the bill (H.R. 2854) to modify the operation of certain agricultural programs.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 15 Members on each side for 1-minutes.

UNION BOSSES ATTACKING THE PREFERRED REPUBLICAN VISION OF THE FUTURE

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

Mr. BALLENGER. Mr. Speaker, most working men and women in this country prefer the Republican vision of the future. They support a change in the way the Federal Government works and operates, they want a change in the way the welfare system operates, they want an end to race and gender preferences on the job and in our schools, and they want to decide who spends their money and on what. Yet, the self-proclaimed champions of "working men and women" resist this popular agenda at every turn.

On Monday, a group of elite, liberal, big union bosses levied a $35 million tax increase on the men and women of the AFL–CIO, money they will use to attack the pro-family, pro-middle-class agenda of change offered by this Republican-led Congress. Despite their efforts, the union bosses better be wary, because it is only a matter of time before the rank and file throws them out and replaces them.

HEALTH REFORM DOES NOT HELP THE JOBLESS

(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, I will support the health reform bill today; portability is long overdue. But I do have a question. What good is portability to many Americans who do not have a job?

It is about jobs, Congress, and around here jobs has become an absolute four-letter word to the highest degree.

Check out some of the new high paying jobs American workers could apply for: Deep fried foods specialist. Gizzard skin remover. Corn cob pipe assembler. Pantyhose crotch closer machine operator. How about a poultry impregnator? Tell me, Mr. Speaker, what exactly is a poultry impregnator?

I am going to vote for the health reform bill, but it is a help to those who have, but it does absolutely nothing for those that have not. A job, that is.

Think about that.

THE REFUSE-TO-LOSE BASKETBALL OF MY UMASS MINUTEMEN

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

Mr. TORKILDSEN. Mr. Speaker, I rise today to recognize the extraordinary accomplishments of the all-but-ordinary UMass Minutemen, the best basketball team in the country.

Center Marcus Camby has dominated as a scorer, rebounder, and shot-blocker, and is the best player in the country.

Starting guards Carmelo Travieso and Edgar Padilla personify teamwork. They combine their unique talents, under any circumstance, to make an assist, shoot a three, steal a ball, or steal a game.

Donta Bright is the best finisher in the country. And Dana Dingle is one of the quietest threats in college ball, averaging 14 points per game.

But no description of the UMass team would be complete without recognizing the enormous contribution made by Coach John Calipari, the best coach in the country. As the Minutemen sprinted from Midnight Madness to March Madness, Coach Cal reminded America that through hard work and determination, good guys can finish first.

As the only UMass-Amherst graduate ever to serve in Congress, I share great pride in our team.

And for all those who marvel at the success of refuse-to-lose basketball, and UMass itself, there is only one message: The best is yet to come.

HOUSE LEADERSHIP HAS SURRENDERED TO THEIR EXTREMISTS

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

Ms. MCCARTHY. Mr. Speaker, today we have an opportunity to give the American people something they want and something they need, a guarantee that if they change jobs they will not lose their health insurance.

It is that simple. We know how to do it. The President, the Republican Senate and House Democrats all agree.

So I ask what is the problem? the problem is that the House leadership has surrendered to their extremists and loaded up a truly bipartisan bill with special interest provisions that would cost the American taxpayer millions of dollars.

My constituents are not asking for something for nothing. They are willing to pay for health insurance.

Let us push those special interests aside, work together, and give American families basic security.

Mr. Speaker, I urge the Republican leadership to put politics aside, clean up this bill so we can give Americans this important first step toward health care reform. It is the right thing to do.

WHO DO WE TRUST?

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

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to my colleague from Missouri. Many things she said I agree with: the notion of health insurance being able to be taken from job to job; the notion of affordability and portability is important. But again my friends on the other side would rather play politics and indulge in name calling than deal with sound policy.

No, it is not extreme to let the American people have medical savings accounts so that they can decide how to spend their health care dollars. Mr. Speaker, the fact is that will help American taxpayers and the hard-working men and women of America immeasurably, and once again, Mr. Speaker, it comes down to this basic question:

Why should we be afraid to let the American people have control of their own money, have control of their own future, and again, Mr. Speaker, it comes down to this question:

Who do we trust; the people of the United States or the Washington bureaucrats?

Mr. Speaker, I trust the people of the United States.

END HEALTH CARE INSURANCE DISCRIMINATION

(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 House later today can do something that has really been quite rare in this Congress. We can pass legislation which will actually help average Americans, and I would say to the gentleman from Arizona, we can pass legislation that 191 Members of this House on both sides of the aisle support, that was introduced by a Member of the gentleman's side of the aisle, the 55 Members of the other body, a majority of the other body, support, that every group, from the American Medical Association and the American Hospital Association to the independent insurance agents and the National Association of Manufacturers support.

We can pass legislation that does away with insurance discrimination for preexisting conditions, that says, If someone loses their job, or they get sick, they can stll retain their right to buy insurance that has common sense market reform, that everyone should agree with, and not load it up with special interests' gobbledygook which will kill this bill forever.

This Congres has accomplished virtually nothing, but today we have an opportunity to get something passed that the other body will pass in April, that the President will sign, and do right by the American people.

So the gentleman from Arizona [Mr. HAYWORTH] is way off base with what he is saying. Let us do right by the American people and pass a democratic substitute of health care reform.

FOOD AND DRUG ADMINISTRATION REFORM

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

Mr. BURR. Mr. Speaker, the United States has the best health care system in the world. It is unthinkable for Americans to have anything less than superior access to lifesaving drugs. By safety streamlining the drug approval process we can not only help families and seniors by lowering drug prices and keeping high paying jobs on American soil, but we will give terminally ill patients access to lifesaving treatments.

Yesterday patients from across this country came to Washington and told us their hard stories about being denied access to drugs that may, in fact, save their lives. It is these courageous people that inspire us to reform the Food and Drug Administration.

America's health care industry and patients are chained to a FDA process that provides no flexibility, no common sense, and has no human face. The average time for the drug approval in this country is a whopping 13 to 15 years. For terminally ill patients with no hope that timeable simply will not do.

I urge my colleagues to watch FDA reform as it comes to this House floor later this month.

DO NOT KILL HEALTH CARE REFORM

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

Mr. PALLONE. Mr. Speaker, by adding these medical savings accounts to the health care reform bill today, the Republican leadership is essentially killing health care reform. What they are doing is making it possible for the wealthy and the healthiest among us to get into these medical savings accounts and take away their contribution from the risk pool, so that what is left is that the average person's premiums are going to go up, because if someone is not wealthy and they are not healthy and they have to stay in the traditional health insurance pool, they are actually going to have to pay more, and the bill is going to be less affordable.

Do not load down this bill. Just listen to this quote from Senator ROBERT BENNETT, a Republican who says, "The Republicans on the House side are going to turn this bill into the vehicle to attach MSA's and other things, and if they do that, it'll die."

That is what the Republican leadership is doing today, killing this bill with all this extraneous material that only helps wealthy people and exposes the rest of the country to higher premiums for their health insurance.

□ 1015

LASALLE LANCERS: 1996 OHIO STATE DIVISION I HIGH SCHOOL BASKETBALL CHAMPIONS

(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, I want to take a moment this morning to pay tribute to the 1996 Ohio State Division I high school basketball champions, the LaSalle Lancers of Cincinnati, OH.

After finishing in last place in their league during the regular season, LaSalle refused to give up. The team confounded the experts by going all the way to Columbus, knocking off powerhouse Toledo St. John's in the State championship game on Saturday night and winning the entire State championship.

I will admit to some personal bias in this instance. LaSalle High School is not only in my congressional district, it is my alma mater. In fact, I got my start in politics at LaSalle running for student council office. I realize some people probably still hold LaSalle responsible for getting my political career off the ground, but that is life.

Coach Fleming and Coach Scott Tillett, about whom a wonderful front page article appeared in the Cincinnati Enquirer yesterday, and all of the fine young men that were on the team at LaSalle, they brought so much glory to our hometown, they certainly are entitled to our tribute.

I want to thank the LaSalle Lancers and congratulate them for winning the State championship this year. Way to go, Lancers.

PRESERVE BIPARTISANSHIP IN SUPPORT FOR HEALTH CARE REFORM

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

Mr. WYNN. Mr. Speaker, as Members well know, bipartisanship are those rare occasions on which the Democrats and the Republicans agree. We have found some agreement. We agree we need health care reform that provides portability so people can change jobs and keep their health insurance. We agree that we need to prevent people from being barred from insurance because of preexisting conditions. The question becomes, why do we not pass the bill that we both agree on. I will tell Members why: because the Republicans want to ruin this bill, kill this bill with extraneous material to benefit their wealthy friends.

Once again, they ruined bipartisan support by putting on benefits for the wealthy. Just like the tax breaks, here they come again. These medical savings accounts are basically a boondoggle to benefit wealthy, healthy people. They take their money and put it in savings accounts and get a tax advantage. That leaves the rest of us, those who are poor, those who are sick, the regular working guy, to pay higher insurance rates. That is not right.

Every major editorial paper in this country has criticized these medical savings accounts because they only benefit a few wealthy people. We need bipartisanship. We have an opportunity. Please, Republicans, do not ruin it.

VOTE FOR THE REPUBLICAN HEALTH CARE REFORM PLAN

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

Mr. KINGSTON. Mr. Speaker, when it comes to this health care debate, we have to ask ourselves: What are the Washington liberal Democrats afraid of? Why are the Democrats so anticonsumer choice? Why are they so against power to the people? Why are they doing everything possible to defeat medical savings accounts, which would allow their own constituents to have more health care choices without the edicts and interference of insurance companies, health care agencies, managed care business types? Why are Democrats afraid of consumer choice?

It is simple. If their constituents find out that they are in a better position to make choices that suit themselves better than what Washington liberals want them to do, then their consumers and constituents are going to figure out, you know, "We do not need all the bureaucracy that the Democrats keep taxing us for. In fact, we do not need these Democrats." They will probably invite them to come home. That, Mr. Speaker, seems to be why they are so afraid of anything that would give more decision-making power to the American consumers and less to the Washington bureaucracy. Vote for the Republican health care reform plan.

SUPPORT GOOD HEALTH CARE REFORM: SUPPORT THE KENNEDY-KASSEBAUM BILL

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this morning in the name of bipartisanship and good health reform, but I wonder if many of us know the story of Robin Hood and the seven thieves, because that is just what we have today. The whole issue of health reform has already gotten bipartisanship support. The Kennedy-Kassebaum bill simply says we want to give people the ability to have health care if they lose their job. If, tragically, they have a preexisting disease, lung disease, cancer, or heart disease, then we still care about them, and they can have insurance and be able to survivie.

But Robin Hood and the seven thieves, the House Republican leadership, wants to say, "We want to give the money to the rich. We want to make sure we have a medical savings plans," which allows people to hoard money away, and those who are working and the working poor and those who are sick will not have the ability to have good health insurance because the medical savings plan is applicable only to the wealthy and the healthy. We will find out that under this Republican medical savings plan, working people will be left out in the cold. They would leave less healthy people to buy ordinary medical insurance at elevated prices because of this proposed medical savings plan. People who in fact lost their jobs would not have insurance.

Let us not kill this bill. Let us support good health reform. Let us pass the Kennedy-Kassebaum bill in a truly bipartisan manner for all Americans to have portability in health insurance coverage and coverage if you have a preexisting condition.

SUPPORT H.R. 3103, THE HEALTH CARE COVERAGE AVAILABILITY AND AFFORDABILITY ACT

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

Mr. NORWOOD. Mr. Speaker, today we will make a great step forward, in my opinion, in making health care available to all Americans. The Health Care Coverage Availability and Affordability Act will give Americans the two things they need most: increased access to health care and decreased cost. We will give hardworking Americans increased access by addressing the issues of preexisting conditions and portability. We will decrease the cost by tax deductibility for the self-employed, authorizing small employers' purchasing pools, and allowing Americans to have medical savings accounts. We are going to accomplish this without increasing government bureaucracy or writing thousands of pages of new regulations.

Mr. Speaker, we are increasing access while lowering costs. Should that not be the goal of any health care legislation? We are doing it with as little government influence as possible, or interference. I urge my colleagues to support 3103, and I would remind them that when we talk in this body about rich and wealthy, the liberal Democrats define that as anybody with a job.

DO NOT LET THE REPUBLICAN PARTY OBSTRUCT HEALTH CARE REFORM TODAY

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

Mr. DOGGETT. Mr. Speaker, among the greatest failures of this failed Republican Congress is the failure to address the real health care needs of the American people. Mr. Speaker, the failed Contract on America was essentially silent on this question. Last year Speaker GINGRICH's entire program on health care was, to use his words, let Medicare wither on the vine for the health care security of our seniors.

This year the strategy is a little different. It has been spelled out here in black and white in the House Republican national strategic plan for 1996. The health care plan they outline is, and I quote: "We will pursue a targeted inoculation strategy on Medicare"; not to inoculate against illness among the American people, but to inoculate against one of the most highly contagious illnesses politically in this country, and that is that the American people are beginning to understand the neglect and the failure of this Congress brought on by this Republican Party that cares more about special interests than the true national interests of the American people. Do not let them obstruct health care reform today. Let us do something for the 42 million American people who lack health insurance, health insurance coverage.

THE TRUTH ABOUT THE SPEAKER'S REMARKS ON HCFA AND MEDICAL SAVINGS ACCOUNTS

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

Mr. WELDON of Florida. Mr. Speaker, I rise to correct the RECORD. The Speaker of the House stated that he would like to see the Health Care Financing Administration, which is the big bureaucracy created by liberal Democrats in Washington that processes all the claims, he would like to see that wither on the vine, and the gentleman from Texas has misquoted the Speaker.

I would also like to rise in support of medical savings accounts. One of the biggest reasons why we have terrible health care inflation in American is because the providers and the consumers, both the doctor and the patient, are not the ones picking up the tab, and in medical savings accounts, the patients suddenly become wise and discriminating consumers. Where medical savings accounts have been implemented, cost savings average 17 percent. A 17-percent reduction in our health care costs in this Nation would be a huge benefit to our economy, a huge benefit to our industries, and a huge benefit for our competitiveness in the international markets.

It is good for consumers. Support the Republican health care bill.

THE HEALTH CARE REFORM BILL

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

Ms. McKINNEY. Mr. Speaker, last Friday was political payday for the NRA with a vote to repeal the assault weapons ban. Yesterday was political payday for the antichoice crowd with a vote to ban an extremely rare abortion procedure. And today, Mr. Speaker, is political payday for the Golden Rule Insurance Co. and its medical savings account scheme.

Today we will vote on a health insurance reform bill which includes medical savings accounts, at a cost of $2 billion to taxpayers. It is no coincidence, however, that the Golden Rule Insurance Co. has given more than $14 million to Republicans.

This chart, Mr. Speaker, demonstrates how a few large, well-placed contributions to the GOP resulted in today's vote on medical savings accounts.

Mr. Speaker, the old saying is true: He who has the gold, rules. And while the American people want serious health insurance reform, all they are getting from the GOP is cash-and-carry government.

RECOGNIZING A GOOD IDEA: MEDICAL SAVINGS ACCOUNTS

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

Mr. MICA. Mr. Speaker, I was going to speak on another subject, but I have to comment on the lack of information that the other side has on medical savings accounts. I, in fact, as chair of the Subcommittee on Civil Service of the Committee on Government Reform and Oversight, held hearings on this. We found that in every instance, for almost every State and local government that testified on these, we found lower costs, lower premiums, expanded coverage.

Because it was not a Washington command and control idea, they do not like it. Because it does not limit your choices, the other side does not like it. Because it is not an old government idea or solution, they do not like it. Mr. Speaker, I think if we had a new idea and it came up and bit them on the leg, they would not even recognize it. Mr. Speaker, this is a new idea. It saves costs. It saves premiums. It is a good idea. It is time for it.

REPUBLICAN ADD-ONS MAY DERAIL BIPARTISAN HEALTH REFORM TRAIN

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

Mrs. SCHROEDER. Mr. Speaker, health insurance has really not been insurance for a very long time, because we have allowed those companies to refuse coverage to anybody who needs it. So today we have a great chance to do something about this. We have a chance to free people up who have been locked in their jobs because they do not dare lose their health insurance, and we have the ability of people to be able to port around their insurance coverage. And the Republican extremists in the House are about to derail this bipartisan train, this bipartisan train that came speeding out of the Senate, and this bipartisan train that the New York Times is talking about today, as they say, "The House Republicans have added amendments that are not only bad health policy, but could delay passage of this useful health care reform."

Mr. Speaker, I think it is time we stand up and say to the extremists, "Please, stop this. America has been waiting much too long for this portability and for having some price constraints, and ending the denying of these preexisting conditions as a way to shut you out of your health care. Stand up to the extremists, finally. Please, let us get some health care reform."

SUPPORT NEEDED AMENDMENT TO HEALTH CARE REFORM TO PROVIDE FOR LONG-TERM CARE

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

Mr. ENSIGN. Mr. Speaker, the Senate bill was, frankly, inadequate. I offered an amendment in the Committee on Ways and Means, which was accepted, which will address long-term health care for Americans. Most elderly Americans are unaware of the magnitude of long-term care costs and of the limits of Government assistance. Many Americans wrongly assumed that Government programs or their general insurance will cover the costs of any long-term care services they might need. The reality is that the cost of long-term care can quickly wipe out the assets of even those who have worked and saved for a lifetime.

For example, the average cost of nursing home care is now over $38,000 a year. If you happen to need such care, your options are limited under the current system. Only about 2 percent of long-term care costs are handled by private insurance. Normally, everyone else pays out of pocket or is forced to Medicaid, to the degree that nearly 40 percent of Medicaid costs are swallowed by long-term care components.

This bill now includes the language that allows tax deductions for long-term care services, as is allowable for medical services. I urge the support of

this amendment and the support of this bill.

URGING PASSAGE OF THE KASSEBAUM - KENNEDY - ROUKEMA HEALTH CARE REFORM BILL

(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, American families are losing their health insurance every day because of corporate downsizing. The original Kennedy-Kassebaum health insurance bill was bipartisan common-sense reform that gave families a few simple protections. It cut down on denials due to preexisting conditions, it helped people get individual coverage when they lost group or COBRA coverage, it began chipping away at job lock, where fear of losing health insurance keeps people from changing jobs.

□ 1030

But the House Republican leadership is turning straightforward reform into a goodie bag for a privileged few. Medical savings accounts, a payoff to a fat cat contributor to the majority. Limits on malpractice awards to people whose lives and dreams have been ruined.

The Republican leadership has demonstrated once again they just do not care about average working people. We should pass the Kennedy-Kassebaum-Roukema bill and not a special interest spinoff. It is the very least we can do.

CHANGE THE RULES ON OIL

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

Mr. SAM JOHNSON of Texas. Mr. Speaker, it has been 5 years since the gulf war, and we have done nothing to end our dependence on oil, foreign oil.

Today the United States imports more than 50 percent of its oil from foreign countries, not because we want to, but because our laws have forced us to. When we mandate that all companies have to get 1,000 permits and regulations to drill just one well, anytime we increase the regulatory cost by $37 billion, when we close off their access to oil-rich land and when we support a destructive tax code that contains provisions like the alternative minimum tax, we are just asking for lost jobs and foreign dependence.

Is it any wonder our oil companies have lost over 500,000 jobs since 1972, closed half of their refineries and moved to Vietnam, China, and Russia?

Mr. Speaker, we must change the rules to allow our oil industry to flourish, create jobs and provide a strong and secure America for us and our children.

HEALTH CARE REFORM

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

Mrs. KENNELLY. Mr. Speaker, today we have a choice. We can take a simple, single step to ensure people who can change their jobs or lose their jobs that they can take their health insurance with them. Or we can let this simple, necessary piece of legislation get totally complicated in a maze of complications.

It cannot be said too often. Everybody agrees that individuals who change their job should be able to take their health insurance with them. People who are in a job should not be locked in that job because they are afraid they will lose their health insurance. The President agrees. He said, I will sign Kennedy-Kassebaum, it is a good first beginning in health care reform. The other body agrees. They have passed a bipartisan piece of legislation. The House Democrats agree. We will offer a substitute today that contains the Kennedy-Kassebaum bill. It is a clean, a good bill. Even some House Republicans agree. The substitute that we will introduce today was introduced originally by a Republican.

Mr. Speaker, there is one problem. Some people are not satisfied with fixing this problem. They want to add 10 new provisions in health care reform, 10 new insurance provisions that are too complicated. Pass the Kennedy-Kassebaum bill, begin health care reform.

NOT IF BUT WHEN

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

Mr. ISTOOK. Mr. Speaker, no nation can be secure if it depends on another nation for its economic lifeblood. Five years ago, we sent 500,000 American troops to the Persian Gulf to fight for oil. In 1991 we imported 45 percent of our oil. Today, we import 52 percent, 9 million barrels per day, annually $60 billion going out of the country to buy oil.

The number of producing wells in this country has declined by 11 percent since the gulf war. Instead of becoming less dependent on foreign oil, we are more so. No nation can be secure with such dependency, and because 60 percent of America's oil wells, 60 percent, Mr. Speaker, are developed not by major oil companies but by independent producers, it is in America's national interest to do all that we can to preserve America's independent producers of petroleum.

HEALTH CARE REFORM

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

Ms. DELAURO. Mr. Speaker, today we have a golden opportunity to pass health care reform which, in fact, will be a first step to improving the lives of hard-working Americans. People that I hear from every day in my community say to me they are scared to death that, if they change their jobs, they will lose their health care or, if they or their children have had an illness which they have managed to survive, that in fact insurance companies will deny them insurance because of a preexisting condition.

The piece of legislation that we talk about today, a bipartisan piece of legislation, can help begin to change that fact in the lives of working families today. What is stopping this event? The Republican leadership has decided to load this up with special goodies for their special interests.

Mr. Speaker, let me just quote the Washington Times. Do not take my word for it. The Washington Times, not a liberal newspaper, says that riders imperil health reforms. That is what this is about.

My Republican colleague of the Committee on Commerce, Mr. BLILEY, the chairman, said yesterday, and I quote, "The more you load the wagon, the heavier it is to move."

Do not let them pass this bill with these riders. It will end health care for working families in this country.

THE LINE-ITEM VETO

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

Mr. SOLOMON. Mr. Speaker and my colleagues, today is perhaps the most exciting day in my 18-year career here in this Congress, as it is for another former President, President Ronald Reagan. President Reagan, I hope you are listening. You said in your book entitled Autobiography by Ronald Reagan, on American life with the following paragraphs, you said: And yet, as I reflected on what we had accomplished, I had a sense of incompleteness, that there was still work to be done.

We need a constitutional amendment to require a balanced budget, said Ronald Reagan. He went on to say: And the President needs a line-item veto to cut out unnecessary spending.

Today, the Congress is agreeing, the Senate has already acted. We will act in the next hour, and we will send to the President a true line-item veto that is going to put a dent in this big-spending Congress once and for all, and the American people are going to yell hooray, hooray, hooray.

PREEMPTION OF STATE PROTECTIONS IS A BAD IDEA

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

Mr. GENE GREEN of Texas. Mr. Speaker, today the House Republicans will pass up a golden opportunity to advance realistic bipartisan health care reform when it considers H.R. 3103, instead of sponsoring and passing the Roukema-Kassebaum-Kennedy health reform bill that I cosponsored.

The bill which the House considers today will have disastrous consequences for consumers. Carefully crafted State insurance laws will be replaced by a uniform standard developed and implemented by the Department of Labor here in Washington. That is right. We are taking away States' ability to regulate and move it here to Washington. They want to move it to an agency that one of my Republican colleagues said was led by what he thought was a Communist.

What does this mean to the average American family? State statutes and rules requiring certain benefits be covered by health insurance policies may no longer apply. For instance, many States like Texas, where I am from, have statutes requiring the inclusion of newborn infant coverage in their State law. That will be wiped out if this bill passes today.

Under the Republican health plan, this may no longer apply. This is moving from State control to Washington control. That must have been in the fine print of the Contract With America.

A GREAT DAY FOR AMERICA

Mr. GOSS. Mr. Speaker, I think that the gentleman from New York [Mr. SOLOMON] said it very well. This is a historic day in this body. We are going to pass the line-item veto today. It is something that we have worked hard on and long on, and we finally are in a position where we are going to deliver a version of the line-item veto which works.

This is part of the new majority here. We are getting spending under control. This matters to America, so I hope Americans will stay tuned.

It is also remarkable to me that on the very same day we are doing this historic event, we are also going to be bringing forward the first meaningful health care reform in many, many a year for the people of this country who need access to affordable health care. That is in the agenda for today as well, and I believe we are going to get that done, too. A great day for America.

HEALTH CARE REFORM

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

(Mr. ROMERO-BARCELÓ. Mr. Speaker, today, the House will begin consideration of the Health Coverage Availability Act. As we embark on this very important discussion, I would like to urge my colleagues on the other side of the aisle not to pass up on what is a truly golden opportunity to advance realistic, bipartisan health care reform legislation.

History has shown us that past efforts to tackle this issue have failed largely because they tried to accomplish too much. Unfortunately, by giving in to special interest groups, the majority seems to be headed down that same path once again.

Let's keep things simple. The Roukema-Kassebaum-Kennedy [RKK] bill is a sound piece of legislation that has broad bipartisan support. By helping millions of Americans keep their health insurance when they switch jobs, regardless of their health condition, it provides a much needed and relatively noncontroversial solution that a vast majority of the Members of this Chamber can agree on.

The demands of the moment require both Democrats and Republicans to unite behind the RKK bill if there is to be any realistic possibility for health reform during this Congress. Let us pass RKK now. The other issues can be worked out separately and moved separately.

REPUBLICANS PAY BACK TO SPECIAL INTERESTS

(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, the Republicans are at it again. No different than we have done in the past here, my colleagues take a good bill, one that everything on both sides really has supported to pass, the Senate supports it, the President supports it. It is known as the Roukema-Kassebaum-Kennedy bill. It provides for portability, it provides for health care for preexisting conditions. And then my colleagues take that good bill and they put a terrible piece of legislation along with it, because they think well, we cannot pass that terrible piece of legislation by itself, and we can only pass it if we tack it on a big one.

Mr. Speaker, this is what they are doing. They are tacking it on. And what is it? It is payoff time. It is payoff time to the special interests of this House, the people that are paying for the Republicans' campaign. That is what it is.

What does the Washington Times say about it? "Riders imperil health reforms."

So really, do they want to do health reform? No; they want to pass something for their special interests. That is what they want to do. Let us vote them down.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole under the 5-minute rule. Those committees are the Committee on Banking and Financial Services, the Committee on Commerce, the Committee on Economic and Educational Opportunities, the Committee on Government Reform and Oversight, the Committee on International Relations, the Committee on the Judiciary, the Committee on National Security, the Committee on Resources, the Committee on Science, the Committee on Transportation and Infrastructure, and the Permanent Select Committee on Intelligence.

Mr. Speaker, it is my understanding that the minority has been consulted and that there are no objections to this request.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from New York?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 3136, CONTRACT WITH AMERICA ADVANCEMENT ACT OF 1996

Mr. SOLOMON. Mr. Chairman, by direction of the Committee on Rules, I call up House Resolution 391 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 391

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order (except those arising under section 425(a) of the Congressional Budget Act of 1974) to consider in the House the bill (H.R. 3136) to provide for the enactment of the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit. The amendments specified in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; (2) a further amendment, if offered by the chairman of the Committee on Ways and Means, which shall be in order without intervention of any point of order (except those arising under section

425(a) of the Congressional Budget Act of 1974) or demand for division of the question, shall be considered as read, and shall be separately debatable for 10 minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit, which may include instructions only if offered by the Minority Leader or his designee.

SEC. 2. If, before March 30, 1996, the House has received a message informing it that the Senate has adopted the conference report to accompany the bill (S. 4) to grant the power to the President to reduce budget authority, and for other purposes, then—

(a) in the engrossment of H.R. 3136 the Clerk shall strike title II (unless it has been amended) and redesignate the subsequent titles accordingly; and

(b) the House shall be considered to have adopted that conference report.

□ 1045

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. SOLOMON asked and was given permission to include extraneous material.)

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON:

Page 2, line 9, strike "one hour" and all that follows through "Means" on line 12, and insert in lieu thereof the following:

"80 minutes of debate on the bill, as amended, with 60 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform and Oversight or their designees".

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that the amendment be agreed to.

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

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from California [Mr. BEILENSON]. He is one of the most understanding Members of this body. He is going to be leaving us at the end of this year and we are going to miss him. We do not always agree, but he is one fine gentleman.

Mr. Speaker, House Resolution 391 provides for consideration of the bill H.R. 3136, the Contract With America Advancement Act of 1996. That is important. This bill contains the Senior Citizens Right to Work Act of 1996. It contains the Line-Item Veto Act, the Small Business Growth and Fairness Act of 1996, and a permanent increase in the public debt limit.

Believe me, if it were not for these other issues I just read off, I would not be standing up here supporting the increase in the debt limit for this Government. Not only does this bill represent the completion of three major contract promises, but it represents the product of bipartisan, bicameral and dual-branch negotiations. Think about that, ladies and gentlemen. That is cooperation. The bill before us today addresses concerns of both houses of Congress and the Clinton administration as well.

Mr. Speaker, this rule provides for consideration in the House of H.R. 3136, as modified by the amendments designated in the Committee on Rules report on this resolution. The rule provides for the adoption of two amendments. The first amendment is to title III of the bill relating to regulatory reform, and the second amendment is to title I of this bill relating to the Social Security earnings test limit. Both amendments address specific concerns of the administration and have been included in the bill in the spirit of bipartisan cooperation. It is hoped that the final product will meet the concerns of all parties involved.

The rule waives all points of order against consideration of the bill except those arising under section 425(a) of the Budget Act relating to unfunded mandates. The rule provides for 1 hour of debate equally divided between the chairman and ranking member of the Committee on Ways and Means, and of course we have just enacted an addendum to that, an amendment giving the gentleman from Pennsylvania [Mr. CLINGER] and his committee an additional 20 minutes, equally divided between the chairman and the ranking member.

The rule further provides for the consideration of an amendment to be offered by the gentleman from Texas [Mr. ARCHER] or his designee, which is debatable for 10 minutes. This further amendment was provided to the manager of the bill in order to accommodate any further negotiations between Congress and the administration that occurred last night after the Committee on Rules reported this bill. It is my understanding now, however, that the use of this authority will not be necessary. Upon completion of debate, the rule provides for one motion to recommit which, if containing instructions, may only be offered by the minority leader or his designee.

Finally, Mr. Speaker, the rule provides that if before March 30, 1996, the House has received a Senate message stating that the Senate has adopted the conference report on S. 4, which is the Line-Item Veto Act, then following House passage and engrossment of H.R. 3136, the Clerk shall be instructed to strike title II unless amended from this bill. This title contains the exact text of the conference report of Senate bill 4.

Furthermore, upon the actions of the House, it will be deemed to have adopted the conference report on S. 4, which is the line-item veto conference report. This final procedure has been included in the rule as part of our continuing efforts to expedite the consideration of this terribly, terribly important piece of legislation.

Mr. Speaker, as to the text of H.R. 3136, let me express my strong support for these Contract With America measures. Title I, the Senior Citizens Right to Work Act of 1996, is crucial legislation which will lift the current impediments seniors throughout my district and yours and throughout this entire country face as they try to increase their income by working in their later years.

It is the most ridiculous thing when you have paid into Social Security with your own money, over all of these years, 30, 40, 50, 60, whatever it might be, that money is yours. It is being paid back to you from a trust, and yet you are penalized if you earn more than $11,000, three to one; you have to give back one dollar for every three you earn over $11,000. That is about the most undemocratic thing that I have ever seen. This bill is going to correct that.

It also provides relief that was made in 1994 and is a promise that is going to be kept today. Title III, the Small Business Growth and Fairness Act of 1996, will provide needed regulatory relief and flexibility to millions of small business owners, to farmers and families across this country, enabling these job creators, and these kind of businesses create 75 percent of every new job in America every single year. It allows them to expand employment in the marketplace and to grow our Nation's economy and grow jobs for high school students graduating and college students, as well.

Now, while this regulatory reform does not go as far as I would like to see it, it still represents a dramatic shift in the direction of regulatory relief that was promised in the contract for America. Mr. Speaker, this was another promise Republicans made, and this is another promise Republicans are going to keep here today.

Mr. Speaker, title II of the bill represents legislation that is near and dear to my personal heart, legislation that I have worked to pass for more than 18 years here in this Congress. Title II is the Line-Item Veto Act. It represents fundamental budget process reform, and I never thought it would happen. After many hearings, three committee markups, 2 days of floor consideration in the House, 1 week of floor consideration in the Senate, and

more than a year of debate in a committee on conference, a thoroughly researched, extensively debated and well drafted bill has finally been produced. The conferees, led by the gentleman from Pennsylvania, Chairman CLINGER, sitting next to me over here, are to be commended for bringing the House such thorough and historic budget process reform and getting it through the Senate.

Mr. Speaker, as you well know, I have been an ardent supporter of the line-item veto all these years. Nevertheless, I believe the conference report language before us today will provide the President, any President, regardless of political party, with an even more effective, yet limited line-item veto authority that I ever thought could be possible.

Without question, it will result in lower, more responsible Government spending. Under the bill, the President is delegated the constitutional authority to cancel dollar amounts of discretionary appropriations. He is granted the ability to limit tax benefits or increases in direct spending, and these cancellations must be transmitted by special message to the Congress within 5 days of signing the original bill into law.

With report to dollar amounts of discretionary appropriations, the President is permitted to cancel specific items in appropriations bills, any governing committee reports or joint explanatory statements to accompany a conference report. What that means is the bill will also allow the President to cancel any increase in direct spending, which includes entitlements and the Food Stamp Program. Believe me, that is going to make a difference, since that takes up almost all of the budget, these entitlement programs.

This delegated authority will allow the President to cancel any new expansions of direct spending.

Now, with regard to tax benefits, the President is permitted to cancel any limited tax benefits identified by the nonpartisan Joint Committee on Taxation in any revenue or reconciliation law. In an effort to limit this delegated cancellation authority, the line-item veto requires that the cancellations may be made if the President can determine that such cancellation would reduce the Federal budget deficit.

Most importantly, Mr. Speaker, in order to ensure reductions the deficit, a lot of people ought to listen to this because this is something we have been fighting for years, the bill has established a lock bloc mechanism lowering the statutory spending caps, locking in any savings gained through the use of the line-item veto.

How many times have we offered amendments on this floor and we have cut out spending on a project only to find the money was reinstated for another project later on? That is going to stop right now when the President signs this bill.

The bill also provides for expedited procedures in both the House and the Senate for consideration of a bill to disapprove any cancellation by the President. That disapproval bill would then be subject to a veto by the President, which would then have to be overriden by a two-thirds vote of both houses in order for the money, intended to be canceled, to be spent or to take effect. I intend to discuss the specifics of these expedited procedures later on in the debate, as will my good friend, the gentleman from Pennsylvania [Mr. CLINGER], the chairman of the conference on line-item veto. However, I will say now that these expedited procedures were intentionally drafted to allow any Member, majority or minority, who can muster sufficient support to receive a vote to disapprove on the floor of this House any particular veto.

The bill also provides for expedited judicial review of any challenge to the constitutionality of the act. No severability or nonseverability provisions were included in the bill, but it is the intention of the conferees that any judicial determinations regarding the constitutionality of the bill be applied severably to the legislation. This is consistent with the current rule of thumb regarding constitutional challenges to any law that is silent on the issue of severability.

Finally, the line-item veto authority becomes effective on the date of the earlier of these two: enactment of a 7-year balanced budget plan, or January 1, 1997. This authority would sunset on January 1, 2005.

Now, there has been some discussion whether the delay in the effective date has been motivated by partisan politics, but let us set the record straight here and now. As was stated in the Committee on Rules yesterday, this effective date has been agreed to by the signers of the conference report on both sides of the aisle, which were bipartisan. The Senate majority leader and Republican nominee for President, BOB DOLE, and President Clinton himself, after a conversation between Majority Leader DOLE and the President, both agreed to this effective date publicly in press conferences. Furthermore, the effective date was also chosen in part to take away any partisan games involving the line-item veto, take it out of the picture during the presidential election year.

Mr. Speaker, with that discussion of the rule and the major provisions of the line-item veto, I urge support of the rule and the bill for this historic occasion.

I include the following material for the RECORD:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of March 27, 1996]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	59	59
Modified Closed[3]	49	47	25	25
Closed[4]	9	9	16	16
Total	104	100	100	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of March 27, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of March 27, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	PQ: 228–191 A: 235–185 (10/26/95).
		H.R. 2491	Seven-Year Balanced Budget	
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H. Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.R. 2539	ICC Termination Act	A: voice vote (11/14/95).
H. Res. 261 (11/9/95)	C	H.J. Res. 115	Cont. Resolution	A: 223–182 (11/10/95).
H. Res. 262 (11/9/95)	C	H.R. 2586	Increase Debt Limit	A: 220–185 (11/10/95).
H. Res. 269 (11/15/95)	O	H.R. 2564	Lobbying Reform	A: voice vote (11/16/95).
H. Res. 270 (11/15/95)	C	H.J. Res. 122	Further Cont. Resolution	A: 229–176 (11/15/95).
H. Res. 273 (11/16/95)	MC	H.R. 2606	Prohibition on Funds for Bosnia	A: 239–181 (11/17/95).
H. Res. 284 (11/29/95)	O	H.R. 1788	Amtrak Reform	A: voice vote (11/30/95).
H. Res. 287 (11/30/95)	O	H.R. 1350	Maritime Security Act	A: voice vote (12/6/95).
H. Res. 293 (12/7/95)	C	H.R. 2621	Protect Federal Trust Funds	PQ: 223–183 A: 228–184 (12/14/95).
H. Res. 303 (12/13/95)	O	H.R. 1745	Utah Public Lands.	
H. Res. 309 (12/18/95)	C	H. Con. Res. 122	Budget Res. W/President	PQ: 230–188 A: 229–189 (12/19/95).
H. Res. 313 (12/19/95)	O	H.R. 558	Texas Low-Level Radioactive	A: voice vote (12/20/95).
H. Res. 323 (12/21/95)	C	H.R. 2677	Natl. Parks & Wildlife Refuge	Tabled (2/28/96).
H. Res. 366 (2/27/96)	MC	H.R. 2854	Farm Bill	PQ: 228–182 A: 244–168 (2/28/96).
H. Res. 368 (2/28/96)	O	H.R. 994	Small Business Growth	
H. Res. 371 (3/6/96)	C	H.R. 3021	Debt Limit Increase	A: voice vote (3/7/96).
H. Res. 372 (3/6/96)	MC	H.R. 3019	Cont. Approps. FY 1996	PQ: voice vote A: 235–175 (3/7/96).
H. Res. 380 (3/12/96)	MC	H.R. 2703	Effective Death Penalty	A: 251–157 (3/13/96).
H. Res. 384 (3/14/96)	MC	H.R. 2202	Immigration	PQ: 233–152 A: voice vote (3/21/96).
H. Res. 386 (3/20/96)	C	H.J. Res. 165	Further Cont. Approps	PQ: 234–187 A: 237–183 (3/21/96).
H. Res. 388 (3/20/96)	C	H.R. 125	Gun Crime Enforcement	A: 244–166 (3/22/96).
H. Res. 391 (3/27/96)	C	H.R. 3136	Contract w/America Advancement	
H. Res. 392 (3/27/96)	MC	H.R. 3103	Health Coverage Affordability	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

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

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

Mr. Speaker, I thank the gentleman from New York, my chairman and my good friend, for his kind words.

Mr. Speaker, we have very serious concerns about this rule and about the bill that makes in order the so-called Contract With America Advancement Act. This legislation provides for an increase in the public debt limit to $5.5 trillion, but it also includes three measures that are completely unrelated to the debt limit: a bill increasing the Social Security earnings limit, a conference report on the so-called Line Item Veto Act, and a new version of regulatory reform legislation entitled the Small Business Growth and Fairness Act.

The rule before us continues the disturbing trend under the Republican majority of disregarding normal legislative procedures and unreasonably restricting debate. This is a closed rule. No amendments are in order except one that the gentleman from Texas [Mr. ARCHER] is permitted to offer. When the Committee on Rules met last night on this matter, the committee allowed this amendment without knowing what it would be. We hope it is a good amendment.

The rule also sets up a highly unusual procedure, which the gentleman from New York [Mr. SOLOMON] described a few minutes ago, for disposing of the Line Item Veto Act. The rule provides that if the other body approves the conference report on this bill before Saturday and the House passes H.R. 3136, the conference report shall be sent to the President as a free-standing bill.

Because the Senate approved the conference report last night, that part of this bill will in fact be separated upon passage of this legislation. We believe it is unnecessary and unwise to construct final action on the Line Item Veto Act in this convoluted manner. There is no good reason why this matter should not be considered in the same way other conference reports are normally considered; that is, as free-standing legislation and without reference to action by the other body. For that matter, there is no good reason why any of the extraneous legislation included in this increase in the debt limit must be included.

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While we understand that the inclusion of the three bills here reflects an agreement, reached between the President and the Republican leadership in both Houses of the Congress, we regret that is the case. We think it would have been much more responsible and appropriate for us to consider a simple, straightforward debt limit increase. The raising of the debt limit is an extremely urgent matter, as we all know. We have to do it very soon to prevent a Government default. The fact this very necessary legislation is encumbered with unrelated controversial matters will cause, unfortunately, some of us who otherwise would support raising the debt limit to instead vote against it.

In the Committee on Rules last night, we offered an amendment to make in order a clean debt limit increase. Unfortunately, Mr. Speaker, our amendment was defeated on a party line vote, as were several other amendments we offered that would have given the House more choices in the outcome of this important legislation.

Mr. Speaker, the most troubling portion of this legislation, in my view, is the Line Item Veto Act conference report. While we all agree that reducing Federal budget deficits is one of the most important tasks facing us, many of us do not believe that providing the President with the extraordinary new authority contained in the Line Item Veto Act will do much, if anything, to help us achieve that goal.

What this legislation will do is transfer power from Congress to the President and enhance the power of a minority in Congress to override the will of a majority on matters of spending priorities. Under this legislation, the President's cancellation of line items in appropriations, which includes not only items listed in bills but also in committee reports and joint statements of managers or direct spending or targeted tax benefits, would automatically take effect unless Congress specifically passes a resolution disapproving the cancellation. If Congress overturns the President's action, the President could then veto the disapproval, which, in turn, would have to be overridden by two-thirds of both Houses. Thus the President would be empowered to cancel any such item with the support of only a minority of Members of either House. A one-third plus 1 minority, working with the President, would control spending.

This procedure would result in a dramatic and quite possibly unconstitutional shift in responsibility and power from the legislative branch to the executive branch. This broad shift of powers could easily lead to abuses. The President could target the rescissions against particular legislators or particular regions of the country or against the judicial branch. This power could be used to force Congress to pay for a pet Presidential project that a majority of Members oppose or to agree to a policy that is completely unrelated to budgetary matters.

Furthermore, we would be transferring this unprecedented amount of power to the President with little reason to believe that it would have much of an effect on the Federal budget deficit. This new line item veto would be used primarily for annually appropriated discretionary spending. However, discretionary spending, as Members know, which accounts for less than one-third of the budget, is already the most tightly controlled type of spending, since it is subject to strict caps. It has been declining both as a percentage of the total Federal budget and as a percentage of GDP for the last several years. It will continue to do so into the foreseeable future.

Additional controls in this area of the budget will not accomplish much, if anything, in the way of deficit reduction. In fact, discretionary spending is an area of the budget where Presidents have wanted more spending than Congress has approved. According to the Office of Management and Budget, from 1982 to 1993, Congress appropriated $59 billion less than the President had requested.

In addition, over the last 20 years, Congress has rescinded $20 billion more than the President has requested in rescissions. If those patterns continue and the President is given greater leverage in the appropriations process, it is likely that he will use this new line item veto authority as a threat to secure appropriations for programs he wants funded rather than to reduce total amount of spending.

I would also like to point out that the legislation is unlikely to accomplish what its advocates claim it will in the way of including special-interest targeted tax benefits under this new authority. That is because the bill allows the Joint Tax Committee, which is controlled by the House and Senate tax-writing committees, to determine what provisions in the bill constitute a targeted tax benefit before it is sent to the President. Thus it is highly unlikely that many special-interest tax benefits, if any at all, will be subject to the line item veto authority.

For all of these reasons, Mr. Speaker, if the House moves forward with approval of this line item veto authority, I believe even the measure's most ardent supporter will in time come to regret it.

The other troubling piece of this package, at least in this Member's view, is the increase in the Social Security earnings limits for recipients aged 65 to 69. While this legislation is extremely popular, I believe it moves in the wrong direction in terms of what we need to accomplish to control spending, and perhaps it is more than a little ironic that it is coupled with the line item veto in this piece of legislation. This part of the legislation would increase Social Security benefits, already our Nation's most expensive entitlement program by far, by an estimated $7 billion over the next 7 years alone. Most of that benefit increase also, most, would go to relatively well-off recipients while some of the spending cuts used to pay for those benefit increases would fall on those of more modest means.

In addition, the legislation would take a giant step toward turning Social Security retirement benefits into a reward for turning age 65 rather than insurance against the loss of income that

comes with retirement, as the Social Security system was designed to provide. We ought to consider very carefully whether that kind of change is wise, particularly when we know we are facing a huge shortfall in the funds that will be needed to pay existing levels of benefits when the large baby-boom generation reaches retirement age in the early part of the next century.

Finally, Mr. Speaker, although many of us on this side of the aisle would have greatly preferred a rule providing for a straightforward debt limit extension, we believe that if this legislation is going to be encumbered with extraneous matters that are a priority to our Republican Members, then the rule also ought to permit us to at least consider one legislative priority from this side of the aisle as well. One of our highest priorities is increasing the minimum wage.

So, at the end of this debate, we shall move, Mr. Speaker, to defeat the previous question so that we may amend the rule to provide for eonsideration of an amendment that would raise the minimum wage in two steps to $5.15 an hour.

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

Mr. SOLOMON. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I would say to my good friend, first of all, this line-item veto does not apply to just the small portion of the budget dealing with discretionary spending. The conference final report expanded that to include all entitlement programs, including food stamps. It includes the entire budget.

Second, the gentleman complains that there are extraneous matters in this bill other than the debt ceiling; namely, Social Security, repeal of penalties and the line-item veto and regulatory relief. And yet, in their trying to defeat the previous question, they will add further extraneous material. That I do not understand.

Mr. Speaker, I yield 3½ minutes to the gentleman from Sanibel, FL [Mr. GOSS], one of the most respected and hardest-working Members of this body. He is a member of the Committee on Rules and also a tremendous help as a conferee on the line-item veto measure.

Mr. GOSS. Mr. Speaker, this is a fair rule for business at hand that allows the House to approve necessary legislation to preserve the full faith and credit of the United States—while keeping important promises to the American people. I confess, I am extremely uncomfortable voting for an extension of the debt ceiling. An offer of extended credit is a false favor to someone who is having trouble paying the bills. And the same holds true for the national budget—higher debt limits simply postpone and exacerbate the inevitable pain of paying the bill. We have a moral obligation to break the cycle of debt. Of course we know that decades of neglect cannot be reversed overnight. But that does not mean we should not spend every day moving in that direction. Although President Clinton torpedoed our effort to lock in this year a glidepath to balance in 7 years, the drive toward a balanced budget is continuing. Our new majority has already saved billions of dollars in this year's spending cycle alone. We've crafted positive reforms to preserve and strengthen our national safety net—while shrinking the size and reach of the Federal bureaucracy. We've made tough choices to secure our children's future—and we are not going to be sidetracked by President Clinton's overactive veto pen. We all know the pen is filled with red ink, just like his budget pen. Mr. Speaker, I will vote for this debt ceiling increase—but only because we are finally on the right track toward a balanced budget and fiscal sanity. I hope next time we vote on the debt limit we will be voting to lower the ceiling, nor raise it. Thankfully, there is good news in this bill—items that represent promises kept to America. With this bill we will be implementing the line-item veto, a major deficit cutting tool that we are delegating to the President in the interest of saving the taxpayers money. After more than a year of hard work, the conference has completed an agreement to grant the President real, effective and carefully defined line-item veto authority over spending and tax bills.

This historic delegation of power will be a significant new weapon in our arsenal as we fight for deficit reduction. It is not a matter of the President pitted against the Congress. It is a matter of the two branches of government working together to ensure wise management of the Nation's finances. For the first time, the bias will shift away from spending and toward saving. Americans understand that big spending and tax bills often get signed into law, carrying with them provisions of questionable national merit that might not stand on their own. The line-item veto allows the President to zero in on these items and bring them to the light of day. That is just the kind of accountability we so desperately need in the Federal budget process to bring our spending under control. Finally, Mr. Speaker, I am delighted that this legislation includes the Senior Citizens' Right to Work Act, legislation to increase, to restore some fairness to our Tax Code for seniors. I take my hat off to the gentleman from Kentucky [Mr. BUNNING] for the incredible work he has done on that, as well. The Social Security earnings limit is a dinosaur—and it discriminates mightily against those seniors who want to be productive. This is a long-overdue first step toward the ultimate goal of repealing the unfair restriction altogether. Support this rule and the bill.

I take my hat off to the gentleman from New York [Mr. SOLOMON], the chairman, and the gentleman from Pennsylvania [Mr. CLINGER], the chairman, and the gentleman from Massachusetts [Mr. BLUTE], for the extraordinary work they did in prevailing in the conference on this version we are passing today.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, I strongly urge my colleagues to reject this unfair rule. If we are going to attach unrelated items to this debt limit extension, then I believe the working people of America deserve to know why the Gingrich Republicans will not allow the House to vote on an amendment that would increase the minimum wage.

What is the majority so afraid of? Why are they in opposition to paying working parents enough, enough to support their families and enough to take care of their kids?

Clearly, Mr. Speaker, the new majority knows that if it came to a vote, it would be next to impossible for Members of this House to deny the fact that the 10 million minimum wage earners in this country deserve a raise.

Mr. Speaker, in light of the fact that April 1 will mark the 5-year anniversary of the last time this House approved an increase in the minimum wage, the truth is the minimum wage has significantly lost its value and it keeps families in poverty.

Mr. Speaker, it is time for this body to do something good for the working families of this country and to make work pay.

To my colleagues who care about working people in this country, I urge you to reject this rule and show the new majority that it is high time for an increase in the minimum wage.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in opposition to the rule because it denies a long-overdue opportunity to raise the minimum wage.

Yesterday the Committee on Rules rejected my request to offer an amendment to increase the minimum wage. They have left in the cold families who are working hard and playing by the rules and who are being left behind.

Think about it, the minimum wage today is $4.25 an hour. That means the approximate annual salary for a full-time minimum wage worker is $8,500, barely half the official poverty line for a family of four and below what people make on welfare. They would deny a 90-cent-an-hour increase. Imagine 90 cents. This, from people who make over $130,000 a year.

Members of Congress earned more during the Government shutdown than

a full-time minimum wage worker earns in a single year.

America needs a raise. Reject this rule. Help hard-working families by putting more money in their paychecks.

□ 1115

Mr. SOLOMON. Mr. Speaker, I yield myself 30 seconds just to respond to the last two speakers, to say that yes, there is some merit in raising the minimum wage. I believe that it should be raised. But, just to give an example, I met with farmers from all over New York State yesterday, and we discussed that and how it would reflect on them. They said:

JERRY, if you can just give us some regulatory relief, in other words, so we don't have to spend so much of our money meeting all of these regulations, we certainly wouldn't object to a raise in the minimum wage.

Let the regulatory relief bills go through that we pushed for the last 2 years, and I think you would find some support.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER], someone I have great respect for. The gentleman came to the body 18 years ago with me and is the chairman of the Committee on Government Reform and Oversight. He was the chairman of our conference for over a year on the line-item veto. If you want to know why his hair is a little grayer, it is because of that, I assure you. He did yeoman work. We could not be here today without BILL CLINGER.

Mr. CLINGER. Mr. Speaker, I thank the chairman for yielding time to me.

Mr. Speaker, I rise in strong support of this rule.

Mr. Speaker, we often engage in this body in hyperbole, some would say hot air. But I have got to say today we really are entitled to say this is a historic time we are engaged in. This bill we are going to be considering today is indeed a historic bill.

For years a lot of us have talked the talk about the line-item veto. But, unfortunately, we have been unable to bring it to the floor to get a vote. Today we are going to be able to walk the walk. So I am very delighted as chairman of the conference on the line-item veto to bring our product to this floor as part of the increase in the debt limit. I think it is absolutely appropriate that it should be considered as part of this increase in the debt limit.

Mr. Speaker, we are about to consider a bill that will increase the Federal debt limit to $5.5 trillion. That is $22,000 for every man, woman, and child in this country. We have got to find a better way to get control of this spending. What this bill will do is give the President a scalpel instead of a hacksaw to really deal with the enormous debt that we keep building up year after year after year and the deficits we run year after year. This is an enormous burden we have been imposing on the American people. This is the first serious effort to really provide an effective means to address this enormous problem.

I have to say we would not be here without the hard work of a lot of people. BOB DOLE, our nominee for President, was an inspiration and really was the driving force in getting us to resolve this conference and get an agreement with the White House on what could pass and be signed by the President. The gentleman from New York [Mr. SOLOMON] has been a tireless worker for this legislation for, as he said, 10 years and longer. The gentleman from Florida [Mr. GOSS], the gentleman from Massachusetts [Mr. BLUTE], the gentleman from Kentucky [Mr. BUNNING], all of whom served over this whole year on this conference, have just been invaluable in bringing us to this day. At times we did not think we would get an agreement because of determined opposition. Despite that tough opposition from people on both sides of the aisle and both sides of the Capitol, we have gotten an agreement.

Mr. Speaker, this is a good bill. I urge support for the line-item veto and for this bill.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, I thank the gentleman from California for the time.

Mr. Speaker, this is one of those occasions when every Member of this body should be mindful of the undertaking that we make at the beginning of every Congress to protect and defend the Constitution of the United States, because the line-item veto provision in this proposed bill runs absolutely in the face of that obligation.

The first words of the Constitution are, "All legislative powers herein granted shall be vested in a Congress of the United States." A few pages later, dealing with the President's responsibility with regard to legislation, the Constitution states as follows: "If he approves, he shall sign it,"—the bill—"but, if not, he shall return it with his objections."

Those are the basic parameters of the legislative responsibilities that we have under the Constitution and that the President has under the Constitution, and it is not in our power to change them. It is our responsibility in fact to respect and preserve them.

While the friends that we have across the ocean in Britain are having second thoughts these days about their monarchy, this line-item veto provision and its effect will be to start the gradual accretion of power in an American monarchy.

If we recall those grand words of the Declaration of Independence in which we protested the usurpation of power by King George, then mark my words, we will live to regard the usurpation of power that we invite by future Presidents of the United States if this provision becomes law.

Thank God that the courts will be there to do the right thing and find it, as it is, contrary to the Constitution.

The court has spoken to this point many times, but most recently and on point I think in the Chadha case, making it absolutely clear that the powers of neither branch with respect to the division and responsibility on legislation can be eroded.

What is even more bizarre in this particular proposal is the provision for the 5-day "cancellation" period. Now, think about that. This is a metaphysical leap of Herculean proportions.

The enactment provisions of the Constitution say that once the President signs a bill, it shall be law. We propose that he then gets a 5-day cancellation right after signing a bill? That is absolutely absurd. This defies any logical reading of the clear meaning of the Constitution with regard to these provisions.

But beyond the constitutional arguments, this proposal is fundamentally unwise, and it manifests a disrespect of our own responsibilities in this body under law and under the Constitution.

On the large issues, let us think back to what would have happened during the Reagan administration, with a President who, for his own reasons, sent budgets to this body zeroing out most categories of education funding in the Federal budget. Presumably, if that President had this power, it would be exercised to eliminate most education funding by the U.S. Government, and 34 Senators representing 9 percent of the people of this country, in league with the President, could have brought about that outcome.

Even more pernicious, and the invitation to usurpation that lies in this language can also be understood by going back to those days in the late eighties when we were still debating whether we would continue aid to the Contras. Now, if I happened to have been fortunate enough to have gotten, let us say, a provision in an appropriations bill for a needed post office or a needed courthouse in my district, and it was down at the White House awaiting signature at the same time we were debating aid to the Contras, I would guarantee you I would have gotten a call from someone at the White House saying, "Congressman, I notice you had some success in dealing with this need in your district. We are pleased at that, but we need your support on aid to the Contras."

That is exactly the kind of absolutely evil excess of power that we are inviting future Presidents to use. Pick your issue. That is one that comes to my mind.

It is clear that the Governors of the several States who have this power use it in exactly this way, to get their version of spending adopted in contradiction to the legislative judgment.

Mr. SOLOMON. Mr. Speaker, I yield myself 30 seconds to just say to my good friend that I suspect he protests too much. From Thomas Jefferson to Richard Nixon, Presidents had the right of rescission. If they did not want to spend the money because it was not necessary, they did not have to do it. Unfortunately for America, this Congress took that President to the Supreme Court, and the Supreme Court made him spend the money. That is what happened, and that is why we are in the fiscal mess we are in today. We are attempting to turn around a little bit of that.

Mr. Speaker, I yield 3 minutes to the gentleman from Southgate, KY, Mr. JIM BUNNING, someone I used to worship when I was growing up. He was a hero of mine because of his baseball prowess, throwing no-hitters and pitching shutouts. He is no less a hero today, especially for what he has done today on this line-item veto.

Mr. BUNNING of Kentucky. Mr. Speaker, the first bill I signed on when I came to Congress 9 years ago was the line-item veto, and, thank God, we are finally going to get it passed today. It has been a long time coming, but we have taken another major step in restoring fiscal responsibility to the budget process. Of course, I am talking about the line-item veto.

The line-item veto will allow the President to end, once and for all, that notion that Federal spending cannot be controlled. As President Truman said, the buck will truly stop with the President. If he does not use that power that we give him, shame on him. I have been for this bill, by the way, when a Republican was in office, and now I am for it while a Democrat is in office.

Mr. Speaker, we are going to give the President the opportunity to restore the fiscal integrity of this Government and to end the era of pork-barrel spending. We all have spending needs in our States and districts, but we have a duty to the country not to bankrupt the Treasury. All spending is not the same. Alpine Ski slides in tropical locations and ice hockey warming huts are not of the same importance as people with adequate needs for post offices and courthouses.

Mr. Speaker, the bill before us is not perfect. We have worked hard to make something work that everyone can use, that is good for the American people. It was crafted in an effort to accommodate the concerns of the broadest cross-section of the Members of this House and the Senate.

I wish we had not gone down the road of applying the line-item veto to tax issues, but even on that issue we have tried to meet the concerns with the majority of this Congress. I hope and pray that everyone realizes that this line-item veto is in the best interest of the United States of America, and if in fact the courts look at this bill, as one of the prior speakers has talked about, that they will find how much the need is there for this and it will be ruled constitutional by the courts. We will let them decide. Let us just do our work and pass this bill today.

Mr. Speaker, it's been a long time in coming but we are about to take another major step toward restoring fiscal responsibility to the budget process. I am, of course, talking about finally giving the President the line-item veto.

The line-item veto will allow the President to end, once and for all, the notion that federal spending cannot be controlled. As President Truman said, the buck will truly stop with the President.

If he doesn't use the power that we give him, shame on him.

We are going to give him the opportunity to restore the fiscal integrity of this Government and end the era of the pork barrel.

We all have spending needs in our States and districts but we also have a duty to the country not to bankrupt the Treasury.

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I wish we had not gone done the road of applying the line-item veto to taxes. But, even on that issue we have tried to meet the concerns of the majority of our Members.

The line-item veto before us today will be criticized by some who think that it goes too far. Others will say that we did not do enough. That satisfies me that we did the right thing.

To those who wanted us to include more on taxes, I would simply remind them that our financial problems have not been caused by too few revenues but by too much spending.

In 1981, the year before the Reagan tax cut took effect, revenues were $599 billion and by 1993 revenues had grown to nearly $1.15 trillion., Even though revenues nearly doubled spending grew at an even faster pace.

To paraphrase President Reagan, the American people are not taxed too little, their Government spends too much.

Nonetheless, we recognized that there is the potential for abuse in the tax laws and we have taken adequate steps to address that problem.

The limited tax provisions which appear from time to time in a large tax bill and which under the Democrats were often targeted to a specific taxpayer are now going to be subject to the line-item veto.

That means that Congress will now specifically point out to the President what these provisions of limited benefit are and he can use the line-item veto on them.

The nonpartisan Joint Tax Committee will identify these limited tax provisions for the tax writing committees based on the definition in this bill. And we will clearly point to them in what we send to the President for his signature.

I feel confident that the President will see the good policy behind some of these very narrow tax breaks such as the orphan drug tax credit which provides a tax incentive for research into drugs for rare diseases.

But he can use his veto pen to make sure that no unfair tax breaks are given to one or just a few taxpayers as has happened from time to time.

I would also remind those who think that we should have gone farther on allowing the President to item veto tax provisions to remember that tax breaks allow people to keep their own money.

Spending provisions take money from one person's pocket to be used for someone else's benefit.

If that distinction isn't clear to you, I imagine that your constituents can help you see the light. They know whose money we are spending.

This is a good bill and by passing it we can keep one of our most important promises from the Contract With America. I urge my colleagues to support line-item veto.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in opposition to this rule and urge the House to defeat the previous question. My opposition to the rule is very simple: This rule denies that House an opportunity to consider an amendment to increase the minimum wage that was offered before the Rules Committee by my colleague, Representative DELAURO.

Some on the other side of the aisle will argue that a minimum wage increase is not germane to a bill increasing the debt limit. I remind my colleagues that the Republican leadership has chosen to load this bill with extraneous matters, including regulatory reform for small business, which is of questionable germaneness. The Republican leadership has deliberately decided not to allow this body to consider wage relief for the working poor.

Mr. Speaker, it is time for this House to give workers a raise, a raise that is long overdue. April 1 will mark the fifth anniversary of the last time the minimum wage was increased. The real wages of American workers have been declining for over two decades and the disparity between rich and poor in this country continues to grow. In terms of distribution of wealth, the United States has become the most unequal industrialized nation in the world. Increasing the minimum wage is one modest step toward addressing this problem.

The Republican leadership of this House enjoys the distinction of destroying the spirit of bipartisanship on so many issues, including the minimum wage. In 1989, for example, the

minimum wage increase passed this body by a vote of 382 to 37, with 135 Republicans voting for the bill, and 89 to 8 in the Senate, with the support of 36 Republicans. In fact, Speaker GINGRICH, Senator DOLE, and my committee chairman, BILL GOODLING voted for the last increase. Regrettably, Republicans now appear too embarrassed to even allow this body to vote on that issue.

We often talk about how important it is to get people off welfare. If we are serious about that, if we really want to get people off welfare as opposed to just talking about it, there is one simple way to do that—to make work pay.

Recent studies suggest that 300,000 workers would be lifted out of poverty if the minimum wage were raised to $5.15 per hour. It is time to do something positive for the working poor.

Mr. Speaker, the vast majority of Americans support raising the minimum wage. It is unconscionable for the Republican leadership of this House to block the will of the American public.

Defeat this rule, defeat the previous question, allow us to consider increasing the minimum wage.

□ 1130

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes and 45 seconds to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. SOLOMON. Mr. Speaker, I yield 15 seconds to the gentleman from Maryland [Mr. HOYER].

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Maryland [Mr. HOYER] is recognized for 3 minutes.

Mr. HOYER. Mr. Speaker, let me say that the debt limit part of this bill should have been passed last year. It is another indication of the inability of the leadership of this House to get issues of fiscal importance to the floor in a timely fashion. The debt has been confronting us since September of last year and has placed at risk the good credit of the United States of America, which in fact placed, therefore, the fiscal stability of the international community at risk.

Mr. Speaker, I will vote against this rule, and I will vote against it because it marries two issues, one which I very strongly support.

Finally, the Republican leadership has come to the extension of the debt until 1997, so that it will not be a political football but will be the recognition of fiscal responsibility.

It is late but welcomed. However, they have married to that bill a line item veto. It is a line item veto which the gentleman from Colorado, one of the previous speakers, has characterized as contrary to the provisions of the Constitution of the United States. I agree with that premise. I am hopeful that the courts will find this provision unconstitutional, because I believe with Senator BYRD and I would hope with at least some of my colleagues that this is a radical shift of authority from the people of the United States and their representatives to the Executive of the United States.

Now, I support an enhanced rescission. That is a device which would allow the President of the United States to take out of a piece of legislation and say to the American public, this item should not be passed but the bill should be passed. But then the enhanced rescission would say, we have to bring it back to the House in the full light of the American public's scrutiny in a democracy and pass it. But what it would not do is to give to the President the ability to have one-third plus one of a House say that I and I alone will top this from going into effect.

Mr. Speaker, that will be a radical shift of power. It is not surprising that we pass radical proposals in this Congress, of course, but the fact of the matter is it is bad policy. In my opinion, we will live to regret it.

It is ironic, indeed, that those who have waited 9 years, according to the gentleman from Kentucky, Mr. BUNNING, to see this legislation pass, propose today to have it delayed until January. If it is so important, why not now? Is it perhaps because President Clinton is a Democrat? I hope not.

Mr. SOLOMON. Mr. Speaker, I yield myself 45 seconds. I was proud to yield 15 to my good friend over there so he would have some time.

The President of the United States is a part of this agreement to make it January 1, 1997. That was what we call cooperation, bipartisanship.

Let me just say to my good friends, as I listened to the speakers up here, one after another get up and oppose this line-item veto, I look at the National Taxpayers Union and almost every one of them appear as the biggest spenders in the Congress. They used to be a majority, and they are the ones that drove this debt through the ceiling, $5 trillion.

It irritates me to have to stand up here today and vote to raise the debt ceiling by $500 billion when I voted for none of it, none of that debt.

Well, the reason I am going to vote for it is because we have a chance now to do something for the senior citizens, get rid of this heinous tax that is on Social Security now, on the earnings tax. We have a chance to do the line item veto, which is going to put a crimp in every one of these big spenders. There are not many left around here. Most of them got beat, but there are still a few and we are going to cut their spending off.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, the gentleman is not referring to me personally, I take it.

Mr. SOLOMON. No; absolutely not. I have great respect for my friend, although I will check the list to see if he is on it.

Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. BLUTE], someone I have great respect for, from Shewsbury, MA. He has only been here now for about 3½ years. But let me tell my colleagues, he has been a leader on this line item veto. With him and some of the others, like the gentleman from New York [Mr. QUINN] and the gentleman from Delaware [Mr. CASTLE] and many others, the gentleman from Tennessee [Mr. DUNCAN], who is not here on the floor yet, but because of them, we have this line-item veto here now. He is a great American.

Mr. BLUTE. Mr. Speaker, I thank the chairman for his kind words. This is, as others have said, a very important day, a very exciting day because it means that this Government is going to make a break from the past and we are going to continue the process of turning the Federal ship of state away from deficits and debt and toward fiscal sanity and fiscal balance by giving the President of the United States the line-item veto authority. It is a major step forward in eliminating wasteful Federal spending.

In passing the conference report on S. 4, the Line-Item Veto Act, Congress is saying to the American people that we have listened to the call for fiscal responsibility. For more than a century, Presidents like Ronald Reagan have called for the line-item veto, but it took this Republican Congress to give it to a Democratic President in a true showing of bipartisanship.

Bipartisanship is exactly what has characterized this legislation from its inception. It passed the House on February 6, 1995, by the overwhelming vote of 294 to 134. All along, Members from both sides of the aisle have pushed this legislation toward this ultimate destination. In a process that took more than a year, the House and Senate conferees worked out the differences in two bills which could not have been more different. The product of that work is an extremely workable procedure that mirrors what the House has passed.

Congress has delegated to the President the very serious power to cancel individual spending items that are normally buried in appropriations bills. However, we did not stop there. This conference report expands the line-item veto to include direct spending and limited tax benefits that cost the American taxpayers more in some cases than appropriations bills. Unlike other attempts at rescissions legislation, the emphasis in this conference report is on deficit reduction and not spending.

Mr. Speaker, the President will be able to cancel individual spending items, increases in direct spending and

limited tax benefits. Congress must then pass a bill to disapprove of those cancellations and affirm it wants to spend the money. The President can veto the disapproval legislation and Congress must override by a two-thirds majority. Make no mistake about it, this is a powerful tool of fiscal accountability.

When the Congress cannot muster the two-thirds to override the President, the total of the cancellations must be deposited in a lockbox. This mechanism will guarantee that a cancellation or rescission in spending cannot be used in another account. Instead, any savings must be used toward deficit reduction.

This line-item veto, Mr. Speaker, has been field tested in 43 States with very impressive results. It is common sensical. It works, It is what the American people want.

Let us continue the revolution of fiscal sanity begun by the 104th Congress and give the President this fiscal tool.

Mr. Speaker, on a personal note, I would like to commend and thank the gentleman from Pennsylvania [Mr. CLINGER], the gentleman from New York [Mr. SOLOMON], the gentleman from Florida [Mr. GOSS], and the gentleman from Kentucky [Mr. BUNNING], for allowing me the extraordinary opportunity to serve with them on this historic conference report.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DOGGETT].

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

The Contract With America Advancement Act: what a true abuse of the English language. If this is an advancement of the Contract With America, the one thing it demonstrates is that some of our Republican colleagues cannot tell backward from forward. Let us look at what is included in this great advancement of the Contract With America failed agenda.

Well, the first thing is an increase in the Social Security earnings limit. A laudable measure. So laudable that 411 Members of this body last year voted to approve it, and only four voted against it. Our seniors would have this Social Security earnings limit adjusted already if our Republican colleagues had advanced it at the beginning of this Congress instead of at this point.

What is the second item? Regulatory reform. Far different from the regulatory wreckage of the unilateral disarmament of our health and safety laws that they proposed last year. Again, if they had advanced this very modest regulatory reform, our small businesses across America would have had relief in 1995, not a promise in 1996. Finally and most important, it advances the contract through the line-item veto. What is the history of the line-item veto in this body?

Well, last February we took it up, and we considered it, and we approved it by a vote of 294 to 134. It is true that the version that is here before us today is improved, improved in part because at the time of that debate in February, my Republican colleagues rejected the sunset amendment that I proposed, and today they have incorporated that very amendment into this proposal.

The Speaker of the House came to the floor that night and he told us, and I quote: "You have a Republican majority giving to a Democratic President this year without any gimmicks an increased power over spending, which we think is important."

Unfortunately, he did not think it was important enough to appoint conferees for 6 months, or the President would have had this tool last year. What we have here is a Contract With America that is a flop, and this advancement act is a sop.

Mr. BEILENSON. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, the vote we are about to have on this rule, on the previous question on the rule, will be a vote on whether or not we as Members of this body want to raise the minimum wage, whether we want to raise the minimum wage.

Mr. Speaker, all over America people are working hard. They are working overtime. They are working second jobs. They are working third jobs to make ends meet. They deserve a break. They deserve to have a government that is on their side, that will not stand in their way. But once again, we are here and the majority will not, the majority will not even allow us a vote on an issue to put more money in the pockets of Americans. That is what we are talking about, putting more money in the pockets of working people and families in this country.

Now, the minimum wage has not been raised since 1989. Back then two people who supported the raise were NEWT GINGRICH and BOB DOLE. But they are standing in the way today of helping working families. Mr. Speaker, when are my friends on this side of the aisle going to learn they cannot talk about family values if they are not going to value the family and they cannot move from welfare to work if they do not make work pay.

The minimum wage is not enough. It is less than $9,000 a year for a full-time worker. One cannot raise a family on that amount of money. There are literally millions of single parents in this country who are trying to do just that. Think about it. Could we raise a child or two children on that? It is a disgrace that people who make that choice to choose work over welfare, who work hard every single day, they try to set a good example for their kids, for their neighborhood, cannot lift themselves above the poverty line.

□ 1145

Now these are not kids we are talking about. We are talking about 60 percent of the people on the minimum wage are working women with children who work hard and deserve a raise. They do not come to this floor, do not come to this floor, I tell my colleagues, to tell us that it will cost jobs, because every study that has been done over the last few years, from California to the studies that were done in Pennsylvania and New Jersey, have indicated that there would not be a loss of jobs. In fact, some of the studies say that there would be an increase in jobs in this country if we, in fact, raise the minimum wage.

Mr. Speaker, that is why over a hundred economists, three Nobel laureates, have said raise the minimum wage. When the minimum wage goes up, everybody benefits. People who make a little bit more than the minimum wage will get a raise, people above them will get a raise, and what we will have is people circulating more money in the economy. People will be buying more at the grocery store, they will be buying more at the hardware store. It will create a dynamic where people will have more money in their pockets, and they will be spending money, and they will help the economy in general.

Now over 12 million Americans would benefit right away from a 90-cent increase in the minimum wage, including about 42,000 people in my own State of Michigan alone.

Mr. Speaker, it has been 5 years since we raised the minimum wage. Its value, as I said at the beginning of my remarks, it at its 40-year low, 40-year low. Seventy percent of the American people in a recent poll say they support an increase in the minimum wage.

Now is the chance for my colleagues to stand up and face this issue head-on because here it is. This vote on the previous question on the rule is whether or not my colleagues are going to support having this made in order so we could vote on this important question and put money in the pockets of Americans today.

I urge my colleagues to vote "no" on the previous question so we can have the opportunity to raise this issue, and I thank my colleague for having yielded me this time.

Mr. SOLOMON. Mr. Speaker, I yield 1½ minutes to the gentleman from Tennessee [Mr. DUNCAN], who has led the fight for as long as I can remember, ever since he succeeded his father as a Congressman, and he has been a real leader on this.

Mr. DUNCAN. Mr. Speaker, I rise in strong support of this bill which includes a very important provision—the line-item veto.

Mr. Speaker, I first want to thank my good friend, the gentleman from New York [Mr. SOLOMON], with whom I have worked so closely on this issue in the past, for yielding me this time.

Mr. Speaker, when we pass this legislation, I think there is no one in this House who will deserve more credit for it than the gentleman from New York, JERRY SOLOMON. I congratulate him for his work on this very important piece of legislation.

Mr. Speaker, on the first day of every Congress since I was elected in 1988, I have introduced a line-item veto bill that is almost identical to the provision that we are considering now.

While past Congresses have been unwilling to pass a line-item veto with real teeth in it, and in fact we passed one that the Wall Street Journal in 1993 called a voodoo line-item veto bill, I am pleased that today we are on the verge of approving a line-item veto that will truly be effective in reducing pork barrel spending.

In fact, the other body overwhelmingly passed this provision yesterday by a vote of 69 to 31.

Mr. Speaker, this is not a partisan issue. Forty-three of our Nation's Governors, both Democratic and Republican, already have the line-item veto and are using it to cut spending in their States and balance their budgets.

It is time for Congress to give this same tool to the President, so that he can eliminate the most outrageous examples of wasteful and unnecessary spending without vetoing entire appropriation bills.

The General Accounting Office estimated in 1992 that more than $70 billion of pork-barrel spending could have been cut between 1984 and 1989 if Presidents Reagan and Bush had had a line-item veto.

The Cato Institute estimates that $5 to $10 billion a year could be saved with a line-item veto.

In last year's State of the Union Address, President Clinton highlighted some of the most absurd examples of pork-barrel spending approved by the 103d Congress, and said "If you give me the line-item veto, I will remove some of that unnecessary spending."

Mr. Speaker, I wish we did not need such things as a balanced-budget amendment and a line-item veto to bring our Federal spending under control.

Unfortunately, however, Mr. Speaker, Congress has proven time and again that it does not have the will to cut spending on its own.

That is why this legislation is so very necessary today. If the Congress does not really want to cut spending, it will have to say so, and say so publicly.

Mr. Speaker, with a national debt of over $5 trillion, we simply cannot afford to withhold this important tool from the President any longer.

Former Senator Paul Tsongas, writing in the Christian Science Monitor a few months ago, said that if present trends continue, the young people of today will face average lifetime tax rates of an incredible 82 percent.

We must do something about this to give a good economic future to our children and grandchildren.

This will not solve our problems by itself, but it will be a big step in the right direction. I urge passage of this very important legislation.

Mr. SOLOMON. Mr. Speaker, I yield 45 seconds to the gentleman from Harrisburg, PA [Mr. GEKAS].

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

Mr. Speaker, when I first ran for the Congress many years ago, I ran on a platform that included 10 separate items, much like the Contract With America. One of them, much like the Contract With America, was to advance the cause of line-item veto. My own Commonwealth, Pennsylvania, had enjoyed since its constitutional existence long time ago that privilege on the part of the Governor, the chief executive. I wanted, as part of my campaign for election to the Congress, to try to transfer that responsibility to the Chief Executive of the United States.

We are at the threshold now of accomplishing one of my points of my own personal Contract With America. Second, another point, regulatory flexibility with judicial review is also at hand with this vote.

I urge support of the previous question.

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

Let me simply advise Members that if the previous question is defeated, we will offer an amendment to the rule which would make in order the floor amendment to incrementally increase the minimum wage from its current $4.25 an hour to $5.15 an hour beginning on the Fourth of July 1997.

Mr. Speaker, I yield the balance of my time to the gentleman from Missouri [Mr. GEPHARDT], our distinguished minority leader.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Missouri is recognized for 1¾ minutes.

Mr. GEPHARDT. Mr. Speaker, Members of the House, I urge my colleagues to vote against the previous question so that we can add an amendment to this bill that will increase the minimum wage. I simply want to say that wages, decent wages, are a family value. People who earn the minimum wage today earn a little over $8,000 a year. The minimum wage has not been increased in 5 years. It is a 40-year low. One-third of the people on the minimum wage are the sole wage earner in their family. It will not cost jobs, as some have asserted.

I met a woman in my district the other day, a single mother with 2 minimum wage jobs. She told me she was worried that her kids would not be a victim of a crime; she was worried they would perpetrate crimes. People cannot spend time with their family if they do not earn a decent wage.

I urge Members to vote against this previous question, and I say to my friends on the other side, "You've not heard the last of the minimum wage. I suspect we won't prevail on this vote. But we are going to bring it back and back and back and back until we finally prevail for America's families and workers."

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from New York is recognized for 3 minutes.

Mr. SOLOMON. Mr. Speaker, let me say to my good friend, the minority leader, who I have great respect for, I just cannot help but feel that there are some political games being played here. As my colleagues know, written into this rule was a little provision that said during the time after the Committee on Rules finished meeting last night, and while Mr. Panetta or the President were meeting with our Republican leadership, they could have negotiated to add anything into this bill, anything. That was not even mentioned once, this business of the increasing the minimum wage. Where this has come from I do not know, but I just suspect it is political games.

So let us just do away with that, and let me just in closing give my colleagues a little bit of history because it is kind of interesting, especially when we consider the word BYRD from West Virginia, something to do with the other body. As my colleagues know, in 1876; that was 120 years ago, Representative Charles Falken of West Virginia—remember him, George; was the gentleman here then?—came to the floor of this House and introduced a bill granting the President the authority to veto individual items in spending measures. Can my colleagues imagine that 120 years ago, a Representative from West Virginia? Boy, how times change over 120 years.

When I first came to this Congress 17 years ago, one of the first bills I introduced was the line-item veto. We have been waiting 17 years. In 1980, when Ronald Reagan entered the White House and asked Congress to grant him line-item veto authority, that was 16 years ago. In 1994 the Republican candidates for the House of Representatives all across this great country campaigned on a promise in the Contract With America that, if elected, they would pass a bill giving the President line-item veto, no matter who that President was, Republican, Democrat.

Mr. Speaker, I stand here today at the finish line of a race that has lasted 120 years, and I get so excited I can jump up and down. Today I stand with my Republican colleagues and a good number of Democrats. Wait and see, most of the Democrats on that side of

the aisle will vote to deliver a promise to the American people.

As a conferee on the line-item veto, I must submit that this historic moment is due in no small part to the efforts of our conference chairman, the gentleman from Pennsylvania [Mr. CLINGER], sitting right next to me, and that of the Senate majority leader, BOB DOLE. If BOB DOLE had not put his weight behind this, we never would have got it by many of those Senators who do not want to give up that power. They want to spend, spend, spend, but they did, thanks to BOB DOLE.

Mr. Speaker, I ask unanimous consent to include in the RECORD further explanatory information regarding the expedited procedures of congressional consideration of a Presidential message.

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

There was no objection.

The statement referred to is as follows:

Mr. Speaker, in order to ensure that the provisions relating to the receipt and consideration of a cancellation message and a disapproval bill are clearly understood, I believe it is necessary to provide some further explanation.

Upon the cancellation of a dollar amount of discretionary budget authority, an item of direct spending or a limited tax benefit, the President must transmit to Congress a special message outlining the cancellation as required. When Congress receives this special message it shall be referred to the Committee on the Budget and the appropriate committee or committees of jurisdiction in each House. For example, the message pertaining to the cancellation of a dollar amount of discretionary budget authority from an appropriation law would be referred to the Committee on Appropriations of each House; a message pertaining to the cancellation of an item of direct spending would be referred to the authorizing committee or committees of each House from which the original authorization law derived. Any special message relating to more than one committee's jurisdiction, i.e., a cancellation message from a large omnibus law such as a reconciliation law, shall be referred to each committee of each House with the appropriate jurisdiction.

Every special message is referred to the Committees on the Budget of both the House and the Senate. This is due to the requirement in the bill that the President include in each special message certain calculations made by the Office of Management and Budget. These OMB calculations pertain to the adjustments made to the discretionary spending limits under section 601 and the pay-as-go balances under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, as a result of the cancellation to which the special message refers.

Upon receipt in the House, each special message shall be printed as a document of the House of Representatives.

In order to assist Congress in assuring a vote of disapproval on the President's cancellation message, a series of expedited procedures are established for the consideration of a disapproval bill. A disapproval bill qualifies for these expedited procedures if it meets certain time requirements within an overall time period established for congressional consideration. The time clock for congressional consideration starts the first calendar day of session after the date on which the special message is received in the House and Senate. Congress has 30 calendar days of session in which to approve or disapprove under these expedited procedures of the President's action. A calendar day of session is defined as only those days in which both Houses of Congress are in session.

During this 30-day time period, a disapproval bill may qualify for these expedited procedures in both Houses. However, upon the expiration of this 30 day period a disapproval bill may no longer qualify for these expedited procedures in the House of Representatives. A disapproval bill may qualify at any time for the expedited procedures in the Senate.

If Congress adjourns sine die prior to the expiration of the 30-calendar day of session time period and a disapproval bill relating to a special message was at that time pending before either House of Congress or any committee thereof or was pending before the President, a disapproval bill with respect to the same message may be reintroduced within the first 5 calendar days of session of the next Congress. This reintroduced disapproval bill qualifies for the expedited procedures and the 30-day period for congressional consideration begins over.

In order for a disapproval bill to qualify for the expedited procedures outlined in this section it must meet two requirements. First, a disapproval bill must meet the definition of a disapproval bill. Second, the disapproval bill must be introduced in later than the 5th calendar day of session following the receipt of the President's special message. Any disapproval bill introduced after the 5th calendar day of session is subject to the regular rules of the House of Representatives regarding consideration of a bill.

It should be noted that the expedited procedures provide strict time limitations at all stages of floor consideration of a disapproval bill. The conferees intend to provide both Houses of Congress with the means to expeditiously reach a resolution and to foreclose any and all delaying tactics—including, but clearly not limited to: extraneous amendments, repeated quorum calls, motions to recommit, or motions to instruct conferees. The conferees believe these expedited procedures provide ample time for Congress to consider the President's cancellations and work its will upon them.

Any disapproval bill introduced in the House of Representatives must disapprove all of the cancellations in the special message to which the disapproval bill relates. Each such disapproval bill must include in the first blank space a list of the reference numbers for all of the cancellations made by the President in that special message.

Any disapproval bill introduced in the Senate may disapprove all or part of the cancellations in the special message to which the disapproval bill relates.

Any disapproval bill shall be referred to the appropriate committee or committees of jurisdiction. Any committee or committees of the House of Representatives to which such a disapproval bill has been referred shall report it without amendment, and with or without recommendation, not later than the seventh calendar day of session after the date of its introduction.

If any committee fails to report the disapproval bill within that period, it shall be in order for any Member of the House to move that the House discharge that committee from further consideration of the bill. However, such a notion is not in order after the committee has reported a disapproval bill with respect to the same special message. This motion shall only be made by a Member favoring the bill and only 1 day after the calendar day in which the Member offering the motion has announced to the House his intention to make such a motion and the form of which that motion takes. Furthermore, this motion to discharge shall only be made at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day in which the Member gives the House proper notice.

This motion to discharge shall be highly privileged. Debate on the motion shall be limited to not more than 1 hour and shall be equally divided between a proponent and an opponent. After completion of debate, the previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion was agreed to or not agreed to shall not be in order. It shall not be in order to consider more than one such motion to discharge pertaining to a particular special message.

After a disapproval bill has been reported or a committee has been discharged from further consideration, it shall be in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the disapproval bill. If the bill has been reported, the report on the bill must be available for at least one calendar day prior to consideration of the bill. All points of order, except that lying against the bill and its consideration for failure to comply with the one day layover, against the bill and against its consideration shall be waived. The motion that the House resolve into the Committee of the Whole shall be highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate on the disapproval bill shall be confined to the bill and shall not exceed 1 hour equally divided between and controlled by a proponent and an opponent of the bill. After completion of the 1 hour of general debate, the bill shall be considered as read for amendment under the 5-minute rule. Only one motion that the committee rise shall be in order unless that motion is offered by the manager of the bill.

No amendment shall be in order except any Member if supported by 49 other Members, a

quorum being present, may offer an amendment striking the reference number or reference numbers of a cancellation or cancellations from the disapproval bill. This process allows Members the opportunity to narrow the focus of the disapproval bill striking references to cancellations they wish to overturn. A vote in favor of the disapproval bill is a vote to spend the money the President sought to cancel. A vote against the disapproval bill is a vote to agree with the President to cancel the spending.

No amendment shall be subject to further amendment, except pro forma amendments for the purposes of debate only. Consideration of the bill for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. At the conclusion of consideration of the bill for amendment, the committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without any intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

All appeals of decisions of the Chair relating to the application of the rules of the House of Representatives to this procedure for consideration of the disapproval bill shall be decided without debate.

It shall be in order to consider only one disapproval bill pertaining to each special message under these expedited messages except for consideration of a similar Senate bill. However, if the House has already rejected a disapproval bill with respect to the same special message as that to which the Senate bill refers, it shall not be in order to consider that bill.

In the event of disagreement between the two Houses over the content of a disapproval bill passed by both Houses, conferees should be promptly appointed and a conference on the disapproval bill promptly convened.

Upon conclusion of such a committee of conference it shall be in order to consider the report of such a conference provided such report has been available to the House for 1 calendar day excluding Saturdays, Sundays, or legal holidays, unless the House is in session on such a day, and the accompanying statement has been filed in the House.

Debate in the House of Representatives on the conference report and any amendments in disagreement on any disapproval bill shall be limited to not more than 1 hour equally divided and controlled by a proponent and an opponent. A motion to further limit debate shall not be debatable. A motion to recommit the conference report shall not be in order and it shall not be in order to reconsider the vote by which the conference report is agreed to or disagreed to.

Mr. SOLOMON. Mr. Speaker, in closing I just would like to point out that President Ronald Reagan closed his autobiography entitled Ronald Reagan In American Life with these following paragraphs, which I cited in my 1 minute earlier today. He said:

"And yet, as I reflected on what we had accomplished, I had a sense of incompleteness, that there was still work to be done. We need a constitutional amendment to require a balanced budget," said Ronald Reagan, "and the President needs a line-item veto to cut out unnecessary spending."

Come over here and give Ronald Reagan another birthday present. Let us pass this line-item veto. Give it to the President who has guaranteed, "I will sign it."

Come over here and vote for it.

Mr. DINGELL. Mr. Speaker, I rise in opposition to this rule.

We have just been informed that this closed rule self-executes into this debt limit bill a completely unrelated Senate-passed bill that will promote fraud by rogue operators posing as small businesses. This bill has not been reviewed by the House committees of jurisdiction, and the SEC strongly opposes it as drafted.

While I strongly support initiatives to aid small business development, this legislation includes provisions that gives preferential treatment to small businesses that engage in securities fraud. One section would require the SEC to adopt a program to reduce, or in some circumstances to waive, civil penalties for violations of statutes or rules by small entities. This would have the obvious effect of encouraging rogues and knaves to conduct unlawful activities through small-business shells in order to get off with a slap on the wrist or a free fraud. Mr. Speaker, this is outrageously bad public policy.

I ask unanimous consent to include in the RECORD a copy of a letter from the Chairman of the SEC outlining the problems with the small business bill.

I urge my colleagues to defeat this rule.

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, March 27, 1996.

Hon. JOHN D. DINGELL,
House of Representatives, Committee on Commerce, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN DINGELL: I am writing to express the views of the Securities and Exchange Commission ("SEC" or "Commission") regarding S. 942, the "Small Business Regulatory Enforcement Fairness Act of 1996." S. 942 recently passed the Senate and we understand that it may soon be considered by the House. Although the Commission is very supportive of fostering small business endeavors, it has serious concerns that the bill could have a negative impact on the Commission's enforcement program. The Commission's principal concerns are as follows:

The Commission is concerned about the provisions in S. 942 that suggest that preferential treatment should be afforded to small businesses that engage in violative conduct. Fraud is by no means confined to large entities: some of the most egregious securities frauds in recent years (*e.g.*, involving penny stocks, prime bank notes, and wireless cable) have been perpetrated by shell companies and other entities that could qualify as "small entities" under S. 942. In fact, nearly three-quarters of the firms in the securities industry could be considered "small entities." As a general matter, the Commission believes that rules involving market integrity should apply and be enforced equally as to all firms, large as well as small.

Another troubling provision in S. 942 would shift attorneys fees and other expenses to the Commission, even in cases where the Commission prevails in court, but where it fails to obtain the *full* relief it has sought. In order to protect investor funds from fraud and abuse, the SEC often must act with swift, decisive enforcement action against fraud or other misconduct. The requirements of S. 942 could serve to hamper the Commission's enforcement efforts as it seeks penalties or other appropriate relief from wrongdoers.

The Commission's enforcement program is well-recognized for its fairness. As a general practice, potential defendants are given the opportunity through "Wells" submissions to directly address the merits of proposed SEC enforcement actions before they are instituted by the Commission. In addition, pursuant to The Securities Enforcement Remedies and Penny Stock Reform Act of 1990, Congress already requires the Commission to weigh various factors before seeking or imposing civil penalties. These include mitigating factors—such as the ability of the respondent to pay a penalty as well as its ability to continue in business. The Commission is concerned, however, that the imposition of S. 942's additional requirements could "tilt" the enforcement balance in favor of small firms, regardless of the damage that may be done to public investors.

The Commission has a record on small business issues that is second to none. In recent years, the Commission has created a new, simpler registration and disclosure regime for small businesses that seek to raise capital in the securities markets. It also has sought to expand the category of small businesses that are exempt from the registration and full disclosure requirements of the Exchange Act. Most recently, the Commission's internal Task Force on Disclosure Simplification released a report recommending the elimination of numerous SEC regulations and forms, and proposing a variety of additional steps to ease the capital formation process for small businesses.

The Commission recognizes that still more can be done to reduce the regulatory burdens of small business, and we are committed to continuing our efforts in this area. However, while it is possible to streamline disclosure requirements for small business issuers without impairing market fairness, there is much less room to dilute or alter the regulatory and enforcement framework that applies to market professionals who handle investors' retirement funds and savings. In applying and enforcing rules relating to market integrity, the Commission believes that investor protection must come first.

The attached staff analysis discusses the issues raised by S. 942 in greater detail. We believe that the Commission's concerns can be easily met through appropriate exemptive provisions for the SEC. We ask your assistance in raising these issues on behalf of the Commission when S. 942 is considered by the House.

Sincerely,

ARTHUR LEVITT,
Chairman.

Attachment.

STAFF ANALYSIS OF EFFECTS OF S. 942 ON SECURITIES AND EXCHANGE COMMISSION

The Securities and Exchange Commission ("SEC" or "Commission") has traditionally supported efforts to facilitate the capital formation process for small business. However, SEC staff is concerned that S. 942's proposals for small business regulatory reform sweep too broadly—that the bill could potentially impair regulatory and enforcement efforts that are crucial to the integrity of the

securities markets, while imposing significant new costs upon the Commission.[1] This analysis focuses on parts of the bill that the Commission staff believes are the most troublesome.

SMALL BUSINESS ENFORCEMENT VARIANCE

Section 202 of S. 942 would require each agency to adopt a policy or program "to provide for the reduction, and under appropriate circumstances for the waiver, of civil penalties" for violations of statutes or rules by small entities. This section appears to be premised on the assumption that violations by medium-sized or large businesses should be penalized, but that violations by small businesses should be tolerated. This approach does not seem appropriate for the regulation of the securities markets, which depend on the exercise of professional judgment and self-vigilance by *all* market participants, regardless of size.[2]

As a threshold matter, it is important to recognize that serious fraud is not confined to large entities: some of the most egregious frauds in recent years (involving penny stocks, prime bank notes, and wireless cable) have involved firms that could qualify as "small entities" under S. 942. In addition, this enforcement philosophy would also be applied to non-scienter based securities violations that are equally critical to the integrity of the securities market, for example, broker-dealer capital requirements. Notably, in crafting rules such as the capital requirements, the Commission already considers the size and the nature of a broker-dealer's business; if a firm violates the requirements applicable to them, there is no reason to consider these matters in the enforcement context.

This provision already exempts matter relating to environmental health and safety; on additional exemption relating to securities violations would appear equally tenable.

In any event, the language of the general requirement of Section 202 suggests that the reduction of civil penalties for violations by small businesses in mandatory; at a minimum, this language should be changed to clarify that the agency has discretion to consider "appropriate circumstances" in determining whether to reduce civil penalties.

AMENDMENTS TO EQUAL ACCESS TO JUSTICE ACT

S. 942 would increase the ability of all qualifying litigants (and not just small businesses) to recover fees from agencies under the Equal Access to Justice Act ("EAJA"). Currently, EAJA permits litigants to recover attorney's fees and other expenses from an agency if the agency's position was not "substantially justified." S. 942 would expand the opportunities for such recovery by permitting the award of fees and expenses if the judgment or decision of the court or adjudicative officer is "disproportionately less favorable" to the SEC than the relief the SEC requested. In practical terms, this means that the SEC could "lose, even if it wins" in a lawsuit or other enforcement proceeding.

The changes to EAJA made by S. 942 would significantly increase the exposure of the Commission to fee awards, in at least two ways:

First, the SEC might have to pay EAJA fees even in cases that it wins, in the event that it does not obtain the full relief it initially sought. For example, in enforcement actions, the Commission frequently seeks to obtain an injunction against securities law violations. While the court could find that a violation has occurred, it might not award an injunction for other reasons—for example, if the defendant is too old, working in a different type of business, or has expressed remorse for the violation. In such situations, the court's final judgment may be "disproportionately less favorable" to the Commission than the relief requested for reasons wholly unrelated to the merits of the Commission's case.

Second, the SEC would be vulnerable to fee awards in cases where it loses central issues of fact or law, regardless of the reasonableness of the Commission's position. The Commission faces some litigation risk every time it brings an enforcement action. Enforcement cases for insider trading fraud, for example, generally require the Commission to piece together documentary evidence such as telephone records and securities trading patterns. If a jury or judge disagrees with the Commission's interpretation of the facts and exonerates a defendant, the Commission could be liable for EAJA fees, even if the Commission had reasonably interpreted the available evidence and sought relief that it believed was substantially justified by such evidence.

Similarly, adverse resolution of legal issues could subject the Commission to EAJA fee awards. Even the most settled interpretations of the securities laws are subject to dissenting approaches of judicial or adjudicatory decisionmakers. In a recent case, for example, the U.S. Court of Appeals for the Fourth Circuit refused to follow several other circuit courts that had long recognized a claim for fraudulent insider trading based on the misappropriation of material nonpublic information. *United States* v. *Bryan*, 58 F.3d 933 (4th Cir. 1995). In such situations of novel or unanticipated legal decisions, the adverse resolution of a central issue can remove any grounds for relief and subject the Commission to fee awards.[3]

Finally, the Commission often must act with swift, decisive enforcement action against fraud, particularly in cases where money may be moved quickly outside of the jurisdiction of a U.S. Court. The requirements of S. 942 would hamper the Commission's enforcement efforts by requiring it to evaluate the risks to its own funds before seeing penalties or other appropriate relief from wrongdoers.

Because the Commission could be liable for EAJA awards even when it prevails in a lawsuit, or when its position is reasonable,[4] the Commission opposes the EAJA provisions of S. 942.[5]

AMENDMENTS TO REGULATORY FLEXIBILITY ACT

S. 942 would amend the Regulatory Flexibility Act ("Reg. Flex. Act") to permit court challenge of the Commission's final regulatory flexibility analyses. Enacted in 1980, the Reg. Flex. Act currently requires the Commission to prepare regulatory flexibility analyses evaluating the economic impact of proposed SEC rules and rule changes on small businesses. The SEC takes seriously the Reg. Flex. Act requirements, and faithfully prepares the requisite analyses for every rulemaking action it takes. Nevertheless, the Act requires the Commission to predict future events—that is, the effects that new and untested rules will have on small businesses operating in ever-changing markets. Such predictions are intrinsically imprecise; the Commission cannot predict market forces and behavior in advance.

The Reg. Flex. Act amendments in S. 942 would enable small businesses to challenge in court the SEC's compliance with the Reg. Flex. Act. A small business might try to argue, for example, that the SEC did not adequately foresee the impact that a rule change would have on small businesses. As a result of such a challenge, a court could order the SEC to defer enforcement of the rule against small entities until the court completed its review of the challenge, unless the court were to find "good cause" for continuing the enforcement of the rule.

The amendments contained in S. 942 would thus make it possible for a party who opposes any Commission rule proposal to use the Reg. Flex. analysis (regardless of the care and effort taken in its preparation) as a pretext for litigation. Conceivably, even rules that reduce burdens or provide exemptions for businesses—large or small—could be subject to attack under the Reg. Flex. Act amendments on the grounds that the Commission did not foresee their potential impact on small businesses, even where the impact was shaped in large part by market shifts or economic forces. In any event, the Commission believes that, as a general matter, rules regulating market participants and relating to market integrity issues should apply equally to all firms, large as well as small.

CONGRESSIONAL REVIEW OF COMMISSION RULEMAKING

Title V_of S. 942 permits Congress to override an agency's adoption of any rules. This legislative veto authority does not extend, however, to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee. Because the Commission's rules directly concern the integrity and efficiency of the securities markets, and are often closely tied to the stability of such markets, we believe that it is appropriate to accord the same exemption for SEC rules as is accorded to the Federal Reserve and the FOMC.[6]

FOOTNOTES

[1] Senator Bond has made notable efforts to narrow the scope of S. 942. However, the bill passed by the Senate continues to pose significant issues with respect to the Commission's enforcement and regulatory programs. This analysis outlines those concerns for the Commerce Committee.

[2] In fact, of the approximately 7600 broker-dealers registered with the Commission, over 5300 are small entities.

[3] Although the proposed EAJA amendments provide an exception from fee awards if the "party or small entity has committed a willful violation of law or otherwise acted in bad faith, or special circumstances made an award of attorney's fees unjust," a court or administrative law judge probably could not make a finding of "willful violation" or bad faith action by the defendant if it determined that, even in a close case, its interpretation of the law or the facts did not permit the relief requested by the Commission.

[4] Under existing law, EAJA fees have not been imposed on the SEC when the court has found that there was a reasonable basis for the Commission's action. *See, e.g., SEC v. Switzer*, 590 F. Supp. 756 (W.D. Okla. 1984) (refusing to award EAJA fees, despite finding no securities law violation, because of reasonable basis for Commission's enforcement action).

[5] Even though the Commission by law forwards the civil penalties it obtains in enforcement actions to the U.S. Treasury, the Commission must pay EAJA fees directly out of its annual appropriation. Amendments to EAJA under S. 942 would further increase the burden on the Commission by increasing the fee rate for attorney's fees from $75 per hour to $125 per hour.

[6] Similar concerns arise regarding H.R. 994, a separate regulatory reform bill that is currently under consideration in the House. That bill would require the Commission to engage in a lengthy, costly and onerous review of all of its rules (even those involving market integrity), despite the substantial efforts the Commission has made in the past to tailor its rules to the changing conditions of the securities industry. A similar exception in H.R. 994 for the

Footnotes at end of article.

rules of the federal banking agencies should be extended to include the Commission.

Mr. SOLOMON. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

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

Mr. BEILENSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution, as amended.

The vote was taken by electronic device and there were—yeas 232, nays 180, not voting 19, as follows:

[Roll No. 97]

YEAS—232

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

NAYS—180

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bishop
Bonior
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy (MA)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stark
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—19

Blute
Borski
Bryant (TX)
Chapman
Collins (IL)
Fields (LA)
Filner
Forbes
Fowler
Gutierrez
Jefferson
Kaptur
Kennedy (RI)
Lazio
Nethercutt
Sisisky
Smith (WA)
Stokes
Weldon (PA)

□ 1214

The Clerk announced the following pairs:

On this vote:

Mrs. Fowler for, with Mrs. Collins of Illinois against.

Mr. Lazio of New York for, with Mr. Stokes against.

Mr. GIBBONS and Mr. DEUTSCH changed their vote from "yea" to "nay."

Mr. SHAYS changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The question is on the resolution, as amended.

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

RECORDED VOTE

Mr. BEILENSON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 232, noes 177, not voting 22, as follows:

[Roll No. 98]

AYES—232

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
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
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh

McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—177

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bishop
Bonior
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Clay
Clayton
Clyburn
Coburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy (MA)
Kennelly
Kildee
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
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—22

Blute
Borski
Bryant (TX)
Chapman
Collins (IL)
Dickey
Fields (LA)
Filner
Fowler
Gejdenson
Gutierrez
Hayes
Kaptur
Kennedy (RI)
Lazio
Longley
Nethercutt
Roth
Smith (WA)
Stokes
Tauzin
Weldon (PA)

□ 1224

The Clerk announced the following pairs:

On this vote:

Mrs. Fowler for, with Mrs. Collins of Illinois against.

Mr. Lazio of New York for, with Mr. Stokes against.

Mr. BARCIA changed his vote from "aye" to "no."

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BLUTE. Mr. Speaker, on rollcall No. 98, I was attending a White House bill-signing ceremony on the Senior Citizens Housing Safety Act. Had I been present, I would have voted "yes."

(For text of conference report deemed adopted pursuant to Resolution 391, see proceedings of the House of March 21, 1996, at page 6016.)

CONTRACT WITH AMERICA ADVANCEMENT ACT OF 1996

Mr. ARCHER. Mr. Speaker, pursuant to House Resolution 391, I call up the bill—H.R. 3136—to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line-Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Pursuant to House Resolution 391, the amendments printed in House Report 104-500 are adopted.

The text of H.R. 3136, as amended pursuant to House Resolution 391, is as follows:

H.R. 3136

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 "Contract with America Advancement Act of 1996".

TITLE I—SOCIAL SECURITY EARNINGS LIMITATION AMENDMENTS

SEC. 101. SHORT TITLE OF TITLE.

This title may be cited as the "Senior Citizens' Right to Work Act of 1996".

SEC. 102. INCREASES IN MONTHLY EXEMPT AMOUNT FOR PURPOSES OF THE SOCIAL SECURITY EARNINGS LIMIT.

(a) INCREASE IN MONTHLY EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.—Section 203(f)(8)(D) of the Social Security Act (42 U.S.C. 403(f)(8)(D)) is amended to read as follows:

"(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 216(l)) before the close of the taxable year involved shall be—

"(i) for each month of any taxable year ending after 1995 and before 1997, $1,041.66⅔,

"(ii) for each month of any taxable year ending after 1996 and before 1998, $1,125.00,

"(iii) for each month of any taxable year ending after 1997 and before 1999, $1,208.33⅓,

"(iv) for each month of any taxable year ending after 1998 and before 2000, $1,291.66⅔,

"(v) for each month of any taxable year ending after 1999 and before 2001, $1,416.66⅔,

"(vi) for each month of any taxable year ending after 2000 and before 2002, $2,083.33⅓, and

"(vii) for each month of any taxable year ending after 2001 and before 2003, $2,500.00.".

(b) CONFORMING AMENDMENTS.—

(1) Section 203(f)(8)(B)(ii) of such Act (42 U.S.C. 403(f)(8)(B)(ii)) is amended—

(A) by striking "the taxable year ending after 1993 and before 1995" and inserting "the taxable year ending after 2001 and before 2003 (with respect to individuals described in subparagraph (D)) or the taxable year ending after 1993 and before 1995 (with respect to other individuals)"; and

(B) in subclause (II), by striking "for 1992" and inserting "for 2000 (with respect to individuals described in subparagraph (D)) or 1992 (with respect to other individuals)".

(2) The second sentence of section 223(d)(4)(A) of such Act (42 U.S.C. 423(d)(4)(A)) is amended by striking "the exempt amount under section 203(f)(8) which is applicable to individuals described in subparagraph (D) thereof" and inserting the following: "an amount equal to the exempt amount which would be applicable under section 203(f)(8), to individuals described in subparagraph (D) thereof, if section 102 of the Senior Citizens' Right to Work Act of 1996 had not been enacted".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years ending after 1995.

SEC. 103. CONTINUING DISABILITY REVIEWS.

(a) AUTHORIZATION FOR APPROPRIATIONS FOR CONTINUING DISABILITY REVIEWS.—Section 201(g)(1)(A) of the Social Security Act (42 U.S.C. 401(g)(1)(A)) is amended by adding at the end the following: "Of the amounts authorized to be made available out of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund under the preceding sentence, there are hereby authorized to be made available from either or both of such Trust Funds for continuing disability reviews—

"(i) for fiscal year 1996, $260,000,000;

"(ii) for fiscal year 1997, $360,000,000;

"(iii) for fiscal year 1998, $570,000,000;

"(iv) for fiscal year 1999, $720,000,000;

"(v) for fiscal year 2000, $720,000,000;

"(vi) for fiscal year 2001, $720,000,000; and

"(viii) for fiscal year 2002, $720,000,000.

For purposes of this subparagraph, the term 'continuing disability review' means a review conducted pursuant to section 221(i) and a review or disability eligibility redetermination conducted to determine the continuing disability and eligibility of a recipient of benefits under the supplemental security income program under title XVI, including any review or redetermination conducted pursuant to section 207 or 208 of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103-296).".

(b) ADJUSTMENT TO DISCRETIONARY SPENDING LIMITS.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding the following new subparagraph:

"(H) CONTINUING DISABILITY REVIEWS.—(i) Whenever a bill or joint resolution making appropriations for fiscal year 1996, 1997, 1998, 1999, 2000, 2001, or 2002 is enacted that specifies an amount for continuing disability reviews under the heading 'Limitation on Administrative Expenses' for the Social Security Administration, the adjustments for that fiscal year shall be the additional new budget authority provided in that Act for such reviews for that fiscal year and the additional outlays flowing from such amounts, but shall not exceed—

"(I) for fiscal year 1996, $15,000,000 in additional new budget authority and $60,000,000 in additional outlays;

"(II) for fiscal year 1997, $25,000,000 in additional new budget authority and $160,000,000 in additional outlays;

"(III) for fiscal year 1998, $145,000,000 in additional new budget authority and $370,000,000 in additional outlays;

"(IV) for fiscal year 1999, $280,000,000 in additional new budget authority and $520,000,000 in additional outlays;

"(V) for fiscal year 2000, $317,500,000 in additional new budget authority and $520,000,000 in additional outlays;

"(VI) for fiscal year 2001, $317,500,000 in additional new budget authority and $520,000,000 in additional outlays; and

"(VII) for fiscal year 2002, $317,500,000 in additional new budget authority and $520,000,000 in additional outlays.

"(ii) As used in this subparagraph—

"(I) the term 'continuing disability reviews' has the meaning given such term by section 201(g)(1)(A) of the Social Security Act;

"(II) the term 'additional new budget authority' means new budget authority provided for a fiscal year, in excess of $100,000,000, for the Supplemental Security Income program and specified to pay for the costs of continuing disability reviews attributable to the Supplemental Security Income program; and

"(III) the term 'additional outlays' means outlays, in excess of $200,000,000 in a fiscal year, flowing from the amounts specified for continuing disability reviews under the heading 'Limitation on Administrative Expenses' for the Social Security Administration, including outlays in that fiscal year flowing from amounts specified in Acts enacted for prior fiscal years (but not before 1996).".

(c) BUDGET ALLOCATION ADJUSTMENT BY BUDGET COMMITTEE.—Section 606 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding the following new subsection:

"(e) CONTINUING DISABILITY REVIEW ADJUSTMENT.—

"(1) IN GENERAL.—(A) For fiscal year 1996, upon the enactment of the Contract with America Advancement Act of 1996, the Chairmen of the Committees on the Budget of the Senate and House of Representatives shall make the adjustments referred to in subparagraph (C) to reflect $15,000,000 in additional new budget authority and $60,000,000 in additional outlays for continuing disability reviews (as defined in section 201(g)(1)(A) of the Social Security Act).

"(B) When the Committee on Appropriations reports an appropriations measure for fiscal year 1997, 1998, 1999, 2000, 2001, or 2002 that specifies an amount for continuing disability reviews under the heading 'Limitation on Administrative Expenses' for the Social Security Administration, or when a conference committee submits a conference report thereon, the Chairman of the Committee on the Budget of the Senate or House of Representatives (whichever is appropriate) shall make the adjustments referred to in subparagraph (C) to reflect the additional new budget authority for continuing disability reviews provided in that measure or conference report and the additional outlays flowing from such amounts for continuing disability reviews.

"(C) The adjustments referred to in this subparagraph consist of adjustments to—

"(i) the discretionary spending limits for that fiscal year as set forth in the most recently adopted concurrent resolution on the budget;

"(ii) the allocations to the Committees on Appropriations of the Senate and the House of Representatives for that fiscal year under sections 302(a) and 602(a); and

"(iii) the appropriate budgetary aggregates for that fiscal year in the most recently adopted concurrent resolution on the budget.

"(D) The adjustments under this paragraph for any fiscal year shall not exceed the levels set forth in section 251(b)(2)(H) of the Balanced Budget and Emergency Deficit Control Act of 1985 for that fiscal year. The adjusted discretionary spending limits, allocations, and aggregates under this paragraph shall be considered the appropriate limits, allocations, and aggregates for purposes of congressional enforcement of this Act and concurrent budget resolutions under this Act.

"(2) REPORTING REVISED SUBALLOCATIONS.—Following the adjustments made under paragraph (1), the Committees on Appropriations of the Senate and the House of Representatives may report appropriately revised suballocations pursuant to sections 302(b) and 602(b) of this Act to carry out this subsection.

"(3) DEFINITIONS.—As used in this section, the terms 'continuing disability reviews', 'additional new budget authority', and 'additional outlays' shall have the same meanings as provided in section 251(b)(2)(H)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(d) USE OF FUNDS AND REPORTS.—

(1) IN GENERAL.—The Commissioner of Social Security shall ensure that funds made available for continuing disability reviews (as defined in section 201(g)(1)(A) of the Social Security Act) are used, to the greatest extent practicable, to maximize the combined savings in the old-age, survivors, and disability insurance, supplemental security income, medicare, and medicaid programs.

(2) REPORT.—The Commissioner of Social Security shall provide annually (at the conclusion of each of the fiscal years 1996 through 2002) to the Congress a report on continuing disability reviews which includes—

(A) the amount spent on continuing disability reviews in the fiscal year covered by the report, and the number of reviews conducted, by category of review;

(B) the results of the continuing disability reviews in terms of cessations of benefits or determinations of continuing eligibility, by program; and

(C) the estimated savings over the short-, medium-, and long-term to the old-age, survivors, and disability insurance, supplemental security income, medicare, and medicaid programs from continuing disability reviews which result in cessations of benefits and the estimated present value of such savings.

(e) OFFICE OF CHIEF ACTUARY IN THE SOCIAL SECURITY ADMINISTRATION.—

(1) IN GENERAL.—Section 702 of the Social Security Act (42 U.S.C. 902) is amended—

(A) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(B) by inserting after subsection (b) the following new subsection:

"Chief Actuary

"(c)(1) There shall be in the Administration a Chief Actuary, who shall be appointed by, and in direct line of authority to, the Commissioner. The Chief Actuary shall be appointed from individuals who have demonstrated, by their education and experience, superior expertise in the actuarial sciences. The Chief Actuary shall serve as the chief actuarial officer of the Administration, and shall exercise such duties as are appropriate for the office of the Chief Actuary and in accordance with professional standards of actuarial independence. The Chief Actuary may be removed only for cause.

"(2) The Chief Actuary shall be compensated at the highest rate of basic pay for the Senior Executive Service under section 5382(b) of title 5, United States Code.".

(2) EFFECTIVE DATE OF SUBSECTION.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

SEC. 104. ENTITLEMENT OF STEPCHILDREN TO CHILD'S INSURANCE BENEFITS BASED ON ACTUAL DEPENDENCY ON STEPPARENT SUPPORT.

(a) REQUIREMENT OF ACTUAL DEPENDENCY FOR FUTURE ENTITLEMENTS.—

(1) IN GENERAL.—Section 202(d)(4) of the Social Security Act (42 U.S.C. 402(d)(4)) is amended by striking "was living with or".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to benefits of individuals who become entitled to such benefits for months after the third month following the month in which this Act is enacted.

(b) TERMINATION OF CHILD'S INSURANCE BENEFITS BASED ON WORK RECORD OF STEPPARENT UPON NATURAL PARENT'S DIVORCE FROM STEPPARENT.—

(1) IN GENERAL.—Section 202(d)(1) of the Social Security Act (42 U.S.C. 402(d)(1)) is amended—

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

(B) by striking the period at the end of subparagraph (G) and inserting "; or"; and

(C) by inserting after subparagraph (G) the following new subparagraph:

"(H) if the benefits under this subsection are based on the wages and self-employment income of a stepparent who is subsequently divorced from such child's natural parent, the month after the month in which such divorce becomes final.".

(2) NOTIFICATION.—Section 202(d) of such Act (42 U.S.C. 402(d)) is amended by adding the following new paragraph:

"(10) For purposes of paragraph (1)(H)—

"(A) each stepparent shall notify the Commissioner of Social Security of any divorce upon such divorce becoming final; and

"(B) the Commissioner shall annually notify any stepparent of the rule for termination described in paragraph (1)(H) and of the requirement described in subparagraph (A).".

(3) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall apply with respect to final divorces occurring after the third month following the month in which this Act is enacted.

(B) The amendment made by paragraph (2) shall take effect on the date of the enactment of this Act.

SEC. 105. DENIAL OF DISABILITY BENEFITS TO DRUG ADDICTS AND ALCOHOLICS.

(a) AMENDMENTS RELATING TO TITLE II DISABILITY BENEFITS.—

(1) IN GENERAL.—Section 223(d)(2) of the Social Security Act (42 U.S.C. 423(d)(2)) is amended by adding at the end the following:

"(C) An individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.".

(2) REPRESENTATIVE PAYEE REQUIREMENTS.—

(A) Section 205(j)(1)(B) of such Act (42 U.S.C. 405(j)(1)(B)) is amended to read as follows:

"(B) In the case of an individual entitled to benefits based on disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition (as determined by the Commissioner) and the individual is incapable of managing such benefits.".

(B) Section 205(j)(2)(C)(v) of such Act (42 U.S.C. 405(j)(2)(C)(v)) is amended by striking "entitled to benefits" and all that follows through "under a disability" and inserting "described in paragraph (1)(B)".

(C) Section 205(j)(2)(D)(ii)(II) of such Act (42 U.S.C. 405(j)(2)(D)(ii)(II)) is amended by striking all that follows "15 years, or" and inserting "described in paragraph (1)(B).".

(D) Section 205(j)(4)(A)(i)(II) of such Act (42 U.S.C. 405(j)(4)(A)(ii)(II)) is amended by striking "entitled to benefits" and all that follows through "under a disability" and inserting "described in paragraph (1)(B)".

(3) TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION.—Section 222 of such Act (42 U.S.C. 422) is amended by adding at the end the following new subsection:

"Treatment Referrals for Individuals with an Alcoholism or Drug Addiction Condition

"(e) In the case of any individual whose benefits under this title are paid to a representative payee pursuant to section 205(j)(1)(B), the Commissioner of Social Security shall refer such individual to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x-21 et seq.).".

(4) CONFORMING AMENDMENT.—Subsection (c) of section 225 of such Act (42 U.S.C. 425(c)) is repealed.

(5) EFFECTIVE DATES.—

(A) The amendments made by paragraphs (1) and (4) shall apply to any individual who applies for, or whose claim is finally adjudicated by the Commissioner of Social Security with respect to, benefits under title II of the Social Security Act based on disability on or after the date of the enactment of this Act, and, in the case of any individual who has applied for, and whose claim has been finally adjudicated by the Commissioner with respect to, such benefits before such date of enactment, such amendments shall apply only with respect to such benefits for months beginning on or after January 1, 1997.

(B) The amendments made by paragraphs (2) and (3) shall apply with respect to benefits for which applications are filed after the third month following the month in which this Act is enacted.

(C) Within 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall notify each individual who is entitled to monthly insurance benefits under title II of the Social Security Act based on disability for the month in which this Act is enacted and whose entitlement to such benefits would terminate by reason of the amendments made by this subsection. If such an individual reapplies for benefits under title II of such Act (as amended by this Act) based on disability within 120 days after the date of the enactment of this Act, the Commissioner of Social Security shall, not later than January 1, 1997, complete the entitlement redetermination (including a new medical determination) with respect to such individual pursuant to the procedures of such title.

(b) AMENDMENTS RELATING TO SSI BENEFITS.—

(1) IN GENERAL.—Section 1614(a)(3) of the Social Security Act (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following:

"(I) Notwithstanding subparagraph (A), an individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.".

(2) REPRESENTATIVE PAYEE REQUIREMENTS.—

(A) Section 1631(a)(2)(A)(ii)(II) of such Act (42 U.S.C. 1383(a)(2)(A)(ii)(II)) is amended to read as follows:

"(II) In the case of an individual eligible for benefits under this title by reason of disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition (as determined by the Commissioner) and the individual is incapable of managing such benefits.".

(B) Section 1631(a)(2)(B)(vii) of such Act (42 U.S.C. 1383(a)(2)(B)(vii)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".

(C) Section 1631(a)(2)(B)(ix)(II) of such Act (42 U.S.C. 1383(a)(2)(B)(ix)(II)) is amended by striking all that follows "15 years, or" and inserting "described in subparagraph (A)(ii)(II).".

(D) Section 1631(a)(2)(D)(i)(II) of such Act (42 U.S.C. 1383(a)(2)(D)(i)(II)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".

(3) TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION.—Title XVI of such Act (42 U.S.C. 1381 et seq.) is amended by adding at the end the following new section:

"TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION

"SEC. 1636. In the case of any individual whose benefits under this title are paid to a representative payee pursuant to section 1631(a)(2)(A)(ii)(II), the Commissioner of Social Security shall refer such individual to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x-21 et seq.).".

(4) CONFORMING AMENDMENTS.—

(A) Section 1611(e) of such Act (42 U.S.C. 1382(e)) is amended by striking paragraph (3).

(B) Section 1634 of such Act (42 U.S.C. 1383c) is amended by striking subsection (e).

(5) EFFECTIVE DATES.—

(A) The amendments made by paragraphs (1) and (4) shall apply to any individual who applies for, or whose claim is finally adjudicated by the Commissioner of Social Security with respect to, supplemental security income benefits under title XVI of the Social Security Act based on disability on or after the date of the enactment of this Act, and, in the case of any individual who has applied for, and whose claim has been finally adjudicated by the Commissioner with respect to, such benefits before such date of enactment, such amendments shall apply only with respect to such benefits for months beginning on or after January 1, 1997.

(B) The amendments made by paragraphs (2) and (3) shall apply with respect to supplemental security income benefits under title XVI of the Social Security Act for which applications are filed after the third month following the month in which this Act is enacted.

(C) Within 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall notify each individual who is eligible for supplemental security income benefits under title XVI of the Social Security Act for the month in which this Act is enacted and whose eligibility for such benefits would terminate by reason of the amendments made by this subsection. If such an individual reapplies for supplemental security income benefits under title XVI of such Act (as amended by this Act) within 120 days after the date of the enactment of this Act, the Commissioner of Social Security shall, not later than January 1, 1997, complete the eligibility redetermination (including a new medical determination) with respect to such individual pursuant to the procedures of such title.

(D) For purposes of this paragraph, the phrase "supplemental security income benefits under title XVI of the Social Security Act" includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66.

(c) CONFORMING AMENDMENT.—Section 201(c) of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 425 note) is repealed.

(d) SUPPLEMENTAL FUNDING FOR ALCOHOL AND SUBSTANCE ABUSE TREATMENT PROGRAMS.—

(1) IN GENERAL.—Out of any money in the Treasury not otherwise appropriated, there are hereby appropriated to supplement State and Tribal programs funded under section 1933 of the Public Health Service Act (42 U.S.C. 300x-33), $50,000,000 for each of the fiscal years 1997 and 1998.

(2) ADDITIONAL FUNDS.—Amounts appropriated under paragraph (1) shall be in addition to any funds otherwise appropriated for allotments under section 1933 of the Public Health Service Act (42 U.S.C. 300x-33) and shall be allocated pursuant to such section 1933.

(3) USE OF FUNDS.—A State or Tribal government receiving an allotment under this subsection shall consider as priorities, for purposes of expending funds allotted under this subsection, activities relating to the treatment of the abuse of alcohol and other drugs.

SEC. 106. PILOT STUDY OF EFFICACY OF PROVIDING INDIVIDUALIZED INFORMATION TO RECIPIENTS OF OLD-AGE AND SURVIVORS INSURANCE BENEFITS.

(a) IN GENERAL.—During a 2-year period beginning as soon as practicable in 1996, the

Commissioner of Social Security shall conduct a pilot study of the efficacy of providing certain individualized information to recipients of monthly insurance benefits under section 202 of the Social Security Act, designed to promote better understanding of their contributions and benefits under the social security system. The study shall involve solely beneficiaries whose entitlement to such benefits first occurred in or after 1984 and who have remained entitled to such benefits for a continuous period of not less than 5 years. The number of such recipients involved in the study shall be of sufficient size to generate a statistically valid sample for purposes of the study, but shall not exceed 600,000 beneficiaries.

(b) ANNUALIZED STATEMENTS.—During the course of the study, the Commissioner shall provide to each of the beneficiaries involved in the study one annualized statement, setting forth the following information:

(1) an estimate of the aggregate wages and self-employment income earned by the individual on whose wages and self-employment income the benefit is based, as shown on the records of the Commissioner as of the end of the last calendar year ending prior to the beneficiary's first month of entitlement;

(2) an estimate of the aggregate of the employee and self-employment contributions, and the aggregate of the employer contributions (separately identified), made with respect to the wages and self-employment income on which the benefit is based, as shown on the records of the Commissioner as of the end of the calendar year preceding the beneficiary's first month of entitlement; and

(3) an estimate of the total amount paid as benefits under section 202 of the Social Security Act based on such wages and self-employment income, as shown on the records of the Commissioner as of the end of the last calendar year preceding the issuance of the statement for which complete information is available.

(c) INCLUSION WITH MATTER OTHERWISE DISTRIBUTED TO BENEFICIARIES.—The Commissioner shall ensure that reports provided pursuant to this section are, to the maximum extent practicable, included with other reports currently provided to beneficiaries on an annual basis.

(d) REPORT TO THE CONGRESS.—The Commissioner shall report to each House of the Congress regarding the results of the pilot study conducted pursuant to this section not later than 60 days after the completion of such study.

SEC. 107. PROTECTION OF SOCIAL SECURITY AND MEDICARE TRUST FUNDS.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"PROTECTION OF SOCIAL SECURITY AND MEDICARE TRUST FUNDS

"SEC. 1145. (a) IN GENERAL.—No officer or employee of the United States shall—

"(1) delay the deposit of any amount into (or delay the credit of any amount to) any Federal fund or otherwise vary from the normal terms, procedures, or timing for making such deposits or credits,

"(2) refrain from the investment in public debt obligations of amounts in any Federal fund, or

"(3) redeem prior to maturity amounts in any Federal fund which are invested in public debt obligations for any purpose other than the payment of benefits or administrative expenses from such Federal fund.

"(b) PUBLIC DEBT OBLIGATION.—For purposes of this section, the term 'public debt obligation' means any obligation subject to the public debt limit established under section 3101 of title 31, United States Code.

"(c) FEDERAL FUND.—For purposes of this section, the term 'Federal fund' means—

"(1) the Federal Old-Age and Survivors Insurance Trust Fund;

"(2) the Federal Disability Insurance Trust Fund;

"(3) the Federal Hospital Insurance Trust Fund; and

"(4) the Federal Supplementary Medical Insurance Trust Fund.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 108. PROFESSIONAL STAFF FOR THE SOCIAL SECURITY ADVISORY BOARD.

Section 703(i) of the Social Security Act (42 U.S.C. 903(i)) is amended in the first sentence by inserting after "Staff Director" the following: ", and three professional staff members one of whom shall be appointed from among individuals approved by the members of the Board who are not members of the political party represented by the majority of the Board,".

TITLE II—LINE ITEM VETO

SEC. 201. SHORT TITLE.

This title may be cited as the "Line Item Veto Act".

SEC. 202. LINE ITEM VETO AUTHORITY.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) is amended by adding at the end the following new part:

"PART C—LINE ITEM VETO

"LINE ITEM VETO AUTHORITY

"SEC. 1021. (a) IN GENERAL.—Notwithstanding the provisions of parts A and B, and subject to the provisions of this part, the President may, with respect to any bill or joint resolution that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States, cancel in whole—

"(1) any dollar amount of discretionary budget authority;

"(2) any item of new direct spending; or

"(3) any limited tax benefit;

if the President—

"(A) determines that such cancellation will—

"(i) reduce the Federal budget deficit;

"(ii) not impair any essential Government functions; and

"(iii) not harm the national interest; and

"(B) notifies the Congress of such cancellation by transmitting a special message, in accordance with section 1022, within five calendar days (excluding Sundays) after the enactment of the law providing the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit that was canceled.

"(b) IDENTIFICATION OF CANCELLATIONS.—In identifying dollar amounts of discretionary budget authority, items of new direct spending, and limited tax benefits for cancellation, the President shall—

"(1) consider the legislative history, construction, and purposes of the law which contains such dollar amounts, items, or benefits;

"(2) consider any specific sources of information referenced in such law or, in the absence of specific sources of information, the best available information; and

"(3) use the definitions contained in section 1026 in applying this part to the specific provisions of such law.

"(c) EXCEPTION FOR DISAPPROVAL BILLS.—The authority granted by subsection (a) shall not apply to any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit contained in any law that is a disapproval bill as defined in section 1026.

"SPECIAL MESSAGES

"SEC. 1022. (a) IN GENERAL.—For each law from which a cancellation has been made under this part, the President shall transmit a single special message to the Congress.

"(b) CONTENTS.—

"(1) The special message shall specify—

"(A) the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit which has been canceled, and provide a corresponding reference number for each cancellation;

"(B) the determinations required under section 1021(a), together with any supporting material;

"(C) the reasons for the cancellation;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the cancellation;

"(E) all facts, circumstances and considerations relating to or bearing upon the cancellation, and to the maximum extent practicable, the estimated effect of the cancellation upon the objects, purposes and programs for which the canceled authority was provided; and

"(F) include the adjustments that will be made pursuant to section 1024 to the discretionary spending limits under section 601 and an evaluation of the effects of those adjustments upon the sequestration procedures of section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(2) In the case of a cancellation of any dollar amount of discretionary budget authority or item of new direct spending, the special message shall also include, if applicable-

"(A) any account, department, or establishment of the Government for which such budget authority was to have been available for obligation and the specific project or governmental functions involved;

"(B) the specific States and congressional districts, if any, affected by the cancellation; and

"(C) the total number of cancellations imposed during the current session of Congress on States and congressional districts identified in subparagraph (B).

"(c) TRANSMISSION OF SPECIAL MESSAGES TO HOUSE AND SENATE.—

"(1) The President shall transmit to the Congress each special message under this part within five calendar days (excluding Sundays) after enactment of the law to which the cancellation applies. Each special message shall be transmitted to the House of Representatives and the Senate on the same calendar day. Such special message shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session.

"(2) Any special message transmitted under this part shall be printed in the first issue of the Federal Register published after such transmittal.

"CANCELLATION EFFECTIVE UNLESS DISAPPROVED

"SEC. 1023. (a) IN GENERAL.—The cancellation of any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall take effect upon receipt in the House of Representatives and the Senate of the special message notifying the Congress of the cancellation. If a disapproval bill for such special message is enacted into law, then all cancellations disapproved in that law shall be null and void

and any such dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall be effective as of the original date provided in the law to which the cancellation applied.

"(b) COMMENSURATE REDUCTIONS IN DISCRETIONARY BUDGET AUTHORITY.—Upon the cancellation of a dollar amount of discretionary budget authority under subsection (a), the total appropriation for each relevant account of which that dollar amount is a part shall be simultaneously reduced by the dollar amount of that cancellation.

"DEFICIT REDUCTION

"SEC. 1024. (a) IN GENERAL.—

"(1) DISCRETIONARY BUDGET AUTHORITY.—OMB shall, for each dollar amount of discretionary budget authority and for each item of new direct spending canceled from an appropriation law under section 1021(a)—

"(A) reflect the reduction that results from such cancellation in the estimates required by section 251(a)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985 in accordance with that Act, including an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear; and

"(B) include a reduction to the discretionary spending limits for budget authority and outlays in accordance with the Balanced Budget and Emergency Deficit Control Act of 1985 for each applicable fiscal year set forth in section 601(a)(2) by amounts equal to the amounts for each fiscal year estimated pursuant to subparagraph (A).

"(2) DIRECT SPENDING AND LIMITED TAX BENEFITS.—(A) OMB shall, for each item of new direct spending or limited tax benefit canceled from a law under section 1021(a), estimate the deficit decrease caused by the cancellation of such item or benefit in that law and include such estimate as a separate entry in the report prepared pursuant to section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(B) OMB shall not include any change in the deficit resulting from a cancellation of any item of new direct spending or limited tax benefit, or the enactment of a disapproval bill for any such cancellation, under this part in the estimates and reports required by sections 252(b) and 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(b) ADJUSTMENTS TO SPENDING LIMITS.—After ten calendar days (excluding Sundays) after the expiration of the time period in section 1025(b)(1) for expedited congressional consideration of a disapproval bill for a special message containing a cancellation of discretionary budget authority, OMB shall make the reduction included in subsection (a)(1)(B) as part of the next sequester report required by section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(c) EXCEPTION.—Subsection (b) shall not apply to a cancellation if a disapproval bill or other law that disapproves that cancellation is enacted into law prior to 10 calendar days (excluding Sundays) after the expiration of the time period set forth in section 1025(b)(1).

"(d) CONGRESSIONAL BUDGET OFFICE ESTIMATES.—As soon as practicable after the President makes a cancellation from a law under section 1021(a), the Director of the Congressional Budget Office shall provide the Committees on the Budget of the House of Representatives and the Senate with an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear.

"EXPEDITED CONGRESSIONAL CONSIDERATION OF DISAPPROVAL BILLS

"SEC. 1025. (a) RECEIPT AND REFERRAL OF SPECIAL MESSAGE.—Each special message transmitted under this part shall be referred to the Committee on the Budget and the appropriate committee or committees of the Senate and the Committee on the Budget and the appropriate committee or committees of the House of Representatives. Each such message shall be printed as a document of the House of Representatives.

"(b) TIME PERIOD FOR EXPEDITED PROCEDURES.—

"(1) There shall be a congressional review period of 30 calendar days of session, beginning on the first calendar day of session after the date on which the special message is received in the House of Representatives and the Senate, during which the procedures contained in this section shall apply to both Houses of Congress.

"(2) In the House of Representatives the procedures set forth in this section shall not apply after the end of the period described in paragraph (1).

"(3) If Congress adjourns at the end of a Congress prior to the expiration of the period described in paragraph (1) and a disapproval bill was then pending in either House of Congress or a committee thereof (including a conference committee of the two Houses of Congress), or was pending before the President, a disapproval bill for the same special message may be introduced within the first five calendar days of session of the next Congress and shall be treated as a disapproval bill under this part, and the time period described in paragraph (1) shall commence on the day of introduction of that disapproval bill.

"(c) INTRODUCTION OF DISAPPROVAL BILLS.—(1) In order for a disapproval bill to be considered under the procedures set forth in this section, the bill must meet the definition of a disapproval bill and must be introduced no later than the fifth calendar day of session following the beginning of the period described in subsection (b)(1).

"(2) In the case of a disapproval bill introduced in the House of Representatives, such bill shall include in the first blank space referred to in section 1026(6)(C) a list of the reference numbers for all cancellations made by the President in the special message to which such disapproval bill relates.

"(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—(1) Any committee of the House of Representatives to which a disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the seventh calendar day of session after the date of its introduction. If any committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill, except that such a motion may not be made after the committee has reported a disapproval bill with respect to the same special message. A motion to discharge may be made only by a Member favoring the bill (but only at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member offering the motion announces to the House his intention to do so and the form of the motion). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

"(2) After a disapproval bill is reported or a committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. If reported and the report has been available for at least one calendar day, all points of order against the bill and against consideration of the bill are waived. If discharged, all points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed, shall be confined to the bill, and shall not exceed one hour equally divided and controlled by a proponent and an opponent of the bill. The bill shall be considered as read for amendment under the five-minute rule. Only one motion to rise shall be in order, except if offered by the manager. No amendment to the bill is in order, except any Member if supported by 49 other Members (a quorum being present) may offer an amendment striking the reference number or numbers of a cancellation or cancellations from the bill. Consideration of the bill for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. No amendment shall be subject to further amendment, except pro forma amendments for the purposes of debate only. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

"(3) Appeals from decisions of the Chair regarding application of the rules of the House of Representatives to the procedure relating to a disapproval bill shall be decided without debate.

"(4) It shall not be in order to consider under this subsection more than one disapproval bill for the same special message except for consideration of a similar Senate bill (unless the House has already rejected a disapproval bill for the same special message) or more than one motion to discharge described in paragraph (1) with respect to a disapproval bill for that special message.

"(e) CONSIDERATION IN THE SENATE.—

"(1) REFERRAL AND REPORTING.—Any disapproval bill introduced in the Senate shall be referred to the appropriate committee or committees. A committee to which a disapproval bill has been referred shall report the bill not later than the seventh day of session following the date of introduction of that bill. If any committee fails to report the bill within that period, that committee shall be automatically discharged from further consideration of the bill and the bill shall be placed on the Calendar.

"(2) DISAPPROVAL BILL FROM HOUSE.—When the Senate receives from the House of Representatives a disapproval bill, such bill shall not be referred to committee and shall be placed on the Calendar.

"(3) CONSIDERATION OF SINGLE DISAPPROVAL BILL.—After the Senate has proceeded to the

consideration of a disapproval bill for a special message, then no other disapproval bill originating in that same House relating to that same message shall be subject to the procedures set forth in this subsection.

"(4) AMENDMENTS.—

"(A) AMENDMENTS IN ORDER.—The only amendments in order to a disapproval bill are—

"(i) an amendment that strikes the reference number of a cancellation from the disapproval bill; and

"(ii) an amendment that only inserts the reference number of a cancellation included in the special message to which the disapproval bill relates that is not already contained in such bill.

"(B) WAIVER OR APPEAL.—An affirmative vote of three-fifths of the Senators, duly chosen and sworn, shall be required in the Senate—

"(i) to waive or suspend this paragraph; or

"(ii) to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

"(5) MOTION NONDEBATABLE.—A motion to proceed to consideration of a disapproval bill under this subsection shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed was adopted or rejected, although subsequent motions to proceed may be made under this paragraph.

"(6) LIMIT ON CONSIDERATION.— (A) After no more than 10 hours of consideration of a disapproval bill, the Senate shall proceed, without intervening action or debate (except as permitted under paragraph (9)), to vote on the final disposition thereof to the exclusion of all amendments not then pending and to the exclusion of all motions, except a motion to reconsider or to table.

"(B) A single motion to extend the time for consideration under subparagraph (A) for no more than an additional five hours is in order prior to the expiration of such time and shall be decided without debate.

"(C) The time for debate on the disapproval bill shall be equally divided between the Majority Leader and the Minority Leader or their designees.

"(7) DEBATE ON AMENDMENTS.—Debate on any amendment to a disapproval bill shall be limited to one hour, equally divided and controlled by the Senator proposing the amendment and the majority manager, unless the majority manager is in favor of the amendment, in which case the minority manager shall be in control of the time in opposition.

"(8) NO MOTION TO RECOMMIT.—A motion to recommit a disapproval bill shall not be in order.

"(9) DISPOSITION OF SENATE DISAPPROVAL BILL.—If the Senate has read for the third time a disapproval bill that originated in the Senate, then it shall be in order at any time thereafter to move to proceed to the consideration of a disapproval bill for the same special message received from the House of Representatives and placed on the Calendar pursuant to paragraph (2), strike all after the enacting clause, substitute the text of the Senate disapproval bill, agree to the Senate amendment, and vote on final disposition of the House disapproval bill, all without any intervening action or debate.

"(10) CONSIDERATION OF HOUSE MESSAGE.—Consideration in the Senate of all motions, amendments, or appeals necessary to dispose of a message from the House of Representatives on a disapproval bill shall be limited to not more than four hours. Debate on each motion or amendment shall be limited to 30 minutes. Debate on any appeal or point of order that is submitted in connection with the disposition of the House message shall be limited to 20 minutes. Any time for debate shall be equally divided and controlled by the proponent and the majority manager, unless the majority manager is a proponent of the motion, amendment, appeal, or point of order, in which case the minority manager shall be in control of the time in opposition.

"(f) CONSIDERATION IN CONFERENCE—

"(1) CONVENING OF CONFERENCE.—In the case of disagreement between the two Houses of Congress with respect to a disapproval bill passed by both Houses, conferees should be promptly appointed and a conference promptly convened, if necessary.

"(2) HOUSE CONSIDERATION.—(A) Notwithstanding any other rule of the House of Representatives, it shall be in order to consider the report of a committee of conference relating to a disapproval bill provided such report has been available for one calendar day (excluding Saturdays, Sundays, or legal holidays, unless the House is in session on such a day) and the accompanying statement shall have been filed in the House.

"(B) Debate in the House of Representatives on the conference report and any amendments in disagreement on any disapproval bill shall each be limited to not more than one hour equally divided and controlled by a proponent and an opponent. A motion to further limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(3) SENATE CONSIDERATION.—Consideration in the Senate of the conference report and any amendments in disagreement on a disapproval bill shall be limited to not more than four hours equally divided and controlled by the Majority Leader and the Minority Leader or their designees. A motion to recommit the conference report is not in order.

"(4) LIMITS ON SCOPE.—(A) When a disagreement to an amendment in the nature of a substitute has been referred to a conference, the conferees shall report those cancellations that were included in both the bill and the amendment, and may report a cancellation included in either the bill or the amendment, but shall not include any other matter.

"(B) When a disagreement on an amendment or amendments of one House to the disapproval bill of the other House has been referred to a committee of conference, the conferees shall report those cancellations upon which both Houses agree and may report any or all of those cancellations upon which there is disagreement, but shall not include any other matter.

"DEFINITIONS

"SEC. 1026. As used in this part:

"(1) APPROPRIATION LAW.—The term 'appropriation law' means an Act referred to in section 105 of title 1, United States Code, including any general or special appropriation Act, or any Act making supplemental, deficiency, or continuing appropriations, that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States.

"(2) CALENDAR DAY.—The term 'calendar day' means a standard 24-hour period beginning at midnight.

"(3) CALENDAR DAYS OF SESSION.—The term 'calendar days of session' shall mean only those days on which both Houses of Congress are in session.

"(4) CANCEL.—The term 'cancel' or 'cancellation' means—

"(A) with respect to any dollar amount of discretionary budget authority, to rescind;

"(B) with respect to any item of new direct spending—

"(i) that is budget authority provided by law (other than an appropriation law), to prevent such budget authority from having legal force or effect;

"(ii) that is entitlement authority, to prevent the specific legal obligation of the United States from having legal force or effect; or

"(iii) through the food stamp program, to prevent the specific provision of law that results in an increase in budget authority or outlays for that program from having legal force or effect; and

"(C) with respect to a limited tax benefit, to prevent the specific provision of law that provides such benefit from having legal force or effect.

"(5) DIRECT SPENDING.—The term 'direct spending' means—

"(A) budget authority provided by law (other than an appropriation law);

"(B) entitlement authority; and

"(C) the food stamp program.

"(6) DISAPPROVAL BILL.—The term 'disapproval bill' means a bill or joint resolution which only disapproves one or more cancellations of dollar amounts of discretionary budget authority, items of new direct spending, or limited tax benefits in a special message transmitted by the President under this part and—

"(A) the title of which is as follows: 'A bill disapproving the cancellations transmitted by the President on _____', the blank space being filled in with the date of transmission of the relevant special message and the public law number to which the message relates;

"(B) which does not have a preamble; and

"(C) which provides only the following after the enacting clause: 'That Congress disapproves of cancellations _____', the blank space being filled in with a list by reference number of one or more cancellations contained in the President's special message, 'as transmitted by the President in a special message on _____', the blank space being filled in with the appropriate date, 'regarding _____.', the blank space being filled in with the public law number to which the special message relates.

"(7) DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY.—(A) Except as provided in subparagraph (B), the term 'dollar amount of discretionary budget authority' means the entire dollar amount of budget authority—

"(i) specified in an appropriation law, or the entire dollar amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included;

"(ii) represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report accompanying such law;

"(iii) required to be allocated for a specific program, project, or activity in a law (other than an appropriation law) that mandates the expenditure of budget authority from accounts, programs, projects, or activities for which budget authority is provided in an appropriation law;

"(iv) represented by the product of the estimated procurement cost and the total quantity of items specified in an appropriation law or included in the statement of managers or the governing committee report accompanying such law; and

"(v) represented by the product of the estimated procurement cost and the total quantity of items required to be provided in a law (other than an appropriation law) that mandates the expenditure of budget authority from accounts, programs, projects, or activities for which budget authority is provided in an appropriation law.

"(B) The term 'dollar amount of discretionary budget authority' does not include—

"(i) direct spending;

"(ii) budget authority in an appropriation law which funds direct spending provided for in other law;

"(iii) any existing budget authority rescinded or canceled in an appropriation law; or

"(iv) any restriction, condition, or limitation in an appropriation law or the accompanying statement of managers or committee reports on the expenditure of budget authority for an account, program, project, or activity, or on activities involving such expenditure.

"(8) ITEM OF NEW DIRECT SPENDING.—The term 'item of new direct spending' means any specific provision of law that is estimated to result in an increase in budget authority or outlays for direct spending relative to the most recent levels calculated pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(9) LIMITED TAX BENEFIT.—(A) The term 'limited tax benefit' means—

"(i) any revenue-losing provision which provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries under the Internal Revenue Code of 1986 in any fiscal year for which the provision is in effect; and

"(ii) any Federal tax provision which provides temporary or permanent transitional relief for 10 or fewer beneficiaries in any fiscal year from a change to the Internal Revenue Code of 1986.

"(B) A provision shall not be treated as described in subparagraph (A)(i) if the effect of that provision is that—

"(i) all persons in the same industry or engaged in the same type of activity receive the same treatment;

"(ii) all persons owning the same type of property, or issuing the same type of investment, receive the same treatment; or

"(iii) any difference in the treatment of persons is based solely on—

"(I) in the case of businesses and associations, the size or form of the business or association involved;

"(II) in the case of individuals, general demographic conditions, such as income, marital status, number of dependents, or tax return filing status;

"(III) the amount involved; or

"(IV) a generally-available election under the Internal Revenue Code of 1986.

"(C) A provision shall not be treated as described in subparagraph (A)(ii) if—

"(i) it provides for the retention of prior law with respect to all binding contracts or other legally enforceable obligations in existence on a date contemporaneous with congressional action specifying such date; or

"(ii) it is a technical correction to previously enacted legislation that is estimated to have no revenue effect.

"(D) For purposes of subparagraph (A)—

"(i) all businesses and associations which are related within the meaning of sections 707(b) and 1563(a) of the Internal Revenue Code of 1986 shall be treated as a single beneficiary;

"(ii) all qualified plans of an employer shall be treated as a single beneficiary;

"(iii) all holders of the same bond issue shall be treated as a single beneficiary; and

"(iv) if a corporation, partnership, association, trust or estate is the beneficiary of a provision, the shareholders of the corporation, the partners of the partnership, the members of the association, or the beneficiaries of the trust or estate shall not also be treated as beneficiaries of such provision.

"(E) For purposes of this paragraph, the term 'revenue-losing provision' means any provision which results in a reduction in Federal tax revenues for any one of the two following periods—

"(i) the first fiscal year for which the provision is effective; or

"(ii) the period of the 5 fiscal years beginning with the first fiscal year for which the provision is effective.

"(F) The terms used in this paragraph shall have the same meaning as those terms have generally in the Internal Revenue Code of 1986, unless otherwise expressly provided.

"(10) OMB.—The term 'OMB' means the Director of the Office of Management and Budget.

"IDENTIFICATION OF LIMITED TAX BENEFITS

"SEC. 1027. (a) STATEMENT BY JOINT TAX COMMITTEE.—The Joint Committee on Taxation shall review any revenue or reconciliation bill or joint resolution which includes any amendment to the Internal Revenue Code of 1986 that is being prepared for filing by a committee of conference of the two Houses, and shall identify whether such bill or joint resolution contains any limited tax benefits. The Joint Committee on Taxation shall provide to the committee of conference a statement identifying any such limited tax benefits or declaring that the bill or joint resolution does not contain any limited tax benefits. Any such statement shall be made available to any Member of Congress by the Joint Committee on Taxation immediately upon request.

"(b) STATEMENT INCLUDED IN LEGISLATION.—(1) Notwithstanding any other rule of the House of Representatives or any rule or precedent of the Senate, any revenue or reconciliation bill or joint resolution which includes any amendment to the Internal Revenue Code of 1986 reported by a committee of conference of the two Houses may include, as a separate section of such bill or joint resolution, the information contained in the statement of the Joint Committee on Taxation, but only in the manner set forth in paragraph (2).

"(2) The separate section permitted under paragraph (1) shall read as follows: 'Section 1021(a)(3) of the Congressional Budget and Impoundment Control Act of 1974 shall _____ apply to _____.', with the blank spaces being filled in with —

"(A) in any case in which the Joint Committee on Taxation identifies limited tax benefits in the statement required under subsection (a), the word 'only' in the first blank space and a list of all of the specific provisions of the bill or joint resolution identified by the Joint Committee on Taxation in such statement in the second blank space; or

"(B) in any case in which the Joint Committee on Taxation declares that there are no limited tax benefits in the statement required under subsection (a), the word 'not' in the first blank space and the phrase 'any provision of this Act' in the second blank space.

"(c) PRESIDENT'S AUTHORITY.—If any revenue or reconciliation bill or joint resolution is signed into law pursuant to Article I, section 7, of the Constitution of the United States—

"(1) with a separate section described in subsection (b)(2), then the President may use the authority granted in section 1021(a)(3) only to cancel any limited tax benefit in that law, if any, identified in such separate section; or

"(2) without a separate section described in subsection (b)(2), then the President may use the authority granted in section 1021(a)(3) to cancel any limited tax benefit in that law that meets the definition in section 1026.

"(d) CONGRESSIONAL IDENTIFICATIONS OF LIMITED TAX BENEFITS.—There shall be no judicial review of the congressional identification under subsections (a) and (b) of a limited tax benefit in a conference report.".

SEC. 203. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress or any individual adversely affected by part C of title X of the Congressional Budget and Impoundment Control Act of 1974 may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this part violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 calendar days after such order is entered; and the jurisdictional statement shall be filed within 30 calendar days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

SEC. 204. CONFORMING AMENDMENTS.

(a) SHORT TITLES.—Section 1(a) of the Congressional Budget and Impoundment Control Act of 1974 is amended by—

(1) striking "and" before "title X" and inserting a period;

(2) inserting "Parts A and B of" before "title X"; and

(3) inserting at the end the following new sentence: "Part C of title X may be cited as the 'Line Item Veto Act of 1996'.".

(b) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end the following:

"PART C—LINE ITEM VETO

"Sec. 1021. Line item veto authority.
"Sec. 1022. Special messages.
"Sec. 1023. Cancellation effective unless disapproved.

"Sec. 1024. Deficit reduction.
"Sec. 1025. Expedited congressional consideration of disapproval bills.
"Sec. 1026. Definitions.
"Sec. 1027. Identification of limited tax benefits.".

(c) EXERCISE OF RULEMAKING POWERS.—Section 904(a) of the Congressional Budget Act of 1974 is amended by striking "and 1017" and inserting ", 1017, 1025, and 1027".

SEC. 205. EFFECTIVE DATES.

This Act and the amendments made by it shall take effect and apply to measures enacted on the earlier of—

(1) the day after the enactment into law, pursuant to Article I, section 7, of the Constitution of the United States, of an Act entitled "An Act to provide for a seven-year plan for deficit reduction and achieve a balanced Federal budget."; or

(2) January 1, 1997;

and shall have no force or effect on or after January 1, 2005.

TITLE III—SMALL BUSINESS REGULATORY FAIRNESS

SEC. 301. SHORT TITLE.

This title may be cited as the "Small Business Regulatory Enforcement Fairness Act of 1996".

SEC. 302. FINDINGS.

Congress finds that—

(1) a vibrant and growing small business sector is critical to creating jobs in a dynamic economy;

(2) small businesses bear a disproportionate share of regulatory costs and burdens;

(3) fundamental changes that are needed in the regulatory and enforcement culture of Federal agencies to make agencies more responsive to small business can be made without compromising the statutory missions of the agencies;

(4) three of the top recommendations of the 1995 White House Conference on Small Business involve reforms to the way government regulations are developed and enforced, and reductions in government paperwork requirements;

(5) the requirements of chapter 6 of title 5, United States Code, have too often been ignored by government agencies, resulting in greater regulatory burdens on small entities than necessitated by statute; and

(6) small entities should be given the opportunity to seek judicial review of agency actions required by chapter 6 of title 5, United States Code.

SEC. 303. PURPOSES.

The purposes of this title are—

(1) to implement certain recommendations of the 1995 White House Conference on Small Business regarding the development and enforcement of Federal regulations;

(2) to provide for judicial review of chapter 6 of title 5, United States Code;

(3) to encourage the effective participation of small businesses in the Federal regulatory process;

(4) to simplify the language of Federal regulations affecting small businesses;

(5) to develop more accessible sources of information on regulatory and reporting requirements for small businesses;

(6) to create a more cooperative regulatory environment among agencies and small businesses that is less punitive and more solution-oriented; and

(7) to make Federal regulators more accountable for their enforcement actions by providing small entities with a meaningful opportunity for redress of excessive enforcement activities.

Subtitle A—Regulatory Compliance Simplification

SEC. 311. DEFINITIONS.

For purposes of this subtitle—

(1) the terms "rule" and "small entity" have the same meanings as in section 601 of title 5, United States Code;

(2) the term "agency" has the same meaning as in section 551 of title 5, United States Code; and

(3) the term "small entity compliance guide" means a document designated as such by an agency.

SEC. 312. COMPLIANCE GUIDES.

(a) COMPLIANCE GUIDE.—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 604 of title 5, United States Code, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides". The guides shall explain the actions a small entity is required to take to comply with a rule or group of rules. The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities, and may cooperate with associations of small entities to develop and distribute such guides.

(b) COMPREHENSIVE SOURCE OF INFORMATION.—Agencies shall cooperate to make available to small entities through comprehensive sources of information, the small entity compliance guides and all other available information on statutory and regulatory requirements affecting small entities.

(c) LIMITATION ON JUDICIAL REVIEW.—An agency's small entity compliance guide shall not be subject to judicial review, except that in any civil or administrative action against a small entity for a violation occurring after the effective date of this section, the content of the small entity compliance guide may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages.

SEC. 313. INFORMAL SMALL ENTITY GUIDANCE.

(a) GENERAL.—Whenever appropriate in the interest of administering statutes and regulations within the jurisdiction of an agency which regulates small entities, it shall be the practice of the agency to answer inquiries by small entities concerning information on, and advice about, compliance with such statutes and regulations, interpreting and applying the law to specific sets of facts supplied by the small entity. In any civil or administrative action against a small entity, guidance given by an agency applying the law to facts provided by the small entity may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages sought against such small entity.

(b) PROGRAM.—Each agency regulating the activities of small entities shall establish a program for responding to such inquiries no later than 1 year after enactment of this section, utilizing existing functions and personnel of the agency to the extent practicable.

(c) REPORTING.—Each agency regulating the activities of small business shall report to the Committee on Small Business and Committee on Governmental Affairs of the Senate and the Committee on Small Business and Committee on the Judiciary of the House of Representatives no later than 2 years after the date of the enactment of this section on the scope of the agency's program, the number of small entities using the program, and the achievements of the program to assist small entity compliance with agency regulations.

SEC. 314. SERVICES OF SMALL BUSINESS DEVELOPMENT CENTERS.

(a) Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (O), by striking "and" at the end;

(2) in subparagraph (P), by striking the period at the end and inserting a semicolon; and

(3) by inserting after subparagraph (P) the following new subparagraphs:

"(Q) providing information to small business concerns regarding compliance with regulatory requirements; and

"(R) developing informational publications, establishing resource centers of reference materials, and distributing compliance guides published under section 312(a) of the Small Business Regulatory Enforcement Fairness Act of 1996.".

(b) Nothing in this Act in any way affects or limits the ability of other technical assistance or extension programs to perform or continue to perform services related to compliance assistance.

SEC. 315. COOPERATION ON GUIDANCE.

Agencies may, to the extent resources are available and where appropriate, in cooperation with the states, develop guides that fully integrate requirements of both Federal and state regulations where regulations within an agency's area of interest at the Federal and state levels impact small entities. Where regulations vary among the states, separate guides may be created for separate states in cooperation with State agencies.

SEC. 316. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the expiration of 90 days after the date of enactment of this subtitle.

Subtitle B—Regulatory Enforcement Reforms

SEC. 321. DEFINITIONS.

For purposes of this subtitle—

(1) the terms "rule" and "small entity" have the same meanings as in section 601 of title 5, United States Code;

(2) the term "agency" has the same meaning as in section 551 of title 5, United States Code; and

(3) the term "small entity compliance guide" means a document designated as such by an agency.

SEC. 322. SMALL BUSINESS AND AGRICULTURE ENFORCEMENT OMBUDSMAN.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 30 as section 31; and

(2) by inserting after section 29 the following new section:

"SEC. 30. OVERSIGHT OF REGULATORY ENFORCEMENT.

"(a) DEFINITIONS.—For purposes of this section, the term—

"(1) 'Board' means a Regional Small Business Regulatory Fairness Board established under subsection (c); and

"(2) 'Ombudsman' means the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under subsection (b).

"(b) SBA ENFORCEMENT OMBUDSMAN.—

"(1) Not later than 180 days after the date of enactment of this section, the Administrator shall designate a Small Business and Agriculture Regulatory Enforcement Ombudsman, who shall report directly to the

Administrator, utilizing personnel of the Small Business Administration to the extent practicable. Other agencies shall assist the Ombudsman and take actions as necessary to ensure compliance with the requirements of this section. Nothing in this section is intended to replace or diminish the activities of any Ombudsman or similar office in any other agency.

"(2) The Ombudsman shall—

"(A) work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by such personnel;

"(B) establish means to receive comments from small business concerns regarding actions by agency employees conducting compliance or enforcement activities with respect to the small business concern, means to refer comments to the Inspector General of the affected agency in the appropriate circumstances, and otherwise seek to maintain the identity of the person and small business concern making such comments on a confidential basis to the same extent as employee identities are protected under section 7 of the Inspector General Act of 1978 (5 U.S.C.App.);

"(C) based on substantiated comments received from small business concerns and the Boards, annually report to Congress and affected agencies evaluating the enforcement activities of agency personnel including a rating of the responsiveness to small business of the various regional and program offices of each agency;

"(D) coordinate and report annually on the activities, findings and recommendations of the Boards to the Administrator and to the heads of affected agencies; and

"(E) provide the affected agency with an opportunity to comment on draft reports prepared under subparagraph (C), and include a section of the final report in which the affected agency may make such comments as are not addressed by the Ombudsman in revisions to the draft.

"(c) REGIONAL SMALL BUSINESS REGULATORY FAIRNESS BOARDS.—

"(1) Not later than 180 days after the date of enactment of this section, the Administrator shall establish a Small Business Regulatory Fairness Board in each regional office of the Small Business Administration.

"(2) Each Board established under paragraph (1) shall—

"(A) meet at least annually to advise the Ombudsman on matters of concern to small businesses relating to the enforcement activities of agencies;

"(B) report to the Ombudsman on substantiated instances of excessive enforcement actions of agencies against small business concerns including any findings or recommendations of the Board as to agency enforcement policy or practice; and

"(C) prior to publication, provide comment on the annual report of the Ombudsman prepared under subsection (b).

"(3) Each Board shall consist of five members, who are owners, operators, or officers of small business concerns, appointed by the Administrator, after receiving the recommendations of the chair and ranking minority member of the Committees on Small Business of the House of Representatives and the Senate. Not more than three of the Board members shall be of the same political party. No member shall be an officer or employee of the Federal Government, in either the executive branch or the Congress.

"(4) Members of the Board shall serve at the pleasure of the Administrator for terms of three years or less.

"(5) The Administrator shall select a chair from among the members of the Board who shall serve at the pleasure of the Administrator for not more than 1 year as chair.

"(6) A majority of the members of the Board shall constitute a quorum for the conduct of business, but a lesser number may hold hearings.

"(d) POWERS OF THE BOARDS.

"(1) The Board may hold such hearings and collect such information as appropriate for carrying out this section.

"(2) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(3) The Board may accept donations of services necessary to conduct its business, provided that the donations and their sources are disclosed by the Board.

"(4) Members of the Board shall serve without compensation, provided that, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.".

SEC. 323. RIGHTS OF SMALL ENTITIES IN ENFORCEMENT ACTIONS.

(a) IN GENERAL.—Each agency regulating the activities of small entities shall establish a policy or program within 1 year of enactment of this section to provide for the reduction, and under appropriate circumstances for the waiver, of civil penalties for violations of a statutory or regulatory requirement by a small entity. Under appropriate circumstances, an agency may consider ability to pay in determining penalty assessments on small entities.

(b) CONDITIONS AND EXCLUSIONS.—Subject to the requirements or limitations of other statutes, policies or programs established under this section shall contain conditions or exclusions which may include, but shall not be limited to—

(1) requiring the small entity to correct the violation within a reasonable correction period;

(2) limiting the applicability to violations discovered through participation by the small entity in a compliance assistance or audit program operated or supported by the agency or a state;

(3) excluding small entities that have been subject to multiple enforcement actions by the agency;

(4) excluding violations involving willful or criminal conduct;

(5) excluding violations that pose serious health, safety or environmental threats; and

(6) requiring a good faith effort to comply with the law.

(c) REPORTING.—Agencies shall report to the Committee on Small Business and Committee on Governmental Affairs of the Senate and the Committee on Small Business and Committee on Judiciary of the House of Representatives no later than 2 years after the date of enactment of this section on the scope of their program or policy, the number of enforcement actions against small entities that qualified or failed to qualify for the program or policy, and the total amount of penalty reductions and waivers.

SEC. 324. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the expiration of 90 days after the date of enactment of this subtitle.

Subtitle C—Equal Access to Justice Act Amendments

SEC. 331. ADMINISTRATIVE PROCEEDINGS.

(a) Section 504(a) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(4) If, in an adversary adjudication arising from an agency action to enforce a party's compliance with a statutory or regulatory requirement, the demand by the agency is substantially in excess of the decision of the adjudicative officer and is unreasonable when compared with such decision, under the facts and circumstances of the case, the adjudicative officer shall award to the party the fees and other expenses related to defending against the excessive demand, unless the party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust. Fees and expenses awarded under this paragraph shall be paid only as a consequence of appropriations provided in advance.".

(b) Section 504(b) of title 5, United States Code, is amended—

(1) in paragraph (1)(A), by striking "$75" and inserting "$125";

(2) at the end of paragraph (1)(B), by inserting before the semicolon "or for purposes of subsection (a)(4), a small entity as defined in section 601";

(3) at the end of paragraph (1)(D), by striking "and";

(4) at the end of paragraph (1)(E), by striking the period and inserting "; and"; and

(5) at the end of paragraph (1), by adding the following new subparagraph:

"(F) 'demand' means the express demand of the agency which led to the adversary adjudication, but does not include a recitation by the agency of the maximum statutory penalty (i) in the administrative complaint, or (ii) elsewhere when accompanied by an express demand for a lesser amount.".

SEC. 332. JUDICIAL PROCEEDINGS.

(a) Section 2412(d)(1) of title 28, United States Code, is amended by adding at the end the following new subparagraph:

"(D) If, in a civil action brought by the United States, or a proceeding for judicial review of an adversary adjudication described in section 504(a)(4) of title 5 the demand by the United States is substantially in excess of the judgment finally obtained by the United States and is unreasonable when compared with such judgment, under the facts and circumstances of the case, the court shall award to the party the fees and other expenses related to defending against the excessive demand, unless the party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust. Fees and expenses awarded under this subparagraph shall be paid only as a consequence of appropriations provided in advance.".

(b) Section 2412(d) of title 28, United States Code, is amended—

(1) in paragraph (2)(A), by striking "$75" and inserting "$125";

(2) at the end of paragraph (2)(B), by inserting before the semicolon "or for purposes of subsection (d)(1)(D), a small entity as defined in section 601 of title 5";

(3) at the end of paragraph (2)(G), by striking "and";

(4) at the end of paragraph (2)(H), by striking the period and inserting "; and"; and

(5) at the end of paragraph (2), by adding the following new subparagraph:

"(I) 'demand' means the express demand of the United States which led to the adversary

adjudication, but shall not include a recitation of the maximum statutory penalty (i) in the complaint, or (ii) elsewhere when accompanied by an express demand for a lesser amount.".

SEC. 333. EFFECTIVE DATE.

The amendments made by sections 331 and 332 shall apply to civil actions and adversary adjudications commenced on or after the date of the enactment of this subtitle.

Subtitle D—Regulatory Flexibility Act Amendments

SEC. 341. REGULATORY FLEXIBILITY ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—

(1) SECTION 603.—Section 603(a) of title 5, United States Code, is amended—

(A) by inserting after "proposed rule", the phrase ", or publishes a notice of proposed rulemaking for an interpretative rule involving the internal revenue laws of the United States"; and

(B) by inserting at the end of the subsection, the following new sentence: "In the case of an interpretative rule involving the internal revenue laws of the United States, this chapter applies to interpretative rules published in the Federal Register for codification in the Code of Federal Regulations, but only to the extent that such interpretative rules impose on small entities a collection of information requirement.".

(2) SECTION 601.—Section 601 of title 5, United States Code, is amended by striking "and" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting "; and", and by adding at the end the following:

"(7) the term 'collection of information'—

"(A) 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—

"(i) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, 10 or more persons, other than agencies, instrumentalities, or employees of the United States; or

"(ii) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes; and

"(B) shall not include a collection of information described under section 3518(c)(1) of title 44, United States Code.

"(8) RECORDKEEPING REQUIREMENT.—The term 'recordkeeping requirement' means a requirement imposed by an agency on persons to maintain specified records.

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604 of title 5, United States Code, is amended—

(1) in subsection (a) to read as follows:

"(a) When an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, or promulgates a final interpretative rule involving the internal revenue laws of the United States as described in section 603(a), the agency shall prepare a final regulatory flexibility analysis. Each final regulatory flexibility analysis shall contain—

"(1) a succinct statement of the need for, and objectives of, the rule;

"(2) a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

"(3) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;

"(4) a description of the projected reporting, record keeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and

"(5) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected."; and

(2) in subsection (b), by striking "at the time" and all that follows and inserting "such analysis or a summary thereof.".

SEC. 342. JUDICIAL REVIEW.

Section 611 of title 5, United States Code, is amended to read as follows:

"§611. Judicial review

"(a)(1) For any rule subject to this chapter, a small entity that is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of sections 601, 604, 605(b), 608(b), and 610 in accordance with chapter 7. Agency compliance with sections 607 and 609(a) shall be judicially reviewable in connection with judicial review of section 604.

"(2) Each court having jurisdiction to review such rule for compliance with section 553, or under any other provision of law, shall have jurisdiction to review any claims of noncompliance with sections 601, 604, 605(b), 608(b), and 610 in accordance with chapter 7. Agency compliance with sections 607 and 609(a) shall be judicially reviewable in connection with judicial review of section 604.

"(3)(A) A small entity may seek such review during the period beginning on the date of final agency action and ending one year later, except that where a provision of law requires that an action challenging a final agency action be commenced before the expiration of one year, such lesser period shall apply to an action for judicial review under this section.

"(B) In the case where an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b) of this chapter, an action for judicial review under this section shall be filed not later than—

"(i) one year after the date the analysis is made available to the public, or

"(ii) where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period, the number of days specified in such provision of law that is after the date the analysis is made available to the public.

"(4) In granting any relief in an action under this section, the court shall order the agency to take corrective action consistent with this chapter and chapter 7, including, but not limited to—

"(A) remanding the rule to the agency, and

"(B) deferring the enforcement of the rule against small entities unless the court finds that continued enforcement of the rule is in the public interest.

"(5) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law or to grant any other relief in addition to the requirements of this section.

"(b) In an action for the judicial review of a rule, the regulatory flexibility analysis for such rule, including an analysis prepared or corrected pursuant to paragraph (a)(4), shall constitute part of the entire record of agency action in connection with such review.

"(c) Compliance or noncompliance by an agency with the provisions of this chapter shall be subject to judicial review only in accordance with this section.

"(d) 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 permitted by law.".

SEC. 343. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 605(b) of title 5, United States Code, is amended to read as follows:

"(b) Sections 603 and 604 of this title shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the Federal Register at the time of publication of general notice of proposed rulemaking for the rule or at the time of publication of the final rule, along with a statement providing the factual basis for such certification. The agency shall provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.".

(b) Section 612 of title 5, United States Code is amended—

(1) in subsection (a), by striking "the committees on the Judiciary of the Senate and the House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives" and inserting "the Committees on the Judiciary and Small Business of the Senate and House of Representatives".

(2) in subsection (b), by striking "his views with respect to the" and inserting in lieu thereof, "his or her views with respect to compliance with this chapter, the adequacy of the rulemaking record with respect to small entities and the".

SEC. 344. SMALL BUSINESS ADVOCACY REVIEW PANELS.

(a) SMALL BUSINESS OUTREACH AND INTERAGENCY COORDINATION.— Section 609 of title 5, United States Code is amended—

(1) before "techniques," by inserting "the reasonable use of";

(2) in paragraph (4), after "entities" by inserting "including soliciting and receiving comments over computer networks";

(3) by designating the current text as subsection (a); and

(4) by adding the following:

"(b) Prior to publication of an initial regulatory flexibility analysis which a covered agency is required to conduct by this chapter—

"(1) a covered agency shall notify the Chief Counsel for Advocacy of the Small Business Administration and provide the Chief Counsel with information on the potential impacts of the proposed rule on small entities and the type of small entities that might be affected;

"(2) not later than 15 days after the date of receipt of the materials described in paragraph (1), the Chief Counsel shall identify individuals representative of affected small entities for the purpose of obtaining advice and

recommendations from those individuals about the potential impacts of the proposed rule;

"(3) the agency shall convene a review panel for such rule consisting wholly of full time Federal employees of the office within the agency responsible for carrying out the proposed rule, the Office of Information and Regulatory Affairs within the Office of Management and Budget, and the Chief Counsel;

"(4) the panel shall review any material the agency has prepared in connection with this chapter, including any draft proposed rule, collect advice and recommendations of each individual small entity representative identified by the agency after consultation with the Chief Counsel, on issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c);

"(5) not later than 60 days after the date a covered agency convenes a review panel pursuant to paragraph (3), the review panel shall report on the comments of the small entity representatives and its findings as to issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c), provided that such report shall be made public as part of the rulemaking record; and

"(6) where appropriate, the agency shall modify the proposed rule, the initial regulatory flexibility analysis or the decision on whether an initial regulatory flexibility analysis is required.

"(c) An agency may in its discretion apply subsection (b) to rules that the agency intends to certify under subsection 605(b), but the agency believes may have a greater than de minimis impact on a substantial number of small entities.

"(d) For purposed of this section, the term covered agency means the Environmental Protection Agency and the Occupational Safety and Health Administration of the Department of Labor.

"(e) The Chief Counsel for Advocacy, in consultation with the individuals identified in subsection (b)(2), and with the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, may waive the requirements of subsections (b)(3), (b)(4), and (b)(5) by including in the rulemaking record a written finding, with reasons therefor, that those requirements would not advance the effective participation of small entities in the rulemaking process. For purposes of this subsection, the factors to be considered in making such a finding are as follows:

"(1) In developing a proposed rule, the extent to which the covered agency consulted with individuals representative of affected small entities with respect to the potential impacts of the rule and took such concerns into consideration.

"(2) Special circumstances requiring prompt issuance of the rule.

"(3) Whether the requirements of subsection (b) would provide the individuals identified in subsection (b)(2) with a competitive advantage relative to other small entities.".

(b) SMALL BUSINESS ADVOCACY CHAIRPERSONS.—Not later than 30 days after the date of enactment of this Act, the head of each covered agency that has conducted a final regulatory flexibility analysis shall designate a small business advocacy chairperson using existing personnel to the extent possible, to be responsible for implementing this section and to act as permanent chair of the agency's review panels established pursuant to this section.

SEC. 345. EFFECTIVE DATE.

This subtitle shall become effective on the expiration of 90 days after the date of enactment of this subtitle, except that such amendments shall not apply to interpretative rules for which a notice of proposed rulemaking was published prior to the date of enactment.

Subtitle E—Congressional Review

SEC. 351. CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.

Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

"Sec.
"801. Congressional review.
"802. Congressional disapproval procedure.
"803. Special rule on statutory, regulatory, and judicial deadlines.
"804. Definitions.
"805. Judicial review.
"806. Applicability; severability.
"807. Exemption for monetary policy.
"808. Effective date of certain rules.

"§ 801. Congressional review

"(a)(1)(A) Before a rule can take effect, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

"(i) a copy of the rule;

"(ii) a concise general statement relating to the rule, including whether it is a major rule; and

"(iii) the proposed effective date of the rule.

"(B) On the date of the submission of the report under subparagraph (A), the Federal agency promulgating the rule shall submit to the Comptroller General and make available to each House of Congress—

"(i) a complete copy of the cost-benefit analysis of the rule, if any;

"(ii) the agency's actions relevant to sections 603, 604, 605, 607, and 609;

"(iii) the agency's actions relevant to sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995; and

"(iv) any other relevant information or requirements under any other Act and any relevant Executive Orders.

"(C) Upon receipt of a report submitted under subparagraph (A), each House shall provide copies of the report to the Chairman and Ranking Member of each standing committee with jurisdiction under the rules of the House of Representatives or the Senate to report a bill to amend the provision of law under which the rule is issued.

"(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction in each House of the Congress by the end of 15 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by paragraph (1)(B).

"(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under subparagraph (A).

"(3) A major rule relating to a report submitted under paragraph (1) shall take effect on the latest of—

"(A) the later of the date occurring 60 days after the date on which—

"(i) the Congress receives the report submitted under paragraph (1); or

"(ii) the rule is published in the Federal Register, if so published;

"(B) if the Congress passes a joint resolution of disapproval described in section 802 relating to the rule, and the President signs a veto of such resolution, the earlier date—

"(i) on which either House of Congress votes and fails to override the veto of the President; or

"(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

"(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 802 is enacted).

"(4) Except for a major rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

"(5) Notwithstanding paragraph (3), the effective date of a rule shall not be delayed by operation of this chapter beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 802.

"(b)(1) A rule shall not take effect (or continue), if the Congress enacts a joint resolution of disapproval, described under section 802, of the rule.

"(2) A rule that does not take effect (or does not continue) under paragraph (1) may not be reissued in substantially the same form, and a new rule that is substantially the same as such a rule may not be issued, unless the reissued or new rule is specifically authorized by a law enacted after the date of the joint resolution disapproving the original rule.

"(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of subsection (a)(3) may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

"(2) Paragraph (1) applies to a determination made by the President by Executive Order that the rule should take effect because such rule is—

"(A) necessary because of an imminent threat to health or safety or other emergency;

"(B) necessary for the enforcement of criminal laws;

"(C) necessary for national security; or

"(D) issued pursuant to any statute implementing an international trade agreement.

"(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 802 or the effect of a joint resolution of disapproval under this section.

"(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule for which a report was submitted in accordance with subsection (a)(1)(A) during the period beginning on the date occurring—

"(A) in the case of the Senate, 60 session days, or

"(B) in the case of the House of Representatives, 60 legislative days,

before the date the Congress adjourns a session of Congress through the date on which the same or succeeding Congress first convenes its next session, section 802 shall apply to such rule in the succeeding session of Congress.

"(2)(A) In applying section 802 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

"(i) such rule were published in the Federal Register (as a rule that shall take effect) on—

"(I) in the case of the Senate, the 15th session day, or

"(II) in the case of the House of Representatives, the 15th legislative day,

after the succeeding session of Congress first convenes; and

"(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

"(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report shall be submitted to Congress before a rule can take effect.

"(3) A rule described under paragraph (1) shall take effect as otherwise provided by law (including other subsections of this section).

"(e)(1) For purposes of this subsection, section 802 shall also apply to any major rule promulgated between March 1, 1996, and the date of the enactment of this chapter.

"(2) In applying section 802 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

"(A) such rule were published in the Federal Register on the date of enactment of this chapter; and

"(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

"(3) The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 802.

"(f) Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect.

"(g) If the Congress does not enact a joint resolution of disapproval under section 802 respecting a rule, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

"§ 802. Congressional disapproval procedure

"(a) For purposes of this section, the term 'joint resolution' means only a joint resolution introduced in the period beginning on the date on which the report referred to in section 801(a)(1)(A) is received by Congress and ending 60 days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the ___ relating to ___, and such rule shall have no force or effect.' (The blank spaces being appropriately filled in).

"(b)(1) A joint resolution described in subsection (a) shall be referred to the committees in each House of Congress with jurisdiction.

"(2) For purposes of this section, the term 'submission or publication date' means the later of the date on which—

"(A) the Congress receives the report submitted under section 801(a)(1); or

"(B) the rule is published in the Federal Register, if so published.

"(c) In the Senate, if the committee to which is referred a joint resolution described in subsection (a) has not reported such joint resolution (or an identical joint resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the calendar.

"(d)(1) In the Senate, when the committee to which a joint resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of a joint resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

"(2) In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

"(3) In the Senate, immediately following the conclusion of the debate on a joint resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

"(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

"(e) In the Senate the procedure specified in subsection (c) or (d) shall not apply to the consideration of a joint resolution respecting a rule—

"(1) after the expiration of the 60 session days beginning with the applicable submission or publication date, or

"(2) if the report under section 801(a)(1)(A) was submitted during the period referred to in section 801(d)(1), after the expiration of the 60 session days beginning on the 15th session day after the succeeding session of Congress first convenes.

"(f) If, before the passage by one House of a joint resolution of that House described in subsection (a), that House receives from the other House a joint resolution described in subsection (a), then the following procedures shall apply:

"(1) The joint resolution of the other House shall not be referred to a committee.

"(2) With respect to a joint resolution described in subsection (a) of the House receiving the joint resolution—

"(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(B) the vote on final passage shall be on the joint resolution of the other House.

"(g) This section is enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"§ 803. Special rule on statutory, regulatory, and judicial deadlines

"(a) In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of enactment of a joint resolution under section 802, that deadline is extended until the date 1 year after the date of enactment of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 801(a).

"(b) The term 'deadline' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

"§ 804. Definitions

"For purposes of this chapter—

"(1) The term 'Federal agency' means any agency as that term is defined in section 551(1).

"(2) The term "major rule" means any rule that the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds has resulted in or is likely to result in—

"(A) an annual effect on the economy of $100,000,000 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.

The term does not include any rule promulgated under the Telecommunications Act of 1996 and the amendments made by that Act.

"(3) The term 'rule' has the meaning given such term in section 551, except that such term does not include—

"(A) any rule of particular applicability, including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing;

"(B) any rule relating to agency management or personnel; or

"(C) any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of nonagency parties.

"§ 805. Judicial review

"No determination, finding, action, or omission under this chapter shall be subject to judicial review.

"§ 806. Applicability; severability

"(a) This chapter shall apply notwithstanding any other provision of law.

"(b) If any provision of this chapter or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby.

"§ 807. Exemption for monetary policy

"Nothing in this chapter shall apply to rules that concern monetary policy proposed

or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

"§ 808. Effective date of certain rules

"Notwithstanding section 801—

"(1) any rule that establishes, modifies, opens, closes, or conducts a regulatory program for a commercial, recreational, or subsistence activity related to hunting, fishing, or camping, or

"(2) any rule which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest,

shall take effect at such time as the Federal agency promulgating the rule determines.".

SEC. 352. EFFECTIVE DATE.

The amendment made by section 351 shall take effect on the date of enactment of this Act.

SEC. 353. TECHNICAL AMENDMENT.

The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rulemaking ..... 801".

TITLE IV—PUBLIC DEBT LIMIT

SEC. 401. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking the dollar limitation contained in such subsection and inserting "$5,500,000,000,000".

The SPEAKER pro tempore. Pursuant to House Resolution 391, as amended, the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes, the gentleman from Florida [Mr. GIBBONS] will be recognized for 30 minutes, the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 10 minutes, and the gentlewoman from New York [Ms. SLAUGHTER], the designee of the ranking minority member, will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

GENERAL LEAVE

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on and include extraneous material on the bill H.R. 3136.

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

There was no objection.

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

Mr. Speaker, I rise today in strong support of H.R. 3136, the Contract With America Advancement Act of 1996. This legislation contains the Senior Citizens' Right to Work Act, the Line-Item-Veto Act, the Small Business Growth and Fairness Act of 1996, and provides for a permanent increase in the public debt limit.

Let me first compliment Chairmen SOLOMON, CLINGER, and BUNNING, and the rest of the line-item-veto conferees for their hard work. As the original author of line-item-veto legislation at the request of President Reagan, I am a true believer in the line-item veto. I know that it will help control spending and therefore aid us in obtaining a balanced budget. Accordingly, I welcome its inclusion in H.R. 3136.

I am also proud that the Senior Citizens' Right to Work Act will be included in this legislation. It is another of my career-long projects—one which I began working on with former Senator Goldwater in the early 1970's. As you know the House has already approved this measure by a large bipartisan vote of 411 to 4 last December 5. It would raise the earnings limit for seniors between the ages of 65 and 69 to $30,000 by the year 2002, while fully preserving the long-term financial integrity of the Social Security trust funds. In fact, according to the Social Security actuaries, this bill improves the long-range solvency of the trust funds by a significant amount.

This legislation is also strongly supported by a broad group of seniors' associations, including the AARP.

We all know that the current earnings limit is too low and is nothing more than a tax on hard-working seniors.

In our Contract With America, we promised to raise the earnings limit which discourages older workers from remaining in the work force and sharing their experience, knowledge, and skills with younger workers. Today, we take another important step in fulfilling that promise by providing relief from the onerous earnings limit to almost 1 million senior citizens who want or need to work. Again, I want to compliment Social Security Subcommittee Chairman JIM BUNNING and Whip DENNY HASTERT for their outstanding efforts on this legislation. They have been untiring in their work on this project.

Mr. Speaker, H.R. 3136 also includes another important element of our Contract With America, regulatory relief for small business. This is a vital element of the bill, and I believe Chairman HYDE will be speaking on it in more detail.

Finally, H.R. 3136 contains an increase in the permanent statutory debt ceiling from its current level of $4.9 trillion to $5.5 trillion. This amount should provide the Government with enough authority to operate through fiscal year 1997. This is the level including in the Balanced Budget Act, and sought by the Treasury Department. We have receive correspondence from Treasury expressing their support for the provision.

This is a straightforward debt limit extension. As you know, we need to pass this legislation quickly as the current temporary limit expires tomorrow.

Section 107 of this legislation codifies Congress' understanding that the Secretary of Treasury and other Federal officials are not authorized to use Social Security and Medicare funds for debt management purposes under any circumstances. Specifically, the Secretary of the Treasury and other Federal officials are required not to delay or otherwise underinvest incoming receipts to the Social Security and Medicare trust funds. They are also required not to sell, redeem or otherwise disinvest securities, obligations or other assets of these trust funds except when necessary to provide for the payment of benefits and administrative expenses of these programs. The legislation applies to the following trust funds: Federal Old-Age and Survivors Insurance [OASI] Trust Fund; Federal Hospital Insurance [HI] Trust Fund; and Federal Supplementary Medical Insurance [SMI] Trust Fund.

Since late October, the total amount of public debt obligations has been very close to the public debt limit. This has given rise to concerns that the Social Security and Medicare trust funds might be underinvested or disinvested for debt management purposes. While the administration has stated that it would not take such action, it is desirable to make clear in law that these funds could not be used for debt management purposes. It is the purpose of this legislation to clarify that any limitation on the public debt shall not be used as an excuse to avoid the full and timely investment of the Social Security trust funds. The Secretary, by law, is the managing trustee of these trust funds, and also the chief financial officer of the U.S. Government charged with its day-to-day cash management. As such, he shall take all necessary steps to ensure the full and timely investment of the Social Security and Medicare trust funds.

This bill seeks to assure that the Secretary of the Treasury and other Federal officials shall invest and disinvest Social Security and Medicare trust funds solely for the purposes of accounting for the income and disbursements of these programs. There are no circumstances envisioned under which the investments of the trust funds will not be made in a timely fashion in accordance with the normal investment practices of the Treasury, or under which the trust funds are drawn down prematurely for the purpose of avoiding limitations on the public debt or to make room under the statutory debt limit for the Secretary of the Treasury to issue new debt obligations in order to cover the expenditures of the Government.

Mr. Speaker, this is an excellent bill, which advances many important elements of our Contract With America, keeping our promises to the American people. I urge my colleagues on both sides of the aisle to support it today.

□ 1230

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

Mr. GIBBONS. Mr. Speaker, I yield 30 seconds to the gentlewoman from California [Ms. HARMAN].

PERSONAL EXPLANATION

Ms. HARMAN. Mr. Speaker, I was in my district yesterday on official business. Had I been present, I would have voted "no" on the rule and "no" on passage of H.R. 1833, the partial birth abortion bill; "yes" on the passage of House Resolution 379; and "yes" on the passage of House Concurrent Resolution 102.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Speaker, this is a paradox day in the U.S. House of Representatives. We are going to raise the earnings limit under Social Security immediately from about $11,000 a year to $14,000 or so a year, I believe, and that will, on average, mean an income of about $20,000 for a Social Security retiree. That is a very good thing to do.

The paradox is, at the same time we are not going to be doing anything about the minimum wage. So what are we saying in essence? We are saying that the person who is retired and might work part time needs $24,000 a year, but the young person who is working every day of the week and working hard, maybe digging ditches, and has children to support can get by just fine on $8,840 a year. So I want to congratulate my colleagues on a sense of humor, I suppose, and a wonderful paradox.

Mr. ARCHER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Speaker, I rise in opposition to H.R. 3136.

Mr. Speaker, I strongly support increasing the Social Security earnings limit. The current earnings limit of $11,280 hurts low-to-moderate-income seniors who work out of necessity, not choice.

Our Nation achieved unprecedented wealth and power because of the strong work ethic, self-reliance, and personal responsibility of today's senior citizens. They are the generation that built this Nation. To punish these productive, industrious seniors, who are the ones that made America great is absolutely absurd. All Americans lose when the earnings limit prevents us from employing the teaching and experience of our Nation's most precious resource.

Let me also say I support wholeheartedly empowering small businesses to challenge burdensome regulations. In fact, observation of the catastrophic effects extraneous regulations have on small businesses and property owners was a major motivation for my seeking office.

We should pass legislation to increase the Social Security earnings limit, and to empower small business, and I hope we do it soon. However, I must vote against this measure today because I simply cannot support what would be a monumental mistake that would be made by this Congress if we hand over legislative powers to the president in the form of a line-item veto.

Mr. Speaker, let me first say that I believe that a line item veto could be effective in eliminating wasteful port. However, I strongly believe that the consequences of shifting the delicate power balance of between the executive and legislative branches of government would far outweigh any advantages gained by this measure.

Let me remind you of Alexander Hamilton's stern warning in Federalist No. 76 of why we must keep the powers given respectively to the legislature and executive branches of government separate:

> Without the one or the other the former would be unable to defend himself against the depredations of that latter. (The Legislature) might gradually be stripped of his authorities by successive resolutions. . .
>
> And in one mode or the other, the legislative and executive powers might speedily come to be blended in the same hands.

Mr. Speaker, the Constitution specifically gives the power of the purse to the people, which are represented in the Congress. Let us not give that sacred responsibility away to the President because we as a Congress do not have the discipline to make necessary spending cuts. The more powers we give to the executive to control the spending of taxpayer dollars, the less we will have of a representative government our Founding Fathers envisioned.

Mr. Speaker, I strongly believe that the Congress will regret the day that we surrender this tremendous power to the executive. I urge my colleagues to stand back and take a hard look at what we are doing today, and whether it is really worth giving away power that rightfully belongs to this, the people's House.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. HYDE], the highly respected chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, I rise in support of H.R. 3136, and particularly title III of that bill, the Small Business Regulatory Enforcement Fairness Act of 1996.

Title III, as amended by the rule, is patterned after the provisions of S. 942, legislation sponsored by Senator CHRISTOPHER BOND of Missouri, which passed the Senate on March 19 by the vote of 100 to 0. It would provide important regulatory relief for America's small businesses.

This measure is vitally important to the small business community, which is particularly burdened by the effect of multiple, and many times conflicting, regulatory requirements. It should be viewed not as a total solution to all regulatory problems, but as a good first step of making rules more fair, more rational, and more carefully tailored to achieve the goal they are designed to accomplish.

First, title III proposes important changes in the Regulatory Flexibility Act, allowing judicial review of certain aspects of that statute. The Regulatory Flexibility Act was first enacted in 1980. Under its terms, Federal agencies are directed to consider the special needs and concerns of small entities—that is, small businesses, local governments, farmers, and so forth, whenever they engage in a rulemaking subject to the Administrative Procedure Act. The agencies must then prepare and publish a regulatory flexibility analysis of the impact of the proposed rule on small entities, unless the head of the agency certifies that the proposed rule will not "have a significant economic impact on a substantial number of small entities."

From the beginning, the problem with this law has been the lack of availability of a judicial reviews mechanism to enforce the purposes of the law. Right now, if agencies do not actually conduct a regulatory flexibility analysis or fail to follow the other procedures set down in the act, there is no sanction. Thus, under current law, the small business community has no remedy.

Title III would cure this problem. In instances where an agency should have undertaken a regulatory flexibility analysis and did not, or where the agency needs to take corrective action with respect to a flexibility analysis that was prepared, small entities are authorized to seek judicial review within 1 year after final agency action. A court will then review the agency's action under the judicial review provisions of the Administrative Procedure Act. The remedies that a court may order include remanding the rule back to the agency and deferring enforcement of the rule against small entities, pending agency compliance with the Regulatory Flexibility Act.

Another important aspect of title III is the congressional review procedure. This will allow Congress to review all proposed rules to determine whether or not they should take effect. Specifically, title III would allow Congress to postpone for 60 days the implementation of any major rule, generally defined as having an annual effect on the economy of $100 million or more. The language allows the President to bypass the 60-day delay through the issuance of an Executive order, if the rule addresses an imminent threat to the public health or safety, or other emergency, or matters involving criminal law enforcement or national security.

This legislation was developed by Senator DON NICKLES and Senator HARRY REID. My Judiciary Committee staff has worked very closely with Senator NICKLES' staff concerning the details of this provision.

I think it is important to emphasize that this approach means that Congress must be prepared to take on greater responsibility in the rulemaking process. If during the review period, Congress identifies problems in a proposed major rule prior to its promulgation, we must be prepared to take action. Each standing committee will have to carefully monitor the regulatory activities of those agencies falling within their jurisdiction.

Title III also includes a provision which will require Federal agencies to simplify forms and publish a plain English guide to help small businesses comply with Federal regulations. These compliance guides will not be subject to judicial review, but may be considered as evidence of the reasonableness of any proposed fines or penalties. Federal agencies would also be directed to reduce or waive fines for small businesses in appropriate circumstances, if violations are corrected within a certain period.

The proposal would also create an ombudsman within the Small Business Administration to gather information from small businesses about compliance and enforcement practices, and to work with the various agencies so as to respond to the concerns of small businesses regarding those practices.

In addition, some important changes would be made in the Equal Access to Justice Act. The Equal Access to Justice Act [EAJA] currently provides that certain parties who prevail over the Federal Government in regulatory or court proceedings are entitled to an award in attorneys' fees and other expenses, unless the Government can demonstrate that its position was substantially justified or that special circumstances would make the award unjust. Eligible parties are individuals whose net worth does not exceed $2 million or businesses, organizations, associations, or units of local government with a net worth of no more than $7 million and no more than 500 employees. The act covers both adversary administrative proceedings and civil court actions.

Title III proposes to change the Equal Access to Justice Act so as to make it easier for small businesses to recover their attorneys fees, if they have been subjected to excessive and unsustainable proposed penalties. It would amend the EAJA to create a new avenue for small entities to recover their attorneys fees in situations where the Government has instituted an administrative or civil action against a small entity to enforce a statutory or regulatory requirement. In these situations, the test for recovering attorneys' fees would become whether the final demand of the United States, prior to the initiation of the adjudication or civil action, was substantially in excess of the decision or judgment ultimately obtained and is unreasonable when compared to such decision or judgment. The important point here is that this legislation will level the playing field and make it far more likely that the United States will not seek excessive fines or penalties from small businesses and will be more likely to make fair settlement offers prior to proceeding with a formal regulatory enforcement action or before going to court to collect the civil fine or penalty.

Mr. Speaker, I have only described in very general terms today the substance of this important title. Because the language is the product of negotiation and compromise with the Senate, there is no formal legislative history available to explain its terms. To cure this deficiency, I will be inserting in the CONGRESSIONAL RECORD at a later date a document which will serve as the equivalent of a statement of managers. The same document will be submitted to the RECORD in the Senate. It is the committee's intent that that document carry the weight of legislative history regarding title III of H.R. 3136.

Mr. Speaker, this legislation represents an important and significant step toward removing unnecessary and unduly burdensome regulations from the backs of small businesses. I urge my colleagues to support H.R. 3136 and look forward to its prompt passage and it being signed into law.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, I rise to speak against H.R. 3136. My opposition stems not from a desire to prevent the needed increase in the debt limit, nor do I oppose the increase in the Social Security earnings limit contained in section 4, a proposition I supported with my vote in favor of H.R. 2684 last December.

Rather, my objection, Mr. Speaker, is to the measure before us, which rests on my adamant opposition to the line-item veto provisions of section 3. The line-item veto is not about money as such. It is about power, specifically the balance of power between the executive and legislative branches of the Federal Government. This has nothing to do with Republicans and Democrats. It has nothing to do with the contract except the contract we should be keeping with history that provided for our constitutional democracy to be able to sustain a balance between the executive and the legislative. It assumes that the executive branch, compared to the legislature, is inherently inclined to restrain spending. In fact, however, congressional appropriations have been lower than the amounts requested by the past three Presidents, Democrat and Republican alike. In denying Congress the authority to single out proposed rescissions for individual consideration, H.R. 3136 denies to the Congress an authority it grants to the President.

If the President can unilaterally veto individual items in a single bill, why is Congress required to sustain or override those vetoes as an indivisible package? Why is Congress denied the authority, why are we denying ourselves the authority to judge each veto cast by the President? The upshot is more power for the executive branch, less for the legislature. By giving the President power to veto specific tax and appropriation items within a single bill, H.R. 3136 deprives the legislative branch of its share of its ability to strike a compromise with the executive.

Mr. Speaker, it upsets the carefully calibrated balance between the legislative and executive branches of Government. That balance is what inclines our political system to compromise. Look at what is happening in the rest of the world where the executive has exclusive authority. I know I am going to be among the few votes that is going to be cast today. What I regret is, and this has happened before in our legislative history, there will be a few who will try to strike a balance to keep the power of the legislature against the executive, and one day there will be a Ph.D. writing a thesis about it, how we gave up our power, how we gave up the balance of power that exists in our democracy. Vote "no" on 3136.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky [Mr. BUNNING], the respected chairman of the Subcommittee on Social Security of the Committee on Ways and Means.

Mr. BUNNING of Kentucky. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, hopefully the third time around will be the charm and the Social Security earnings limit will be passed. I want to thank DENNIS HASTERT, the deputy whip, and all the Republican Members of the 100th Congress class, but lack of Senate action has kept this measure off the President's desk.

I have a very good feeling that the tide has turned and our colleagues in the other body want to see this done as much as we do.

I want to commend the House and Senate leadership for working with the Ways and Means Committee and the Finance Committee to make the earnings limit increase part of the debt limit legislation.

We have worked out a fair bill which makes good policy while actually improving the financial integrity of the Social Security trust funds.

By increasing the earnings limit on working senior citizens, we are fulfilling the commitment we made in the Contract With America to bring economic relief to older workers.

The earnings limit is a depression-era relic that has outlived its usefulness. Older workers have a great deal of knowledge and experience and our country needs the skills of experienced workers. The current limit is unrealistically low and sends the message that the Federal Government does not want seniors to continue working and contributing.

Today's older Americans are living longer and healthier. They want to continue contributing to society, but they have to ask themselves if it is worth losing a good part of their Social Security benefits to do so.

In most cases, the answer is "No." By discouraging skilled older workers from working, we are forgoing one of society's greatest resources—experienced workers—a commodity every employer in the United States needs and values.

The earnings limit is particularly harsh on lower to middle-income seniors who must work to supplement their Social Security benefits.

Approximately 1 million working seniors have some or all of their benefits withheld because of the current earnings limit. These are not wealthy working seniors.

These are seniors who do not have substantial pensions, investments or savings to supplement their Social Security checks.

The earnings limit is nothing less than a tax on work. Seniors need and deserve some tax relief. I urge my colleagues to join me in making this long

overdue change to increase the earnings limit to $30,000.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, I voted against the rule on this particular bill, not because I oppose the provisions of the bill in general but in specific, I have a problem with one provision on line-item veto.

□ 1245

I am a long-time supporter of the line-item veto. That is an issue which has not been partisan. It is an issue that the administration has asked for. I have supported it, and many on both sides of the aisle have supported it. The concern I have is that the line-item veto, under this bill, will not go into effect when we pass the bill. It will not go into effect until the end of the current term of this President. This President is a Democrat. This Congress is controlled by Republicans. That looks to the public like business as usual, like the Republicans are afraid to give a Democratic President the authority to veto specific items of pork.

It is not like we do not have a problem ongoing with park-barrel spending. I have in my hand the Citizens Against Government Waste's 1996 Congressional Pig Book. In that they identify $12.5 billion in just 8 appropriation bills that we passed in 1996, 8 of the 13, $12.5 billion of pork.

We passed in February 1995 through this House and in March through the other body a line-item veto bill. It took 6 months to even appoint conferees. Now we finally have the line-item veto coming to passage as part of this bill. It is too late for 1996 and these billions of dollars. Under this bill, it is too late for 1997 as well.

Did they believe that, by passing line-item veto, there would only be Republican Presidents in the future? A Democratic President would not be eligible to use the line-item veto? Well, I am going to put into the RECORD statements by the majority leader of the House, majority leader in the Senate and majority whip in the Senate. I am also going to put into the RECORD statements by the Committee on Rules chairman and other people on the floor of this House, saying we are not afraid to give it to a Democrat President. Here we are giving it, it is not just a Republican, we are giving it to him. No, you are not, not unless he wins reelection.

So I simply believe that we ought to change one provision in this bill. Let us make line-item veto effective immediately upon enactment. If the President does not appropriately use it, then Congress can challenge the President. If the President does appropriately use it, we start cutting inappropriate spending today rather than waiting until after the 1997 fiscal year.

So I would urge my colleagues to revise this bill, and I hope that we will have a motion to recommit with instructions to do so.

Mr. CLINGER. Mr. Speaker, I yield myself 2 minutes.

As chairman of the Government Reform and Oversight Committee, I am very pleased to rise in strong support of this measure. Two of the provisions in this measure were initiated in the Government Reform and Oversight Committee, and we are very proud they are part of this debt ceiling increase, because the line-item veto goes directly to the question of trying to hold down the debt, which we are now going to be forced to increase today.

The previous speaker said that this was a provision that we should give the President right now. I would point out to the gentleman that this was a suggestion that the President himself made. Contrary to many of the Members on the other side of the aisle, this President, our President, supports the line-item veto and supports the date that has been selected.

I would also point out he does have within his own power the key to unlock this provision and make it effective today, and that would be if he would agree to a balanced budget agreement. That is, as I say, in his power.

We had a lot of trouble reconciling the many differences, frankly, that existed between the Senate and the House. Many in this room will remember how vast those differences were. But we were able, in the final analysis, to come to agreement. It was a bipartisan bicameral agreement. There are Members on both sides who support strongly the provision of the line-item veto. There are Members on both sides, frankly, who disagree with the line-item veto.

The intent of the legislation, Mr. Speaker, is to provide the President a tool, only a tool, to approach this question of deficit reduction. We have provided it not just for the appropriations process, which would only get at about 30 percent of the spending, we have also provided it for entitlements. We have provided it for targeted tax preferences which have been so abused in the past. The President is going to have a broad authority and broad ability to deal with the deficit and to deal with the debt, which has been spiraling out of control.

I would point out it is important to note, consistent with the demand of both Houses in the conference, the conference report does not allow the President to strike any restriction, condition, or limitation on how funds may be spent. It is limited to whole dollar amounts. No policy can be changed as a result of this.

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

Mr. GIBBONS. Mr. Speaker, I yield 30 seconds to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, just in response to my friend who just mentioned that it was the President who asked for this, yes, the President asked for line-item veto. The President did not ask for line-item veto to be until after the new year of 1997. It was offered by the majority leader, Senator DOLE, to be available then, and the President said he wanted line-item veto, he would be willing to accept it and would accept it under those terms.

It was not the President suggesting to delay line-item veto until 1997. The President did accept it, but he has asked for it consistently to be effective immediately, and I have a letter so stating.

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

Mr. Speaker, let me explain to the Chair what I am about to do. I am going to yield to the gentlewoman from Connecticut [Mrs. KENNELLY], then I am going to get out of the way and let the gentlewoman from New York use her 10 minutes.

I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I am delighted to stand here today, on March 28, 1996, because it is a good day for the United States of America, it is a good day for the economic security of the United States of America, it is a good day for the financial markets of the United States of America, but most importantly it is a good day for the full faith and credit of the United States.

We are raising the debt limit. We should have done it 5 months ago, but we are doing it today, and I am pleased that that is happening.

There are those who say it did not matter if we did not raise it when we should have 5 months ago. I have to differ because I do not think there is any way of knowing if there were not interest rate increases or delaying schedules of auctions for securities, or, in fact, holding those actions for securities, or, in fact, holding those auctions when they should have.

Having said that, I am glad today has come. There is one disappointment I have, though, in this bill. For 19 years, for 19 years, the blind of this country have been joined with the elderly of this country, in being able to earn a certain amount of money over and above the Social Security earnings test. For some reason, the majority has decided to drop the blind from this joint relationship with those over 65. I do think it is too bad, because it really hurts the economic independence of the blind in this country.

I certainly hope the majority in another time will look at this piece of legislation. I know the gentleman from Texas [Mr. ARCHER] introduced it originally. I do hope once again we can couple the blind with those over 65 so economic independence can be theirs also.

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

Mr. Speaker, it is perhaps a good day but it certainly is a strange one. I would never have thought I would be part of a Congress of the United States that would unilaterally hand over major parts of its power to the executive department. To me, the strength of the Government of the United States, as written by the Founding Fathers, was the separation of powers, for each part of the legislative, the executive, and the judiciary, well defined.

With the action taken here in the House and in the Senate, we are unilaterally handing over to the President, whomever he or she may be, the right to veto all the work that we do here in Congress. Members of the House who have served under Governors, who have the right of line-item veto, have told me that in many cases it is a genteel way to commit blackmail.

Will we save money with the line-item veto? Well, consider this scenario: Let us say there is a President who is finding it very difficult, perhaps, to get reelected, and to get support from the members of his party who serve in the House or in the Senate. He would call in a delegation, perhaps mine, New York, which is rather large, and says to us, you are not supporting me, but I do notice here that in the bills that have been sent to me, that there is a very critical item under New York that has so much money. We are then, Members, confronted with either determining whether we are going to stand pat, face the President of the United States and tell him to forget about it, or allow him simply to line out what is necessary for the people that we represent.

It is possible, is it not, that under those circumstances, that a delegation, a legislator, anyone, a leader would decide not to spend less money, Mr. Speaker, but could be induced to spend more? Indeed, it may be that such a President wants more than that has been asked for; the line-item veto does not say that in all cases that they will be going for less; it is entirely possible that a President will ask for more.

I believe that this measure is unconstitutional, and I hope that it will be judged so. It is a tragedy to me that this has been added on to what is one of the most important pieces of legislation that we have to come before us. The threat of fiscal default hanging over the United States of America has left a cloud over us that should never have been there in the first place. No nation ever talked about defaulting by choice until this time. To put, again, a sort of genteel from of blackmail, things that we normally would like to debate, strikes me as not the best way to do business.

We have heard this conference report being bipartisan and the great support that you have had on both sides of the aisle. I think it is important to point out, Mr. Speaker, that the conference that took place, took place only between House and Senate Republicans. No Democrats in the House or Senate were a part of that conference, and indeed the Democrats only saw the conference report after it was filed. Without any question, this side of the House had no impact whatever on that conference report.

But in addition, this conference report goes much further than either the House bill or the Contract With America went. For example, it includes Medicare, Medicaid, Social Security, and all other entitlement programs. We are now going to say to the President, "If you do not like the increases that we have given in Social Security, get rid of them." We have put Medicare and Medicaid again up to the vagaries of the President without the ability of the people here to make the determination for the people who sent us, the 500,000 and more in each district who depend upon us to make those decisions, now you want to turn these decision over to the President.

But there is one other piece that I was particularly involved in myself during the 100 days of the Contract With America when line-item veto was brought up. We were concerned over on our side about the fact that in many cases it is just as serious a drain on the Federal Treasury, in many cases, just as much a breach of faith, to use tax policy. And we put forth an amendment on this side to make sure that tax policy, giving benefits to certain groups, certain persons in the United States, would be looked at and scrutinized if the line-item veto indeed became law. That has been narrowed to the point of nonrecognition. Your tax-break friends are safe.

What we are saying with this bill, this line-item veto today, is that the President may run through the bills in any way he or she likes, taking out anything or everything no matter the importance of it or what it may mean for the country. However, when it comes to tax benefits and tax policy, given to favorite constituents or constituent groups, nobody is going to be touching that. That is going to be sacred.

Obviously, this bill is important for us to pass. Our fiscal responsibility and our fiscal reputation depend on it, and it is high time that the Social Security recipients receive some attention with the fact that they have been limited in the income that they can receive. Without jeopardizing their Social Security.

But, Mr. Speaker, adding line-item veto to this is an abrogation of our power. It is an abrogation of the Constitution of the United States, and, frankly, I think that putting it on this bill says to the Nation basically we cannot be trusted. It is going to have to be somebody at 1600 Pennsylvania Avenue to make these final decisions. That is a decision and a statement that I personally am not willing to make.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I would just like to briefly carry on the discussion of how much power has been transferred from Congress to the President. Article I, section 9 of the Constitution says that Congress shall control the purse strings. Article 1 of section VII of the Constitution says that Congress shall decide how deep we go into debt.

I bring this chart to portray the authority and responsibility that Congress has now given away to the President of the United States. This pie chart represents the Federal budget for this coming year. The blue area represents the 52 percent of spending now in these welfare entitlement programs. The spending in those programs cannot be changed without the consent of the President.

□ 1300

It has been demonstrated now that also the administration has the authority to go deeper in debt without the consent of Congress.

Transferring even greater power to the administrative branch, to the President, by saying that he will have the authority to line out, to veto anything in an appropriation bill, is a tremendous transfer of power.

I served under three governors while in the State legislature in Michigan. Every one of those governors, liberal and conservative, used the leverage of the line-item veto to get spending they wanted. A lot of States have the line-item veto. Almost every one of those States also have a constitutional provision that says they have to have a balanced budget.

In the State legislature, while the Governor says "I want to shift priorities to what I think is important spending," either for political purposes or for philosophic goals. In the U.S. Government, where we do not have that kind of safeguard of a balanced budget, there is a danger of actually increasing spending and not decreasing spending as some presume.

During the last three decades, a lot of us wished that the President had authority to veto spending we did not like. But we now have a Congress that is becoming more frugal, is being more conscientious of a balanced budget, and is more interested in cutting. Now we are saying we are going to take away responsibility from this Chamber, from this body and give it to the President. This is inconsistent with what our Founding Fathers thought was an appropriate balance. I think this legislation could have different results than

some expect. I hope we do not see the dangers that could result from further disrupting the balance of power.

Ms. SLAUGHTER. Mr. Speaker, I yield the balance of my time to the gentleman from Wisconsin [Mr. BARRETT].

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Wisconsin is recognized for 1½ minutes.

Mr. BARRETT of Wisconsin. Mr. Speaker, I thank the gentlewoman for yielding me the time.

Mr. Speaker, I support the line-item veto. It is a good measure, a measure that the American people want. Why? They want the line-item veto because they are concerned about two things. They are concerned about pork barrel spending, and they are concerned about special interest tax breaks.

This bill does a good job of taking care of the pork barrel spending, but it does a lousy job of taking care of special interest tax breaks. Why is that? It is because the people on the Republican side of the aisle like special interest tax breaks.

We hear on the floor day after day proponents of tax reform from the Republican side say, "Let's have a flat tax. Let's get rid of all these deductions. Let's get rid of all these loopholes."

Well, this was the opportunity to get rid of those. This bill was the opportunity to say we do not believe in special interest tax loopholes.

But when they came up to bat, they swung and missed. They had no desire to give the President of the United States the ability to get rid of special interest tax loopholes. Why not? Because they are the gift that just keeps on giving. You can tuck them away into a revenue bill. You do not have to go through the appropriations process. It just keeps giving and giving and giving.

The other irony of this entire debate is something that has happened to me over the last year and a half when I have gone back to my district and talked at Rotary lunches or Kiwanis lunches. They always talk about the Presidential line-item veto. I say, "Mark my words: We will get it, but the Republican leadership will find a way to make sure that President Clinton does not have the authority to get rid of their pork barrel spending or their special interest tax loopholes in the 104th Congress."

The provisions we are passing today do not give the President the ability to do it in this Congress.

Mr. CLINGER. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I rise in very strong support of this legislation, noting that 43 Governors have the line-item veto. Governor John Engler of Michigan has spoken out strongly that it does restrain unwise spending.

Mr. Speaker, there are some supporters of line-item veto who may have despaired of ever getting it done. I must admit that there were days over the past 13 months when I had my doubts. Well, in the spirit of Sean Connery I am reminded "never to say never." Today we fulfill a major plank in the Contract With America and implement a powerful budget-cutting tool. Title II of the bill before us is the text of our conference agreement on the line-item veto. It reflects countless hours of meetings and discussions—and an enormously good faith effort by all the conferees to ensure that this significant delegation of power from the Congress to the President is effective, workable and clearly defined. The conferees understood the magnitude of a delegation of authority of this kind. Quite simply, it is historic. Although some of our colleagues are fundamentally opposed to transferring such power to the President—any President—I firmly believe that this is a legitimate and necessary element of our battle to bring the Federal budget under control. We have been very careful in this conference report to carefully define our terms and the limitations that Congress is placing on the President's use of the line-item veto authority. The purpose of the line-item veto is to add to our arsenal of weapons against low-priority or unnecessary Federal spending. The goal is deficit reduction and we have ensured that the authority applies only to money being spent. Just as 43 Governors do today, the President, under the line-item veto, will have the ability to cancel individual items of spending and tax legislation if he believes doing so will help reduce the deficit. The burden of proof will then be on the Congress to come up with a two-thirds majority to override the President and spend the money over his objections. If the Congress is unable to muster that supermajority, then the funds are not spent and are applied to deficit reduction. The remarkable thing about this measure is that it fundamentally shifts the bias away from spending and toward saving the taxpayers money. That is a change that more than 70 percent of Americans have been asking for. Americans know that when huge spending and tax bills go to the President for his signature or veto, often individual items of less or even questionable national merit get carried into law by the greater good in the bill. That costs money—lots of money—and that's what this tool is designed to control. Our conference built upon the House enhanced rescission model and, I believe, made it stronger by expanding the authority beyond appropriation measures to include new entitlements. As everyone knows, entitlement programs are a major culprit in our current budget imbalance—and the line-item veto should help to curb the creation of new programs that we can't afford. The conference report also allows the President to use his line-item veto to cancel limited tax benefits—provisions that are slipped into the Tax Code to benefit 100 or fewer people at a cost to the taxpayers at large.

Mr. Speaker, our staff has spent countless hours refining the language of this measure to ensure that we understand the repercussions of this delegation of authority. While we recognize the possibility for gaming of the system—by the Congress and the executive—we have built in important safeguards, including an 8-year sunset to allow us an opportunity to assess the line-item veto's effectiveness. Finally, Mr. Speaker, I point out to my colleagues that the President and the House leadership have agreed that the effective date of this new authority will be January 1, 1997, or enactment of a 7-year balanced budget, whichever comes sooner. This is a practical result that ensures sufficient time for the Executive and Congress to consider the measure's provisions and impact. In addition, this specified effective date allows the line-item veto to rise above short-term political realities. I think it is an enormously sensible decision and I applaud the President and our leaders for it.

Mr. Speaker, last night the other body adopted this conference report by a 69-to-31 vote. It's time for this House to deliver a similar result.

Mr. CLINGER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DELAY], the distinguished majority whip and tireless leader in the battle to achieve a line-item veto.

Mr. DELAY. Mr. Speaker, I thank the gentleman for his words.

Mr. Speaker, I rise in strong support of the Contract With America Advancement Act, and I urge my colleagues to vote for it.

This bill proves the pundits wrong. The Contract With America is alive and well, and is working to better the lives of American families.

I am especially pleased by two provisions in this legislation.

The regulatory flexibility act is a small but significant step in the right direction for making commonsense changes to our regulatory system.

This bill will bring much needed congressional accountability to the regulatory process. No Congress before this one has been willing to take responsibility for the way laws are implemented after they are signed.

I believe it is both appropriate and necessary for Congress to conduct oversight over agencies' promulgation of regulations, and am very pleased that this, the first Republican Congress in 40 years, is the one to make it happen.

We also are finally enacting the line-item veto.

When I was first elected to the House, I made the line-item veto one of my top priorities.

This may not be a good week for pork, but it is a great week for the American taxpayer.

Gone are the days, when Congresses inserted pork barrel projects to buy votes for their Members.

With this line-item veto, we will make certain that those days of wasting taxpayer dollars are gone forever.

I applaud my colleagues for their work on this legislation, and I urge them to send this bill to the President.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I rise in strong support of this legislation, but

it is interesting how we got here. We got here today because the Republican leadership and the Democrat administration worked together to bring this bill forward. We have Democrats and Republicans working together, and when we work together it is amazing what we can accomplish.

This bill is important. It does deal with the Social Security earning limitation. For too long senior citizens have been penalized for working with outrageously high tax rates. This bill corrects that.

The line-item veto is an important bill. It helps to spotlight individual appropriations. We pass these omnibus bills where none of us really have an opportunity to study each and every provision in that legislation. The line-item veto will give us an opportunity to look at these items individually and give the President a role as to whether they should become law.

Small business regulatory relief, there are problems with small business. The oversight function of Congress should be to take a look at what regulations impact on small business, and this bill does that.

Increasing the debt ceiling, we all know that we need to do that. We have already spent the money. We have got to honor our obligations.

But it is interesting, why have we delayed for so long in bringing these bills forward? As I listened on the floor when we were considering other debt extension bills, the Republican leadership told us we could not consider it because we had to deal with deficit reduction. This bill does not deal with deficit reduction; it deals with extending the debt limit, as it should.

Perhaps the only lesson that we can take out of this bill on deficit reduction and balancing the budget is if we use the process of Democrats and Republicans working together, then we can accomplish a balanced budget in this Congress. So I hope this legislation will spill over to other efforts between Democrats and Republicans to bring sound legislation to the floor, not in a vacuum by one party, but in cooperation by both parties, between the Congress and the President. If we do that, we will indeed serve our constituents well.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Kansas [Mrs. MEYERS], the chairwoman of the Committee on Small Business.

Mrs. MEYERS of Kansas. Mr. Speaker, I would like to thank the chairman very much for yielding me this time.

Mr. Speaker, I rise in strong support of H.R. 3136. I support the increase in the senior citizens earning threshold, I support the line-item veto, and particularly I support title III of this act, which is of enormous importance to this country's 21 million small businesses.

Subtitle A of title III provides that agencies will provide plain English guides on new regulations for small business. Subtitle B provides for a regulatory ombudsman to assist small businesses in disputes with the Federal Government. These two subtitles, along with subtitle D, the Regulatory Flexibility Act, were among the very top priorities listed by the White House Conference on Small Business.

I would like to focus for a moment on the Regulatory Flexibility Act, which those interested in small business have been working for for many years. The Regulatory Flexibility Act has been on the books since 1980, and it provides that agencies must review all new rules and regulations for their specific impact on small business and then help mitigate that impact if it is extreme. But there is no enforcement mechanism, and the agencies have largely ignored it.

This bill would provide for judicial review of the process, and thus put teeth in that Regulatory Flexibility Act. This judicial review of regulatory flexibility has strong bipartisan support. It has passed this House by a vote of 415 to 15, and last week it passed the Senate by 100 to 0.

There are many good reasons to support this bill, but its value and importance to small business is the best reason to me and to the Committee on Small Business.

I urge my colleagues to support H.R. 3136.

Mr. CLINGER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Florida [Mr. MICA] who has been a champion for regulatory reform and also a leader in the line-item veto battle.

Mr. MICA. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, small business is really the largest employer in our country. Small business in fact is the cornerstone of free enterprise. Today small business in the United States is being choked to death on mindless regulations, edicts and paperwork, and federally mandated compliance forms.

When they write the epitaph of American small business, let me read for you what the tombstone is going to say: "Here lies American small business, murdered by overregulation, murdered by taxation and litigation."

Today we cannot totally free the bondage of small business in America. What we can do today, however, is allow some regulatory flexibility, and that is what this legislation does.

Today, through this legislation, small business will have a small but a fighting chance to challenge this crazy Federal bureaucratic rulemaking process. Today we can let Congress place a small check on the bureaucrats who have made a lifetime career of pumping out mindless, costly, and ineffective regulations.

Today, if we are going to sink our Nation further into the rathole of debt, we can, through these regulatory reform measures, give small business, who employ our people, who pay our taxes, a small but fighting chance to dig us out of that rathole of debt.

Mr. CLINGER. Mr. Speaker, I am very pleased to yield 2 minutes to the gentleman from Indiana [Mr. MCINTOSH] who has been a leader in this Congress on regulatory reform and an active participant on our committee, and chairman of the Subcommittee on Regulatory Reform.

Mr. MCINTOSH. Mr. Speaker, I thank the chairman for yielding me time, and thank him for his leadership on this bill.

Mr. Speaker, I rise in strong support of the line-item veto provision, the provision removing penalties from senior citizens, and title III, the Small Business Regulatory Enforcement Fairness Act of 1996.

What we have before us today is a small step toward reforming our regulatory process. It is time, Mr. Speaker, that we get Government off of our backs, and back on our side in this country.

Small businesses create 75 percent of the new jobs in this country, and I am particularly pleased to support the provisions of this bill that will allow small businesses to challenge agency decisions in court when they ignore the needs of small businesses and they write new regulations and create redtape.

I am also very pleased with subtitle E that will bring agency regulations back to Congress for a vote. This part of the bill originated as a companion bill to my legislation, H.R. 450, the Regulatory Transition Act of 1995. And I was pleased to work with the gentleman from Pennsylvania, Chairman CLINGER, the gentleman from New York, Chairman SOLOMON, and the gentleman from Illinois, Chairman HYDE, along with Senator DON NICKLES, to craft provisions that will be acceptable to both bodies and provide for meaningful congressional review of agency rulemaking actions.

Our Subcommittee on Regulatory Affairs has held field hearings around the country. We have heard from many people who are suffering because of Federal over-regulation. One person is Bruce Gohman, a small businessman in Minnesota, who says that he consciously limits his job creation to 50 employees. He will not hire more people because of the fear of being subjected to more redtape and more Government regulations.

I say we need this reform to allow Mr. Gohman to create more good jobs and to pay higher wages to his employees so that we can get this economy going again.

Mr. Speaker, I strongly support title III of this bill, and say it is time we have regulations that are smarter, safer, and provide more environmental protection, and less redtape.

Mr. Speaker, this title is one of the most important pieces of legislation for small business growth and job creation that we will take up this year. In fact, it is the number one legislative priority for small business. Although this is not a comprehensive regulatory reform bill, this is an important first step in enacting needed reform for hard-working Americans in their struggle against the regulatory bureaucracy in Washington. Moreover, this title will hold the administration accountable for the impact of rules on all Americans.

As I have said, I am especially pleased with the reforms in subtitles D and E, which address issues that I have been concerned about for a number of years. Subtitle D will strengthen the Regulatory Flexibility Act by allowing affected small businesses, local governments, and other small entities to challenge certain agency action and inaction in court. Currently, the Regulatory Flexibility Act requires Federal agencies issuing new rules to consider the impact the rules would have on small entities and prepare a regulatory flexibility analysis unless it certifies that the rule would not have a significant economic impact on a substantial number of small entities. In my experience working with Vice President Quayle on the President's Council on Competitiveness, I discovered that the Federal agencies often ignored the mandate of the act and refused to prepare a regulatory flexibility analysis. The limited judicial review provided in subtitle D will serve as a needed check on agency behavior and help enforce the mandate of the act.

Subtitle E will add a new chapter 8 to the Administrative Procedure Act, which will allow Congress to review agency rulemaking actions and determine whether Congress should pass joint resolutions under expedited procedures to overrule the rulemaking action. This subtitle originated almost one year ago as companion legislation to H.R. 450, the Regulatory Transition Act of 1995, which was reported out of my Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs. Although I would have liked this subtitle to go further, the bill we are going to pass today is a good start and can easily be amended in the future to provide for an expedited procedure to review and stop the most wrong-headed rulemaking proceedings before they waste more agency and private resources.

As the principal House sponsor of the Congressional Review subtitle, I am very proud that this bill will soon be sent to the President again, and I hope signed by him this time. The House and Senate passed an earlier version of this subtitle as section 3006 of H.R. 2586, which was vetoed by the President last November. Before it becomes law, this bill will have passed the Senate at least four times and passed the House at least twice. In discussions with the Senate and House co-sponsors this past week, we made several changes to the version of this subtitle that both bodies passed on November 9, 1995, and the version that the Senate passed last week. I will be happy to work with Chairman HYDE and Chairman CLINGER on a document that we can insert in the CONGRESSIONAL RECORD at a later time to serve as the equivalent of a floor managers' statement. But because this bill will not likely have a conference report or managers' statement prior to passage, I offer the following brief explanation for some of the changes in the subtitle:

DEFINITION OF A "MAJOR RULE"

The version of subtitle E that we will pass today takes the definition of a "major rule" from President Reagan's Executive Order 12291. Although President Clinton's Executive Order 12866 contains a definition of a significant rule that is purportedly as broad, several of the administration's significant rule determinations under Executive Order 12866 have been questionable. The administration's narrow interpretation of "significant rulemaking action" under Executive Order 12866 helped convince me that Congress should not adopt that definition. We intend the term "major rule" to be broadly construed, particularly the nonnumerical factors contained in the new subsection 804(2) (B) and (C).

AGENCY INTERPRETIVE RULES, GENERAL STATEMENTS OF POLICY, GUIDELINES, AND STATEMENTS OF AGENCY POLICY AND PROCEDURE ARE COVERED BY THE BILL

All too often, agencies have attempted to circumvent the notice and comment requirements of the Administrative Procedure Act by trying to give legal effect to general policy statements, guidelines, and agency policy and procedure manuals. Although agency interpretive rules, general statements of policy, guideline documents, and agency policy and procedure manuals may not be subject to the notice and comment provisions of section 553(c) of title 5, United States Code, these types of documents are covered under the congressional review provisions of the new chapter 8 of title 5.

Under section 801(a), covered rules, with very few exceptions, may not go into effect until the relevant agency submits a copy of the rule and an accompanying report to both Houses of Congress. Interpretive rules, general statements of policy, and analogous agency policy guidelines are covered without qualification because they meet the definition of a "rule" borrowed from section 551 of title 5, and are not excluded from the definition of a rule.

Pursuant to section 801(3)(C), a rule of agency organization, procedure, or practice, is only excluded if it "does not substantially affect the rights or obligations of nonagency parties." The focus of the test is not on the type of rule but on its effect on the rights or obligations of nonagency parties. A statement of agency procedure or practice with a truly minor, incidental effect on nonagency parties is excluded from the definition of a rule. Any other effect, whether direct or indirect, on the rights or obligations of nonagency parties is a substantial effect within the meaning of the exception. Thus, this exception should be read narrowly and resolved in favor of nonagency parties who can demonstrate that the rule will have a nontrivial effect on their rights or obligations.

THE 60-DAY DELAY ON THE EFFECTIVENESS OF MAJOR RULES AND THE EMERGENCY AND GOOD CAUSE EXCEPTIONS

Two of the three previous Senate versions of this subtitle would have delayed the effective date of a major rule until at least 45 days after the relevant agency submitted the major rule and an accompanying report to Congress. One of the Senate versions and both House versions opted for at least a 60-day delay on the effectiveness of a major rule. The 60-day period was selected to provide a more meaningful time within which Congress could act to pass a joint resolution before a major rule went into effect. Even though the expedited congressional procedures extend beyond this period—and some of the special House and Senate rules would never expire—it would be preferable for the Congress to act before outside parties are forced to comply with the rule.

The subtitle provides an emergency exception in section 801(c) and a limited good cause exception in section 808(2) from the 60-day delay on the effectiveness of a major rule. Sections 801(c) and 808(2) should be narrowly construed, for any other reading of these exceptions would defeat the purpose of the delay period. The emergency exception in section 801(c) is only available pursuant to Executive order and after congressional notification that a specified situation exists. The good cause exception in section 808(2) is borrowed from the chapter 5 of the Administrative Procedure Act and applies only to rules which are exempt from notice and comment under section 553. Even in such cases, the agency should provide for the 60-day delay in the effective date unless such delay is clearly contrary to the public interest. This is because a determination under section 801(c) and 808(2) shall have no effect on the procedures under 802 to enact joint resolutions of disapproval respecting such rule, and it is contrary to the policy of this legislation that major rules take effect before Congress has had a meaningful opportunity to act on such joint resolutions.

ALL EXECUTIVE AGENCIES AND SO-CALLED INDEPENDENT AGENCIES ARE COVERED BY THE BILL

Congress intends this legislation to be comprehensive. It covers any agency or other entity that fits the "Federal agency" definition borrowed from 5 U.S.C. 551(1). That definition includes "each authority of the government" that is not expressly excluded by section 551(1)(A)–(H). The objective is to cover each and every entity in the executive branch, whether it is a department, independent agency, independent establishment, or Government corporation, whether or not it conducts its rulemaking under section 553(c), and whether or not it is even covered by other provisions of title 5, U.S. Code. This definition of "Federal agency" is also intended to cover entities and establishments within the executive branch, such as the U.S. Postal Service, that are sometimes excluded from the definition of an agency in other parts of the U.S. Code. This is because Congress is enacting the congressional review legislation, in large part, as an exercise of its oversight and legislative responsibility over the executive branch. Regardless of the justification for excluding or granting independence for certain entities from the coverage of certain laws, that justification does not apply in this legislation, where Congress has an interest in exercising its constitutional oversight and legislative responsibility over all executive branch agencies and entities within its jurisdiction.

Examples too numerous to mention abound in which Federal entities and agencies issue regulations and rules that impact businesses, small and large, as well as major segments of the American public, yet are not subject to the

traditional 5 U.S.C. 553(c) rulemaking process. It is essential that this regulatory reform measure include every agency, authority, or entity that establishes policies affecting all or any segment of the general public. Where it is necessary, a few special adjustments have been made, such as the exclusion for the monetary policy activities of the Board of Governors of the Federal Reserve System, rules of particular applicability, and rules of agency management and personnel. Where it is not necessary, no exemption is provided and the rule is that the entity's regulations are covered by this act. This is made clear by the provisions of the new section 806 which states that the act applies notwithstanding any other provision of law.

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Mr. CLINGER. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. ROYCE].

Mr. ROYCE. Mr. Speaker, I rise in support of this legislation which is urgently needed to avoid financial chaos. This is a compromise bill. In exchange for extending the debt limit, it provides a much needed procedure for reducing unnecessary pork barrel spending. That procedure is the line-item veto. As cochairman of the congressional pork busters coalition, I strongly support the line-item veto as an essential tool to eliminate pork from appropriations bills. We have been battling pork for 6 years on the floor of this House, but not always successfully.

This legislation provides much needed back up power to the Executive, allowing him to surgically slice out those items which do not deserve funding. Governors in 43 States, including California, already have this power and it has worked well. In our State of California, it has allowed our Governors to balance the budget. The House voted for a line-item veto over a year ago, and it has been bottled up in the Senate ever since. This is a golden opportunity to finally achieve our goal.

Mr. GIBBONS. Mr. Speaker, I yield 4 minutes to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I want to thank one of the heroes of D-day for the opportunity, the gentleman from Florida [Mr. GIBBONS].

When the new majority came to power 1 year ago, they promised the American people that Congress would change its ways, that we would live by all the laws of the land. Obviously one of the laws that we are not going to live by is the law of regulating false advertising. The very name of this bill is false advertising. It has nothing to do with the Contract With America. It has everything to do with raising the debt limit by $600 billion.

The American people have consistently said that the biggest threat to this Nation is our horrible debt. It is a vulnerability greater than any other thing because it is eating up so much of our taxes. Just the interest on the national debt eats up more of our taxes than Medicare, than Medicaid, twice as much as Medicaid, the national defense, 10 times more than food stamps, and 12 times more than welfare.

In the 2 minutes that I have spoken to my colleagues, this Nation has spent $1 million on interest on the national debt, just in the past 2 minutes.

So what is their solution? We will borrow more money. We will pay more interest. That is crazy.

Mr. Speaker, what do they do? Do they come to the floor and be honest with the American people and say we want to borrow some more money? No, they hide it. They hide it behind three bills that have already passed this body on their own merit, three bills that were just waiting for the U.S. Senate to agree to so they can become law.

There is only one purpose for this bill. It is to borrow more money and to waste more money on interest on the national debt. Instead of the balanced budget that the American people were promised, this is just more borrow and spend. But it is not the first time since I have come to Congress that this has happened. Around November 7, 1989, I got a call from then-President Bush's White House. I was very new to this body. It said, can you do us a favor? Can you help us just one time temporarily raise the national debt? Just a temporary thing.

Mr. Speaker, I had only been here a couple of weeks, and, my goodness, the President of the United States called. I was flabbergasted and honored, and, of course, Mr. President, you made perfect sense. We have got to do that. So the debt was raised from 2.87 trillion to 3.1 trillion. That was not the end of it. In October 26, 1990, this House came back, and H.R. 5838 permanently raised the debt ceiling from 3.1 to 4.1 trillion, just a couple years later. And then again on August 5, 1993, the House raised the debt ceiling from 4.1 to 4.9.

It is like saying, I am going to pay off my Visa card but first I am going to raise my debt limit on my visa card from 5,000 to 10,000. You do not ever get there.

Today they are being asked to raise it from 4.9 to 5.5 trillion. Voting to raise the debt limit is a lot like an alcoholic saying, I am just going to have one more drink. A very good friend of mine from Pascagoula, MS, just came out of alcoholic rehab. He said, I would wake up every morning and I could always find an excuse for just one more drink. It is Thanksgiving. It is the week before Christmas. It is Mardi Gras. It is spring break. There is always one more excuse, one more drink. But until he work up and said, I am not going to have any more excuses, no more drinks, did he cure his problem.

Mr. Speaker, America has to run out of excuses. We have got to quit borrowing. We cannot be for a balanced budget and then turn around and borrow $600 billion more. Let us draw the line today. Let us quit fooling the American people. Let us do what is right for this country.

I thank the chairman and the great hero of D-Day. This gentleman, in case Members do not know, paratrooped into Normandy the night before the D-Day invasion. He is going to end his congressional career this year. He is a great American, and we are going to miss him.

Mr. ARCHER. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Speaker, I thank my friend, the gentleman from Texas [Mr. ARCHER] for yielding time to me. I want to congratulate the gentleman from Pennsylvania [Mr. CLINGER] and, of course, congratulate the gentleman from Florida [Mr. GIBBONS]. We are going to miss him greatly.

Mr. Speaker, it saddens me that we have gotten to the point where we have to rely on the line-item veto to turn the corner on the profligate spending that we have seen go on for decades. We have seen it successful in 38 States. I would simply like the RECORD to show that in our State of California, Governor Wilson has used the line-item veto 354 times, saving our State's taxpayers nearly $800 million.

I hope very much that we can proceed with passage of this very important measure.

Mr. GIBBONS. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, let us see if this sounds right. Congress is frustrated with political pork. Congress has tried but Congress is fed up with pork-barrel spending.

Congress honestly and desperately wants to stop all of this political pork. So Congress today, in both desperation and frustration, has decided that the only way to stop political pork is by giving the top politician in America, the President, the power to control political pork. Beam me up here. Let me remind everybody herein assembled, this is not Rotary. This is the Super Bowl of politics. And as we speak, White House staffers are not only watching and listening to what we say but how we say it, and they will be individually scoring your voting records to determine who may need some discipline.

In America the people are supposed to govern. My problem with the line item veto is very simple. It is an awesome transfer of the people's power to one person who needs to get elected and then needs 34 Senators in his hip pocket to run America. I guarantee not one of those 34 Senators will ever worry about a line item veto.

Mr. Speaker, let me say this today in the little bit of time I have, watch what we say from here on out, bite our

tongues, mind our votes, mind our votes. And consider our votes politically, folks, because the White House is watching, the White House is keeping score.

I think there is a better way to do this without transferring the power from the people to the White House. We are making the White House too powerful in the United States of America. I think we are endangering the freedom of our Nation and the power of our people.

With that, I appreciate the gentleman for giving me the time. I want to echo the remarks of the gentleman from Mississippi [Mr. TAYLOR].

I have been quite aggressive in some of my opposition at times to the Committee on Ways and Means, but never to the gentleman personally. I think the gentleman is an absolute great American. We are going to miss the gentleman from Florida [Mr. GIBBONS]. I thank him for putting up with me. A lot of Members love him; I certainly do.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, as one who did not support the line item veto because I do not think we can always count on the President of the United States, regardless of who he is, not to have some pettiness in his surroundings. But what I do not understand is there was a big push to do the line item veto early on over here, and I understand that this transaction will not go into place until 1997. Why would not the line item veto go and this President have the benefits of it for the next 7 months?

Mr. TRAFICANT. Mr. Speaker, I would like to respond by saying evidently the next President-elect will have the line item veto authority. It is amazing to me. I think it is unconstitutional, to start with, but I can remember a vote on a Btu tax, and the President wanted a Btu tax. I can remember that I happened to be the only Democrat in the Congress to speak out against that tax. With the line item veto it is not a very comfortable position. Maybe someone from that side might say the reason why.

Mr. CLINGER. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Pennsylvania. We are going to miss him as well.

Mr. CLINGER. Just to briefly say, Mr. Speaker, the President has agreed to the date. Obviously he is confident that he is in fact going to be reelected. I do not share that confidence, but he believes that he will be. Therefore, he is going to have that ability on January 1 in his view. The second thing is he has the key to provide the line-item veto to his use now upon signing a balanced budget agreement.

Mr. TRAFICANT. Reclaiming my time, I do not care if it is a Democrat or Republican, we are all Americans. We are expanding the power of the Presidency. That is not good for our country, Mr. Speaker.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the deputy whip, the gentleman from Illinois [Mr. HASTERT], a respected Member of the House.

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

This is the third time the House of Representatives has taken up legislation to raise the earnings limit for working seniors in the 104th Congress. I want to congratulate the gentleman from Texas [Mr. ARCHER], who I think for 13 Congresses has worked to make this thing possible. I also want to congratulate the gentleman from Kentucky [Mr. BUNNING], who is the chairman of the Social Security Subcommittee, along with Members of the 100th class who have been working on this project for another 8 years. They have made this thing happen.

Mr. Speaker, every time this legislation has come to the floor, it has passed with nearly a huge bipartisan margin. It is clear the House understands that working seniors, people who have to earn money by the sweat of their brow, usually people who have earned money by the sweat of their brow their whole life, who have not been able to accumulate huge savings or investments or those revenues or huge pensions, that today they have to go out and work to supplement their pension, to supplement their Social Security so that they can have a decent life, so that they can help put their grandchildren through college, so that they can maybe go on a vacation or somebody pay their property taxes or even buy a new car. These people are affected by this bill.

I am proud to be able to stand here today and say that those seniors will be able to make more money this year without paying a tax on work. Those seniors will be able to eventually realize and take the earnings test up to $30,000 so that they can share the benefits of work that all Americans can have without paying a penalty or a tax on it.

Mr. Speaker, I sincerely wish we were able to raise the limits faster, as in earlier versions of this bill, but I am glad we have been able to come up with a plan that the President will sign. The seniors need and deserve relief. They have waited patiently for too long. In fact, I think those people who have to work by the sweat of their brow, people who work at McDonald's and flower shops and drive school buses need a break today, and we are going to give it to them.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, to my friend, the gentleman from Pennsylvania [Mr. CLINGER], who is leaving this august body and has been a friend for a lot of years, everything that is in this bill that we are debating here today, as soon as the President signs it, will go into effect with the exception of the line-item veto; is that right?

Mr. CLINGER. Mr. Speaker, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Speaker, as I indicated, this would also go into effect if the President would agree to the balanced-budget agreement.

Mr. HEFNER. The balanced budget is not what we are voting on.

□ 1330

The gentleman is saying to the President, If you will do what we want to do, we'll give you the line-item veto this year, but everything else extending the debt limit and everything else will go into effect as soon as he signs it, with the exception of the line-item veto which we passed well over a year ago, in the first year of this new administration.

Why? I do not understand why the gentleman would object to giving the President the line-item veto when he has got all these bills that are coming up for all the appropriations for everything that we authorized this year. Why would the gentleman want to wait until 1997, because we can save a lot of money? Would it have been possible until you make it effective as soon as the bill is signed?

Mr. Speaker, just as among friends here, we are just friends here, would it not have been possible to put into this legislation that as soon as the President signs it, he will have the line-item veto? It is just that simple.

Yes or no; could the gentleman have done it that way?

Mr. CLINGER. Mr. Speaker, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. That could be done but would kill the conference agreement and prevent enactment of the bill. The President has in fact agreed that the date should be January——

Mr. HEFNER. That is not exactly true, Mr. CLINGER.

Mr. CLINGER. He did agree to that date; did he not?

Mr. HEFNER. That was the best he could get, but I think he would agree, if it were made possible, that the line-item veto would go into effect as soon as he—I do not think he would have any problem with that.

Mr. CLINGER. I would understand that, but if the gentleman would yield——

Mr. HEFNER. But it could be done.

Mr. CLINGER. There is a recognition that this is an effort to try to——

Mr. HEFNER. Mr. Speaker, taking back my time, the gentleman is setting

the legislative agenda here. He could have made it in order that everything would go into effect, the line-item veto, everything, would have gone into effect. It could have been done; am I right or not? Yes or no?

Mr. CLINGER. No. Not and pass the bill.

Mr. HEFNER. I reclaim my time.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The time of the gentleman from North Carolina [Mr. HEFNER] has expired.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

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

The American farmer and the owner of a small business will be, at the end of this day, applauding the action of the Congress of the United States. For too long they have suffered the indignity of the Federal regulator, the agency head, who burdens the farmer and burdens the small business man with countless items of regulation that stifle business, it stifles the ability of the farmer to expand his operation and, thus, have created a situation in our country where entrepreneurs are afraid to hire new people, are afraid to embark on new enterprises.

What we do here today in reforming regulatory flexibility is for the first time give a disaffected regulatee, if there be such a word, the right to appeal a burdensome regulation that has been foisted upon them by administrative agencies. That is a tremendous advance. Instead of having to sit back and take whatever the agency says as a mandate, now for the first time we will have the farmer and the small business man say to himself and to the community, "I'll be able to do something about this adverse regulation."

Mr. ARCHER. Mr. Speaker, I yield 1½ minutes to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I thank the distinguished gentleman for yielding this time to me, and let me just say I support this legislation in every aspect of it. I think many, many good things are happening here.

I only have a minute and a half. I want to talk about the line-item veto. I think we need to look at the record first of all. Congress over the years, Republicans and Democrats, have spent a tremendous amount of money, more than, perhaps, we should have. I think this country really wants mechanisms in place which are going to help us reduce that burden of spending, and I believe strongly the line-item veto will do it.

I have listened to this whole argument today because I am interested in it. As a Governor of a State for 8 years, I had the line-item veto. We are one of the 43 States which has it. I can tell my colleagues it was beneficial in my State from both points of view. It caused us to get into a room together and to discuss our budgets, and to make absolutely sure we were in concert with each other and we were doing what was in the best interests of the State. It was beneficial, without a doubt, to the budget process of the State of Delaware and I am convinced it will be beneficial to the budget process of the United States of America.

We, in my judgment, are not yielding power to the President absolutely. We are allowing the President to become involved in the budget process. But we also retain the right to override vetoes in the circumstances in which they arise, and, quite frankly, if we have a President who for political reasons, ideological reasons, political reasons, whatever it may be, decides to make an issue of all of this, we have the ability to just as easily point out that it is politics and that it is wrong.

What will really happen in this process is that we will be able to sit down together to negotiate things that are absolutely in the pork barrel category. They can be eliminated.

So for the reasons of that and the rest of this very good bill I hope we will all support it here in a few minutes.

Mr. ARCHER. Mr. Speaker, I yield 1½ minutes to the gentleman from New York [Mr. QUINN].

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

Mr. Speaker, I rise today in support of the entire bill which includes the most important line-item veto. This 104th Congress has been hailed as a reform-minded Congress. We have made historic attempts to cut wasteful Government spending, scale back a bloated bureaucracy and, most importantly, balance our Federal budget.

Although we have made great strides in these areas, our budgets still suffer from a deficit increasing plague which is known as pork barrel spending. In order to complete this goal of returning fiscal responsibility to the Federal Government, we must enact this measure.

With the line-item veto the President can literally draw a line through any item in the Federal budget without having to veto the entire budget. No longer will taxpayer dollars be spent on wasteful projects. Instead, the stroke of a pen from the President will eliminate millions of dollars of pork from each year's budget.

Furthermore, these savings will go into a lockbox, insuring that they be used for deficit reduction. In fact, the General Accounting Office, during the course of our discussion on this matter these last 2 years, has reported that they would have saved or been able to save over $70 billion had the line-item veto been in effect.

Mr. Speaker, we are here again with this opportunity to pass a historic measure. On a day when we are asking to support an increase in the debt limit to a record $5.5 billion, I think it is imperative and it is appropriate that we give the President this authority.

Mr. Speaker, I also want to take a moment at this time to commend our colleague, the gentleman from Pennsylvania [Mr. CLINGER], who is retiring after this session. We said yesterday at the Committee on Rules, I will say it again, his work on the line-item veto bill, as well as many other numerous reform problems and perspectives, has been truly remarkable. Without his effort it would still be stuck in conference. We appreciate his work and ask everybody to vote for the line-item veto.

Mr. ARCHER. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Speaker, I thank the gentleman from Texas for yielding time to a person that wants to talk against the bill.

Mr. Speaker, what this bill does is increases the debt of the United States by $600 billion. At 5-percent interest, that is another $30 billion a year that taxpayers will have to pay.

I think it is unconscionable to continue to increase the debt without some guidelines, without some actual legislative change, at the very least some direction, to cut the spending of this overbloated Government. Borrowing has obscured the true siege of Government. Ultimately we must reach a balanced budget. This bill does not do that, and that is why I am voting against it.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. I thank the gentleman for yielding me the time.

Mr. Speaker, let me rise in opposition to H.R. 3136 and mention that, along with some of the Members who have spoken earlier, I, too, believe that this bill will ultimately be found constitutional if it is signed into law. I also note with curiosity that we made the line-item veto effective after the term of the current President, Bill Clinton, has expired, and I think that is somewhat questionable as to why this Congress, under the new majority, has decided not to allow this particular President the opportunity to exercise a line-item veto if they are so adamantly for it.

But let me mention something that I find extremely disturbing in this particular bill, which I cannot understand why it is even in here, and that is the whole issue of regulatory reform. I do not think there is any Member of Congress who does not wish to see regulatory flexibility and decreasing the burden on small business so long as we provide protections to the environment, to workers, and to people, our consumers.

But, disturbingly, this bill commits an end run on the whole issue of regulatory reform because what it does is it provides, in this particular piece of legislation, through an amendment which I must say just came to us last night, which amends this bill which came to us just 2 days ago, the whole structure used to regulate agencies and regulate businesses out there in this country. How someone is supposed to be able to know what something that they got 2 days ago completely means and then now have to analyze something that they got last night, what that means is beyond me. But that is what we are being asked to swallow here through this end run.

I am not sure what is wrong with this particular bill, but why was it that the majority was unwilling to let sunshine on these provisions so we could decide if, in fact, this is the true regulatory reform we need?

Let me mention a couple of other things. This legislation creates, in the regulatory reform provisions, so-called regulatory fairness boards and advocacy panels. These are panels and boards that may be made up completely of a few favored small businesses that are trying to get themselves out of regulation, or can even include people who are exclusively major campaign contributors to particular Members of Congress or to particular parties. That I find very disturbing and very offensive.

What else does this legislation do? It allows for private ex parte communications. In other words, all the interested parties are normally under the customary practice allowed to sit in, in an open and fair process on the record, on what should be done with regard to regulatory reform.

This legislation says no, we do not need to do that any more. Let us go ahead and let a few people who happen to sit on these boards or advocacy panels have the opportunity to privately, without the other interested parties, sit down with some of these agencies that are actually going to create these particular regulations or remove certain regulations. That is unfair to those businesses that are trying to do this in a fair and evenhanded manner.

Finally, the environment is at stake. I would urge all the Members to, if they really have a chance, take a look at this. We are going to take out the penalties for environmental violations of law.

As I was saying, take a look at the provisions that deal with environmental regulations. What we see here are waivers of penalties that would otherwise apply to those businesses that we find in violation of our clean water and safe drinking water standards. Any penalty for having violated those particular laws or regulations could be waived.

Not only that, but because we have not had enough time to examine it, it is going to be fairly clear from some of the cryptic language that is used that they are going to create a nest egg for attorneys, because they will be able to go in there and take this to court because so much of this is so difficult to understand. What they are doing though is putting the consumer at risk, they are putting the environment at risk, and I would urge Members to take a close look for all the reasons I stated on why we should oppose H.R. 3136.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume simply to very briefly respond to the gentleman who has just spoken.

Mr. Speaker, this legislation on small business regulatory reform should not come as a big surprise to him because it was debated thoroughly on the floor of this House last year. This was one of the elements of the Contract With America.

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

Mr. GIBBONS. Mr. Speaker, I yield 1½ minutes to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I have voted on the three main components of this bill already, regulatory reform, Social Security earnings limit increase, and a line-item veto. I think it is very important that the American public knows what this bill is. This is adding things to increase the debt for our children. What is wrong with the scenario to say that we are in debt, we have no figured-out way, no agreed-to plan, to solve that debt, and we are going back to the bank to borrow more money?

□ 1345

Mr. Speaker, the Members of this Congress need to make sure they know what they are doing when they vote to extend the debt and jeopardize the future of our children by not doing the proper thing in terms of living within our means today.

Consider what it will be like when we are 70 or 80 years of age. They will not, our children or grandchildren, be able to buy a home, will not be able to own a car. Their living standard will be halved, because we did the wrong thing today. This is not about the Social Security earnings limit, this is not about the line-item veto, this is not about reg reform, this is about not living up to the very hard responsibility that this Congress has been entrusted with, and that is not to live beyond our means.

I would urge each Member of Congress to consider what the real issue is here today, and vote not to extend his debt limit until we have an agreement that gives us a plan on how we manage the finances of this country.

Mr. CLINGER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise in reluctant opposition to this legislation.

Mr. Speaker, I want my colleagues to know that I have absolutely no quarrel with the heart of this bill—the mechanism by which we enact a long-term increase in the debt limit. My colleagues know that I have long advocated decisive action on the debt limit and feel this step is long overdue. In addition, I have supported the increase in the Social Security earnings limit and believe the so-called reg flex provisions of this bill are an improvement on current law.

My opposition is prompted exclusively by the inclusion of the line-item veto in this must-pass legislation.

Mr. Speaker and my colleagues, enactment of the line-item veto is a serious error and a fundamental violation of the basic constitutional principal of the separation of powers. Every school child in America should have learned that. The separation of powers is a foundation of our democracy.

Mr. Speaker, Mr. David Samuels has it right in an Op-Ed piece in today's New York Times—"Line Item Lunacy." I include this article for the RECORD.

David Samuels writes:

The line-item veto would hand over unchecked power to a minority President with minority support in Congress, while opponents would have to muster two-thirds support to override the President's veto.

[From the New York Times, Mar. 28, 1996]

LINE-ITEM LUNACY

(By David Samuels)

It's a scene from a paranoid thriller by Oliver Stone: A mercurial billionaire, elected President with 35 percent of the vote, holds America hostage to his minority agenda by vetoing item after item in the Federal budget, in open breach of the separation of powers doctrine enshrined in the Constitution. Impossible? Not anymore.

With the announcement by Republican leaders that they plan to pass the line-item veto this spring, the specter of a Napoleonic Presidency has moved from the far reaches of poli-sci fiction, where it belongs, to the brink of political possibility.

At the moment, of course, a Presidential dictatorship is far from the minds of the G.O.P. leadership and White House Democrats, who hope that the line-item veto would encourage the President to eliminate pork-barrel giveaways and corporate tax breaks. But to see the measure as a simple procedural reform is to ignore the forces that have reconfigured the political landscape since it was first proposed.

Back in the 1980's, President Ronald Reagan ritually invoked the line-item veto while shifting blame onto a Democratic Congress for ballooning deficits. Part Republican chestnut, part good-government gimmick, the line-item veto became part of the Contract With America in 1994, and this month rose to the top of the political agenda.

What the calculations of Democrats and Republicans leave out, however, is that the unsettled politics of the 1990's bear little relation to the political order of the Reagan years.

In poll after poll, a majority of voters express a raging disaffection with both major parties. With Ross Perot poised to run in November, we could again elect our President with a minority of the popular vote (in 1992,

Mr. Clinton won with 43 percent). The line-item veto would hand over unchecked power to a minority President with minority support in Congress, while opponents would have to muster two-thirds support to override the President's veto.

By opening every line in the Federal budget to partisan attack, the likely result would be a chaotic legislature more susceptible than ever to obstructionists who could demand a Presidential veto of Federal arts funding or sex education programs or aid to Israel as the price of their political support.

And conservatives eager to cut Government waste would do well to reflect on what a liberal minority might do to their legislative hopes during a second Clinton term in office.

Nor would the line-item veto likely result in more responsible executive behavior. The zigs and zags of Bill Clinton's first term in office give us a clear picture of the post-partisan Presidency, in which the executive freelances across the airwaves in pursuit of poll numbers regardless of the political coherence of his message or the decaying ties of party. With the adoption of the line-item veto, the temptation for Presidents to strike out on their own would surely grow.

The specter of a President on horseback armed with coercive powers might seem far away to those who dismissed Ross Perot as a freak candidate in the last election. Yet no law states that power-hungry billionaires must be possessed of Mr. Perot's peculiar blend of personal qualities and doomed to fail. Armed with the line-item veto, a future Ross Perrot—or Steve Forbes—would be equipped with the means to reward and punish members of the House and Senate by vetoing individual budget items. This would enable an independent President to build a coalition in Congress through a program of threats and horse-trading that would make our present sorely flawed system seem like a model of Ciceronian rectitude.

President Clinton has promised to sign the line-item veto when it reaches his desk. Between now and then, the historic breach of our constitutional separation of powers that the measure proposes should be subject to a vigorous public debate. At the very least, we might reflect on how we intend to govern ourselves at a time when the certainties of two-party politics are dissolving before our eyes.

He's absolutely right! A pure line-item veto—and the version included in this bill is fairly pure—would give the President of the United States new dramatic, unilateral powers. It would mean that any President, operating in league with just 34 Senators, could strip any spending proposal or tax cut, no matter their merit, from any bill. The consolidation of power in the executive branch is undeniable.

As Mr. Samuels writes, "By opening every line in the Federal budget to partisan attack, the likely result would be a chaotic legislature more susceptible than ever to obstructionists . . ."

This line-item veto could easily take legislative horse-trading to a new level. While many President's have held out the prospect of pork in order to enlist votes for legislation they wanted—that is, the vote trading that occurred during the NAFTA debate—the line-item veto will allow a President to threaten specific programs and projects proposed by Members in order to compel their cooperation on other votes.

This is a dramatic shift in the balance of power is an open invitation to any President to engage in legislative blackmail. For example, what if President Clinton decided to remove only Republican initiatives from a measure? If 34 Democratic Senators uphold his action, the President wins.

We all recognize the genius of the framers of our U.S. Constitution. They did not want a king or a dictator or an oligarchy—a small group ruling the Nation. So they wrote the Constitution based on a delicate system of checks and balances and the separation of powers doctrine.

I have supported a so-called expedited rescissions process which will maintain the delicate balance of powers by allowing the President to reject spending and tax changes with a majority vote of Congress.

I am convinced, however, that the Supreme Court of the United States will save this Congress from itself. This proposed violates the foundation of our Constitution and will be overturned at its first judicial challenge.

Mr. Speaker, I regret that inclusion of this line-item veto will force me to vote "no" on this vital legislation.

Many of my colleagues know that I have been a strong voice urging quick passage of a long-term debt limit extension. I spoke out on this issue as early as November 15 in a letter to Speaker GINGRICH and again in letters in late January, in late February, and early March.

And today—finally, finally—we are doing the right thing.

For too long, many in this Congress threatened to use this long-term debt limit extension bill as leverage in the effort to enact entitlement reform or other legislation.

That was playing with fire.

When it comes to our financial obligations, the stakes are simply too high. In its 219-year history, the United States has never defaulted on its financial obligations. The full faith and credit of the United States must not be jeopardized.

Default could set off a chain reaction of economic events, at home and abroad, that could be both uncontrollable and catastrophic. Even talking about a default carries costs that are being borne by the taxpayers and private businesses.

As Members dedicated to fiscal responsibility and protecting the economic future of our country, I am pleased that we are finally taking responsible action to increase the debt ceiling and, in doing so, avoid default.

Mr. Speaker, I also support enactment of a phased increase in the Social Security earnings limit and the provisions of the small business regulatory flexibility act.

Mr. CLINGER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, 75 percent of the American people support the line-item veto, and have supported the line-item veto for a long time. I am sorry the gentleman from North Carolina did not stay on the floor. He asked me the question, could we not have made this effective now? I would return the question and say why did not the majority, the then-majority party, provide a line-item veto for the 40 years in which they controlled this body?

It has been suggested that there are a number of reasons why we should not enact this legislation. It has been suggested that it is unconstitutional. It is not really our job to determine what is constitutional or what is not unconstitutional, but the fact is that we do provide severability in this measure. If a provision, any provision of the matter is considered to be unconstitutional, it can be stricken and the rest of the matter can stand.

It has also been suggested, Mr. Speaker, that we have engaged in a reckless transfer of power. I would suggest, on the contrary, this provides the President with a refined tool to attack the deficit problem that looms over us. It merely gives him an effort to be more selective in the way that he goes about deficit reduction.

Congress retains the power to override any Presidential veto. We have not given that power away. I am sure that we will exercise that power. We also limit his ability to do this to whole dollar amounts. He cannot single out projects unless they are congressional earmarks. He has to take out the entire amount if he is going to do anything, so that was, I think, an important addition that we got in conference.

Mr. Speaker, there are the dire results that have been indicated by some of the Members who have spoken against this measure, if, in fact, that turns out to be true, there is a sunset provision in this legislation that provides that there will be an opportunity to review this matter at a time within 8 years. Mr. Speaker, I think this is a reasonable, a reasoned, and a sensible measure that should be enacted.

I want to discuss just one other brief area that needs clarification in this legislation. We created small business and agriculture enforcement ombudsmen who would be appointed by the Administrator in the SBA. Concerns have arisen in the inspector general community that those ombudsmen would have new enforcement powers that would conflict with those currently held by the inspectors general. I want to make it very clear that nothing in this act is intended to supercede or conflict with the Inspector General Act of 1978, as amended, or to otherwise restrict or interfere with the activities of any office of the inspector general but, rather, be used to help our small business and work with the inspectors general.

Mr. Speaker, I urge a strong bipartisan support for the increase in the debt limit and the line-item veto and regulatory reform.

Mr. Speaker, I include for the RECORD a letter from the Joint Committee on Taxation containing examples of how the tax provisions of this measure would work.

The material referred to is as follows:

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
Washington, DC, March 26, 1996.

Hon. PETER BLUTE,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. BLUTE: This is in response to your letter of March 24, 1996, in which you requested the staff of the Joint Committee on Taxation to prepare some examples of how the provisions of S. 4, the "Line Item Veto Act," would apply to tax legislation.

The Line Item Veto Act provides that each "limited tax benefit" is subject to the President's line-item veto authority. In general, the Line Item Veto Act defines a "limited tax benefit" as any provision prescribing tax consequences under the Internal Revenue Code that is either (1) a revenue-losing provision that provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries in any fiscal year for which the provision is in effect (subject to certain exceptions described below); or (2) a Federal tax provision that provides temporary or permanent transitional relief to 10 or fewer beneficiaries in any fiscal year, except to the extent that the provision provides for the retention of prior law for all binding contracts (or other legally-enforceable obligations) in existence on a date contemporaneous with Congressional action specifying such a date. The Joint Committee on Taxation is responsible for identifying limited tax benefits.

A provision is defined as "revenue-losing" if it results in a reduction in Federal tax revenues either for the first year in which the provision is effective or for the 5-year period beginning with the fiscal year in which the provision is effective. A revenue-losing provision that affects 100 or fewer beneficiaries in a fiscal year is not a limited tax benefit if any of certain enumerated exceptions is satisfied. First, if a provision has the effect of providing all persons in the same industry or engaged in the same activity with the same treatment, the item is not a limited tax benefit even if there are 100 or fewer persons in the affected industry. For this purpose, the staff of the Joint Committee on Taxation believes that a broad definition of "activity" is intended to be applied, e.g. for purposes of determining whether a proposal related to drug testing is a limited tax benefit, all persons engaged in drug testing would be considered to be engaged in the same activity or the same industry rather than all persons engaged in clinical testing of drugs for certain diseases. A second exception is for provisions that have the effect of providing the same treatment to all persons owning the same type of property or issuing the same type of investment instrument. Finally, a provision is not a limited tax benefit if the only reason the provision affects different persons differently is because of: (1) the size or form of the business or association involved; (2) general demographic conditions affecting individuals, such as their income level, marital status, number of dependents, or tax return filing status; (3) the amount involved; or (4) a generally available election provided under the Internal Revenue Code.

We have made a preliminary review of the Balanced Budget Act of 1995 (the "BBA"), as passed by the Congress, and have also provided examples of items from earlier legislation that would constitute limited tax benefits if the Line Item Veto Act were in effect at the time such provisions were enacted. (The Line Item Veto Act is scheduled to go into effect on January 1, 1997, or the day after a seven-year balanced budget act has been enacted, whichever is earlier.) The attached list is not intended to be dispositive of exhaustive. The Joint Committee staff continued to analyze the provisions in the BBA and other tax legislation and it is possible that additional provisions will be identified as limited tax benefits.

I hope that this information is helpful to you. If we can be of further assistance, please let me know.

Sincerely,

KENNETH J. KIES,
Chief of Staff.

EXAMPLES OF LIMITED TAX BENEFITS WITHIN THE MEANING OF S. 4, THE LINE-ITEM VETO ACT

THE BALANCED BUDGET ACT ("BBA") OF 1995

1. Exemption from the generation-skipping transfer tax for transfers to individuals with deceased parents (sec. 11074)

Under present law, a generation-skipping transfer tax generally is imposed on transfers to an individual who is more than one generation younger than the transferor. An exception provides that a transfer from a grandparent to a grandchild is not subject to the generation-skipping tax if the grandchild's parent (who is the grandparent's child) is deceased at the time of the transfer. The BBA provision would expand the present-law exception to apply also in other limited circumstances, e.g., to transfers to grandnieces and grandnephews whose parents are deceased.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 beneficiaries in at least one fiscal year in which the provision would be in effect, and it does not fall within any of the stated exceptions. It does not provide the same treatment to all persons engaged in the same activity—making generation-skipping transfers—because transfers to individuals with deceased parents would be treated differently than transfers to individuals whose parents are still alive.

2. Extension of the orphan drug tax credit (sec. 11114)

Prior to January 1, 1995, a 50-percent tax credit was allowed for qualified clinical testing expenses incurred in the testing of certain drugs for rare diseases or conditions. The BBA provision would extend the credit through December 31, 1997.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 drug companies in at least one fiscal year in which the provision would be in effect, and all persons engaged in the activity of drug testing are not treated the same. Only certain types of drug testing would qualify for the credit.

3. Extension of binding contract date for biomass and coal facilities (sec. 11142)

Under present law, a tax credit is provided for fuel produced from certain "nonconventional sources." In the case of synthetic fuel produced from coal and gas produced from biomass, the credit is available only for fuel from facilities placed in service before January 1, 1997, pursuant to a binding contract entered into before January 1, 1996. The BBA provision would extend the credit to facilities placed in service before January 1, 1998, pursuant to a binding contract entered into before July 1, 1996.

This provision is a "limited tax benefit" because it loses revenue, it is expected to affect fewer than 100 fuel producers, and all persons engaged in the production of fuel from nonconventional sources are not treated the same. Persons producing fuel from nonconventional sources in facilities placed in service after July 1, 1996 would not be eligible for the credit.

4. Exemption from diesel fuel dyeing requirements with respect to certain States (sec. 11143)

Under present law, an excise tax is imposed on all diesel fuel removed from a terminal facility unless the fuel is destined for a nontaxable use and is indelibly dyed pursuant to Treasury Department regulations. A similar dyeing regime exists for diesel fuel under the Clean Air Act, but the State of Alaska is partially exempt from the dyeing regime of the Clean Air Act. The BBA provision would exempt diesel fuel sold in the State of Alaska from the excise tax dyeing requirement during the period when that State is exempt from the Clean Air Act dyeing requirement.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 beneficiaries in at least one fiscal year in which the provision would be in effect, and it does not fall within any of the stated exceptions. The provision does not treat all persons engaged in the same activity the same way, because persons removing diesel fuel from terminals in Alaska would be treated differently than those removing diesel fuel from terminals in other areas of the United States.

5. Common investment fund for private foundations (sec. 11276)

The BBA provision would grant tax-exempt status to any cooperative service organization comprised solely of members that are tax-exempt private foundations and community foundations, if the organization meets certain requirements and is organized and operated solely to hold, commingle, and collectively invest and reinvest funds contributed by the members in stocks and securities, and to collect income from such investments and turn over such income, less expenses, to the members.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 beneficiaries in at least one fiscal year in which the provision would be in effect, and it does not fall within any of the stated exceptions. The provision does not treat all persons engaged in the same activity the same way, because mutual funds that are engaged in the same type of activity, i.e., collectively investing funds in stocks and securities, would not receive the benefit of the provision.

6. Transition relief from repeal of section 936 credit (sec. 11305)

Under present law, certain domestic corporations with business operations in the U.S. possessions may elect the section 936 credit which significantly reduces the U.S. tax on certain income related to their operations in the possessions. The BBA generally would repeal section 936 for taxable years beginning after December 31, 1995. However, transition rules would be provided under which corporations that are existing claimants under section 936 would be eligible to claim credits for a transition period. One of these transition rules would allow a corporation that is an existing claimant with respect to operations in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands to continue to determine its section 936 credit with respect to its operations in such possessions under present law for its taxable years beginning before January 1, 2006.

This transition rule for corporations operating in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands is a "limited tax benefit" because it is

expected to provide transitional relief from a change to the Internal Revenue Code to 10 or fewer beneficiaries in at least one fiscal year in which the provision would be in effect, and it does not meet the binding contract exception.

7. Modification to excise tax on ozone-depleting chemicals (sec. 11332)

Under present law, an excise tax is imposed on the sale or use by the manufacturer or importer of certain ozone-depleting chemicals. Taxable chemicals that are recovered and recycled within the United States are exempt from tax. The BBA provision would extend the exemption to imported recycled halons.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 importers in at least one fiscal year in which the provision would be in effect, and it does not fall within any of the stated exceptions. Although anyone who imports recycled halons would receive the same treatment under the provision, others engaged in the manufacture or import of ozone-depleting chemicals would not qualify for the exemption.

8. Modification to tax-exempt bond penalties for local furnishers of electricity and gas (sec. 11333)

Under present law, tax-exempt bonds may be issued to benefit private businesses engaged in the furnishing of electric energy or gas if the business's service area does not exceed either two contiguous counties or a city and one contiguous county. If, after such bonds are issued, the service area is expanded beyond the permitted geographic area, interest on the bonds becomes taxable, and interest paid by the private parties on bond-financed loans becomes nondeductible. The BBA provision would allow private businesses engaged in the local furnishing of electricity or gas to expand their service areas beyond the geographic bounds allowed under present law without penalty under certain specified circumstances.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 beneficiaries in at least one fiscal year in which the provision would be in effect, and it does not fall within any of the stated exceptions. All persons engaged in the activity of generating electricity or gas would not be treated the same.

9. Tax-exempt bonds for sale of Alaska Power Administration Facility (sec. 11334)

Under present law, tax-exempt bonds may be issued for the benefit of certain private electric utilities. If the bonds are used to finance acquisition of existing property by these utilities, a minimum amount of rehabilitation must be performed on the property as a condition of receiving the tax-exempt bond financing. The BBA provision would waive the rehabilitation requirement in the case of bonds to be issued as part of the sale of the Snettisham facility by the Alaska Power Administration.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit only one issuer of tax-exempt bonds, and it does not fall within any of the stated exceptions. No other issuers of tax-exempt bonds would benefit from the provision.

10. Transitional rule under section 2056A (sec. 11614)

Under present law, a marital deduction generally is allowed for estate and gift tax purposes for the value of property passing to a spouse. The marital deduction is not available for property passing to a non-U.S.-citizen spouse outside a qualified domestic trust ("QDT"). The requirements for a qualified domestic trust were modified in the Omnibus Budget Reconciliation Act of 1990 ("OBRA 1990"). The BBA provision would allow trusts created before the enactment of OBRA 1990 to qualify as QDTs if they satisfy the requirements that were in effect before the enactment of OBRA 1990.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 beneficiaries in at least one fiscal year in which the provision would be in effect, and it does not fall within any of the stated exceptions. The provision would benefit a closed group of taxpayers. Trusts created before the enactment of OBRA 1990 would be treated differently than trusts created after the enactment of OBRA 1990.

11. Organizations subject to section 833 (sec. 11703)

Present-law section 833 (created in the Tax Reform Act of 1986) provides special tax benefits to Blue Cross or Blue Shield organizations existing on August 16, 1986, which have not experienced a material change in structure or operations since that date. The BBA provision would extend this special rule to other similarly-structured organizations that were in existence on August 16, 1986, and have not materially changed in structure or operations since that date.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 beneficiaries in at least one fiscal year in which the provision would be in effect, and all persons engaged in the same activity would not be entitled to take the benefit. The benefit would be available only to a closed group of taxpayers that were in existence in 1986, and would not be available to any newly formed entities.

EXAMPLES OF "LIMITED TAX BENEFITS" FROM OTHER STATUTES

1. The original income tax, as enacted in 1913, exempted the sitting President

The 1913 Act imposing the first income tax provided an exemption for the sitting President of the United States for the remainder of his term. If the Line Item Veto Act had been applicable at the time, the President would have had the option of canceling this "limited tax benefit."

2. Financial institution transition rule to interest allocation rules

A provision in the Tax Reform Act of 1986 changed the rules relating to how multinational corporations allocate interest expense for foreign tax credit purposes. The provision included a favorable rule for banks, and also included a special exception allowing "certain" nonbanks to use the favorable bank rule. The special exception applied to any corporation if "(A) such corporation is a Delaware corporation incorporated on August 20, 1959, and (B) such corporation was primarily engaged in the financing of dealer inventory or consumer purchases on May 29, 1985, and at all times thereafter before the close of the taxable year." P.L. 99-514, 100 Stat. 2548, sec. 1215(c)(5).

This transition rule would have been a "limited tax benefit" if it were expected to provide transitional relief from a change to the Internal Revenue Code to 10 or fewer beneficiaries in at least one fiscal year in which the provision would be in effect. (In retrospect, it is believed that 10 or fewer beneficiaries actually received the benefit of this provision.)

3. Community development corporations

The Omnibus Budget Reconciliation Act of 1993 included a provision that created an income tax credit for entities that make qualified cash contributions to one of 20 "community development corporations" ("CDCs") to be selected by the Secretary of HUD using certain selection criteria. Each CDC could designate which contributions (up to $2 million per CDC) would be eligible for the credit.

This provision would have constituted a "limited tax benefit" if it were expected to provide a benefit to 100 or fewer contributors in at least one fiscal year in which the provision would be in effect. (In retrospect, it is believed that 100 or fewer contributors received the benefit of this provision.) All persons who engage in the activity of making contributions to CDCs are not treated the same, and the difference is not based upon size, filing status, or any of the other enumerated factors.

4. Exemptions from cutbacks in meal and entertainment expense deductions

Prior to 1986, a 100-percent deduction was provided for certain meal and entertainment expenses. In 1986, the deduction was reduced to an 80-percent deduction. In 1993, the deduction was again reduced, to a 50-percent deduction. In both 1986 and 1993, an exemption was provided for food and beverages provided on an offshore oil or gas platform or drilling rig. A separate exemption was provided for support camps in proximity to and integral to such a platform or rig, if the platform or rig is located in the United States north of 54 degrees north latitude (i.e., in Alaska).

These exemptions both would have been "limited tax benefits" in 1986 if they had been expected to provide transitional relief from a change to the Internal Revenue Code to 10 or fewer beneficiaries in at least one fiscal year in which the provision would be in effect.

5. Transition relief from private activity bond requirements

The Omnibus Budget Reconciliation Act of 1987 created a new category of private activity bond for bonds issued by a governmental unit to acquire certain nongovernmental output property, e.g., electrical generation facilities. Such bonds generally are subject to a State's annual private activity volume limitation. However, specific transition relief was provided for "bonds issued—(A) after October 13, 1987, by an authority created by a statute—(i) approved by the State Governor on July 24, 1986 and (ii) sections 1 through 10 of which became effective on January 15, 1987, and (B) to provide facilities serving the area specified in such statute on the date of its enactment."

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit only on issuer of tax-exempt bonds, and it does not fall within any of the stated exceptions. No other issuers of tax-exempt bonds would benefit from the provision.

6. Various Tax Reform Act of 1986 provisions

The Tax Reform Act of 1986 contains a number of provisions that are clearly targeted to only one taxpayer (in some cases, even referring to the taxpayer by name). For example:

"* * * indebtedness (which was outstanding on May 29, 1985) of a corporation incorporated on June 13, 1917, which has its principal place of business in Bartlesville, Oklahoma." (sec. 1215(c)(2)(D))

"In the case of an affiliated group of domestic corporations the common parent of

which has its principal office in New Brunswick, New Jersey, and has a certificate of organization which was filed with the Secretary of the State of New Jersey on November 10, 1887 * * *" (sec. 1215(c)(6)(A))

A facility if "(i) such facility is to be used by both a National Hockey League team and a National Basketball Association team, (ii) such facility is to be constructed on a platform using air rights over land acquired by a State authority and identified as site B in a report dated May 30, 1984, prepared for a State urban development corporation, and (iii) such facility is eligible for real property tax (and power and energy) benefits pursuant to State legislation approved and effective as of July 7, 1982." (sec. 1317(3)(S))

"A project is described in this subparagraph if such project is consistent with an urban renewal plan adopted or ordered prepared before August 28, 1986, by the city council of the most populous city in a state which entered the Union on February 14, 1859." (sec. 1317(6)(U))

A facility if "(i) such facility is to be used for an annual civic festival, (ii) a referendum was held in the spring of 1985 in which voters permitted the city council to lease 130 acres of dedicated parkland to such festival, and (iii) the city council passed an inducement resolution on June 19, 1986." (sec. 1317(7)(J))

A residential rental property if "(i) it is a new residential development with approximately 98 dwelling units located in census tract No. 4701, and (ii) there was an inducement ordinance for such project adopted by a city council on August 14, 1984." (sec. 1317(13)(M))

"A facility is described in this subparagraph if it consists of the rehabilitation of the Andover Town Hall in Andover, Massachusetts." (sec. 1317(27)(I))

Proceeds of an issue if "(i) such issue is issued on behalf of a university established by Charter granted by King George II of England on October 31, 1754, to accomplish a refunding (including an advance refunding) of bonds issued to finance 1 or more projects, and (ii) the application or other request for the issuance of the issue to the appropriate State issuer was made by or on behalf of such university before February 26, 1986." (sec. 1317(33)(C))

Mr. GIBBONS. Mr. Speaker, I yield back the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield the balance of my time to the gentleman from Texas [Mr. ARMEY].

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Texas [Mr. ARMEY] is recognized for 12 minutes.

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

Mr. Speaker, when we wrote the Contract With America, we promised the American people a new deal, a change, a real change which would be meaningful in their real lives. We promised innovation and responsiveness.

Today we bring forward the Contract With America Advancement Act, and it includes the line-item veto. The line-item veto is something the American people have called for for years. The chairman of the committee, the gentleman from Texas [Mr. ARCHER], who first came to Congress with Richard Nixon was in the White House, introduced the line-item veto at that time.

Through the end of the Nixon Presidency and through the Ford Presidency, through the Carter Presidency, the Reagan Presidency, the Bush Presidency, and thus far through the Clinton Presidency, the chairman has fought for a line-item veto, and through all that time the other party, while in the majority, were unwilling to give this authority to the President of the United States. They were unwilling to give this authority to any President, Republican or Democrat, because they claimed it for themselves, in defiance of the will of the American people. Today we will pass it, Mr. Speaker.

We promised and we are delivering today, regulatory reform to give relief to the small business men and women of this country who create the majority of our new good jobs. Again, we are trying to roll back the regulatory steamroller that has been running over small business in America and has been the hallmark of initiatives of the past Democrat majorities.

In this landmark piece of legislation, we are increasing the limitation on earnings available to our senior citizens before they see a reduction of their Social Security benefits, benefits that were bought and paid for with after-tax dollars throughout all their working years, a simple justice for senior Americans, denied to them for all these years by the Democrat majorities in the past.

They say we are late in getting this done. In the first few months of the second session of our first term in the majority in 40 years, they say we are late in getting done what it is they never would or never could even try to do. We will stand on our promptness. These contract items that will go forward today, I expect the President will sign. Unhappily, he has vetoed others.

The President has already vetoed lower taxes for the working men and women of this country. Welfare reform, much needed and much called for by the people of this country, the President has vetoed twice. A balanced budget the President has vetoed; significant spending reductions and reform, the President has vetoed. The President has not been an agent of change for the American people, Mr. Speaker. The President has been a veto for the status quo.

When the President vetoed these bills, he shut down the Government, and yes, he won a short-term public relations battle. Many were counting us out in our new majority by the end of last year, but we came back in March, and we are back. We have just completed the most productive month of this Congress. During this month of March we have passed a farm bill that is truly revolutionary, taking agriculture in a new direction of freedom for all Americans.

As I have observed the move of farm policy in the past, I have found myself observing that when the American farmers bit on it and joined a partnership with the Federal Government, they became the junior partners, not free on their own land. We are fixing that this month.

We are passing this month a job that we began in 1990, that we had prepared in 1991, that was disallowed to come to this floor by the Democrat majority in 1991, that would move health legislation to end job lock, and would make insurance more affordable for all Americans. That will be done before we leave this week.

We will pass this week product liability reforms. The gentleman from Illinois, HENRY HYDE, our distinguished chairman of the Committee on the Judiciary, sat on that committee for 22 years, 22 years of time when the American people cried for relief from the product liability laws that were choking off job creation in America, and the gentleman from Illinois never got to see even a single hearing on the subject under Democrat chairmen. We will pass that on to the President this week. He says he will veto it on behalf of the trial lawyers.

We have passed already in March the most effective death penalty ever. We have passed an immigration reform that, one, protects our borders; and two, reflects the true openness and compassion to lovers of freedom that this country has demonstrated through its foundation and through its entire history.

Today in Roll Call, Mr. Speaker, this legislation was called landmark and nontraditional. It is landmark and it is nontraditional, nontraditional in the sense that for the past 40 years we had a do-nothing majority that only chose to build on the status quo, never chose to dare to take a chance on freedom, never chose to dare to innovate, never chose to keep faith and be responsive to the demands of the American people.

We are doing that today, and we will do that through the rest of this term, and we will do that in the next Congress, because, Mr. Speaker, the American people deserve a Congress that has the ability to know their goodness and the decency to respect it. That is what they will have.

Mr. SKAGGS. Mr. Speaker, this is one of those occasions when every Member should be mindful of the undertaking that we make at the beginning of every Congress to protect and defend the Constitution of the United States, because adopting the line-item veto provision in this proposed bill would run absolutely counter to that obligation. The first words of Article I, sec. 1 of the Constitution are, "All legislative powers herein granted shall be vested in a Congress of the United States." Later in Article I, sec. 7 dealing with the President's responsibility with regard to legislation, the Constitution states as follows: "If he approve, he shall sign it,"—the bill—"but, if not, he shall return it with his objections."

Those are the basic parameters of the legislative responsibilities that we have under the

Constitution and that the President has under the Constitution, and it is not in our power to change them. It is our responsibility in fact to respect and preserve them.

While our friends across the ocean in Britain are having second thoughts these days about their monarchy, this line-item veto provision will effectively start the accretion of monarchical power in the American presidency. The Founders would surely be appalled.

Incredibly, under this proposal, after an appropriations bill has been passed by the Congress and signed it into law, the President can repeal, the authors of this bill say "cancel," those parts of that law he opposes by the mere act of writing them down on paper and sending the list to Congress. This "repeal" power may be suitable for Royalty but it is an unconstitutional insult to the principle of representative democracy.

Recall those grand words of the Declaration of Independence in which we protested the usurpation of power by King George, and mark my words, we will live to regret the usurpation of power that we invite on the part of future Presidents of the United States if this provision becomes law.

Thank God the courts stand ready to do the right thing and to find this provision, as it is, contrary to the Constitution.

The Supreme Court has spoken to this issue most recently and on point in the Chadha case, there making it absolutely clear that the powers of neither branch with respect to the division of responsibility on legislation can be legislatively eroded.

What is even more bizarre in this particular proposal is the provision for the 5 day cancellation period. Now think about that. This is a metaphysical leap of Herculean proportions.

The enactment provisions of the Constitution say that once the President signs a bill, it shall be law. We propose that he then has a 5 day cancellation right, after signing a bill? That is absolutely absurd. This defies any logical reading of the clear meaning to the provisions of the Constitution that delineate the roles and powers of Congress and the President with respect to legislation.

But beyond the constitutional arguments, this proposal is fundamentally unwise. And, sadly, it manifests a shameful disrespect by us of our own responsibilities and the Constitution.

On the large issues, let us think back to what would have happened during the Reagan administration, with a President who, for his own reasons, sent budgets to this body zeroing most categories of education funding in the Federal budget. Presumably, if that President had this power, it would be exercised to eliminate most education funding by the United States Government, and 34 Senators representing 9 percent of the people of this country, in league with the President, could have brought about the outcome.

The invitation to usurpation that lies in this language is even more pernicious and can also be understood by going back to the late eighties, when we were still debating whether we would continue aid to the Contras. Now, let's say I happened to have been fortunate enough to have gotten a provision in an appropriations bill for a needed post office or a needed courthouse in my district, and the bill was down at the White House awaiting signature at the same time we were debating aid to the Contras. I would guarantee you I would have gotten a call from someone at the White House saying "Congressman, I notice you had some success in dealing with this need in your district. We are pleased at that, but we need your support on aid to the Contras." The not so subtle message: your vote on what we want, or you lose the post office.

That is the kind of extortionate excess of power that we are inviting future presidents to apply.

Pick your issue. That is one that comes to my mind.

It is clear that the Governors of the several States who have this power use it in exactly this way, to get their version of spending adopted. As one former Governor recently stated, the real use of the line-item veto power he had as Governor was not to control a bloated budget but to persuade legislators to change their votes on important issues. Ironically, this may actually result in more spending; in most cases, certainly no reduction.

Last year, the majority in this body rejected the expedited rescissions proposal that represented a constitutionally acceptable approach to this issue, requiring each Member of Congress to be accountable with a specific vote on any items a President might find objectionable enough to rescind. Without that mechanism for requiring congressional reconsideration, the line-item veto proposal before us is clearly unconstitutional.

The language in the Constitution clearly gives Congress the responsibility for crafting legislation, while the President is limited to simple approval or disapproval of bills presented to him. Article I, section 7 refers to the President returning a bill, not pieces of a bill. Yes, the Constitution allows the President to state his objections to a bill upon returning it, but the objections merely serve as guidelines for Congress should it choose to redraft the legislation.

We have no legitimate power to pass a statute to the contrary. The Constitution does not allow the President to repeal a provision of law by striking a spending level approved by Congress. We have no legitimate power to pass a statute to the contrary.

As the Supreme Court noted in its decision I.N.S. versus Chadha, "Explicit and unambiguous provisions of the Constitution prescribe and define the respective functions of the Congress and of the Executive in the legislative process."

The Court continues, "These provisions of Article 1 are integral parts of the constitutional design for the separation of powers." The line-item veto proposal in the bill before us would impermissibly alter the "constitutional design for the separation of powers" between the executive and legislative branches by allowing the President singlehandedly to repeal or amend legislation which Congress has approved, and the President has already signed into law.

The Framers were deliberate and precise in dividing legislative powers. In the Federalist papers, Hamilton and Madison both expressed the view that the legislature would be the most powerful branch of government. Thus, they also recognized the need for some checks on its powers. So, the Constitution provides for a bicameral legislature, with each body elected under different terms and districts. And it affords the President a veto power. Other constraints are also imposed, such as requirements for origination of certain legislation in the House.

The President's veto power, as a check on Congress, was recognized to be a blunt instrument. As Hamilton explains in Federalist 73, the Framers acknowledged that with the veto power "the power of preventing bad laws includes that of preventing good ones." It was their sense, however, that "the negative would be employed with great caution."

The line-item veto being considered today, by providing the President with the authority to repeal or "cancel" appropriations and some tax laws, turns the framework defined in article I, section 7 on its head. What the President might decide to "cancel" under this provision is simply repealed, unless the Congress goes through an entire repetition of the article I legislative process, including a two-thirds vote of both houses. This would allow the President and a minority in only one house of Congress to frustrate the will of the majority—an outcome that flies in the face of the constitutional principle of majority rule.

Finally, Mr. Speaker, I must comment on a very deceptive provision of this line-item veto bill. The authors of the bill claim it doesn't focus unfairly on appropriations bills—which traditionally include funding for education, environmental, health, and other governmental programs—because it also includes tax provisions among the items the President can "cancel."

But, the only tax provisions that can be cancelled are "limited tax benefits," defined as revenue-losing provisions that provide a benefit to "100 or fewer beneficiaries under the Internal Revenue Code of 1986." A tax break for a particular industry that takes millions of dollars out of the Federal treasury can't be cancelled by the President. And even a so-called limited tax break can be easily finessed—that is, immunized from veto—if the conference report merely fails to identify it as such.

Why? I think the answer is obvious. Many members of the majority party are fond of handing out tax breaks to their friends in particular industries. So, under this bill, a member who wants to include funding in an appropriations bill for a national park in her Congressional District must worry about the President cancelling a benefit to her District, but a member who wants to provide funding to his favorite industry or business by including a tax break in a larger tax bill doesn't need to be concerned.

Mr. Chairman, this proposal goes too far in fuzzing the separation of powers set forth in the Constitution. It subjects members of Congress to a new, extreme form of executive branch pressure. It unfairly targets appropriation expenditures while ignoring most tax expenditures. I urge my colleagues to reject it before it is rejected by the courts. Regrettably, this provision so taints this entire bill, otherwise needed to extend the debt limit, that the bill itself should be defeated.

Mr. STEARNS. Mr. Speaker. I rise in support of this legislation to raise the debt ceiling because I do not believe we can allow our

Government to go into default. To do otherwise would wreak havoc on our Nation's good standing and would result in Social Security and Veterans benefits from being sent out.

It is difficult to take this action but I can tell you that because of this Congress' vigilance we have already saved approximately $23 billion in spending over the past year. This is a very good start on the road to achieving a balanced budget.

There are two provisions in particular that are included in this measure that allow me to vote in favor of H.R. 3136.

We provide the means to give the President the line-item veto. President Reagan asked Congress over and over again—"Give me the line-item veto." If only Congress had given him this mechanism for fiscal discipline, we wouldn't have these huge debts which, if not reduced, threaten to crush the next generation with huge taxes and a diminished quality of life.

Today we have been given a rare opportunity to enact legislation that will accomplish this.

My other chief reason for voting for this bill is that it contains an increase in the earnings limit for those age 65 to 69 to $30,000 by the year 2002. Currently, a working senior who reaches $11,280 in earned income loses $1 in Social Security for each $3 earned thereafter. That's a marginal tax rate of 33 percent. That's a high price for merely wanting to work.

The earnings test limit is unjust. It treats Social Security benefits less like a pension and more like welfare. It represents a Social Security bias in favor of unearned income over earned income.

It is effectively a mandatory retirement mechanism our country no longer accepts or needs. It precludes greater flexibility for the elderly worker and also prevents America's full use of eager, experienced and educated elderly workers. Finally, it deprives the U.S. economy of the additional income tax which would be generated by the elderly workers.

Let's pass this bill today so that we can get America back on the right track.

Mr. VENTO. Mr. Speaker, I reluctantly support this measure, H.R. 3136, the debt limit package. First, we need to honor the debt which our Nation has incurred. The U.S. credit rating must not be in question, nor should the risk of default. For over 200 years through civil and world wars, recession and depression, the United States has honored our debt.

Certainly it is deplorable that the total U.S. debt has grown so dramatically in the past decades, but the 1993 Clinton budget measure passed by Congress has had a dramatic and positive impact. The deficit of 1996 is half of the 1993 projected 1996 deficit, lowering the amount of deficit by $150 billion this 1996 fiscal year, and at the same time our Nation's economy has performed positively, inflation is in check, unemployment remains low and productivity growth, G.D.P., and business profitability are strong.

This debt ceiling will act to accommodate the Federal budget needs until late 1997. It is past time to take this off the Republican political agenda. The threat of default and intimidation won't work, to sell GOP budget programs that lack merit.

Included in this package of legislative measures is a constitutionally questionable line item veto power for the President. President Clinton, of course, wants this power, but this sloppy rearrangement of the fundamental separation of powers proviso won't pass muster. Furthermore, the line item veto power in this promises much but delivers little. First, it doesn't apply to authorization and appropriation riders.

Therefore, the environmental riders so controversial this fiscal year would be beyond the line item veto reach of this measure. Second, it only applies to categories of spending, making it impossible to single out the specific bad apple in the basket. Finally it doesn't apply to bad tax policy, only specific narrow tax provisions of specific small groups as certified by the Joint Tax Committee.

Yet another dubious congressional limit in the constitutional separation of powers and unique congressional authority which cannot be delegated to the nonelected apparently is the rush to give away congressional powers held by the previous Democratic Congress. The Republicans have today sold symbolism, not substance, to the Executive Office, and they bought it. To add further limits, the measure has a short life—1997 to 2005. This line item veto is weak, not likely to be effective and will be rendered inoperable by the courts and/or its limited scope.

Everyone can record it on their political campaign literature as an accomplishment, that's probably its best use; other issues added to the debt ceiling measure apparently are popular and the further price of the 2-year debt ceiling which the President agreed to. I'm concerned that the expanded Social Security earning limit, the retirement test ceiling may undermine support for the Social Security Retirement System. The basic predicate of Social Security retirement is that the beneficiary is no longer working. This means a job and slot is available to a less senior worker.

For many, this elevated ceiling means they will receive Social Security retirement benefits but remain on the same job, in essence claiming a retirement income and the wages of a worker. The idea regarding the Social Security retirement is that workers are not able to continue working and that the Social Security income provides for that person and family during that phase of one's life. At least this measure maintains a ceiling and earlier versions lifted it even further.

The income group that benefits from this provision is healthy and generally better off financially. It would be regrettable if the upshot of this policy change would undermine Social Security retirement for those unable to work.

Finally, this overall bill contains some regulatory relief for smaller enterprises. Candidly, I've had serious reservations about the broad ranging measures that try to pass as regulatory relief. Too many have been put forth and passed by the 104th Congress whose intent was to render inoperable important health, safety, and environmental laws.

Rules and regulations are the wheels which carry laws into implementation. Usually the Administrative Procedures Act [APA] provides sufficient assurance of participation and monitoring of the executive department or agency rule and regulatory process. The features of this provision seems reasonable—ironically expanding the potential for lawsuits and litigation—after the Republican majority in this House and Congress have beat the drum and attempted to enact ill considered punitive measures on the legal process and limiting the peoples right to seek redress.

Mr. Speaker, legislation is the art of compromise and as we can note from this document a big dose of symbolism. I'm voting for this measure with little enthusiasm, but with a pragmatic eye.

The Republicans have finally arrived at a point of talking with a Democratic President and have convinced themselves to move forward on the debt ceiling, the main vehicle and single most important engine which necessitates this legislation before the House.

Mr. CONYERS. Mr. Speaker, I am opposed to the regulatory reform provisions of the bill for the following reasons.

On process: This bill has never been considered by the Judiciary Committee or by any other committee in the House. It's stealth process—we only saw the final draft late last night—continues the Republican record of disdain for the committees and for proper democratic process. This bill was created by a secret process in the House, and will allow special interests to secretly influence regulations in the executive branch.

The secret influences of the few: Under the bill, so-called Regulatory Fairness Boards and Advocacy Panels are to be established to directly influence the content of regulations and the nature of regulatory enforcement. These boards are to be made up solely of a few favored small businesses, and can include exclusively campaign contributors.

Ex parte contacts in reg writing: The boards and advocacy panels will provide an avenue for private ex parte contacts with the agencies and the OIRA administrator to influence regulations and enforcement—a departure from the commonly accepted principle that the regulation writing process should be open and on the record. They provide an ex parte and secret forum for these favored businesses to complain about how statutorily mandated regulations are written and enforced.

Yet another attack on the environment: While we all support the concept of regulatory flexibility—that is helping small businesses comply with a vast array of Federal regulations—this bill takes the concept to the extreme. For it allows the waiver of some of our most important environmental penalties relating to safe drinking water and clean air. If, for example, it happens to be a small business that is operating a chemical manufacturing operation or a small business that is a water supplier, laws protecting citizens from drinking water hazards like cryptosporidium or other chemical contamination could simply be waived (section 323). Our environmental safety and health is at risk from these hazards regardless of the source of the hazards.

Still more litigation for the lawyers: Section 611 allows for environmental regulations that protect our air, water, food, and workplaces to be suspended or even overturned by the courts if these and other ill-defined provisions are not strictly adhered to. This judicial review is different from what the House has voted on in the past—for past regulatory flexibility bills that we've voted on allow for judicial review of the reg flex analysis only. This bill, however,

could put hundreds of environmental rules at risk, and subject them to endless litigation in the courts for merely procedural reasons that are only marginally related to the fundamental issues surrounding the promulgation of the rule.

Mrs. MALONEY. Mr. Speaker, I intend to vote for this bill. It contains measures which I strongly support. Most importantly, raising the debt ceiling is absolutely essential to ensuring the continued full faith and credit of the United States. Without passage of this bill, the economic security of our country would be gravely imperiled. The legislation also contains provisions to relieve the regulatory burden on our Nation's small businesses and a measure, which I strongly support, to increase the earnings limit for Social Security recipients.

This measure also contains a line-item veto provision about which I have very serious concerns. First, this conference report grants to the President the significant power to item veto new entitlement spending. Spending on Medicare, Medicaid, Social Security, and food stamps help out most vulnerable citizens, the elderly, and infirm. The original House bill, and the Republican's own contract on America, did not grant this authority.

The line-item veto provision before us today also would not become effective until January 1, 1997. This timing conveniently exempts the fiscal year 1997 appropriations cycle from Presidential line-item vetoes. Cynics might conclude that the Republican majority wants one last chance to tuck the pet projects into this year's appropriations bills.

Finally and most egregiously Mr. Chairman, this line-item veto measure takes a loophole included in the House-passed bill and expanded it into a black hole for special interests. The House bill included a provision on allowing the President to item veto targeted tax breaks. Unfortunately, the majority breached its own contract in defining that term very narrowly to mean only those tax giveaways that affect 100 or fewer people. This artificial number can easily be fudged by a smart tax lawyer—you simply have to help out 101 or 102 people.

This conference report includes this loophole and expands it into a black hole for special interests by allowing the President to item veto only those targeted tax benefits identified by the Joint Committee on Taxation, a committee controlled by the tax writing committees of Congress. So if they say it isn't a special interest tax break, the President can never veto it. Mr. Chairman, this is a sham.

The Republican Party was committed to the much broader definition right up to the moment they gained the majority, then they had a sudden change of heart. With this bill the Republicans claim they will end special interest tax breaks, but if you read the fine print you'll see they expect nothing of the kind.

Mr. BEREUTER. Mr. Speaker, this Member rises in support of H.R. 3136, the Contract With America Advancement Act.

This Member is particularly pleased that, as reported on the House floor H.R. 3136 included the Line-Item Veto Act. An important tool in the battle to reduce spending would be to give the President line-item veto authority.

A line-item veto would enable the President to veto individual items in an appropriations bill without vetoing the entire bill. With a line-item veto the executive could strike a pen to the pork-barrel projects that too often find their way into appropriations bills.

This power is currently given to 43 of the Nation's Governors, where it has been a successful tool that discourages unnecessary expenditures at the State level. It is appropriate that the President have this authority as well.

This Member has cosponsored legislation to institute a line-item veto since 1985, and is pleased that this initiative may soon be enacted into law. Legislation to provide for a line-item veto has been introduced in Congress for over 100 years. The time has come to recognize the need for more stringent and binding budget mechanisms.

This Member is also pleased that H.R. 3136 raises the limit on income senior citizens may earn and still receive full Social Security benefits. In the last three Congresses, this Member cosponsored related legislation, and has consistently supported efforts to reduce or eliminate the Social Security earnings limit on senior citizens who must work to make ends meet. Seniors of modest means who have to work to supplement their Social Security checks should be allowed to work without paying an effective marginal tax rate higher than that of millionaires.

In addition, this legislation also includes much-needed regulatory relief provisions that would inject some common sense into the current regulatory and bureaucratic framework which now exists.

Federal regulations cost the economy hundred so billions of dollars each year. Too often, these regulations were not based on sound science and resulted in little or no benefit to society. This is an issue which must be addressed to provide relief from the plethora of Federal regulations.

This Member urges his colleagues to support H.R. 3136 as reported to the House floor, in order to advance important initiatives to establish a line-item veto, provide regulatory relief, and limit an unfair tax on senior citizens.

Mr. FRANKS of Connecticut. Mr. Speaker, I rise today in strong support of H.R. 3136, the Contract With America Advancement Act, a measure to provide for a line-item veto, for Social Security benefits relief for our senior citizens and for small business regulatory reform.

Mr. Speaker, during my tenure in the Congress, I have been a solid and steady advocate of a platform that recognizes we need to bring real change to this Federal Government of ours. For example, during my freshman and sophomore years, I had sponsored legislation providing for the implementation of a Presidential line-item veto to end the days where the legislatively-spawned Government pork and largesse would cause our deficit to grow like an unkempt bush in one's front yard and the President would not have the hedge clippers to trim it.

However, during those two Congresses, I and other fervent supporters of the line-item veto had been frustrated and thwarted by the then-Democratic majority. The Democrats would say that a line-item veto would render Congress impotent or that Congress does not need to use such a draconian measure as a line-item veto and that we can solve our Nation's fiscal problems by just saying no to pork. Mr. Speaker, I did not accept the Democrats' empty assurances about spending then, and my instincts were proved current when that supposed discipline was nowhere to be found.

Thankfully, Mr. Speaker, times have changed. With the passage of H.R. 3136, the President of the United States, be he Republican or Democrat, will be able to eliminate specific spending and target tax provision in legislation passed by the Congress. This is important, for now the President will have the ability to veto out pork barrel spending in a bill which he may view in an otherwise favorable light. Mr. Speaker, this is a mechanism that 43 of our Governors now possess, and we should extend it to the President of the United States.

Mr. Speaker, I also want to take note of other provisions in H.R. 3136 that I support. I feel that the bill's provisions which raise the limit of income senior citizens may earn while still receiving full Social Security benefits would be beneficial to those concerned.

Presently, senior citizens between the ages of 65 and 69 lose $1 in Social Security benefits for every $3 they earn above $11,520 while the earnings test amounts to an additional 33 percent marginal tax rate on top of existing income taxes. Because of this, seniors who want to work past the age 64 would not have the ability to remain productive, and thus, they are unfairly treated. H.R. 3136 would gradually raise the earnings limit for seniors between the ages of 65 and 90 from the current level of $11,520 to $30,000 by the year 2002.

I have spoken with many seniors around my district, and they, Mr. Speaker, have indicated to me that this measure sounds like a pretty good idea. Many of the seniors in my district still want to work full time or part time. They want to be productive members of society and by raising the limit on income, they can achieve this desired lifestyle. We should definitely support this initiative.

Finally, I rise in full support of the measures in H.R. 3136 which would provide regulatory relief to our Nation's small businesses. Presently, Federal regulations cost our Nation's small businesses an astronomical $430 billion per year while spending a ludicrous 1.9 billions hours per year completing Federal regulatory forms.

Included in these relief provisions are reforms providing for regulatory compliance simplification, regulatory flexibility, procedures for Congress to disapprove new regulations, and small business legal fees associated with fighting excessive proposed penalties.

Mr. Speaker, small businesses are the true lifeblood of our Nation's economy. By helping our small businesses by providing regulatory fairness, we will truly help our workers, our families, our towns and our cities.

Mr. Speaker, I support H.R. 3136, and I urge my colleagues to do likewise when it comes time to vote.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to speak about H.R. 3136, the Contract With America Advancement Act. I will vote for this bill because it raises the debt limit, however, I must state that I would have preferred a clean debt limit bill. I support the increase in the earnings limit for social security beneficiaries, however, I would like to have

had more debate about the small business regulatory flexibility provisions.

I am a strong supporter of small business, which is the foundation of America's economic base. I support regulatory flexibility for small business and having clear guidelines so that small businesses can more easily comply with Government standards. However, I have concerns about bogging down Government agencies in frivolous lawsuits that would draw their attention away from maintaining Government standards for the environment and ensuring workplace safety.

Mr. Speaker, I would also like to discuss this bill in the context of the current ongoing budget debate, and I would urge that we as a body do more for the American people than pass a debt limit increase. Although we will be discussing other important issues the Health Coverage Availability Act, I would like to remind this House of the glaring fact that we do not yet have a balanced budget for the United States, when this fiscal year is half over, and we have not provided funding for all of the Government agencies that serve the American public. This outrageous fact is not forgotten by the American people, and I would urge the leadership on both sides to not forget their duty to the citizens of this country.

The summer is fast approaching and teens that participate in the Summer Jobs Program are wondering if the budget will leave their program intact, or if it will be eliminated. Students and families across the country are wondering what is going on in this House.

Mr. Speaker, I will vote for this debt limit increase bill, but I would urge my colleagues to remember that we are not finished with the budget and that the American people are watching and that they know what the real issues are. Thank you, Mr. Speaker, and I reserve the balance of my time.

Mr. EWING of Illinois. Mr. Speaker, I rise in strong support of this legislation which contains judicial review of the Regulatory Flexibility Act [RFA].

This is an issue which I have been heavily involved in for nearly 5 years, when I was first elected to Congress in 1991. At that time, one of the top concerns I heard about from my constituents was the burden of excessive Federal regulations. Small businesses in particular felt that the money and time they spent complying with rules and regulations handed down from the Federal Government were crippling their ability to complete and invest in productive activity. In the 4½ years since I was elected, these concerns have only increased.

When I was elected, I looked for ways to reduce unnecessary regulation. I found that way back in 1980 Congress passed, and President Carter signed into law, the RFA. Simply put, the RFA required Federal regulators to conduct an analysis of the impact of any proposed new regulation could have on small businesses and small governmental entities. The RFA required the regulators to seek corrective ways to minimize the impact of those proposed rules before they are finalized.

Despite the good intentions of the RFA, the act has been almost totally ignored by Federal regulators for the 16 years its has been on the books. When I looked further into this issue, I found that Federal agencies were routinely using a loophole in the law which allows then to publish a statement in the Federal Register certifying that their regulation does not affect a significant number of small entities, and therefore allowing the agency to avoid conducing the analyses required by the RFA. In fact, I found that RFA analyses are rarely conducted, even when a regulation clearly would have a major impact on the small entities being regulated.

Herein lies the achilles heel of the RFA. When an agency certifies that a regulation will not significantly affect small entities, that certification cannot be challenged in court. A small business owner is prohibited from asking the courts to review whether the Federal agency has complied with the RFA. It is because the agencies know their decision to ignore the RFA cannot be challenged that they almost always do ignore the act. This fact has been confirmed to me as I have met with dozens of small business organizations and hundreds of small business owners over the past 4 years to discuss this issue. A number of hearings have been held in both the Small Business Committee and the Judiciary Committee and scores of witnesses have convinced me and many others in Congress that without judicial review, the Federal regulators will continue to ignore the RFA.

Many of us talk about reducing the cost which Government regulations impost on the American economy, but with passage of this legislation this Congress is actually doing something about it. We are living up to our campaign promises to make the Government less intrusive, less burdensome on the private sector. We will make Government regulations more sensible, more responsive to those who must comply with them. And we will do it without jeopardizing the environment, or public health and safety.

Many of this issues we debate in Congress have become polarized by partisanship and deep philosophical differences. But this issue, providing judicial review of the RFA, is a fine example of how both parties can identify a problem which the American people want us to fix, and how we can work together, both Republicans and Democrats, to solve a problem and help the American people. I am proud to have worked in a bipartisan fashion with JAN MEYERS, IKE SKELTON, and JOHN LAFALCE for 4 years to pass judicial review of the RFA. Working together, we convinced over 250 Members of the last Congress to cosponsor our legislation, and have passed RFA judicial review with overwhelming majorities in the House. We have put aside our partisan differences to pass this commonsense legislation.

The Republican Congress and President Clinton, who have disagreed on so many issues, have come together in support of providing judicial review of the RFA. Vice President GORE's Reinventing Government Commission recommended providing RFA judicial review as its top priority for the Small Business Administration. RFA judicial review was again a top recommendation of the White House Conference on Small Business conducted last year. We have received letters pledging strong support for RFA judicial review from the President, Chief of Staff Leon Panetta, and SBA Administrator Philip Lader. I would like to request consent to include those letters in the RECORD. Mr. Jere Glover, the administration's chief advocate for small business, has been a strong supporter of judicial review and his influence has been very important.

Virtually every national small business organization has been strongly supportive of RFA judicial review, but a handful of groups have been active participants of the Regulatory Flexibility Act coalition for the past 4 years, and have made this issue a top priority for their members. I would like to recognize these organizations for their outstanding work and commitment to passing this legislation. Jim Morrison, Benson Goldstein and Becky Anderson of the National Association for the Self Employed have provided invaluable institutional knowledge about how the RFA can and should work. David Voight of the U.S. Chamber of Commerce has also provided great institutional knowledge about the RFA, and the Chamber has lent considerable clout to this legislation. The National Federation of Independent Business, and their employees Nelson Litterst and Kent Knutson, have worked endlessly to mobilize hundreds of thousands of small businesses in support of this legislation. Both-the NFIB and the Chamber of Commerce have included Reg Flex votes in their "Key Vote" programs which have been extremely important in informing Members of Congress about how important this issue is to their small business constituents. Craig Brightup and the National Roofing Contractors Association have made this issue a top priority from the very beginning, and in fact was the first small business organization to bring this issue to my attention. Marcel Dubois and the American Trucking Associations have been extremely active in mobilizing small businesses in support of RFA judicial review. Finally, Tom Halicki of the National Association of Towns and Townships has played a critical role in bringing to the attention of Congress the importance of judicial review not only to small businesses, but to small governmental bodies as well.

Finally, I want to thank Representatives MEYERS, LAFALCE, and SKELTON and their staff, particularly Harry Katrichis of the Small Business Committee, and Eric Nicoll of my staff for their persistent dedication to passing this legislation over the past 4 years.

SMALL BUSINESS ADMINISTRATION,
October 8, 1994.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC.

DEAR SENATOR WALLOP: The Administration supports strong judicial review of agency determinations under the Regulatory Flexibility Act that will permit small businesses to challenge agencies and receive strong remedies when agencies do not comply with the protections afforded by this important statute.

In fact, the National Performance Review publicly endorsed this policy to ensure that the Act's intent is achieved and the regulatory and paperwork burdens on small businesses, states, and other entities are reduced.

As Chairman of the Policy Committee of the National Performance Review, under Vice President Gore's leadership I vigorously advocate this position. I have continued to champion this policy within the Administration.

If confirmed as Administrator of the U.S. Small Business Administration, I will join the Congress and the small business community in continued efforts to pass legislation for such judicial review.

Thank you for your leadership on this important issue to small business.

Sincerely,

PHILIP LADER,
Administrator-Designate.

THE WHITE HOUSE,
Washington, October 7, 1994.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC.

DEAR SENATOR WALLOP: Your particular question about the Administration's position on judicial review of actions taken under the Regulatory Flexibility Act has come to my attention.

As you have discussed with Senator Bumpers, the Administration supports such judicial review of "Reg Flex."

The Administration supports a strong judicial review provision that will permit small businesses to challenge agencies and receive meaningful redress when they choose to ignore the protections afforded by this important statute.

In fact, the National Performance Review endorsed this policy to ensure that the Act's intent is achieved and the regulatory and paperwork burdens on small business, states, and other entities are reduced.

Ironically, Phil Lader, our nominee for Administrator of the Small Business Administration (whose nomination was voted favorably today by a 22-0 vote of the Senate Small Business Committee) has been a principal champion of judicial review of "Reg Flex." In his capacity as Chairman of the Policy Committee on the National Performance Review, Phil vigorously advocated this position. I know that, if confirmed, as SBA Administrator, he would join us in continued efforts to win Congressional support for such judicial review.

Sincerely,

LEON E. PANETTA,
Chief of Staff.

THE VICE PRESIDENT,
Washington, November 1, 1994.

Hon. THOMAS W. EWING,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE EWING: Thank you for contacting me regarding the Regulatory Flexibility Act.

As the President and I have made clear, we strongly support judicial review of agency determinations rendered under the Regulatory Flexibility Act. We remain committed to securing this important reform during the next Congress and will work with Congress for the enactment of strong judicial review for small businesses.

We also understand that it will be important to continue our work with small businesses to ensure that such an amendment provides a sensible, reasonable, and rational approach to judicial review, as recommended by the National Performance Review. As you know, the National Performance Review recommended that which was (and continues to be) sought by the small business community—i.e., an amendment that furthers the intent of the Act and reduces the paperwork burdens on small businesses.

The President and I look forward to working with Congress on this matter and appreciate your leadership in this area.

Sincerely,

AL GORE.

THE WHITE HOUSE,
Washington, October 8, 1994.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC.

DEAR SENATOR WALLOP: My Administration strongly supports judicial review of agency determinations under the Regulatory Flexibility Act, and I appreciate your leadership over the past years in fighting for this reform on behalf of small business owners.

Although legislation establishing such review was not enacted during the 103rd Congress, my Administration remains committed to securing this very important reform. Toward that end, my Administration will continue to work with the Congress and the small business community next year for enactment of a strong judicial review that will permit small businesses to challenge agencies and receive meaningful redress when agencies ignore the protections afforded by this statute.

As you know, the National Performance Review endorsed this policy to ensure that the Act's intent is achieved and the regulatory and paperwork burdens on small business, states, and other entities are reduced.

Again, thank you for your continued leadership in this area.

Sincerely,

BILL CLINTON.

Mr. SHAW. Mr. Chairman, I rise today in support of H.R. 3136, the Contract With America Advancement Act, which includes language to raise the amount of money a senior citizen may earn before losing Social Security benefits. Twice before I have supported this legislation; in the Senior Citizens' Equity Act, and in the Senior Citizens Right to Work Act. Support of this legislation is my commitment to the senior citizens of my district to remove the disincentive to continue working after they begin receiving their Social Security benefits. Increasing the Social Security earnings limit from $11,520 to $30,000 will significantly improve benefits for moderate- and middle-income beneficiaries who work out of necessity, not choice. It will also remove the penalty on those with income from work, but not from other sources such as dividends and interest. I urge my colleagues to help our Nation's seniors by voting for this bill.

Mr. DAVIS. Mr. Chairman, I rise to speak in favor of the Senior Citizens' Right to Work Act which has been included in H.R. 3136. This bill will encourage seniors between the ages of 65 to 69 to work by eliminating financial penalties on hardworking seniors who want to supplement meager Social Security benefits. I strongly urge all of my colleagues to support H.R. 3136 and our senior citizens by increasing the Social Security earnings limit.

The Senior Citizens' Right to Work Act also contains a provision which will eliminate Social Security disability benefits to drug addicts and alcoholics. While I adamantly support this provision, I would like to voice my concern about the fraud and abuse that will occur as a result. Given past abuses in the SSI and SSDI programs, we must be alert to the likelihood that many of these drug addicts and alcoholics currently on Federal disability rolls will attempt to requalify for Social Security benefits under other disability categories. I believe that more can and should be done to ensure accountability in these programs, eliminate fraud and abuse, and save Federal dollars.

Mr. Chairman, we should support referral and monitoring agency programs that currently use national case tracking systems to identify drug addicts and alcoholics who are improperly receiving Federal checks. These types of programs have already saved the Federal taxpayers millions of dollars that would have been spent as a result of the fraudulent practices of drug addicts and alcoholics. Unfortunately, this legislation, in eliminating the drug addiction and alcoholism benefit category, will also eliminate these types of tracking programs. I hope that we can correct this blow to current fraud and abuse monitoring practices in order to ensure that drug addicts and alcoholics do not find a way around the major accomplishments we are achieving today.

Mr. BROWN of California. Mr. Speaker, small manufacturing businesses striving to meet Federal regulatory requirements must have access to the technological information they need to comply with Federal and State laws and regulations. Therefore, I am pleased that the Regulatory Flexibility Act title of this conference report makes it clear that any Federal agency with the requisite expertise is empowered to help in this effort. I am especially pleased that the Manufacturing Extension Program [MEP] of the National Institute of Standards and Technology will continue to provide its full menu of services in southern California and throughout the Nation.

Those of us who have worked to promote the concept of technology extension over the years are well aware of the unique roles played by the Small Business Development Centers [SBDC], the Agricultural Extension Service, and other specialized programs in helping small business. Each of these programs, however, has limited funding; even when they are all putting forth their best efforts, there may not be enough resources to go around. If small business people are required to take time away from production to comply with environmental and other standards, we want them to locate the help to do so as readily as possible, whether that help comes from the Small Business Administration, the Department of Commerce, or the Department of Agriculture.

Given that SBDC's have a broad mission to serve all small business, specialized programs like the MEP are often best situated to meet the regulatory compliance needs of small manufacturers. In my native southern California, for example, there are many excellent examples where the MEP provided help to small businesses that no SBDC could have been expected to provide. Our region is blessed by a large number of small manufacturers, including defense subcontractors, who need very specialized assistance to meet California's air and water quality standards. This led the MEP to set up the Los Angeles Pollution Prevention Center, which provides the specialized environmental engineering expertise both to companies and also to other manufacturing extension centers.

Let me give some specific examples. Without this center, it would have been extremely difficult for Nelson Name Plate, a small manufacturer of metal and plastic nameplates, to survive the mandated phase-out of chemicals it was using for cleaning its brass stock. The center helped Nelson implement a closed loop, customized cleaning system which required no modification of its sanitation permits.

The Pollution Prevention Center also permitted Art-Craft, a 20-person firm in the Santa Barbara area, to identify a waterborne primer for painting aircraft which met the exacting standards of both Boeing and the Clean Air Act and to develop the monitoring system it needed to show compliance. It helped CUI, a medical prosthesis company, to replace a curing process using ozone-depleting chemicals with a low-cost, solvent-free process that led to reductions both in hazardous wastes and air emissions.

Mr. Speaker, clearly it is in the Nation's interest to write our laws so that small businesses can provide good jobs and high-quality products while complying fully with environmental and other important regulations. I thank the conferees on this Title for avoiding a legislative turf fight and for allowing the MEP to continue one of its most important missions.

Mr. REED. Mr. Speaker, it is with reluctance that I will vote in favor of this bill before us today.

For almost 6 months, this Nation's good faith and credit has been questioned due to the failure of the Republican majority to complete its budgetary responsibilities.

Apparently, my Republican colleagues have come to their senses and will end their last minute, stop gap extensions of the Government's ability to meet its obligations to bond holders and Social Security recipients.

However, while my colleagues are acting to prevent default they have attached a number of controversial provisions to this must-pass legislation—namely, some of the bill's regulatory reform language as well as line-item veto authority for the President.

Let me be clear, while I am concerned with some of the regulatory reform provisions included in this bill, I support regulatory reform.

I am pleased that legislation to provide judicial review of the Regulatory Flexibility Act is finally on its way to becoming law.

Small businesses have been working to pass this legislation for years, and it will give real teeth to the small business protections in the Regulatory Flexibility Act. My subcommittee marked up this legislation last year, and this will be the second time a version of this legislation has passed the House.

However, there are other regulatory reform-related provisions in the debt ceiling bill that were never considered by the Judiciary Committee, nor any other House committee.

These provisions were not in H.R. 3136 as introduced. Instead, these items were slipped into a manager's amendment that was adopted by passage of the rule. Moreover, they are not identical to the provisions that passed the Senate as part of Senator Bond's bill, S. 942.

For example, one of the non-Senate provisions requires the chief counsel of the SBA to select individuals representative of affected small entities who would review a proposed rule before it is available to the public at large and lobby for changes. These individuals could be campaign contributors of special interest representatives. This provision has been limited to OSHA and EPA rules, since apparently the majority realized what havoc it would wreak if certain politically connected individuals were able to preview IRS, SEC, and other rules—and were thus able to restructure their financial transactions, for example.

Many of the regulatory reform provisions in the bill are meritorious and are based on S. 942. However, that is no reason to circumvent the deliberative legislative process. We ought to review these provisions in committee and work on a bipartisan basis to evaluate and improve upon them instead of slipping them in to must pass legislation.

If my colleagues are not concerned with some of the provisions of the regulatory reform language in H.R. 3136, I would urge them to consider the implications of the line-item veto section of this bill.

I am concerned with wasteful spending, and I have voted to cut a multitude of unneeded programs like the superconducting supercollider and the advanced liquid rocket motor.

However, I am opposed to the line-item veto because it would disrupt the checks and balances of the Constitution. Currently, the President has the power to veto any legislation and Congress can attempt to override this veto. A line-item veto would severely inhibit the legislative branch's say in the spending priorities of this Nation.

The line-item veto sounds innocuous enough, but the people of a small State like Rhode Island know full well what giving the President the authority to pick and choose budget items means.

Indeed, Rhode Island has experienced a Presidential effort through existing executive branch authority to eliminate an essential program.

In 1992, President Bush tried to rescind funding for the *Seawolf* submarine program which is vital to our Nation's defense and is the livelihood of thousands of working Rhode Islanders.

Fortunately, Democrats beat back this attempt, but I am concerned that the line-item provision before us would make future battles closer to a Sisyphean battle than a fair fight. For example, a President—of any political party—could use the line-item veto to eliminate other programs that are important to Rhode Island without fear because a small State like mine only has four votes in Congress.

I would argue that it was this fear of retribution which motivated the Founding Fathers to give the legislative branch the power of the purse and restrict the President's veto powers.

Regrettably, the line-item veto before us today, would grossly distort the Constitution's delicate balance of power and tilt it to the President, and I cannot support such a shift with the interests of my State in mind.

Mr. Speaker, as I stated earlier, I will support this bill because it is imperative that we prevent the Government from defaulting on obligations made many years ago.

In addition, I will also vote for this legislation because it contains provisions that would increase the amount of income that Social Security recipients can earn without losing any benefits.

Under current law, Social Security recipients between the ages of 65 and 69 can earn up to $11,520 in 1996 without having their benefits reduced. Each $3 in wages earned in excess of this limit results in a deduction of $1 in Social Security benefits.

This legislation gradually increases the amount seniors under age 70 can earn without losing any benefits to $30,000 by the year 2002.

I support increasing the Social Security earnings test and voted in favor of the Senior Citizens' Right to Work Act, which included this increase. The House overwhelmingly passed this bill on December 5, 1995 by a vote of 411 to 4.

Approximately 1 million of the 42 million Social Security recipients are expected to benefit from this increase in the earnings limit.

Increasing the earnings test will help improve the overall economic situation of low and middle income seniors in Rhode Island who work out of necessity, not by choice. For example, a Rhode Island senior currently making $12,500 loses almost $330 in Social Security benefits. With the increase included in the legislation before us, that senior would not lose any benefits.

Our seniors have the skills, expertise, and enthusiasm that employers value, and they should be encouraged to work and contribute, not penalized for it.

Mr. Speaker, in closing, I believe I have a duty to prevent the default of the U.S. Government and I will support H.R. 3136, but I would urge my Republican colleagues to stop using important budget legislation as a vehicle for pet causes. Thank you, Mr. Speaker.

Ms. DUNN of Washington. Mr. Speaker, I rise today in support of H.R. 3136, the Contract With American Advancement Act. Over the past 15 months, Republicans have made truly historic efforts to change business as usual here in Washington, DC. Central to those efforts has been our drive to finally put our Nation on a credible path to a balanced budget.

Despite the fact that Republicans crafted the first balanced budget since 1969, we have learned that a supposedly revolutionary idea like balancing the budget takes two elections. Despite this setback, we have not given up the fight.

Republicans continue to believe that Washington spends too much, taxes too much, and that government is too big. That is why we are doing all we can to reduce spending, reduce taxes, and shrink the size of government.

While we may not be able to accomplish as much this year as we had hoped, we are dedicated to doing as much as we can—right now. That brings me to the measure before us today. While we continue to work to keep our promises to the American people for a balanced budget, we must not put the Nation at undue risk. This vote—to authorize the Government to borrow more money by increasing the Nation's debt limit—is not easy.

Congress has twice sent the President a bill that extends the Government's borrowing authority. President Clinton has vetoed both bills. Now Republicans again act to avoid default.

Our current debt limit stands at $4.9 trillion. And it is growing everyday. Someone, someday has to pay off this debt. I do not want to leave it to the next generation. We have a responsibility to our children, and to our children's children, to end this pattern of destructive out-of-control spending.

Mr. Chairman, $4.9 trillion is a lot of money. To put that figure into perspective I want to share just a few facts. If we were to pay all of the debt off today, a family of four would need

to contribute over $72,000 as their share of the debt. A single person's bill would come to just $18,000.

Every week we continue to have this debt, that family's personal share of the debt rises by $89. Every month—$383. For most families, this is a monthly car payment which ends in 4 or 5 years. But this is not a car payment, it is our national debt. You keep giving, but you get nothing in return and you continue to pass the tab onto our children.

Included in this measure is what I believe to be one of the most important tools necessary to fix our irresponsible spending habits—the line-item veto. To demonstrate how important this tool is, I am willing to give the authority to a President of a different party. To those who say the President will use it for political purposes, I say nonsense. The President currently has veto authority. With line item authority he simply could remove the misguided pork barrel spending without killing the entire bill.

It is time we give the President what 43 Governors have: the fiscal responsibility to strike out the pork. The American people clearly are in favor of this provision, as well they should be. With a new debt ceiling of $5.5 trillion, it is time we stop Congress' out of control spending.

The bottom line is that we are in far too deeply. Over the past 15 months Republicans have made the difficult choices necessary to reduce the size of the Federal Government, to provide families and employers with badly needed tax relief, and to provide for a balanced budget in 7 years. We are building a path to the future that restores both hope and opportunity for all Americans—from my parents to my children and to their children yet to be born.

Our Nation is at a crossroads. There are two competing visions of America's future. We can either adhere to the status quo as the President suggests—which means higher taxes on families, more spending, more debt, fewer jobs, and less opportunity for our children—or we can follow a new responsible course by balancing our Nation's budget, cutting taxes and restoring hope, confidence, opportunity, and prosperity.

To be sure, it has not been easy making the tough choices needed to reach a balanced budget. But those are decisions that we have been willing to confront. In no way should today's extension of the debt limit relieve us of this responsibility. To the contrary, we must be more vigilant than ever in bringing our Nation back to a responsible fiscal path. To the next generation—to my own two sons—I say that Republicans are committed to redoubling our efforts to convince the President that enactment of a balanced budget is our single most important responsibility.

Mr. BLILEY. Mr. Speaker, I commend Chairman HYDE of the Judiciary Committee and Senator BOND for their leadership on this bill. We share the goals of reducing regulatory burdens on small business and, in so doing, promoting job creation and economic growth.

S. 942 sweeps across a wide range of Federal regulation. Oversight of the Securities and Exchange Commission [SEC] falls within the jurisdiction of the Commerce. The SEC is charged with the important role of preventing fraud in our securities markets. Though its enforcement of the anti-fraud provisions of the securities laws, the SEC builds confidence of investors and makes our financial markets liquid and transparent.

My analysis of the provisions of S. 942 indicates that the bill will not have any negative effect on the enforcement activities of the SEC. We will not tolerate, and this bill does not create, any free pass for financial fraud. Specifically, Section 323(b)(4) of the bill expressly excludes "violations involving wilful or criminal conduct" from the small business enforcement variance. In the context of the Federal securities laws, I understand "wilful" to have the longstanding judicial construction as expressed in, for example, *Tager* v. *Securities and Exchange Commission*, 344 F.2d 5, 7 (2d. Cir. 1965).

In addition, it is my understanding that the enforcement procedures followed by the SEC under current law, specifically the Securities Enforcement Remedies and Penny Stock Reform Act of 1990, satisfy the requirements of Section 323, and said section does not impose requirements beyond those of the Remedies Act.

In connection with the provisions of S. 942 dealing with attorneys fees, the fill excludes awards of attorneys fees in connection with wilful violations. In the context of the Federal securities laws, the term "wilful" has the meaning set forth in Tager, supra at 7.

Additionally, provisions of S. 942 makes useful changes in what constitutes a demand by the Government. My understanding is that the term "demand" when applied in the context of the Federal securities laws, does not include notices or other communication with the staff or members of the SEC that occur in the context of the "Wells" procedure.

Finally, my understanding of the provisions for Congressional review of major rules, the definition of major rules would not extend to actions for exemptive relief under the securities laws. Such exemptive rules are those that permit regulated entities to engage in transactions that would otherwise be proscribed by statute. It would be perverse to read this deregulatory bill in such a way as to inhibit exemptive relief for regulated persons by the SEC.

Mr. HYDE. Mr. Speaker, I submit for the RECORD a summary of the Small Business Regulatory Enforcement Fairness Act, included in H.R. 3136.

SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT VIEWS OF THE HOUSE COMMITTEES OF JURISDICTION ON THE CONGRESSIONAL INTENT REGARDING THE "SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT OF 1996"

I. SUMMARY OF THE LEGISLATION

The Hyde amendment to H.R. 3136 replaced Title III of the Contract with America Advancement Act of 1996 to incorporate a revised version of the Small Business Regulatory Enforcement Fairness Act of 1996 (the "Act'). As enacted, Title III of H.R. 3136 became Title II of Public Law 104-121. This legislation was originally passed by the Senate as S. 942. The Hyde amendment makes a number of changes to the Senate bill to better implement certain recommendations of the 1995 White House Conference on Small Business regarding the development and enforcement of Federal regulations, including judicial review of agency actions under the Regulatory Flexibility Act (RFA). The amendment also provides for expedited procedures for Congress to review agency rules and to enact Resolutions of Disapproval voiding agency rules.

The goal of the legislation is to foster a more cooperative, less threatening regulatory environment among agencies, small businesses and other small entities. The legislation provides a framework to make federal regulators more accountable for their enforcement actions by providing small entities with an opportunity for redress of arbitrary enforcement actions. The centerpiece of the legislation is the RFA which requires a regulatory flexibility analysis of all rules that have a "significant economic impact on a substantial number" of small entities. Under the RFA, this term "small entities" includes small businesses, small non-profit organizations, and small governmental units.

II. SECTION-BY-SECTION ANALYSIS

Section 201

This section entitles the Act the "Small Business Regulatory Enforcement Fairness Act of 1996.'

Section 202

This section of the Act sets forth findings as to the need for a strong small business sector, the disproportionate impact of regulations on small businesses, the recommendations of the 1995 White House Conference on Small Business, and the need for judicial review of the Regulatory Flexibility Act.

Section 203

This section of the Act sets forth the purposes of this legislation. These include the need to address some of the key Federal regulatory recommendations of the 1995 White House Conference on Small Business. The White House Conference produced a consensus that small businesses should be included earlier and more effectively in the regulatory process. The Act seeks to create a more cooperative and less threatening regulatory environment to help small businesses in their compliance efforts. The Act also provides small businesses with legal redress from arbitrary enforcement actions by making Federal regulators accountable for their actions. Additionally, the Act provides for judicial review of the RFA.

Subtitle A—Regulatory Compliance Simplification

Agencies would be required to publish easily understood guides to assist small businesses in complying with regulations and provide them informal, non-binding advice about regulatory compliance. This subtitle creates permissive authority for Small Business Development Centers to offer regulatory compliance information to small businesses and to establish resource centers to disseminate reference materials. Federal agencies are directed to cooperate with states to create guides that fully integrate Federal and state regulatory requirements on small businesses.

Section 211

This section defines certain terms as used in this subtitle. The term "small entity" is currently defined in the RFA (5 U.S.C. 601) to include small business concerns, as defined by section 3(a) of the Small Business Act (15 U.S.C. 632(a)) small nonprofit organizations and small governmental jurisdictions. The process of determining whether a given business qualifies as a small business is straightforward, using size standard thresholds established by the SBA based on Standard Industrial Classification codes. The RFA also

defines small organization and small governmental jurisdiction (5 U.S.C. 601). Any definition established by an agency for purposes of implementing the RFA would also apply to this Act.

Section 212

This section requires agencies to publish "small entity compliance guides" to assist small entities in complying with regulations which are the subject of a final regulatory flexibility analysis. The bill does not allow judicial review of the guide itself. However, the agency's claim that the guide provides "plain English" assistance would be a matter of public record. In addition, the small business compliance guide would be available as evidence of the reasonableness of any proposed fine on the small entity.

Agencies should endeavor to make these "plain English" guides available to small entities through a coordinated distribution system for regulatory compliance information utilizing means such as the SBA's U.S. Business Advisor, the Small Business Ombudsman at the Environmental Protection Agency, state-run compliance assistance programs established under section 507 of the Clean Air Act, Manufacturing Technology Centers or Small Business Development Centers established under the Small Business Act.

Section 213

This section directs agencies that regulate small entities to answer inquiries of small entities seeking information on and advice about regulatory compliance. Some agencies already have established successful programs to provide compliance assistance and the amendment intends to encourage these efforts. For example, the IRS, SEC and the Customs Service have an established practice of issuing private letter rulings applying the law to a particular set of facts. This legislation does not require other agencies to establish programs with the same level of formality as found in the current practice of issuing private letter rulings. The use of toll free telephone numbers and other informal means of responding to small entities is encouraged. This legislation does not mandate changes in current programs at the IRS, SEC and Customs Service, but these agencies should consider establishing less formal means of providing small entities with informal guidance in accordance with this section.

This section gives agencies discretion to establish procedures and conditions under which they would provide advice to small entities. There is no requirement that the agency's advice to small entities be binding as to the legal effects of the actions of other entities. Any guidance provided by the agency applying statutory or regulatory provisions to facts supplied by the small entity would be available as relevant evidence of the reasonableness of any subsequently proposed fine on the small entity.

Section 214

This section creates permissive authority for Small Business Development Centers (SBDC) to provide information to small businesses regarding compliance with regulatory requirements. SBDCs would not become the predominant source of regulatory information, but would supplement agency efforts to make such information widely available. This section is not intended to grant an exclusive franchise to SBDC's for providing information on regulatory compliance.

There are small business information and technical assistance programs, both Federal and state, in various forms throughout this country. Some of the manufacturing technology centers and other similar extension programs administered by the National Institute of Standards and Technology are providing environmental compliance assistance in addition to general technology assistance. The small business stationary source technical and environmental compliance assistance programs established under section 507 of the Clean Air Act Amendments of 1990 is also providing compliance assistance to small businesses. This section is designed to add to the currently available resources for small businesses.

Compliance assistance programs can save small businesses money, improve their environmental performance and increase their competitiveness. They can help small businesses learn about cost-saving pollution prevention programs and new environmental technologies. Most importantly, they can help small business owners avoid potentially costly regulatory citations and adjudications. Comments from small business representatives in a variety of fora support the need for expansion of technical information assistance programs.

Section 215

This section directs agencies to cooperate with states to create guides that fully integrate Federal and state requirements on small entities. Separate guides may be created for each state, or states may modify or supplement a guide to Federal requirements. Since different types of small entities are affected by different agency regulations, or are affected in different ways, agencies should consider preparing separate guides for the various sectors of the small business community and other small entities subject to their jurisdiction. Priority in producing these guides should be given to areas of law where rules are complex and where the regulated community tend to be small entities. Agencies may contract with outside providers to produce these guides and, to the extent practicable, agencies should utilize entities with the greatest experience in developing similar guides.

Section 216

This section provides that the effective date for this subtitle is 90 days after the date of enactment. The requirement for agencies to publish compliance guides applies to final rules published after the effective date. Agencies have one year from the date of enactment to develop their programs for informal small entity guidance, but these programs should assist small entities with regulatory questions regardless of the date of publication of the regulation at issue.

Subtitle B—Regulatory Enforcement Reforms

This subtitle creates a Small Business and Agriculture Regulatory Enforcement Ombudsman at the Small Business Administration to give small businesses a confidential means to comment on and rate the performance of agency enforcement personnel. It also creates Regional Small Business Regulatory Fairness Boards at the Small Business Administration to coordinate with the Ombudsman and to provide small businesses a greater opportunity to come together on a regional basis to assess the enforcement activities of the various Federal regulatory agencies.

This subtitle directs all Federal agencies that regulate small entities to develop policies or programs providing for waivers or reductions of civil penalties for violations by small entities, under appropriate circumstances.

Section 221

This section provides definitions for the terms as used in the subtitle. [See discussion set forth under "Section 211" above.]

Section 222

The Act creates a Small Business and Agriculture Regulatory Enforcement Ombudsman at the SBA to give small businesses a confidential means to comment on Federal regulatory agency enforcement activities. This might include providing toll-free telephone numbers, computer access points, or mail-in forms allowing businesses to comment on the enforcement activities of inspectors, auditors and other enforcement personnel. As used in this section of the bill, the term "audit" is not intended to refer to audits conducted by Inspectors General. This Ombudsman would not replace or diminish any similar ombudsman programs in other agencies.

Concerns have arisen in the Inspector General community that this Ombudsman might have new enforcement powers that would conflict with those currently held by the Inspectors General. Nothing in the Act is intended to supersede or conflict with the provisions of the Inspector General Act of 1978, as amended, or to otherwise restrict or interfere with the activities of any Office of the Inspector General.

The Ombudsman will compile the comments of small businesses and provide an annual evaluation similar to a "customer satisfaction" rating for different agencies, regions, or offices. The goal of this rating system is to see whether agencies and their personnel are in fact treating small businesses more like customers than potential criminals. Agencies will be provided an opportunity to comment on the Ombudsman's draft report, as is currently the practice with reports by the General Accounting Office. The final report may include a section in which an agency can address any concerns that the Ombudsman does not choose to address.

The Act states that the Ombudsman shall "work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by such personnel." The SBA shall publicize the existence of the Ombudsman generally to the small business community and also work cooperatively with enforcement agencies to make small businesses aware of the program at the time of agency enforcement activity. The Ombudsman shall report annually to Congress based on substantiated comments received from small business concerns and the Boards, evaluating the enforcement activities of agency personnel including a rating of the responsiveness to small business of the various regional and program offices of each regulatory agency. The report to Congress shall in part be based on the findings and recommendation of the Boards as reported by the Ombudsman to affected agencies. While this language allows for comment on the enforcement activities of agency personnel in order to identify potential abuses of the regulatory process, it does not provide a mandate for the boards and the Ombudsman to create a public performance rating of individual agency employees.

The goal of this section is to reduce the instances of excessive and abusive enforcement actions. Those actions clearly originate in

the acts of individual enforcement personnel. Sometimes the problem is with the policies of an agency, and the goal of this section is also to change the culture and policies of Federal regulatory agencies. At other times, the problem is not agency policy, but individuals who violate the agency's enforcement policy. To address this issue, the legislation includes a provision to allow the Ombudsman, where appropriate, to refer serious problems with individuals to the agency's Inspector General for proper action.

The intent of the Act is to give small businesses a voice in evaluating the overall performances of agencies and agency offices in their dealings with the small business community. The purpose of the Ombudsman's reports is not to rate individual agency personnel, but to assess each program's or agency's performance as a whole. The Ombudsman's report to Congress should not single out individual agency employees by name or assign an individual evaluation or rating that might interfere with agency management and personnel policies.

The Act also creates Regional Small Business Regulatory Fairness Boards at the SBA to coordinate with the Ombudsman and to provide small businesses a greater opportunity to track and comment on agency enforcement policies and practices. These boards provide an opportunity for representatives of small businesses to come together on a regional basis to assess the enforcement activities of the various federal regulatory agencies. The boards may meet to collect information about these activities, and report and make recommendations to the Ombudsman about the impact of agency enforcement policies or practices on small businesses. The boards will consist of owners, operators or officers of small entities who are appointed by the Administrator of the Small Business Administration. Prior to appointing any board members, the Administrator must consult with the leadership of the House and Senate Small Business Committees. There is nothing in the bill that would exempt the boards from the Federal Advisory Committee Act, which would apply according to its terms. The Boards may accept donations of services such as the use of a regional SBA office for conducting their meetings.

Section 223

The Act directs all federal agencies that regulate small entities to develop policies or programs providing for waivers or reductions of civil penalties for violations by small entities in certain circumstances. This section builds on the current Executive Order on small business enforcement practices and is intended to allow agencies flexibility to tailor their specific programs to their missions and charters. Agencies should also consider the ability of a small entity to pay in determining penalty assessments under appropriate circumstances. Each agency would have discretion to condition and limit the policy or program on appropriate conditions. For purposes of illustration, these could include requiring the small entity to act in good faith, requiring that violations be discovered through participation in agency supported compliance assistance programs, or requiring that violations be corrected within a reasonable time.

An agency's policy or program could also provide for suitable exclusions. Again, for purposes of illustration, these could include circumstances where the small entity has been subject to multiple enforcement actions, the violation involves criminal conduct, or poses a grave threat to worker safety, public health, safety or the environment.

In establishing their programs, it is up to each agency to develop the boundaries of their program and the specific circumstances for providing for a waiver or reduction of penalties; but once established, an agency must implement its program in an evenhanded fashion. Agencies may distinguish among types of small entities and among classes of civil penalties. Some agencies have already established formal or informal policies or programs that would meet the requirements of this section. For example, the Environmental Protection Agency has adopted a small business enforcement policy that satisfies this section. While this legislation sets out a general requirement to establish penalty waiver and reduction programs, some agencies may be subject to other statutory requirements or limitations applicable to the agency or to a particular program. For example, this section is not intended to override, amend or affect provisions of the Occupational Safety and Health Act or the Mine Safety and Health Act that may impose specific limitations on the operation of penalty reduction or waiver programs.

Section 224

This section provides that this subtitle takes effect 90 days after the date of enactment.

Subtitle C—Equal Access to Justice Act Amendments

The Equal Access to Justice Act (EAJA) provides a means for prevailing parties to recover their attorneys fees in a wide variety of civil and administrative actions between eligible parties and the government. This Act amends EAJA to create a new avenue for parties to recover a portion of their attorneys fees and costs where the government makes excessive demands in enforcing compliance with a statutory or regulatory requirement, either in an adversary adjudication or judicial review of the agency's enforcement action, or in a civil enforcement action. While this is a significant change from current law, the legislation is not intended to result in the awarding of attorneys fees as a matter of course. Rather, the legislation is intended to assist in changing the culture among government regulators to increase the reasonableness and fairness of their enforcement practices. Past agency practice too often has been to treat small businesses like suspects. One goal of this bill is to encourage government regulatory agencies to treat small businesses as partners sharing in a common goal of informed regulatory compliance. Government enforcement attorneys often take the position that they must zealously advocate for their client, in this case a regulatory agency, to the maximum extent permitted by law, as if they were representing an individual or other private party. But in the new regulatory climate for small businesses under this legislation, government attorneys with the advantages and resources of the federal government behind them in dealing with small entities must adjust their actions accordingly and not routinely issue original penalties or other demands at the high end of the scale merely as a way of pressuring small entities to agree to quick settlements.

Sections 231 and 232

H.R. 3136 will allow parties which do not prevail in a case involving the government to nevertheless recover a portion of their fees and cost in certain circumstances. The test for recovering attorneys fees is whether the agency or government demand that led to the administrative or civil action is substantially in excess of the final outcome of the case and is unreasonable when compared to the final outcome (whether a fine, injunctive relief or damages) under the facts and circumstances of the case.

For purposes of this Act, the term "party" is amended to include a "small entity" as that term is defined in section 601(6) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This will ensure consistency of coverage between the provisions of this subtitle and those of the Small Business Act (15 U.S.C. 632 (a)). This broadening of the term "party" is intended solely for purposes of the amendments to the EAJA effected under this subtitle. Other portions of the EAJA will continue to be governed by the definition of "party" as appears in current law.

The comparison called for in the Act is always between a "demand" by the government for injunctive and monetary relief taken as a whole and the final outcome of the case in terms of injunctive and monetary relief taken as a whole. As used in these amendments, the term "demand" means an express written demand that leads directly to an adversary adjudication or civil action. Thus, the "demand" at issue would be the government's demand that was pending upon commencement of the adjudication or action. A written demand by the government for performance or payment qualifies under this section regardless of form; it would include, but not be limited to, a fine, penalty notice, demand letter or citation. In the case of an adversary adjudication, the demand would often be a statement of the "Definitive Penalty Amount." In the case of a civil action brought by the United States, the demand could be in the form of a demand for settlement issued prior to commencement to the litigation. In a civil action to review the determination of an administrative proceeding, the demand could be the demand that led to such proceeding. However, the term "demand" should not be read to extend to a mere recitation of facts and law in a complaint. The bill's definition of the term "demand" expressly excludes a recitation of the maximum statutory penalty in the complaint or elsewhere when accompanied by an express demand for a lesser amount. This definition is not intended to suggest that a statement of the maximum statutory penalty somewhere other than the complaint, which is not accompanied by an express demand for a lesser amount, is per se a demand, but would depend on the circumstances.

This test should not be a simple mathematical comparison. The Committee intends for it to be applied in such a way that it identifies and corrects situations where the agency's demand is so far in excess of the true value of the case, as compared to the final outcome, and where it appears the agency's assessment or enforcement action did not represent a reasonable effort to match the penalty to the actual facts and circumstances of the case.

In addition, the bill excludes awards in connection with willful violations, bad faith actions and in special circumstances that would make such an award unjust. These additional factors are intended to provide a "safety valve" to ensure that the government is not unduly deterred from advancing its case in good faith. Whether a violation is "willful" should be determined in accordance with existing judicial construction of the subject matter to which the case relates. Special circumstances are intended to include both legal and factual considerations which may make it unjust to require the public to pay attorneys fees and costs, even

in situations where the ultimate award is significantly less than the amount demanded. Special circumstances could include instances where the party seeking fees engaged in a flagrant violation of the law, endangered the lives of others, or engaged in some other type of conduct that would make the award of the fees unjust. The actions covered by "bad faith" include the conduct of the party seeking fees both at the time of the underlying violation, and during the enforcement action. For example, if the party seeking fees attempted to elude government officials, cover up its conduct, or otherwise impede the government's law enforcement activities, then attorneys' fees and costs should not be awarded.

The Committee does not intend by this provision to compensate a party for fees and costs which it would have been expended even had the government demand been reasonable under the circumstances. The amount of the award which a party may recover under this section is limited to the proportion of attorneys' fees and costs attributable to the excessive demand. Thus, for example, if the ultimate decision of the administrative law judge or the judgment of the court is twenty percent of the relevant government demand, the defendant might be entitled to eighty percent of fees and costs. The ultimate determination of the amount of fees and costs to be awarded is to be made by the administrative law judge or the court, based on the facts and circumstances of each case.

The Act also increases the maximum hourly rate for attorneys fees under the EAJA from $75 to $125. Agencies could avoid the possibility of paying attorneys fees by settling with the small entity prior to final judgement. The Committee anticipates that if a settlement is reached, all further claims of either party, including claims for attorneys fees, could be included as part of the settlement. The government may obtain a release specifically including attorneys fees under EAJA.

Additional language is included in the Act to ensure that the legislation did not violate of the PAYGO requirements of the Budget Act. This language requires agencies to satisfy any award of attorneys fees or expenses arising from an agency enforcement action from their discretionary appropriated funds, but does not require that an agency seek or obtain an individual line item or earmarked appropriation for these amounts.

Section 233

The new provisions of the EAJA apply to civil actions and adversary adjudications commenced on or after the date of enactment.

Subtitle D—Regulatory Flexibility Act Amendments

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.), was first enacted in 1980. Under its terms, federal agencies are directed to consider the special needs and concerns of small entities—small businesses, small local governments, farmers, etc.—whenever they engage in a rulemaking subject to the Administrative Procedure Act. The agencies must then prepare and publish a regulatory flexibility analysis of the impact of the proposed rule on small entities, unless the head of the agency certifies that the proposed rule will not "have a significant economic impact on a substantial number of small entities."

Under current law, there is no provision for judicial review of agency action under the RFA. This makes the agencies completely unaccountable for their failure to comply with its requirements. This current prohibition on judicial enforcement of the RFA is contrary to the general principle of administrative law, and it has long been criticized by small business owners. Many small business owners believe that agencies have given lip service at best to the RFA, and small entities have been denied legal recourse to enforce the Act's requirements. Subtitle D gives teeth to the RFA by specifically providing for judicial review of selected sections.

Section 241

H.R. 3136 expands the coverage of the RFA to include Internal Revenue Service interpretative rules that provide for a "collection of information" from small entities. Many IRS rulemakings involve "interpretative rules" that IRS contends need not be promulgated pursuant to section 553 of the Administrative Procedures Act. However, these interpretative rules may have significant economic effects on small entities and should be covered by the RFA. The amendment applies to those IRS interpretative rulemakings that are published in the Federal Register for notice and comment and that will be codified in the Code of Federal Regulations. This limitation is intended to exclude from the RFA other, less formal IRS publications such as revenue rulings, revenue procedures, announcements, publications or private letter rulings.

The requirement that IRS interpretative rules comply with the RFA is further limited to those involving a "collection of information." The term "collection of information" is defined in the Act to include the obtaining, causing to be obtained, soliciting of facts or opinions by an agency through a variety of means that would include the use of written report forms, schedules, or reporting or other record keeping requirements. It would also include any requirements that require the disclosure to third parties of any information. The intent of this phrase "collection of information" in the context of the RFA is to include all IRS interpretative rules of general applicability that lead to or result in small entities keeping records, filing reports or otherwise providing information to IRS or third parties.

While the term "collection of information" also is used in the Paperwork Reduction Act (44 U.S.C. 3502(4))("PRA"), the purpose of the term in the context of the RFA is different than the purpose of the term in the PRA. Thus, while some courts have interpreted the PRA to exempt from its requirements certain recordkeeping requirements that are explicitly required by statute, such an interpretation would be inappropriate in the context of the RFA. If a collection of information is explicitly required by a regulation that will ultimately be codified in the Code of Federal Regulations ("CFR"), the effect might be to limit the possible regulatory alternatives available to the IRS in the proposed rulemaking, but would not exempt the IRS from conducting a regulatory flexibility analysis.

Some IRS interpretative rules merely reiterate or restate the statutorily required tax liability. While a small entity's tax liability may be a burden, the RFA cannot act to supersede the statutorily required tax rate. However, most IRS interpretative rules involve some aspect of defining or establishing requirements for compliance with the CFR, or otherwise require small entities to maintain records to comply with the CFR now be covered by the RFA. One of the primary purposes of the RFA is to reduce the compliance burdens on small entities whenever possible under the statute. To accomplish this purpose, the IRS should take an expansive approach in interpreting the phrase "collection of information" when considering whether to conduct a regulatory flexibility analysis.

The courts generally are given broad discretion to formulate appropriate remedies under the facts and circumstances of each individual case. The rights of judicial review and remedial authority of the courts provided in the Act as to IRS interpretative rules should be applied in a manner consistent with the purposes of the Anti-Injunction Act (26 U.S.C. 7421), which may limit remedies available in particular circumstances. The RFA, as amended by the Act, permits the court to remand a rule to an Agency for further consideration of the rule's impact on small entities. The amendment also directs the court to consider the public interest in determining whether or not to delay enforcement of a rule against small entities pending agency compliance with the court's findings. The filing of an action requesting judicial review pursuant to this section does not automatically stay the implementation of the rule. Rather, the court has discretion in determining whether enforcement of the rule shall be deferred as it relates to small entities. In the context of IRS interpretative rulemakings, this language should be read to require the court to give appropriate deference to the legitimate public interest in the assessment and collection of taxes reflected by the Anti-Injunction Act. The court should not exercise its discretion more broadly than necessary under the circumstances or in a way that might encourage excessive litigation.

If an agency is required to publish an initial regulatory flexibility analysis, the agency also must publish a final regulatory flexibility analysis. In the final regulatory flexibility analysis, agencies will be required to describe the impacts of the rule on small entities and to specify the actions taken by the agency to modify the proposed rule to minimize the regulatory impact on small entities. Nothing in the bill directs the agency to choose a regulatory alternative that is not authorized by the statute granting regulatory authority. The goal of the final regulatory flexibility analysis is to demonstrate how the agency has minimized the impact on small entities consistent with the underlying statute and other applicable legal requirements.

Section 242

H.R. 3136 removes the current prohibition on judicial review of agency compliance with certain sections of the RFA. It allows adversely affected small entities to seek judicial review of agency compliance with the RFA within one year after final agency action, except where a provision of law requires a shorter period for challenging a final agency action. The amendment is not intended to encourage or allow spurious lawsuits which might hinder important governmental functions. The Act does not subject all regulations issued since the enactment of the RFA to judicial review. The one-year limitation on seeking judicial review ensures that this legislation will not permit indefinite, retroactive application of judicial review.

For rules promulgated after the effective date, judicial review will be available pursuant to this Act. The procedures and standards for review to be used are those set forth in the Administrative Procedure Act at Chapter 7 of Title 5. If the court finds that a final agency action was arbitrary, capricious, an abuse of discretion or otherwise not

in accordance with the law, the court may set aside the rule or order the agency to take other corrective action. The court may also decide that the failure to comply with the RFA warrants remanding the rule to the agency or delaying the application of the rule to small entities pending completion of the court ordered corrective action. However, in some circumstances, the court may find that there is good cause to allow the rule to be enforced and to remain in effect pending the corrective action.

Judicial review of the RFA is limited to agency compliance with the requirements of sections 601, 604, 605(b), 608(b) and 610. Review under these sections is not limited to the agency's compliance with the procedural aspects of the RFA; final agency action under these sections will be subject to the normal judicial review standards of Chapter 7 of Title 5. While the Committees determined that agency compliance with sections 607 and 609(a) of the RFA is important, it did not believe that a party should be entitled to judicial review of agency compliance with those sections in the absence of a judiciable claim for review of agency compliance with section 604. Therefore, under the Act, an agency's failure to comply with sections 607 or 609(a) may be reviewed only in conjunction with a challenge under section 604 of the RFA.

Section 243

Section 243 of the Act alters the content of the statement which an agency must publish when making a certification under section 605 of the RFA that a regulation will not impose a significant economic impact on a substantial number of small entities. Current law requires only that the agency publish a "succinct statement explaining the reasons for such certification." The Committee believes that more specific justification for its determination should be provided by the agency. Under the amendment, the agency must state its factual basis for the certification. This will provide a record upon which a court may review the agency's determination in accordance with the judicial review provisions of the Administrative Procedure Act.

Section 244

H.R. 3136 amends the existing requirements of section 609 of the RFA for small business participation in the rulemaking process by incorporating a modified version of S. 917, the Small Business Advocacy Act, which was introduced by Senator Domenici, to provide early input from small businesses into the regulatory process. For proposed rules with a significant economic impact on a substantial number of small entities, EPA and OSHA would have to collect advice and recommendations from small businesses to better inform the agency's regulatory flexibility analysis on the potential impacts of the rule. The House version drops the provision of the Senate bill that would have required the panels to reconvene prior to publication of the final rule.

The agency promulgating the rule would consult with the SBA's Chief Counsel for Advocacy to identify individuals who are representative of affected small businesses. The agency would designate a senior level official to be responsible for implementing this section and chairing an interagency review panel for the rule. Before the publication of an initial regulatory flexibility analysis for a proposed EPA or OSHA rule, the SBA's Chief Counsel for Advocacy will gather information from individual representatives of small businesses and other small entities, such as small local governments, about the potential impacts of that proposed rule. This information will then be reviewed by a panel composed of members from EPA or OSHA, OIRA, and the Chief Counsel for Advocacy. The panel will then issue a report on those individuals' comments, which will become part of the rulemaking record. The review panel's report and related rulemaking information will be placed in the rulemaking record in a timely fashion so that others who are interested in the proposed rule may have an opportunity to review that information and submit their own responses for the record before the close of the agency's public comment period for the proposed rule. The legislation includes limits on the period during which the review panel conducts its review. It also creates a limited process allowing the Chief Counsel for Advocacy to waive certain requirements of the section after consultation with the Office of Information and Regulatory Affairs and small businesses.

Section 245

This section provides that the effective date of subtitle D is 90 days after enactment. Proposed rules published after the effective date must be accompanied by an initial regulatory flexibility analysis or a certification under section 605 of the RFA. Final rules published after the effective date must be accompanied by a final regulatory flexibility analysis or a certification under section 605 of the RFA, regardless of when the rule was first proposed. Thus judicial review shall apply to any final regulation published after the effective date regardless of when the rule was proposed. However, IRS interpretative rules proposed prior to enactment will not be subject to the amendments made in this subchapter expanding the scope of the RFA to include IRS interpretative rules. Thus, the IRS could finalize previously proposed interpretative rules according to the terms of currently applicable law, regardless of when the final interpretative rule is published.

Subtitle E—Congressional review subtitle

Subtitle E adds a new chapter to the Administrative Procedure Act (APA), "Congressional Review of Agency Rulemaking," which is codified in the United States Code as chapter 8 of title 5. The congressional review chapter creates a special mechanism for Congress to review new rules issued by federal agencies (including modification, repeal, or reissuance of existing rules). During the review period, Congress may use expedited procedures to enact joint resolutions of disapproval to overrule the federal rulemaking actions. In the 104th Congress, four slightly different versions of this legislation passed the Senate and two different versions passed the House. Yet, no formal legislative history document was prepared to explain the legislation or the reasons for changes in the final language negotiated between the House and Senate. This joint statement of the committees of jurisdiction on the congressional review subtitle is intended to cure this deficiency.

Background

As the number and complexity of federal statutory programs has increased over the last fifty years, Congress has come to depend more and more upon Executive Branch agencies to fill out the details of the programs it enacts. As complex as some statutory schemes passed by Congress are, the implementing regulation is often more complex by several orders of magnitude. As more and more of Congress' legislative functions have been delegated to federal regulatory agencies, many have complained that Congress has effectively abdicated its constitutional role as the national legislature in allowing federal agencies so much latitude in implementing and interpreting congressional enactments.

In many cases, this criticism is well founded. Our constitutional scheme creates a delicate balance between the appropriate roles of the Congress in enacting laws, and the Executive Branch in implementing those laws. This legislation will help to redress the balance, reclaiming for Congress some of its policymaking authority, without at the same time requiring Congress to become a super regulatory agency.

This legislation establishes a government-wide congressional review mechanism for most new rules. This allows Congress the opportunity to review a rule before it takes effect and to disapprove any rule to which Congress objects. Congress may find a rule to be too burdensome, excessive, inappropriate or duplicative. Subtitle E uses the mechanism of a joint resolution of disapproval which requires passage by both houses of Congress and the President (or veto by the President and a two-thirds' override by Congress) to be effective. In other words, enactment of a joint resolution of disapproval is the same as enactment of a law.

Congress has considered various proposals for reviewing rules before they take effect for almost twenty years. Use of a simple (one-house), concurrent (two-house), or joint (two houses plus the President) resolution are among the options that have been debated and in some cases previously implemented on a limited basis. In *INS* v. *Chadha*, 462 U.S. 919 (1983), the Supreme Court struck down as unconstitutional any procedure where executive action could be overturned by less than the full process required under the Constitution to make laws—that is, approval by both houses of Congress and presentment to the President. That narrowed Congress' options to use a joint resolution of disapproval. The one-house or two-house legislative veto (as procedures involving simple and concurrent resolutions were previously called), was thus voided.

Because Congress often is unable to anticipate the numerous situations to which the laws it passes must apply, Executive Branch agencies sometimes develop regulatory schemes at odds with congressional expectations. Moreover, during the time lapse between passage of legislation and its implementation, the nature of the problem addressed, and its proper solution, can change. Rules can be surprisingly different from the expectations of Congress or the public. Congressional review gives the public the opportunity to call the attention of politically accountable, elected officials to concerns about new agency rules. If these concerns are sufficiently serious, Congress can stop the rule.

Brief procedural history of congressional review chapter

In the 104th Congress, the congressional review legislation originated as S. 348, the "Regulatory Oversight Act," which was introduced on February 2, 1995. The text of S. 348 was offered by its sponsors, Senators Don Nickles and Harry Reid, as a substitute amendment to S. 219, the "Regulatory Transition Act of 1995." As amended, S. 219 provided for a 45-day delay on the effectiveness of a major rule, and provided expedited procedures that Congress could use to pass resolutions disapproving of the rule. On March 29, 1995, the Senate passed the amended version of S. 219 by a vote of 100–0. The Senate later substituted the text of S. 219 for the text of H.R. 450, the House passed "Regulatory Transition Act of 1995." Although the

House did not agree to a conference on H.R. 450 and S. 219, both Houses continued to incorporate the congressional review provisions in other legislative packages. On May 25, the Senate Governmental Affairs Committee reported out S. 343, the "Comprehensive Regulatory Reform Act of 1995," and S. 291, the "Regulatory Reform Act of 1995," both with congressional review provisions. On May 26, 1995, the Senate Judiciary Committee reported out a different version of S. 343, the "Comprehensive Regulatory Reform Act of 1995," which also included a congressional review provision. The congressional review provision in S. 343 that was debated by the Senate was quite similar to S. 219, except that the delay period in the effectiveness of a major rule was extended to 60 days and the legislation did not apply to rules issued prior to enactment. A fillibuster of S. 343, unrelated to the congressional review provisions, led to the withdrawal of that bill.

The House next took up the congressional review legislation by attaching a version of it (as section 3006) to H.R. 2586, the first debt limit extension bill. The House made several changes in the legislation that was attached to H.R. 2586, including a provision that would allow the expedited procedures also to apply to resolutions disapproving of proposed rules, and provisions that would have extended the 60-day delay on the effectiveness of a major rule for any period when the House or Senate was in recess for more than three days. On November 9, 1995 both the House and Senate passed this version of the congressional review legislation as part of the first debt limit extension bill. President Clinton vetoed the bill a few days later, for reasons unrelated to the congressional review provision.

On February 29, 1996, a House version of the congressional review legislation was published in the Congressional Record as title III of H.R. 994, which was scheduled to be brought to the House floor in the coming weeks. The congressional review title was almost identical to the legislation approved by both Houses in H.R. 2586. On March 19, 1996, the Senate adopted a congressional review amendment by voice vote to S. 942, which bill passed the Senate 100-0. The congressional review legislation in S. 942 was similar to the original version of S. 219 that passed the Senate on March 29, 1995.

Soon after passage of S. 942, representatives of the relevant House and Senate committees and principal sponsors of the congressional review legislation met to craft a congressional review subtitle that was acceptable to both Houses and would be added to the debt limit bill that was scheduled to be taken up in Congress the week of March 24. The final compromise language was the result of these joint discussions and negotiations.

On March 28, 1996, the House and Senate passed title III, the "Small Business Regulatory Enforcement Fairness Act of 1996," as part of the second debt limit bill, H.R. 3136. There was no separate vote in either body on the congressional review subtitle or on title III of H.R. 3136. However, title III received broad support in the House and the entire bill passed in the Senate by unanimous consent. The President signed H.R. 3136 into law on March 29, 1996, exactly one year after the first congressional review bill passed the Senate.

Submission of rules to Congress and to GAO

Pursuant to subsection 801(a)(1)(A), a federal agency promulgating a rule must submit a copy of the rule and a brief report about it to each House of Congress and to the Comptroller General before the rule can take effect. In addition to a copy of the rule, the report shall contain a concise general statement relating to the rule, including whether it is a major rule under the chapter, and the proposed effective date of the rule. Because most rules covered by the chapter must be published in the Federal Register before they can take effect, it is not expected that the submission of the rule and the report to Congress and the Comptroller General will lead to any additional delay.

Section 808 provides the only exception to the requirement that rules must be submitted to each House of Congress and the Comptroller General before they can take effect. Subsection 808(1) excepts specified rules relating to commercial, recreational, or subsistence hunting, fishing, and camping. Subsection 808(2) excepts certain rules that are not subject to notice-and-comment procedures. It provides that if the relevant agency finds "for good cause ... that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, [such rules] shall take effect at such time as the Federal agency promulgating the rule determines." Although rules described in section 808 shall take effect when the relevant Federal agency determines pursuant to other provisions of law, the federal agency still must submit such rules and the accompanying report to each House of Congress and to the Comptroller General as soon as practicable after promulgation. Thus, rules described in section 808 are subject to congressional review and the expedited procedures governing joint resolutions of disapproval. Moreover, the congressional review period will not begin to run until such rules and the accompanying reports are submitted to each House of Congress and the Comptroller General.

In accordance with current House and Senate rules, covered agency rules and the accompanying report must be separately addressed and transmitted to the Speaker of the House (the Capitol, Room H-209), the President of the Senate (the Capitol, Room S-212), and the Comptroller General (GAO Building, 441 G Street, N.W., Room 1139). Except for rules described in section 808, any covered rule not submitted to Congress and the Comptroller General will remain ineffective until it is submitted pursuant to subsection 801(a)(1)(A). In almost all cases, there will be sufficient time for an agency to submit notice-and-comment rules or other rules that must be published to these legislative officers during normal office hours. There may be a rare instance, however, when a federal agency must issue an emergency rule that is effective upon actual notice and does not meet one of the section 808 exceptions. In such a rare case, the federal agency may provide contemporaneous notice to the Speaker of the House, the President of the Senate, and the Comptroller General. These legislative officers have accommodated the receipt of similar, emergency communications in the past and will utilize the same means to receive emergency rules and reports during non-business hours. If no other means of delivery is possible, delivery of the rule and related report by telefax to the Speaker of the House, the President of the Senate, and the Comptroller General shall satisfy the requirements of subsection 801(a)(1)(A).

Additional delay in the effectiveness of major rules

Subsection 553(d) of the APA requires publication or service of most substantive rules at least 30 days prior to their effective date. Pursuant to subsection 801(a)(3)(A), a major rule (as defined in subsection 804(2)) shall not take effect until at least 60 calendar days after the later of the date on which the rule and accompanying information is submitted to Congress or the date on which the rule is published in the Federal Register, if it is so published. If the Congress passes a joint resolution of disapproval and the President vetoes such resolution, the delay in the effectiveness of a major rule is extended by subsection 801(a)(3)(B) until the earlier date on which either House of Congress votes and fails to override the veto or 30 session days[1] after the date on which the Congress receives the veto and objections from the President. By necessary implication, if the Congress passes a joint resolution of disapproval within the 60 calendar days provided in subsection 801(a)(3)(A), the delay period in the effectiveness of a major rule must be extended at least until the President acts on the joint resolution or until the time expires for the President to act. Any other result would be inconsistent with subsection 801(a)(3)(B), which extends the delay in the effectiveness of a major rule for a period of time after the President vetoes a resolution.

Of course, if Congress fails to pass a joint resolution of disapproval within the 60-day period provided by subsection 801(a)(3)(A), subsection 801(a)(3)(B) would not apply and would not further delay the effective date of the rule. Moreover, pursuant to subsection 801(a)(5), the effective date of a rule shall not be delayed by this chapter beyond the date on which either house of Congress votes to reject a joint resolution of disapproval.

Although it is not expressly provided in the congressional review chapter, it is the committees' intent that a rule may take effect if an adjournment of Congress prevents the President from returning his veto and objections within the meaning of the Constitution. Such will be the case if the President does not act on a joint resolution within 10 days (Sundays excepted) after it is presented to him, and "the Congress by their Adjournment prevent its Return" within the meaning of Article I, §7, cl. 2, or when the President affirmatively vetoes a resolution during such an adjournment. This is the logical result because Congress cannot act to override these vetoes. Congress would have to begin anew, pass a second resolution, and present it to the President in order for it to become law. It is also the committees' intent that a rule may take effect immediately if the President returns a veto and his objections to Congress but Congress adjourns its last session sine die before the expiration of time provided in subsection 801(a)(3)(B). Like the situations described immediately above, no subsequent Congress can act further on the veto, and the next Congress would have to begin anew, pass a second resolution of disapproval, and present it to the President in order for it to become law.

Purpose of and exceptions to the delay of major rules

The reason for the delay in the effectiveness of a major rule beyond that provided in APA subsection 553(d) is to try to provide Congress with an opportunity to act on resolutions of disapproval before regulated parties must invest the significant resources

[1] In the Senate, a "session day" is a calendar day in which the Senate is in session. In the House of Representatives, the same term is normally expressed as a "legislative day." In the congressional review chapter, however, the term "session day" means both a "session day" of the Senate and a "legislative day" of the House of Representatives unless the context of the sentence or paragraph indicates otherwise.

necessary to comply with a major rule. Congress may continue to use the expedited procedures to pass resolutions of disapproval for a period of time after a major rule takes effect, but it would be preferable for Congress to act during the delay period so that fewer resources would be wasted. To increase the likelihood that Congress would act before a major rule took effect, the committees agreed on an approximately 60-day delay period in the effective date of a major rule, rather than an approximately 45-day delay period in some earlier versions of the legislation.

There are four exceptions to the required delay in the effectiveness of a major rule in the congressional review chapter. The first is in subsection 801(c), which provides that a major rule is not subject to the delay period of subsection 801(a)(3) if the President determines in an executive order that one of four specified situations exist and notifies Congress of his determination. The second is in subsection 808(1), which excepts specified rules relating to commercial, recreational, or subsistence hunting, fishing, and camping from the initial delay specified in subsection 801(a)(1)(A) and from the delay in the effective date of a major rule provided in subsection 801(a)(3). The third is in subsection 808(2), which excepts certain rules from the initial delay specified in subsection 801(a)(1)(A) and from the delay in the effective date of a major rule provided in subsection 801(a)(3) if the relevant agency finds "for good cause . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." This "good cause" exception in subsection 808(2) is taken from the APA and applies only to rules which are exempt from notice and comment under subsection 553(b)(B) or an analogous statute. The fourth exception is in subsection 804(2). Any rule promulgated under the Telecommunications Act of 1996 or any amendments made by that Act that otherwise could be classified as a "major rule" is exempt from that definition and from the 60-day delay in section 801(a)(3). However, such an issuance still would fall within the definition of "rule" and would be subject to the requirements of the legislation for nonmajor rules. A determination under subsection 801(c), subsection 804(2), or section 808 shall have no effect on the procedures to enact joint resolutions of disapproval.

A court may not stay or suspend the effectiveness of a rule beyond the period specified in section 801 simply because a resolution of disapproval is pending in Congress

The committees discussed the relationship between the period of time that a major rule is delayed and the period of time during which Congress could use the expedited procedures in section 802 to pass a resolution of disapproval. Although it would be best for Congress to act pursuant to this chapter before a major rule goes into effect, it was recognized that Congress could not often act immediately after a rule was issued because it may be issued during a recesses of Congress, shortly before such recesses, or during other periods when Congress cannot devote the time to complete prompt legislative action. Accordingly, the committees determined that the proper public policy was to give Congress an adequate opportunity to deliberate and act on joint resolutions of disapproval, while ensuring that major rules could go into effect without unreasonable delay. In short, the committees decided that major rules could take effect after an approximate 60-day delay, but the period governing the expedited procedures in section 802 for review of joint resolution of disapproval would extend for a period of time beyond that.

Accordingly, courts may not stay or suspend the effectiveness of any rule beyond the periods specified in section 801 simply because a joint resolution is pending before Congress. Such action would be contrary to the many express provisions governing when different types of rules may take effect. Such court action also would be contrary to the committees' intent because it would upset an important compromise on how long a delay there should be on the effectiveness of a major rule. The final delay period was selected as a compromise between the period specified in the version that passed the Senate on March 19, 1995 and the version that passed both Houses on November 9, 1995. It is also the committees' belief that such court action would be inconsistent with the principles of (and potentially violate) the Constitution, art. I, §7, cl. 2, in that courts may not give legal effect to legislative action unless it results in the enactment of law pursuant that Clause. See *INS* v. *Chadha*, 462 U.S. 919 (1983). Finally, the committees believe that a court may not predicate a stay on the basis of possible future congressional action because it would be improper for a court to rule that the movant had demonstrated a "likelihood of success on the merits," unless and until a joint resolution is enacted into law. A judicial stay prior to that time would raise serious separation of powers concerns because it would be tantamount to the court making a prediction of what Congress is likely to do and then exercising its own power in furtherance of that prediction. Indeed, the committees believe that Congress may have been reluctant to pass congressional review legislation at all if its action or inaction pursuant to this chapter would be treated differently than its action or inaction regarding any other bill or resolution.

Time periods governing passage of joint resolutions of disapproval

Subsection 802(a) provides that a joint resolution disapproving of a particular rule may be introduced in either House beginning on the date the rule and accompanying report are received by Congress until 60 calendar days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress). But if Congress did not have sufficient time in a previous session to introduce or consider a resolution of disapproval, as set forth in subsection 801(d), the rule and accompanying report will be treated as if it were first received by Congress on the 15th session day in the Senate, or 15th legislative day in the House, after the start of its next session. When a rule was submitted near the end of a Congress or prior to the start of the next Congress, a joint resolution of disapproval regarding that rule may be introduced in the next Congress beginning on the 15th session day in the Senate or the 15th legislative day in the House until 60 calendar days thereafter (excluding days either House of Congress is adjourned for more than 3 days during the session) regardless of whether such a resolution was introduced in the prior Congress. Of course, any joint resolution pending from the first session of a Congress, may be considered further in the next session of the same Congress.

Subsections 802(c)–(d) specify special procedures that apply to the consideration of a joint resolution of disapproval in the Senate. Subsection 802(c) allows 30 Senators to petition for the discharge of resolution from a Senate committee after a specified period of time (the later of 20 calendar days after the rule is submitted to Congress or published in the Federal Register, if it is so published). Subsection 802(d) specifies procedures for the consideration of a resolution on the Senate floor. Such a resolution is highly privileged, points of order are waived, a motion to postpone consideration is not in order, the resolution is unamendable, and debate on the joint resolution and "on all debatable motions and appeals in connection therewith" (including a motion to proceed) is limited to no more than 10 hours.

Subsection 802(e) provides that the special Senate procedures specified in subsections 802(c)–(d) shall not apply to the consideration of any joint resolution of disapproval of a rule after 60 session days of the Senate beginning with the later date that rule is submitted to Congress or published, if it is so published. However, if a rule and accompanying report are submitted to Congress shortly before the end of a session or during an intersession recess as described in subsection 801(d)(1), the special Senate procedures specified in subsections 802(c)–(d) shall expire 60 session days after the 15th session day of the succeeding session of Congress—or on the 75th session day after the succeeding session of Congress first convenes. For purposes of subsection 802(e), the term "session day" refers only to a day the Senate is in session, rather than a day both Houses are in session. However, in computing the time specified in subsection 801(d)(1), that subsection specifies that there shall be an additional period of review in the next session if either House did not have an adequate opportunity to complete action on a joint resolution. Thus, if either House of Congress did not have adequate time to consider a joint resolution in a given session (60 session days in the Senate and 60 legislative days in the House), resolutions of disapproval may be introduced or reintroduced in both Houses in the next session, and the special Senate procedures specified in subsection 802(c)–(d) shall apply in the next session of the Senate.

If a joint resolution of disapproval is pending when the expedited Senate procedures specified in subsections 802(c)–(d) expire, the resolution shall not die in either House but shall simply be considered pursuant to the normal rules of either House—with one exception. Subsection 802(f) sets forth one unique provision that does not expire in either House. Subsection 802(f) provides procedures for passage of a joint resolution of disapproval when one House passes a joint resolution and transmits it to the other House that has not yet completed action. In both Houses, the joint resolution of the first House to act shall not be referred to a committee but shall be held at the desk. In the Senate, a House-passed resolution may be considered directly only under normal Senate procedures, regardless of when it is received by the Senate. A resolution of disapproval that originated in the Senate may be considered under the expedited procedures only during the period specified in subsection 802(e). Regardless of the procedures used to consider a joint resolution in either House, the final vote of the second House shall be on the joint resolution of the first House (no matter when that vote takes place). If the second House passes the resolution, no conference is necessary and the joint resolution will be presented to the President for his signature. Subsection 802(f) is justified because subsection 802(a) sets forth the required language of a joint resolution in each House, and thus, permits little variance in the joint resolutions that could be introduced in each House.

Effect of enactment of a joint resolution of disapproval

Subsection 801(b)(1) provides that: "A rule shall not take effect (or continue), if the Congress enacts a joint resolution of disapproval, described under section 802, of the rule." Subsection 801(b)(2) provides that such a disapproved rule "may not be reissued in substantially the same form, and a new rule that is substantially the same as such a rule may not be issued, unless the reissued or new rule is specifically authorized by a law enacted after the date of the joint resolution disapproving the original rule." Subsection 801(b)(2) is necessary to prevent circumvention of a resolution of disapproval. Nevertheless, it may have a different impact on the issuing agencies depending on the nature of the underlying law that authorized the rule.

If the law that authorized the disapproved rule provides broad discretion to the issuing agency regarding the substance of such rule, the agency may exercise its broad discretion to issue a substantially different rule. If the law that authorized the disapproved rule did not mandate the promulgation of any rule, the issuing agency may exercise its discretion not to issue any new rule. Depending on the law that authorized the rule, an issuing agency may have both options. But if an agency is mandated to promulgate a particular rule and its discretion in issuing the rule is narrowly circumscribed, the enactment of a resolution of disapproval for that rule may work to prohibit the reissuance of any rule. The committees intend the debate on any resolution of disapproval to focus on the law that authorized the rule and make the congressional intent clear regarding the agency's options or lack thereof after enactment of a joint resolution of disapproval. It will be the agency's responsibility in the first instance when promulgating the rule to determine the range of discretion afforded under the original law and whether the law authorizes the agency to issue a substantially different rule. Then, the agency must give effect to the resolution of disapproval.

Limitation on judicial review of congressional or administrative actions

Section 805 provides that a court may not review any congressional or administrative "determination, finding, action, or omission under this chapter." Thus, the major rule determinations made by the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget are not subject to judicial review. Nor may a court review whether Congress complied with the congressional review procedures in this chapter. This latter limitation on the scope of judicial review was drafted in recognition of the constitutional right of each House of Congress to "determine the Rules of its Proceedings," U.S. Const., art. I, §5, cl. 2, which includes being the final arbiter of compliance with such Rules.

The limitation on a court's review of subsidiary determination or compliance with congressional procedures, however, does not bar a court from giving effect to a resolution of disapproval that was enacted into law. A court with proper jurisdiction may treat the congressional enactment of a joint resolution of disapproval as it would treat the enactment of any other federal law. Thus, a court with proper jurisdiction may review the resolution of disapproval and the law that authorized the disapproved rule to determine whether the issuing agency has the legal authority to issue a substantially different rule. The language of subsection 801(g) is also instructive. Subsection 801(g) prohibits a court or agency from inferring any intent of the Congress only when "Congress does not enact a joint resolution of disapproval," or by implication, when it has not yet done so. In deciding cases or controversies properly before it, a court or agency must give effect to the intent of the Congress when such a resolution is enacted and becomes the law of the land. The limitation on judicial review in no way prohibits a court from determining whether a rule is in effect. For example, the committees expect that a court might recognize that a rule has no legal effect due to the operation of subsections 801(a)(1)(A) or 801(a)(3).

Enactment of a joint resolution of disapproval for a rule that was already in effect

Subsection 801(f) provides that: "Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect." Application of this subsection should be consistent with existing judicial precedents on rules that are deemed never to have taken effect.

Agency information required to be submitted to GAO

Pursuant to subsection 801(a)(1)(B), the federal agency promulgating the rule shall submit to the Comptroller General (and make available to each House) (i) a complete copy of the cost-benefit analysis of the rule, if any, (ii) the agency's actions related to the Regulatory Flexibility Act, (iii) the agency's actions related to the Unfunded Mandates Reform Act, and (iv) "any other relevant information or requirements under any other Act and any relevant Executive Orders." Pursuant to subsection 801(a)(1)(B), this information must be submitted to the Comptroller General on the day the agency submits the rule to Congress and to GAO.

The committees intend information supplied in conformity with subsection 801(a)(1)(B)(iv) to encompass both agency-specific statutes and government-wide statutes and executive orders that impose requirements relevant to each rule. Examples of agency-specific statutes include information regarding compliance with the law that authorized the rule and any agency-specific procedural requirements, such as section 9 of the Consumer Product Safety Act, as amended, 15 U.S.C. §2054 (procedures for consumer product safety rules); section 6 of the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §655 (promulgation of standards); section 307(d) of the Clean Air Act, as amended, 42 U.S.C. §7607(d) (promulgation of rules); and section 501 of the Department of Energy Organization Act, 42 U.S.C. §7191 (procedure for issuance of rules, regulations, and orders). Examples of government-wide statutes include other chapters of the Administrative Procedure Act, 5 U.S.C. §§551–559 and 701–706; and the Paperwork Reduction Act, as amended, 44 U.S.C. §§3501–3520.

Examples of relevant executive orders include E.O. No. 12866 (Sept. 30, 1993) (Regulatory Planning and Review); E.O. No. 12606 (Sept. 2, 1987) (Family Considerations in Policy Formulation and Implementation); E.O. No. 12612 (Oct. 26, 1987) (Federalism Considerations in Policy Formulation and Implementation); E.O. No. 12630 (Mar. 15, 1988) (Government Actions and Interference with Constitutionally Protected Property Rights); E.O. No. 12875 (Oct. 26, 1993) (Enhancing the Intergovernmental Partnership); E.O. No. 12778 (Oct. 23, 1991) (Civil Justice Reform); E.O. No. 12988 (Feb. 5, 1996) (Civil Justice Reform) (effective May 5, 1996).

GAO reports on major rules

Fifteen days after the federal agency submits a copy of a major rule and report to each House of Congress and the Comptroller General, the Comptroller General shall prepare and provide a report on the major rule to the committees of jurisdiction in each House. Subsection 801(a)(2)(B) requires agencies to cooperate with the Comptroller General in providing information relevant to the Comptroller General's reports on major rules. Given the 15-day deadline for these reports, it is essential that the agencies' initial submission to the General Accounting Office (GAO) contain all of the information necessary for GAO to conduct its analysis. At a minimum, the agency's submission must include the information required of all rules pursuant to 801(a)(1)(B). Whenever possible, OMB should work with GAO to alert GAO when a major rule is likely to be issued and to provide as much advance information to GAO as possible on such proposed major rule. In particular, OMB should attempt to provide the complete cost-benefit analysis on a major rule, if any, well in advance of the final rule's promulgation.

It also is essential for the agencies to present this information in a format that will facilitate the GAO's analysis. The committees expect that GAO and OMB will work together to develop, to the greatest extent practicable, standard formats for agency submissions. OMB also should ensure that agencies follow such formats. The committees also expect that agencies will provide expeditiously any additional information that GAO may require for a thorough report. The committees do not intend the Comptroller General's reports to be delayed beyond the 15-day deadline due to lack of information or resources unless the committees of jurisdiction indicate a different preference. Of course, the Comptroller General may supplement his initial report at any time with any additional information, on its own, or at the request of the relevant committees of jurisdiction.

Covered agencies and entities in the executive branch

The committees intend this chapter to be comprehensive in the agencies and entities that are subject to it. The term "Federal agency" in subsection 804(1) was taken from 5 U.S.C. §551(1). That definition includes "each authority of the Government" that is not expressly excluded by subsection 551(1)(A)–(H). With those few exceptions, the objective was to cover each and every government entity, whether it is a department, independent agency, independent establishment, or government corporation. This is because Congress is enacting the congressional review chapter, in large part, as an exercise of its oversight and legislative responsibility. Regardless of the justification for excluding or granting independence to some entities from the coverage of other laws, that justification does not apply to this chapter, where Congress has an interest in exercising its constitutional oversight and legislative responsibility as broadly as possible over all agencies and entities within its legislative jurisdiction.

In some instances, federal entities and agencies issue rules that are not subject to the traditional 5 U.S.C. §553(c) rulemaking process. However, the committees intend the congressional review chapter to cover every agency, authority, or entity covered by subsection 551(1) that establishes policies affecting any segment of the general public. Where it was necessary, a few special exceptions were provided, such as the exclusion for the

monetary policy activities of the Board of Governors of the Federal Reserve System, rules of particular applicability, and rules of agency management and personnel. Where it was not necessary, no exemption was provided and no exemption should be inferred from other law. This is made clear by the provision of section 806 which states that the Act applies notwithstanding any other provision of law.

Definition of a "major rule"

The definition of a "major rule" in subsection 804(2) is taken from President Reagan's Executive Order 12291. Although President Clinton's Executive Order 12866 contains a definition of a "significant regulatory action" that is seemingly as broad, several of the Administration's significant rule determinations under Executive Order 12866 have been called into question. The committees intend the term "major rule" in this chapter to be broadly construed, including the non-numerical factors contained in the subsections 804(2) (B) and (C).

Pursuant to subsection 804(2), the Administrator of the Office of Information and Regulatory Affairs in the Office of Management and Budget (the Administrator) must make the major rule determination. The committees believe that centralizing this function in the Administrator will lead to consistency across agency lines. Moreover, from 1981–93, OIRA staff interpreted and applied the same major rule definition under E.O. 12291. Thus, the Administrator should rely on guidance documents prepared by OIRA during that time and previous major rule determinations from that Office as a guide in applying the statutory definition to new rules.

Certain covered agencies, including many "independent agencies," include their proposed rules in the Unified Regulatory Agenda published by OMB but do not normally submit their final rules to OMB for review. Moreover, interpretative rules and general statements of policy are not normally submitted to OMB for review. Nevertheless, it is the Administrator that must make the major rule determination under this chapter whenever a new rule is issued. The Administrator may request the recommendation of any agency covered by this chapter on whether a proposed rule is a major rule within the meaning of subsection 804(2), but the Administrator is responsible for the ultimate determination. Thus, all agencies or entities covered by this chapter will have to coordinate their rulemaking activity with OIRA so that the Administrator may make the final, major rule determination.

Scope of rules covered

The committees intend this chapter to be interpreted broadly with regard to the type and scope of rules that are subject to congressional review. The term "rule" in subsection 804(3) begins with the definition of a "rule" in subsection 551(4) and excludes three subsets of rules that are modeled on APA sections 551 and 553. This definition of a rule does not turn on whether a given agency must normally comply with the notice-and-comment provisions of the APA, or whether the rule at issue is subject to any other notice-and-comment procedures. The definition of "rule" in subsection 551(4) covers a wide spectrum of activities. First, there is formal rulemaking under section 553 that must adhere to procedures of sections 556 and 557 of title 5. Second, there is informal rulemaking, which must comply with the notice-and-comment requirements of subsection 553(c). Third, there are rules subject to the requirements of subsection 552(a)(1) and (2). This third category of rules normally either must be published in the Federal Register before they can adversely affect a person, or must be indexed and made available for inspection and copying or purchase before they can be used as precedent by an agency against a non-agency party. Documents covered by subsection 552(a) include statements of general policy, interpretations of general applicability, and administrative staff manuals and instructions to staff that affect a member of the public. Fourth, there is a body of materials that fall within the APA definition of "rule" and are the product of agency process, but that meet none of the procedural specifications of the first three classes. These include guidance documents and the like. For purposes of this section, the term rule also includes any rule, rule change, or rule interpretation by a self regulatory organization that is approved by a Federal agency. Accordingly, all "rules" are covered under this chapter, whether issued at the agency's initiative or in response to a petition, unless they are expressly excluded by subsections 804(3)(A)–(C). The committees are concerned that some agencies have attempted to circumvent notice-and-comment requirements by trying to give legal effect to general statements of policy, "guidelines," and agency policy and procedure manuals. The committees admonish the agencies that the APA's broad definition of "rule" was adopted by the authors of this legislation to discourage circumvention of the requirements of chapter 8.

The definition of a rule in subsection 551(4) covers most agency statements of general applicability and future effect. Subsection 804(3)(A) excludes "any rule of particular applicability, including a rule that approves or prescribes rates, wages, prices, services, or allowances therefore, corporate and financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing" from the definition of a rule. Many agencies, including the Treasury, Justice, and Commerce Departments, issue letter rulings or other opinion letters to individuals who request a specific ruling on the facts of their situation. These letter rulings are sometimes published and relied upon by other people in similar situations, but the agency is not bound by the earlier rulings even on facts that are analogous. Thus, such letter rulings or opinion letters do not fall within the definition of a rule within the meaning of subsection 804(3).

The different types of rules issued pursuant to the internal revenue laws of the United States are good examples of the distinction between rules of general and particular applicability. IRS private letter rulings and Customs Service letter rulings are classic examples of rules of particular applicability, notwithstanding that they may be cited as authority in transactions involving the same circumstances. Examples of substantive and interpretative rules of general applicability will include most temporary and final Treasury regulations issued pursuant to notice-and-comment rulemaking procedures, and most revenue rulings, revenue procedures, IRS notices, and IRS announcements. It does not matter that these later types of rules are issued without notice-and-comment rulemaking procedures or that they are accorded less deference by the courts than notice-and-comment rules. In fact, revenue rulings have been described by the courts as the "classic example of an interpretative rul[e]" within the meaning of the APA. See *Wing* v. *Commissioner*, 81 T.C. 17, 26 (1983). The test is whether such rules announce a general statement of policy or an interpretation of law of general applicability.

Most rules or other agency actions that grant an approval, license, registration, or similar authority to a particular person or particular entities, or grant or recognize an exemption or relieve a restriction for a particular person or particular entities, or permit new or improved applications of technology for a particular person or particular entities, or allow the manufacture, distribution, sale, or use of a substance or product are exempted under subsection 804(3)(A) from the definition of a rule. This is probably the largest category of agency actions excluded from the definition of a rule. Examples include import and export licenses, individual rate and tariff approvals, wetlands permits, grazing permits, plant licenses or permits, drug and medical device approvals, new source review permits, hunting and fishing take limits, incidental take permits and habitat conservation plans, broadcast licenses, and product approvals, including approvals that set forth the conditions under which a product may be distributed.

Subsection 804(3)(B) excludes "any rule relating to agency management or personnel" from the definition of a rule. Pursuant to subsection 804(3)(C), however, a "rule of agency organization, procedure, or practice," is only excluded if it "does not substantially affect the rights or obligations of non-agency parties." The committees' intent in these subsections is to exclude matters of purely internal agency management and organization, but to include matters that substantially affect the rights or obligations of outside parties. The essential focus of this inquiry is not on the type of rule but on its effect on the rights or obligations of non-agency parties.

The SPEAKER pro tempore. Pursuant to House Resolution 391, the previous question is ordered on the bill, as amended.

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. BONIOR

Mr. BONIOR. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BONIOR. I am in its present form, Mr. Speaker.

Mr. ARCHER. Mr. Speaker, I reserve a point of order against the motion to recommit.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BONIOR moves to recommit the bill to the Committee on Ways and Means with an instruction to report the bill back to the House forthwith with the following amendment: Add at the end of section 331(b) the following:

The amendment made by subsection (a) shall only apply during periods when the minimum wage under section 6(a)(1) of the Fair Labor Standards Act is not less than $4.70 an hour during the year beginning on July 4, 1996 and not less than $5.15 an hour after July 3, 1997.

POINT OF ORDER

Mr. ARCHER. Mr. Speaker, I make a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. ARCHER. Mr. Speaker, I make, actually, two points of order: a point of order that the motion to recommit with instructions is not germane to the bill; and, second, that the motion to recommit with instructions constitutes an unfunded intergovernmental mandate under section 425 of the Congressional Budget Act.

I would ask that a ruling first be made on the point of order against germaneness, on the basis of germaneness.

The SPEAKER pro tempore. Does the gentleman from Michigan [Mr. BONIOR] desire to be heard on the point of order?

Mr. BONIOR. I do, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Michigan [Mr. BONIOR] on the point of order.

Mr. BONIOR. Mr. Speaker, this bill is very broad in its scope. This bill provides that the President be given a line-item veto authority. This bill provides for an increase in the amount Social Security recipients could earn before their Social Security benefits are reduced. Third, it allows small businesses to seek judicial review of regulations.

Mr. Speaker, this bill has to do with taxpayers. There is nothing more important to taxpayers and citizens in this country than to be able to have revenues in their pockets. What we are offering and what we are suggesting under this motion to recommit is that we be given the chance to vote on the increase in the minimum wage, which has not been raised for the past 5 years. The minimum wage is a very important part of a variety of laws in this country that deal with ability of people to make ends meet. People today have incomes——

The SPEAKER pro tempore. The Chair would advise the gentleman from Michigan [Mr. BONIOR] to speak on the point of order, and keep his remarks confined to what is pending.

Mr. BONIOR. I would say to the Speaker that the minimum wage is directly related to the interest of small business in our country today.

The third piece of this bill that was added in the Committee on Rules allows small business to seek judicial review of regulations. In that sense, Mr. Speaker, it seems to me that those people who are affiliated with small business on the employment side ought to have redress to getting a decent wage in this country. You cannot live and raise a family on $9,000 a year or less. We are asking millions of Americans to do that. This bill will provide an opportunity for——

Mr. ARCHER. Mr. Speaker, may we have regular order on the debate on the point of order?

The SPEAKER pro tempore. The gentleman is correct. The gentleman from Michigan is reminded to confine his remarks to the germaneness of the point of order as raised by the gentleman from Texas [Mr. ARCHER].

□ 1400

Mr. BONIOR. Let me just add another point to my argument, Mr. Speaker, on a more technical ground, because I am not able, under the admonition of the Speaker, and the proper admonition, I would say, to talk about the substance, which deals with giving people a fair wage in this country. So I will talk about subtitle c of the bill that requires that the Department of Labor certify whether any of its rules, including rules governing the minimum wage, where a small business could go to court seeking a stay of the Department of Labor's rules governing the minimum wage.

It seems to me that, because of the addition of that subsection and the broadening of the bill, the minimum wage indeed is in order as a discussion point in a motion to recommit.

I would further add, Mr. Speaker, that my recommittal motion is logically relevant to the bill and establishes a condition that is logically relevant to subtitle c. Under the House precedent, my motion, I think, meets this test. If we are meeting the test for employers, if we are meeting the test for seniors, it seems to me we ought to be meeting the test for those women, primarily, millions of them raising kids on their own making less than $8,000 a year. They ought to be given the chance to have this debated and voted on by the House of Representatives.

Mr. Speaker, wages are important, they are stagnant in this country.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman will suspend.

Mr. ARCHER. Mr. Speaker, I regret again that I must ask for regular order. The gentleman wants to wander afield and to debate the substance of the motion to recommit, which is improper at this moment in the House.

The SPEAKER pro tempore. The Chair has observed that the gentleman is to confine his remarks to the point of order, and not the substance.

Mr. BONIOR. Mr. Speaker, I apologize to my friend from Texas and to the Speaker for wandering. I have difficulty not talking emotionally about this issue because of what I see in the country. But I will confine my remarks to subsection c of the bill that requires that the Department of Labor certify. And I would tell my friend from Texas, the Department of Labor has to certify whether any of its rules, including rules governing the minimum wage. And that, it seems to me, is the direct connection in this bill with the needs of working people in this country who are working for a minimum wage and deserve to have the opportunity to have that wage increase.

Mr. ARCHER. Mr. Speaker, may I be heard on my point of order?

The SPEAKER pro tempore. The gentleman from Texas is recognized.

Mr. ARCHER. Mr. Speaker, I would like to be heard on the point of order on germaneness first and, subsequent to the ruling on that point of order, be heard on the second point of order on intergovernmental mandates.

Mr. Speaker, the motion to recommit is not germane because it seeks to introduce material within the jurisdiction of a committee that is not dealt with in this bill. That is, the subject of the amendment, the minimum wage falls within the jurisdiction of the Committee on Economic and Educational Opportunities, while the subject matter of the bill falls only within the jurisdiction of the Committee on Ways and Means, the Committee on the Budget, the Committee on Rules, the Committee on the Judiciary, the Committee on Small Business, and the Committee on Government Reform and Oversight.

In addition, the motion to recommit seeks to amend the Fair Labor Standards Act, which is not amended by this bill.

Finally, there is the gentleman's argument about rulemaking. The rulemaking authority under this bill is general and not agency specific. Therefore, the motion to recommit is not germane to the bill and should be ruled out of order on that basis.

Mr. ENGEL. Point of order, Mr. Speaker.

The SPEAKER pro tempore. Does the gentleman from New York [Mr. ENGEL] wish to be heard on the point of order raised by the gentleman from Texas [Mr. ARCHER]?

Mr. ENGEL. Yes; I would.

The SPEAKER pro tempore. The gentleman is recognized.

Mr. ENGEL. Mr. Speaker, I must say that I think it is disingenuous and outrageous to say that the minority leader's point of order is not in order here.

The SPEAKER pro tempore. The gentleman will suspend.

Mr. ARCHER. Mr. Speaker, the gentlemen on the other side of the aisle can debate substance at another point in time. This debate now is on the point of order, and they should be told to restrain their comments on the point of order.

The SPEAKER pro tempore. The gentleman from Texas is correct. The Chair would remind the gentleman from New York, as he reminded the minority whip, that he is to confine his remarks to the question of germaneness as raised on the point of order by the gentleman from Texas.

Mr. ENGEL. Mr. Speaker, it would seem to me, if we are debating this bill on raising the debt ceiling limit, that something to do with the minimum wage is about as germane to the debt ceiling limit lifting as the line-item

veto is and as allowing seniors to make more money for Social Security purposes. I cannot see why one would not be germane and why these other things are germane. In fact, we should have a clean lifting of the debt ceiling and then we would not have to worry about germaneness after all.

So it would seem to me that we cannot on the one hand attach all kinds of extraneous things to the lifting of the debt ceiling and then on the other hand claim that the minimum wage is not at least as relevant to the lifting of the debt ceiling as the line-item veto and senior citizens are. I just do not think it is fair if we are going to talk about playing by fair rules. I think we ought to be fair. While they may want to stifle free speech on the other side of the aisle, I think we have a right to ask for equity here.

The SPEAKER pro tempore. The Chair is prepared to rule on the point of order raised by the gentleman from Texas on germaneness. The gentleman from Texas makes a point of order that the amendment proposed in a motion to recommit offered by the gentleman from Michigan is not germane to the bill. The text of germaneness in the case of a motion to recommit with instructions is a relationship of those instructions to the bill as a whole.

The pending bill permanently increases the debt limit. It also comprehensively addresses several other unrelated programs, specifically, the Senior Citizens' Right to Work Act, which amends the Social Security Act, the Line-Item Veto Act, which amends the Congressional Budget and Impoundment Control Act, and the Small Business Growth and Fairness Act of 1996, which amends the Regulatory Flexibility Act and the Small Business Act, and it establishes congressional review of agency rulemaking.

The motion does not amend the Fair Labor Standards Act. The motion does not directly amend the laws that go directly to the jurisdiction of the Committee on Economic and Educational Opportunities.

The Chair would cite to page 600 of the Manual the following: An amendment that conditions the availability of funds covered by a bill by adopting as a measure of their availability the monthly increases in the debt limit may be germane so long as the amendment does not directly affect other provisions of law or impose unrelated contingencies.

Therefore, the Chair rules that this motion is germane and overrules that point of order.

UNFUNDED MANDATE POINT OF ORDER

Mr. ARCHER. Mr. Speaker, I urge my second point of order that the motion to recommit with instructions constitutes an unfunded governmental mandate under section 425 of the Congressional Budget Act. Section 425 prohibits consideration of a measure containing unfunded intergovernmental mandates whose total unfunded direct costs exceeds $50 million annually. The precise language in question is the text of the instructions that amends the Fair Labor Standards Act to increase the minimum wage.

According to the Congressional Budget Office, an increase in the minimum wage from $4.25 to $5.15 would exceed the threshold amount under the rule of $50 million. In fact, CBO estimates that it would impose an unfunded mandate burden of over $1 billion over 5 years.

Let me also point out that CBO estimates that this provision would result in a 0.5- to 2-percent reduction in the employment level of teenagers and a smaller percentage reduction for young adults. These would produce employment losses of roughly 100,000 to 500,000 jobs. Therefore, I urge the Chair to sustain this point of order, and I urge my colleagues to vote against the consideration of this unfunded mandate on State and local governments.

The SPEAKER pro tempore. The gentleman from Texas makes a point of order that the motion violates section 425 of the Congressional Budget Act of 1974. In accordance with section 426(b)(2) of the Act, the gentleman has met his threshold burden to identify the specific language of the motion. Under section 426(b)(4) of the Act, the gentleman from Texas [Mr. ARCHER] and a Member opposed will each control 10 minutes of debate on the point of order.

Pursuant to section 426(b)(3) of the Act, after debate on the point of order, the Chair will put the question of consideration, to wit: Will the House now consider the motion?

Mr. BONIOR. Mr. Speaker, I seek time in opposition to the point of order.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] will control 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

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

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

Mr. Speaker, it is indeed ironic that a point of order would be made on this particular motion on the basis that this provides an additional burden on small businesses in this country. That is from our perspective not accurate, not fair. Let me take the accuracy argument first.

Every study recently done in New Jersey, in Pennsylvania, in California, has come to the conclusion that an increase in the minimum wage which has not been increased in 5 years, which is at $4.25 an hour, which is at its lowest level in 40 years, would not only, Mr. Speaker, would not only not cost businesses, would not cost jobs, it would add jobs. That is what some of these studies have said. Over 100 economists, three Nobel laureates, have suggested it is way past the time that we raise the minimum wage for these folks who have chosen work over welfare, 70 percent of them who are adults, many of them single women with children who need to have more money in their pockets so that they can survive and so they can live in dignity and teach their children that work indeed does pay in this country.

That is what we are all about here, making work pay. Five years ago we passed a similar bill, 90 cents over 2 years, which President Bush supported. Some of my friends on this side of the aisle support it. And here we are again, 5 years later, people struggling to make ends meet, having to work because they are getting paid the minimum wage and in various parts of this country having to work overtime in some jobs, having to work two or three jobs; fathers who cannot come home at night and be with their kids for athletic events, who are not there for PTA meetings; mothers who have to work overtime who are not there reading them bedtime stories, teaching their kids right from wrong.

Mr. Speaker, that is what this is all about. This issue is more than about wages. This is about community. This is about family.

Mr. Speaker, there is nothing more important than increasing the wages of the 80 percent of Americans in this society today who have not seen an increase since 1979.

□ 1415

Since 1979, 98 percent of all income growth in America has gone to the top 20 percent. The other 80 percent got 2 percent of that growth. So the minimum wage, while it will not help all of those 80 percent, will help some of them and it will help the people who are above the minimum wage a little bit. But it more importantly will circulate money throughout the economy, and the more money people have, the more they spend at the hardware store, the more they spend at the grocery store.

This indeed is necessary for us to do justice to those who are working in this society today and who have been denied economic justice for too long. So I do not believe, Mr. Speaker, that this is a violation of the unfunded mandates bill. This is a funding of the mandates of people to take care of their families. That is what this is about, Mr. Speaker.

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

Mr. ARCHER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, this clearly is an unfunded mandate on State and local government. It is the very thing that this Congress overwhelmingly passed a law to prevent last year. It will significantly increase the cost of State and

local government. If the Federal Government is to do that by its own legislation, it has an obligation to reimburse the State and local governments. That is not mandatory that we do that, but we took the position that it was inappropriate for us to do that. That is why we are having this debate today, because of the unfunded mandate legislation that was passed and signed into law by the President last year.

In addition, it places an unfunded mandate of unquantified amount on employers, which was also part of the law that we passed on a bipartisan basis and signed by the President of the United States last year. Here already the provisions of that law are to be tested. Did we really mean it? Well, if this motion to recommit passes, it will say to the American people we did not really mean it.

I do not think that is an appropriate thing for this Congress to do. CBO estimates that the potential loss of jobs will range, will reduce the employment level of teenagers and a smaller percentage reduction of young adults, reducing by a half a percent to 2 percent in the employment level of those types of individuals. They would produce employment losses of 90 cents per hour, increasing the minimum wage. From roughly 100,000 to 500,000 jobs, that 90-cent-per-hour increase will cost employment that much.

I urge a positive vote on the point of order on unfunded mandates, Mr. Speaker.

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

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank the minority whip for yielding me the time.

Mr. Speaker, let us say what this really is. This is an attempt by the Republican majority not to allow the whole issue of minimum wage, of raising the minimum wage for American workers to come to the floor. I serve on the Committee on Economic and Educational Opportunities. We cannot get that bill to come to committee. The Republican leadership has blocked it. We cannot get that bill to come to the floor. The Republican leadership has blocked it.

They could care less about raising the minimum wage. They expect people to work at a $4.25 an hour standard, which is less than people who are on welfare are getting. So much for welfare reform. They claim they are for welfare reform, but they do not want to pay someone who wants to work for a living a decent wage. Apparently they think coolie wages is what we should do, $4.25 an hour. This would simply raise it to $5.15.

The last raise was 5 years ago. Workers' moneys in terms of what they make on minimum wage are at a 40-year low. Is there no decency? Do we not care about what people who are trying to work for a living do?

The Republican majority does not want this to come to a vote. I may ask my colleagues on the other side of the aisle, what are they afraid of? All we are saying is that the minimum wage ought to be raised from $4.25 to $5.15. We owe it to America's workers to do this. This is simple decency. What are you afraid of? Are you afraid that the vote will pass and that people on your side of the aisle, some of them, may even vote for it?

There has been an attempt to block this bill from being in the committee and from being on the floor. We cannot get a vote. All we are saying is let us vote up or down whether or not the minimum wage should be raised. That is all we are asking and that is all we want here this afternoon.

PARLIAMENTARY INQUIRY

Mr. ARCHER. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman will state it.

Mr. ARCHER. Would the Speaker please explain to the House how this vote will be framed and what a "yes" or "no" vote will mean, because this is the first time that we have had a test of the unfunded mandate legislation?

The SPEAKER pro tempore. The question will be put by the Chair, to wit, will the House now consider the motion to recommit? So an "aye" vote would mean that the House should indeed consider the motion to recommit. A "no" vote would mean that the House would not consider the motion to recommit.

Mr. ARCHER. Mr. Speaker, would it be fair to say that a "no" vote then would sustain the point of order?

The SPEAKER pro tempore. Yes.

Mr. BONIOR. Mr. Speaker, that is not a point of order. Mr. Speaker, may I be heard?

The SPEAKER pro tempore. The statute provides that on this point of order the House shall decide that question and not a ruling from the Chair on whether to consider the motion. It would not be a prerogative of the Chair to make that judgment.

Mr. CLINGER. Mr. Speaker, I would indicate that I think a "yes" vote on this matter would in effect be saying that we would allow an unfunded mandate to be passed through, or open the door to passing through, an unfunded mandate to the States.

Those who would want to sustain the unfunded mandate legislation, and this is our first look at this thing, the first time we have had to consider this procedure, those who want to sustain that should vote "no" on this measure.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DELAY], the majority whip.

Mr. DELAY. Mr. Speaker, I hope Members are watching this debate because this is the first time that we have had this kind of vote in the 104th Congress, and I am urging a "no" vote on this particular motion.

I hope Members will really take a look at what is happening here. This is blatant politics and blatant hypocrisy. The gentleman from New York who just spoke before I did said in his speech that we owe the American workers this vote and we owe the American workers to raise the minimum wage. Where did he get that? I submit he got that from the convention that was just held in this town by the AFL–CIO who said that they would raise over $35 million to take this majority out.

That is what this vote is all about. This group over here on this side of the aisle has been screaming and yelling for the last many weeks.

Mr. BONIOR. Mr. Speaker, I move that the gentleman's words be taken down. He used the word "hypocrisy."

□ 1425

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The Clerk will report the last words by the gentleman from Texas [Mr. DELAY].

The Clerk read as follows:

> The gentleman from New York, who just spoke before I did, said in his speech that we owe the American workers this vote and we owe the American workers to raise the minimum wage. I submit he got that from the convention that was just held in this town by the AFL–CIO, who said that they would raise over $35 million to take this majority out. That is what this vote is all about. This group over here on this side of the aisle has been screaming and yelling for the last many weeks.

The SPEAKER pro tempore. The Chair does not believe that anything in those remarks constitutes any personal reference to any other Member of this body.

Mr. BONIOR. Mr. Speaker, may I be heard?

The SPEAKER pro tempore. The gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, the Clerk needs to go back farther, because there was reference and the use of the word "hypocrite," and the Clerk has not gone back far enough to pick up the words that I objected to. The word "hypocrisy" was used, excuse me, Mr. Speaker.

The SPEAKER pro tempore. The Chair would remind the gentleman that on points such as that, the point of order from the gentleman making the point of order has to be timely. The Clerk has gone back several sentences to transcribe what the gentleman had said, and the gentleman's demand certainly was not timely in this instance.

The gentleman from Texas may proceed with his remarks.

POINT OF ORDER

Mr. BONIOR. Point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. BONIOR. Mr. Speaker, that dialog that I am referring to could not have taken more than 30 seconds, and it seems to me that I was indeed timely when I rose to my feet as the gentleman was completing his idea, which included referring to the gentleman from New York [Mr. ENGEL] with the term "hypocrisy."

The SPEAKER pro tempore. Under the precedents set, those points of order raised by the gentleman have to be on a timely basis. This is precedent that has been set in this body for a number of years where there are intervening remarks that you are alluding to. So the Chair rules that the gentleman from Texas may proceed.

Mr. BONIOR. Mr. Speaker, I appeal the ruling of the Chair.

The SPEAKER pro tempore. The question is: Shall the decision of the Chair stand as the judgment of the House?

MOTION TO TABLE OFFERED BY MR. ARCHER

Mr. ARCHER. Mr. Speaker, I move to table the appeal of the ruling of the Chair.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. ARCHER] to lay on the table the appeal of the ruling of the Chair.

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

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 232, noes 185, not voting 14, as follows:

[Roll No. 99]

AYES—232

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

NOES—185

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—14

Bryant (TX)
Collins (IL)
Fields (LA)
Filner
Fowler
Frost
Hayes
Martinez
McNulty
Smith (WA)
Stokes
Tejeda
Weldon (PA)
Williams

□ 1453

So the motion to lay on the table the appeal of the ruling of the Chair was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. TEJEDA. Mr. Speaker, I was at the White House on official business and missed vote No. 99. Had I been present, I would have voted "no."

I ask that my statement appear in the RECORD immediately after the vote.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Under the order of business, the debate is on a point of order by the gentleman from Texas [Mr. ARCHER].

The gentleman from Texas [Mr. DELAY], the majority whip, has 1 minute remaining.

The Chair recognizes the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, all I was trying to say was is it not interesting that we are having a motion on the floor, 3 days after the AFL–CIO had a convention calling for an increase in the minimum wage and promising to raise $35 million by assessing their membership more of their hard-earned wages, to take out the majority that is trying to allow working families to keep more of their hard-earned wages?

I hope everyone that was outraged by the gun vote last week will vote "no" on this, because we were accused of the same thing.

Is it not also interesting that we have heard time and time again that we have not had enough hearings in this body; that we have to look at these issues, hold hearings on these issues. yet we have the Democrats bringing a motion to the floor that wants to do away with the unfunded mandate legislation that was passed by the Senate and debated in less than 20 minutes.

The SPEAKER pro tempore. The gentleman from Texas [Mr. ARCHER] has 5½ minutes remaining, and the gentleman from Michigan [Mr. BONIOR] has 4 minutes remaining.

Mr. ARCHER. Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. GOODLING], the

chairman of the Committee on Economic and Educational Opportunities.

Mr. GOODLING. Mr. Speaker, I think the first thing I would like to do is remind all Members that our balanced budget provides an instant raise for workers in the form of lower taxes, reduced interest rates, and greater economic growth.

PARLIAMENTARY INQUIRY

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

The SPEAKER pro tempore. The gentleman will state it.

Mr. VOLKMER. Mr. Speaker, do we have the balanced budget before us to speak on? What is the issue which the speakers in the well should address?

□ 1500

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The House is debating whether to consider the motion to recommit; the question that the House is debating right now is whether the pending recommittal motion should be considered.

Mr. VOLKMER. A recommittal motion.

The SPEAKER pro tempore. Whether to consider a recommittal motion.

Mr. VOLKMER. Whether to consider a recommittal motion.

The SPEAKER pro tempore. That is correct.

The gentleman from Pennsylvania [Mr. GOODLING] is recognized for 1½ minutes.

Mr. GOODLING. Mr. Speaker, our balanced budget provides an instant raise for workers in the form of lower taxes, reduced interest costs, and greater economic opportunity which will lead to higher wages for America's workers.

Let me assure Members that the committee of jurisdiction will look at the overall picture as to why in the last 3 years we have had a very stagnant economy, which has resulted in a very stagnant growth in relationship to wages and benefits. We will look at the overall picture. We will see whether it is unfunded mandates, such as one that was proposed today. We will look to see whether it is regulatory reform that is needed. But we will not look at a single issue because the issue is all-encompassing and we have to look at every piece of that and we will do it in a conference. We will do it in committee. We will do it in hearings. But we will not be rushed to do something that will, in fact, stagnate the economy even more. We cannot afford to grow at 1 percent or less, or we will never get out of this stagnated economy that we are presently in.

Mr. BONIOR. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Mr. Speaker, I am surprised that the leadership of this House would suggest that requesting an increase in the minimum wage for American workers is an unfunded mandate. If we follow that logic, adhere to it, then this body would not be able to do anything to protect the health and welfare of the American people.

We just heard it said that the so-called balanced budget contains provisions that will be beneficial to the American workers, tax cuts. In fact the opposite is true. We are chopping away at the earned income tax credit. We are going to raise taxes for minimum wage people. That is what my colleagues are going to do.

Mr. Speaker, the American people need an increase in their wages. They need an increase in wage. They have come to this Congress and asked for it. The last time this Congress authorized an increase in their salary was 1989. They are falling way behind. At the rate of this minimum wage, a person working full time makes only $8,500 a year. That is below the poverty level. The American people need an increase in their wage. They have asked for it. We have a responsibility to give it to them. Let us give them an increase.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume, simply to respond that the Parliamentarian and the Speaker have decided that there are adequate grounds, that there is an unfunded mandate in this bill, or we would not be having this procedural vote. Let me make that very clear. This is a procedural vote. There are adequate grounds to establish that there is an unfunded mandate in this bill.

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

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

Let me correct the gentleman from Texas by suggesting that this is a motion to proceed on a vote to have a debate on the minimum wage. That is what we are discussing. That is the issue that is before us. The question is will we even proceed to discuss this basic fundamental economic justice issue of whether people can earn a decent living and whether they should move to work as opposed to welfare in this country. That is what this is about.

My friend, and he is my friend, from Texas said and preached to us just a few minutes ago about the AFL–CIO wanting this vote. Those people do not make the minimum wage. They do not make it because they got together. They banded together in unity for a decent wage for themselves. They are working for other folks. They are trying to get them a decent wage.

Mr. Speaker, the distinguished gentleman from Pennsylvania [Mr. GOODLING], who is also my friend, says we need to study this. We are not going to be rushed. We need to go slow. It is at its 40-year low, 40-year low, the minimum wage. No hearings have been held in this Congress.

We have got about 30-some days left in the legislative calendar. My colleagues do not want a vote. They are blocking a vote. They blocked the vote on the minimum wage in the Senate. They are blocking it here again in the House. Wages are important to people. We want to put money in people's pockets by raising their wages. That is what this issue is all about.

Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, the Republican majority will find any excuse to hurt hard-working middle-class families in this country. Today the Republican majority would deny and block a vote to increase the minimum wage. Mothers and fathers are working harder, longer hours, two and three jobs, and have seen their wages not rise but decrease. They scramble to pay their bills, to make ends meet at the end of every week. More than two-thirds of minimum wage workers are 20 years and older, they are not teenagers.

The approximate annual average salary of a minimum wage worker is $8,500 a year. It is below the poverty level. It is below the welfare level.

Imagine, this Republican majority says no to a 90 cents increase an hour for working families in this country, 90 cents, when they make over $130,000 a year.

That is not justice. It is wrong to happen to working families in this country. Shame. Stop the excuses. Let us vote on a minimum wage in this House and let us past minimum wage for working families in this country.

PARLIAMENTARY INQUIRIES

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

The SPEAKER pro tempore. The gentleman will state it.

Mr. VOLKMER. Mr. Speaker, as a result of my previous parliamentary inquiry to the Chair and to others, that the debate was on the motion to recommit to determine whether or not it is an unfunded mandate; is that correct or incorrect?

The SPEAKER pro tempore. The Chair will read from section 426(b) of the Budget Act as to what the House is debating: question of consideration, "as disposition of points of order under section 425 or subsection (a) of this section, the Chair shall put the question of consideration with respect to the proposition that is the subject of the points of order."

Mr. VOLKMER. The point of order is the motion to recommit is an unfunded mandate; is that correct?

The SPEAKER pro tempore. That is correct.

Mr. VOLKMER. That is the point of order.

Now, the Parliamentarian does not rule on this and we are to vote and make an individual decision as to whether or not we believe that this is

an unfunded mandate if the point of order is proper; is that correct, as an individual?

The SPEAKER pro tempore. The question is simply on whether this body wants to consider the motion to recommit, notwithstanding the point of order.

Mr. VOLKMER. Notwithstanding the point of order. Therefore, any Member can raise a point of order not on the motion to recommit or an amendment or anything under this rule, correct?

The SPEAKER pro tempore. Only against this motion at this time.

Mr. VOLKMER. Only against the motion.

Now, should the Members not make a decision based on recommendations like the Congressional Budget Office which says this is not an unfunded mandate?

The SPEAKER pro tempore. The Chair would remind Members that the reason the House is having this debate is so the Members can make up their minds on which way they want to vote on this question.

Mr. VOLKMER. Without listening to the Congressional Budget Office.

Mr. FRANK of Massachusetts. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. FRANK of Massachusetts. Mr. Speaker, it has to do with the nature of the question we are voting on.

As I understand it, we are talking about the new rule adopted at the beginning of this Congress dealing with what to do when there is an unfunded mandate. Would this vote, and this would help, I believe, us clarify it, because we have dealt with this once before in my recollection, would a vote now to proceed with the minimum wage vote be the equivalent of what the House did when we adopted the rule on the agriculture bill which waived the unfunded mandate point of order?

When the House adopted the majority's proposed rule on the agriculture bill, it waived the point of order with regard to unfunded mandates and allowed us then to proceed on the bill which CBO said had unfunded mandates. Are we now being asked to do the same thing; namely, take up the bill although CBO does not say there are unfunded mandates in there, as we did when we adopted the majority's rule on the agriculture bill?

The SPEAKER pro tempore. The Chair can only respond that the reason the House is having this debate is so the House can make the judgment on whether there shall be a vote on the motion to recommit.

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

The SPEAKER pro tempore. The gentleman will state it.

Mr. ENGEL. Mr. Speaker, the previous gentleman mentioned that the rule on the agriculture bill waived a point of order with regard to unfunded mandates. Is this the blatant politics and blatant hypocrisy that the majority whip was referring to?

The SPEAKER pro tempore. The gentleman is not stating a parliamentary inquiry.

The Chair would advise Members that the gentleman from Texas [Mr. ARCHER] has 3½ minutes remaining, the gentleman from Michigan [Mr. BONIOR] has 30 seconds remaining, and the gentleman from Texas [Mr. ARCHER] has the right to close.

Mr. BONOIR. Mr. Speaker, I yield 30 seconds to the gentleman from Vermont [Mr. SANDERS].

□ 1515

Mr. SANDERS. Mr. Speaker, the leadership of this Congress has passed huge tax breaks for the rich and for the largest corporations in America.

But somehow, when some of us want to raise the minimum wage for millions of American workers, we are told that we are not even allowed to have a vote.

People today are working longer hours for lower wages, and they are entitled to a raise. Mr. Speaker, let us raise the minimum wage; more importantly, let us have the guts to vote on the issue.

Mr. ARCHER. Mr. Speaker, I yield the balance of my time to the gentleman from Texas [Mr. ARMEY], the majority leader.

Mr. ARMEY. Mr. Speaker, after years of frustration and months of hard work we are here today to do three good things for the American people: to give the President of the United States the long-sought line-item veto authority the American people wish for him to have, to give the senior citizens of America a chance to work in their senior years and still retain their Social Security benefits with less prejudice from the Government's desire to take their earnings away, their benefits away, if they earn money, and to create job opportunities by lessening the red tape burden on small business. We are here to do these things that the minority, when they were in the majority, would not do, and we can complete that work.

Now we are being asked, and I might say it has been a very colorful and entertaining show; we are being asked to go back on the work that we did earlier on unfunded mandates and pose an unfunded mandate on the communities in our country in order to raise the minimum wage. Is this an effort to stop three good things from happening or to do one bad thing?

I was just asked by one of my colleagues a moment ago why is it the minority did not raise the minimum wage last year when they had the majority in the House, they had the majority in the Senate and they had the White House?

Mr. Speaker, I suspect the reason is that they read page 27 of Time magazine on February 6, 1995, where the President was quoted as saying that raising the minimum wage is, and I quote, "the wrong way to raise the incomes of low wage earners." Perhaps they did not.

We have had an interesting show, I have been much entertained by it, I am sure the Nation has been entertained. But this body belongs to the people for serious work.

I propose that we vote down this motion, get on with our work, and do some good things for America rather than punish the working poor.

The SPEAKER pro tempore. The question is, will the House now consider the motion to recommit?

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

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 228, not voting 11, as follows:

[Roll No. 100]

AYES—192

Abercrombie	Flake	Mascara
Ackerman	Foglietta	Matsui
Andrews	Ford	McCarthy
Baldacci	Frank (MA)	McDermott
Barcia	Frost	McHale
Barrett (WI)	Furse	McKinney
Becerra	Gejdenson	Meehan
Beilenson	Gephardt	Meek
Bentsen	Gibbons	Menendez
Berman	Gilman	Miller (CA)
Bevill	Gonzalez	Minge
Bishop	Gordon	Mink
Bonior	Green	Moakley
Borski	Gutierrez	Mollohan
Boucher	Hall (OH)	Moran
Browder	Hamilton	Murtha
Brown (CA)	Harman	Nadler
Brown (FL)	Hastings (FL)	Neal
Brown (OH)	Hefner	Oberstar
Cardin	Hilliard	Obey
Chapman	Hinchey	Olver
Clay	Holden	Ortiz
Clayton	Hoyer	Orton
Clement	Jackson (IL)	Owens
Clyburn	Jackson-Lee (TX)	Pallone
Coleman	Jacobs	Pastor
Collins (MI)	Jefferson	Payne (NJ)
Condit	Johnson (SD)	Payne (VA)
Conyers	Johnson, E. B.	Pelosi
Costello	Johnston	Peterson (FL)
Coyne	Kanjorski	Peterson (MN)
Cramer	Kaptur	Pickett
Danner	Kennedy (MA)	Pomeroy
de la Garza	Kennedy (RI)	Poshard
DeFazio	Kennelly	Rahall
DeLauro	Kildee	Rangel
Dellums	Kleczka	Reed
Deutsch	Klink	Richardson
Dicks	LaFalce	Riggs
Dingell	Lantos	Rivers
Dixon	Leach	Roemer
Doggett	Levin	Rose
Dooley	Lewis (GA)	Roybal-Allard
Doyle	Lincoln	Rush
Duncan	Lipinski	Sabo
Durbin	Lofgren	Sanders
Edwards	Lowey	Sawyer
Engel	Luther	Schroeder
Eshoo	Maloney	Schumer
Evans	Manton	Scott
Farr	Markey	Serrano
Fattah	Martinez	Sisisky
Fazio		Skaggs

Skelton
Slaughter
Smith (NJ)
Spratt
Stark
Stenholm
Stockman
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOES—228

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Roberts
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (TX)
Solomon
Souder
Spence
Stearns
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Bryant (TX)
Collins (IL)
Diaz-Balart
Fields (LA)
Filner
Fowler
McNulty
Ros-Lehtinen
Smith (WA)
Stokes
Weldon (PA)

□ 1537

Mr. GILMAN changed his vote from "no" to "aye."

So the question of consideration was decided in the negative.

The result of the vote was announced as above recorded.

Mr. MOAKLEY. Mr. Speaker, I would like to clarify for the RECORD inaccurate claims made by those on the Republican side of the aisle that this motion contains an unfunded intergovernmental mandate. The fact of the matter is, Mr. Speaker, it does not. They suggested that the Congressional Budget Office has determined that this motion regarding the minimum wage contained an unfunded mandate. CBO did not make any such determination. In fact, CBO has determined just the opposite, that this motion does not contain any unfunded mandates. The document to which the Republicans referred did not cite this language at all but rather referred to a letter written by CBO last year to a Member of the other body on another piece of legislation under consideration by that Chamber. That legislation contained specific language which would have directly increased the minimum wage. To equate that legislation with this modest motion is to compare apples and oranges—make that grapes and watermelons.

I want to place at this point in my statement, a letter from the Congressional Budget Office that states that this motion does not contain an unfunded mandate:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 28, 1996.

Hon. JOHN JOSEPH MOAKLEY,
Ranking Minority Member, Committee on Rules, House of Representatives, Washington, DC.

DEAR CONGRESSMAN: As you requested, we have reviewed the motion made by Mr. Bonior to determine whether it contains an intergovernmental mandate as defined by the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). The motion would require H.R. 3136, the Contract with America Advancement Act of 1996, to be recommitted to the House Committee on Ways and Means, with instructions to add a new section to the bill. The new section would amend section 331 of Subtitle C to prohibit the administrative proceedings provisions of that subtitle from applying in any period during which the minimum wage was less than $4.70 per hour beginning on July 4, 1996, and $5.15 per hour after July 3, 1997.

The motion and the new section would not increase the minimum wage, but would make other provisions conditional on such an increase. Subsequent legislation would be necessary to increase the minimum wage. Public Law 104–4 defines an intergovernmental mandate as "any provision in legislation . . . that would impose an enforceable duty upon state, local, or tribal governments." The motion contains no such enforceable duty and thus does not contain an intergovernmental mandate.

If you wish further details on this matter, we would be pleased to provide them. The CBO staff contact is Theresa Gullo.

Sincerely,

JUNE E. O'NEILL,
Director.

It is very important that the membership of the House of Representatives, during this first formal raising of the unfunded mandate point-of-order, be aware of this attempt by the Republican majority to misuse, confuse, and distort the once laudable intention of this law. The unfunded mandates legislation enjoyed widespread bi-partisan support, passing the House by vote of 394 to 28. I was a member of the conference committee and a supporter of this measure. Members on both sides of the aisle supported this initiative because of growing concern over the imposition of unfunded Federal requirements on the public and private sector.

I am deeply concerned that the unfunded mandates law is being used not to curb the past practice of imposing financial burdens on State and local government entities and the private sector, but instead to stifle debate on certain legislative items.

During the consideration on the unfunded mandates legislation in January 1995, I expressed my concern on the section of the bill that implemented this new point-of-order. The legislation specifically prevents the Rules Committee from waiving the point-of-order that is triggered when there is an unfunded mandate—as defined by Public 104–4—in any bill, joint resolution, motion, conference report, or amendment. Only a small handful of House rules in the history of the House of Representatives have been given this special protection. If a member raises an unfunded mandates point-of-order, all he or she need do is to cite the provision in the measure under debate. There is an automatic 20 minutes of debate followed by a vote.

There is no parliamentary or budgetary ruling and there is no burden of proof on the Member raising the point-of-order. It does not matter if the point-of-order is baseless, simply by raising the point-of-order, the House is required to vote on whether to consider the text that is challenged. A simple majority of the House, for any reason, regardless of whether there is any legitimate financial imposition or not, can deny the opportunity of a Member to proceed with an otherwise germane and viable legislative measure. I raised the concern at that time that this could be used both to stop legislation not containing unfunded mandates from being considered on the floor and as a dilatory tactic to disrupt the legislative process. I was always assured that this would not be used for this purpose. Even then, however, I did not anticipate that the very first use of this tactic would be to deny the minority the right to offer an entirely legitimate and germane motion to recommit.

One of the Republican leadership's first changes to the House rules on the 104th Congress guaranteed the minority the right to recommit with instructions. In fact, during the 102d and 103d Congresses in particular, we in the majority were crudely accused of "raping the rights of the minority" by, on rare occasion, denying them instructions on the motion to recommit. Now it appears they are grossly misusing the new unfunded mandates law and, on this first challenge out of the gate, we are being denied the very right that was so vital to the Republicans in previous Congresses.

I am deeply troubled that if this practice continues, it could simply become a backdoor

approach used to gag legitimate debate, whether on the motion to recommit or on any other responsible and germane legislative initiatives. I urge the majority to carefully consider the ramifications of misusing the unfunded mandates point-of-order for purposes other than the legitimate intentions spelled out in Public Law 104–4. The unfunded mandates law should be used as tool to fix legislation that imposes unfair financial burdens on state and local governments and the private sector. It should not be used as a weapon to prevent the consideration of viable and responsible legislation initiatives.

MOTION TO RECOMMIT OFFERED BY MR. ORTON

Mr. ORTON. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is the gentleman opposed to the bill?

Mr. ORTON. I am in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ORTON moves to recommit the bill to the Committee on Ways and Means with instructions to report the bill forthwith with the following amendment:

On page 60, strike lines 5 through 15 and insert the following:

SEC. 205. EFFECTIVE DATES.

This title and the amendments made by it shall take effect and apply to measures enacted after the date of its enactment and shall have no force or effect on or after January 1, 2005.

PARLIAMENTARY INQUIRIES

Mr. ORTON. Mr. Speaker, before being recognized to speak on my motion to recommit, I have a parliamentary inquiry which is important to resolve, so people can understand the motion to recommit and how it fits into what we have been voting on.

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

Mr. ORTON. Mr. Speaker, is it correct that the rule which was adopted providing for debate on this bill did automatically adopt the conference report on the line-item veto as a separate bill and authorize that to be sent to the President for his signature?

The SPEAKER pro tempore. The Chair would tell the gentleman that the answer to that is yes.

Mr. ORTON. Further parliamentary inquiry, Mr. Speaker. Is it correct that the rule provides that title II in this bill, which is the line-item veto title, would be stripped from this bill if unamended, and the bill would be sent without title II, but if amended, title II would remain in this bill and go to the Senate for their consideration?

The SPEAKER pro tempore. In response to the gentleman, if title II were amended as a result of a motion to recommit, then it would not be stricken from the engrossed bill. But the operation of section 2(b) of the House Resolution 391 would not be affected. The conference report on S. 4 would stand as adopted.

Mr. ORTON. Therefore, Mr. Speaker, the conference report, standing as adopted, would go to the President for his signature, regardless of whether this motion to recommit is adopted and the title is amended. The only effect of amending the title would be to keep title II in the bill as amended for Senate consideration of the title II as amended, is that correct?

The SPEAKER pro tempore. That is correct.

Mr. ORTON. So if we adopt the motion to recommit and amend this title II, the President would have the original conference bill under the rule for his signature, and assuming the Senate adopted this bill with the amendment, would also have title II as amended, under this bill for his signature, is that correct?

The SPEAKER pro tempore. That would be possible.

Mr. ORTON. I thank the Speaker.

The SPEAKER pro tempore. The gentleman from Utah [Mr. ORTON] is recognized for 5 minutes on the motion to recommit.

Mr. ORTON. Mr. Speaker, I will be as clear and concise as I can. This motion to recommit does one thing and one thing only to the bill we are considering. It simply says that the line-item veto provisions of the bill would become effective immediately upon enactment, rather than waiting until the next calendar year to become effective. That is all it does.

Therefore, the President will already get the opportunity to sign the conference report making line-item veto effective the beginning of next year.

□ 1545

This amendment will give him the opportunity, if adopted, to make it effective immediately and give the President the authority to veto items of specific spending between the date of enactment and the next calendar year. That is the only difference.

Now, Mr. Speaker, let me just in explanation suggest that not only I but many of my colleagues on both sides of the aisle support this line-item veto. The line-item veto has not been partisan. It is supported by both Democrats and Republicans, by the Congress and the President. In fact, during floor debate in the other body on March 23, 1995, the majority leader said the following: "During the 1980's, opponents of the line-item veto used to say that Republicans supported it only because the President happened to be a Republican at the time. Now, we are in the majority and we are prepared, nearly all of us on this side, to give this authority to a Democratic President."

The Senate majority whip said the following: "Why be afraid of allowing this current President to use his power? We on this side of the aisle, the Republicans, are ready to give this opportunity to President Clinton so he can have the opportunity to pare spending."

In this body in February 1995 during debate on this line-item veto bill, the Chairman of the Committee on Rules, Mr. SOLOMON, said the following: "Well, here we are. We get a Democrat President, and here is SOLOMON up here fighting for the same line-item veto for the Democrat President."

Finally, the gentleman from Florida [Mr. GOSS] during the same debate said, "Let us give it to the President whether the President is Democrat or Republican. Let us stop the games. Let us get into budget management."

That is what this amendment is about. It is about budget management. It is about stopping the partisan games. It is about saying we are for line-item veto now, not next year or next decade; we want it to be effective upon enactment.

Mr. Speaker, that is all this amendment will do. If passed, it will send it to the other body for consideration and the President's signature, which would then give us all the opportunity to drop partisan rhetoric and actually have the opportunity to cut spending.

Now someone suggests we do not really need it because we are cutting spending. This is the 1996 congressional pig book put out by the Citizens Against Government Waste. They have identified over $12.5 billion in the eight appropriation bills that we have already passed for 1996 of questionable spending which, if the President had this authority right now, he could veto. That is for 1996. We have lost that opportunity. Let us not lose the opportunity for 1997. Let us give him the opportunity during the appropriation process of 1997.

Mr. Speaker, I yield to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, I thank the gentleman from Utah for yielding.

I would say this is a very simple motion. I voted for a line-item veto for President Bush. I voted for the rule to give the line-item veto immediately to the President 2 hours ago. This motion will say, do not wait until 1997, do not play politics, do not do what the American people do not want us to do. Let the President cut $25 billion out of spending now.

Mr. Speaker, it would be interesting to see and explain to our constituents why we did not extend the line-item veto to the President of the United States tomorrow.

Mr. ORTON. Mr. Speaker, in closing let me just say we do not want to make this a partisan fight. This motion to recommit is not partisan. This motion to recommit does nothing to the bill which we are adopting except one thing: making the line-item veto effective immediately upon enactment so that this President has not only the opportunity, but the responsibility, to look at each item of spending and veto

those items that he believes are inappropriate, send them back under new legislation. It is appropriate, it is responsible, it is the thing to do. I would urge adoption of the motion to recommit.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Texas [Mr. ARCHER] is recognized for 5 minutes in opposition to the motion to recommit.

Mr. ARCHER. Mr. Speaker, I yield to the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I am a little concerned with what I am hearing here today because Senate Majority Leader DOLE and President Clinton chose the effective dates that are in this bill today. If we want to kill line-item veto, we will unbalance this very, very delicate document we have here today.

Mr. Speaker, our conferees have spent a year now working together with people who did not want a line-item veto over in the other body. There were a lot of them. But finally, with the leadership of BOB DOLE we got them to move, and they conceded to us on almost everything, almost everything. We have a real, true line-item veto here today, something we have always wanted.

Now, there are things in here I do not like. There is a sunset provision for 8 years. I wanted it to be permanent. Know what we did? We traded that off to get something that my colleagues and I want, and that is a lockbox provision, so that if any President vetoes an item and it sticks, that means that money cannot be reprogrammed. It means it is cut out of the budget and we have that satisfaction.

Mr. Speaker, Ronald Reagan told me once, JERRY, the art of compromise means success in politics; people have other views. We have worked diligently with Senator EXON and other good Democrats on the other side of the aisle in the Senate to put this together. We better vote down this motion to recommit and vote for this, and let us give the President a true line-item veto. That is what the American people want.

Mr. ARCHER. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. CLINGER], the chairman of the Committee on Government Reform and Oversight.

Mr. CLINGER. Mr. Speaker, I served as chairman of the conference on the line-item veto. It was a difficult, contentious, hotly contested conference. We argued and debated over the issues long and hard. It took us a year, yes, it took us longer than any of us would have wanted.

It was not a partisan matter; in fact, there are those who support line-item veto, the gentleman from Utah being one of the staunchest supporters of the line-item veto on both sides of the aisle and in both Chambers, so this is not a partisan issue. But what we finally arrived at, I think, is the best that we can get. One of the items that was agreed to was an effective date. That was only finally resolved because there was an agreement reached between the President of the United States and the majority leader of the Senate to depoliticize the issue.

Mr. Speaker, I would point out that to change the effective date now would really put this right square in the middle of the Presidential debate. I think it would clearly distort what we are trying to do here. By putting it on January 1, obviously the gentleman from Utah [Mr. ORTON] and Members on the other side of the aisle feel very strongly that they will, in fact, reelect our President, their party leader. We, on the other hand, feel very strongly that we will elect our nominee, Mr. DOLE. This takes it out of the political spectrum. It gives the next President or the continuing President the ability to use this line-item veto.

So I would urge, and urge strongly, Members on both sides not to upset the apple cart here, because it really could do violence to what we had agreed to.

Our conference report is on its way to the President now. It was, in fact, passed as a result of the rule that passed. It was passed. Now, if we were to adopt this amendment, it would change a deal that has been made, an agreement that has been reached, bipartisan on both sides of the aisle and I think would possibly make it difficult for us actually to exercise the line-item veto.

So I would urge as strongly as I can, please, keep the effective date where it is, keep it out of the political and the Presidential campaign this year.

Mr. ARCHER. Mr. Speaker, to reiterate what was said in the earlier debate, that the President has within his power unilaterally to activate this authority immediately after his signature on the bill by signing and agreeing to a balanced budget for this country and does not have to wait until January 1, 1997.

Further, to say to the Members that the perfect can be the enemy of good movement for what has taken so very, very long, and I know it better than anybody else, because I initiated line-item veto as a proposal before the Congress. It is not agreed to, it can be signed into law. Let us not put it back into the maze of procedure that could further tie it up this year. I urge a vote against the motion to recommit.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

Mr. ORTON. 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 159, nays 256, not voting 16, as follows:

[Roll No. 101]

YEAS—159

Ackerman	Gejdenson	Olver
Andrews	Gephardt	Orton
Baesler	Geren	Owens
Baldacci	Gibbons	Pallone
Barcia	Gonzalez	Payne (NJ)
Barrett (WI)	Gordon	Payne (VA)
Becerra	Graham	Pelosi
Beilenson	Green	Peterson (FL)
Bentsen	Gutierrez	Peterson (MN)
Berman	Hall (OH)	Pomeroy
Bevill	Hamilton	Poshard
Bishop	Harman	Reed
Bonior	Hefner	Richardson
Boucher	Hilliard	Rivers
Browder	Hinchey	Roemer
Brown (CA)	Holden	Rose
Brown (FL)	Hoyer	Roybal-Allard
Brown (OH)	Jacobs	Royce
Campbell	Johnson (SD)	Rush
Cardin	Johnson, E. B.	Sabo
Chapman	Johnston	Salmon
Clay	Kanjorski	Sawyer
Clement	Kaptur	Schroeder
Clyburn	Kennedy (MA)	Schumer
Coburn	Kennedy (RI)	Shadegg
Coleman	Kennelly	Shays
Collins (MI)	Kleczka	Sisisky
Condit	LaFalce	Skaggs
Conyers	Levin	Skelton
Costello	Lewis (GA)	Slaughter
Coyne	Lincoln	Souder
Cramer	Lofgren	Stenholm
Danner	Lowey	Studds
de la Garza	Luther	Stupak
DeFazio	Maloney	Tanner
DeLauro	Manton	Taylor (MS)
Deutsch	Markey	Thompson
Dingell	Martinez	Thornton
Doggett	Mascara	Thurman
Dooley	Matsui	Torres
Doyle	McCarthy	Upton
Durbin	McDermott	Vento
Edwards	McHale	Visclosky
Ensign	Meehan	Volkmer
Eshoo	Menendez	Wamp
Farr	Miller (CA)	Ward
Fattah	Minge	Waters
Fazio	Mink	Waxman
Flake	Moakley	Wilson
Ford	Moran	Wise
Frank (MA)	Neal	Woolsey
Frost	Neumann	Wynn
Furse	Obey	Zimmer

NAYS—256

Abercrombie	Burr	Diaz-Balart
Allard	Burton	Dickey
Archer	Buyer	Dicks
Armey	Callahan	Dixon
Bachus	Calvert	Doolittle
Baker (CA)	Camp	Dornan
Baker (LA)	Canady	Dreier
Ballenger	Castle	Dunn
Barr	Chabot	Ehlers
Barrett (NE)	Chambliss	Ehrlich
Bartlett	Chenoweth	Emerson
Barton	Christensen	Engel
Bass	Chrysler	English
Bateman	Clayton	Evans
Bereuter	Clinger	Everett
Bilbray	Coble	Ewing
Bilirakis	Collins (GA)	Fawell
Bliley	Combest	Fields (TX)
Blute	Cooley	Flanagan
Boehlert	Cox	Foglietta
Boehner	Crane	Foley
Bonilla	Crapo	Forbes
Bono	Cremeans	Fox
Borski	Cubin	Franks (CT)
Brewster	Cunningham	Franks (NJ)
Brownback	Davis	Frelinghuysen
Bryant (TN)	Deal	Frisa
Bunn	DeLay	Funderburk
Bunning	Dellums	Gallegly

Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kildee
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McKinney
Meek
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nadler
Nethercutt
Ney
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Parker
Pastor
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Riggs
Roberts
Rogers
Rohrabacher
Roth
Roukema
Sanders
Sanford
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Sensenbrenner
Serrano
Shaw
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Spence
Stark
Stearns
Stockman
Stump
Talent
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torkildsen
Towns
Traficant
Velazquez
Vucanovich
Waldholtz
Walker
Walsh
Watt (NC)
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wolf
Yates
Young (AK)
Young (FL)
Zeliff

NOT VOTING—16

Bryant (TX)
Collins (IL)
Duncan
Fields (LA)
Filner
Fowler
Lantos
McIntosh
McNulty
Ros-Lehtinen
Smith (WA)
Spratt
Stokes
Tate
Torricelli
Weldon (PA)

□ 1614

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois for, with Mrs. Fowler against.

Mrs. MYRICK, Ms. JACKSON-LEE of Texas, Mrs. CLAYTON, Mr. WATT of North Carolina, and Mr. NADLER changed their vote from "yea" to "nay"

Messrs. PAYNE of New Jersey, SHADEGG, and SALMON changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). 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.

RECORDED VOTE

Mr. CLINGER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 328, noes 91, not voting 12, as follows:

[Roll No. 102]

AYES—328

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (LA)
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Collins (GA)
Combest
Costello
Cox
Coyne
Cramer
Crane
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Flake
Flanagan
Foglietta
Foley
Ford
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hefley
Hefner
Heineman
Hilleary
Hinchey
Hobson
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Meehan
Menendez
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Myrick
Nadler
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Rose
Roth
Royce
Rush
Sawyer
Saxton
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Upton
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—91

Abercrombie
Baker (CA)
Barr
Bartlett
Barton
Becerra
Beilenson
Berman
Borski
Bunn
Chenoweth
Clay
Clyburn
Coburn
Coleman
Collins (MI)
Condit
Conyers
Cooley
Crapo
Dellums
Dingell
Doolittle
Evans
Fattah
Forbes
Frank (MA)
Gonzalez
Hastings (FL)
Hayworth
Herger
Hilliard
Hoekstra
Jackson (IL)
Jacobs
Jefferson
Johnston
Kanjorski
Kingston
Klink
LaFalce
Largent
Lewis (CA)
Lofgren
Markey
Martinez
Matsui
McDermott
McKinney
Meek
Metcalf
Mink
Mollohan
Murtha
Myers
Neal
Oberstar
Olver
Owens
Payne (NJ)
Pelosi
Pombo
Rahall
Rangel
Roukema
Roybal-Allard
Sabo
Salmon
Sanders
Sanford
Scarborough
Schroeder
Serrano
Shadegg
Shays
Skaggs
Smith (MI)
Stark
Stockman
Studds
Stump
Taylor (MS)
Thompson
Towns
Traficant
Velazquez
Waters
Watt (NC)
Waxman
White
Yates

NOT VOTING—12

Bryant (TX)
Collins (IL)
Fields (LA)
Filner
Fowler
Lantos
McNulty
Ros-Lehtinen
Smith (WA)
Stokes
Torricelli
Weldon (PA)

□ 1632

The Clerk announced the following pairs:

On this vote:

Mrs. Fowler for, with Mrs. Collins of Illinois against.

Ms. Ros-Lehtinen for, with Mr. Filner against.

Mrs. Smith of Washington for, with Mr. Stokes against.

Mr. CRAPO and Mr. BARTLETT of Maryland changed their vote from "aye" to "no."

Mr. FOGLIETTA changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

ANNUAL REPORT OF NATIONAL ENDOWMENT FOR THE ARTS, FISCAL YEAR 1994—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. KOLBE) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Economic and Educational Opportunities:

To the Congress of the United States:

It is my special pleasure to transmit herewith the Annual Report of the National Endowment for the Arts for the fiscal year 1994.

Over the course of its history, the National Endowment for the Arts has awarded grants for arts projects that reach into every community in the Nation. The agency's mission is public service through the arts, and it fulfills this mandate through support of artistic excellence, our cultural heritage and traditions, individual creativity, education, and public and private partnerships for the arts. Perhaps most importantly, the Arts Endowment encourages arts organizations to reach out to the American people, to bring in new audiences for the performing, literary, and visual arts.

The results over the past 30 years can be measured by the increased presence of the arts in the lives of our fellow citizens. More children have contact with working artists in the classroom, at children's museums and festivals, and in the curricula. More older Americans now have access to museums, concert halls, and other venues. The arts reach into the smallest and most isolated communities, and in our inner cities, arts programs are often a haven for the most disadvantaged, a place where our youth can rediscover the power of imagination, creativity, and hope.

We can measure this progress as well in our re-designed communities, in the buildings and sculpture that grace our cities and towns, and in the vitality of the local economy whenever the arts arrive. The National Endowment for the Arts works the way a Government agency should work—in partnership with the private sector, in cooperation with State and local government, and in service to all Americans. We enjoy a rich and diverse culture in the United States, open to every citizen, and supported by the Federal Government for our common good and benefit.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 28, 1996.*

HEALTH COVERAGE AVAILABILITY AND AFFORDABILITY ACT OF 1996

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 392 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 392

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes. An amendment in the nature of a substitute consisting of the text of H.R. 3160, modified by the amendment specified in part 1 of the report of the Committee on Rules accompanying this resolution, shall be considered as adopted. All points of order against the bill, as amended, and against its consideration are waived (except those arising under section 425(a) of the Congressional Budget Act of 1974). The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) two hours of debate on the bill, as amended, with 45 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, 45 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce, and 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Economic and Educational Opportunities; (2) the further amendment specified in part 2 of the Committee on Rules, if offered by the minority leader or his designee, which shall be in order without intervention of any point of order (except those arising under section 425(a) of the Congressional Budget Act of 1974) or demand for division of the question, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit, which may include instructions only if offered by the minority leader or his designee. The yeas and nays shall be considered as ordered on the question of passage of the bill and on any conference report thereon. Clause 5(c) of rule XXI shall not apply to the bill, amendments thereto, or conference reports thereon.

The SPEAKER pro tempore. The gentleman from Florida [Mr. GOSS] is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for the purpose of debate only I yield the customary 30 minutes to the distinguished gentleman from Massachusetts [Mr. MOAKLEY], the ranking member of the Committee on Rules, pending which I yield myself such time as I may consume. During consideration of this resolution all time yielded is for the purpose of debate only.

Mr. Speaker, the Rules Committee has carefully crafted this rule to allow for ample debate on the major issues of health insurance reform without opening ourselves up to a free-for-all. The purpose is to pass a streamlined bill that accomplishes meaningful, results without getting bogged down in a replay of last Congress' frustrating and fruitless health reform debate.

Mr. Speaker, this rule is a modified closed rule that allows us to knit together the work product of five major committees. This rule makes in order as base text for the purpose of amendment the text of H.R. 3160, modified by a technical amendment printed in part 1 of the Rules Committee report. The rule waives all points of order against the bill as amended and against its consideration, except those arising under section 425(e) of the Congressional Budget Act of 1974, relating to unfunded mandates. The rule provides for a total of 2 hours of debate, with 45 minutes equally divided between the chairman and ranking member of the Committee on Ways and Means, 45 minutes equally divided between the chairman and ranking member of the Committee on Commerce, and 30 minutes equally divided between the chairman and ranking member of the Committee on Economic and Educational Opportunities. The rule allows the minority to offer the amendment in the nature of a substitute, as referenced to the CONGRESSIONAL RECORD in part 2 of our Rules Committee report. That amendment shall not be subject to any point of order—except relating to section 425(e) of the budget act—or to any demand for a division of the question. The amendment shall be debatable for 1 hour, equally divided between a proponent and an opponent. The previous question shall be considered as ordered on the bill as amended and on any further amendment thereto, to final passage, without intervening motion, except as specified. The rule provides for the traditional right of the minority to offer one motion to recommit, with or without instructions, but instructions may be offered by the minority leader or a designee.

Finally, this rule provides that the yeas and nays are ordered on final passage and that the provisions of clause 5(c) of rule XXI shall not apply to votes on the bill, amendments thereto or conference reports thereon. The purpose of this last provision, Mr. Speaker, is one of an abundance of caution with respect to the new House rule requiring a supermajority vote for any amendment or measure containing a Federal income tax rate increase. The provision in question in the bill is a popular one with Members on both sides of the aisle. It closes the loophole that currently allows people to renounce their citizenship to avoid paying U.S. taxes.

Although most people might agree that bringing a currently exempt group of people under an existing income tax rate is not an increase in Federal income tax rates, and thus would not be

subject to the new House rule, we have been advised that some might disagree. And possibly the MSA withdrawal penalty could be construed by some as a tax rate increase but I do not believe that was what the rule was aiming at.

And so, to ensure that this important provision does not jeopardize passage of this bill, we are providing this protection from the rule.

Mr. Speaker, I am pleased to support this cooperative product, to provide genuine health insurance reform for working Americans. The committees of this House have taken the bill from the other body and built upon it, achieving a better product without overloading it to the point of failure. This bill improves on the other body's bill by addressing and fixing the problem of affordability. This bill ensures that individuals will not be denied health insurance if they change jobs. It ensures that individuals who move to another job that doesn't offer coverage can buy an individual policy without fear of preexisting condition restrictions. These portability provisions are the cornerstone, but we have done more because we recognize that if we provide access to the uninsured without making it affordable, we have accomplished nothing.

Today, 85 percent of the uninsured work for small businesses. We respond by allowing small employers to join together to purchase health insurance. This bill allows self-employed individuals to deduct 50 percent of their health insurance premiums, giving them the same advantage larger companies already enjoy. By establishing medical savings accounts, this bill offers individuals more control over their own health care costs. We propose to limit lawsuit abuse—which drives up health care costs and makes insurance more expensive for everyone—and attack fraud and abuse, with stiff penalties on those who cheat the system. It's a solid package of real reform.

Mr. Speaker, this bill had not even been produced before opponents began tearing it apart.

The same folks who in the last Congress tried to engineer socialized medicine, Government-run medicine that tells you when you are sick, what doctor you must see and what pills you must take. Well, those folks have joined together again to deride our plan which they said would ruin the prospect for health care reform. I believe their goal is to have Government run all of your lives. But this bill is a positive set of proposals for meaningful and doable health care reform now.

Support the rule; support the bill.

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

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

Mr. Speaker, I would like to point out today's rule is one more closed rule in a year of 100 percent restrictive rules. I just want to remind Members of this because of the orations we used to hear from the other side on closed rules.

This year, every rule that has come out of the Committee on Rules so far has been restricted in some form. It also waives the three-fifth vote required for tax increases, which my Republican colleagues like so much, they wanted to make it an amendment to the Constitution. If the three-fifth vote for tax increases is that important, Mr. Speaker, why are Republicans waiving it on this bill? In fact, this is the second time the three-fifths vote has come up and it is the second time that they have waived it.

□ 1645

Mr. Speaker, today we have a great opportunity. We have the chance to make a huge difference in the lives of millions of Americans. We have the chance to pass a bipartisan health bill that will do two things that will affect every single American. Today, if Republicans will join with the Democrats, we could pass a bill that would enable more people to take their health care with them when they leave a job, and limit preexisting conditions so that people are not denied health care just because they have been previously ill.

But, Mr. Speaker, even though this opportunity is right at our fingertips in the form of the Kennedy-Kassebaum-Roukema bill, it is about to slip away. It is because my Republican colleagues have loaded up a very excellent bill with a lot of goodies for special interests. My Republican colleagues, Mr. Speaker, have also added medical savings accounts which will take over $2 billion from Medicare and spend it on tax breaks for younger and wealthier people, and they have added controversial malpractice provisions which will virtually ensure the bill's veto.

Mr. Speaker, over the last year I have had a lot of hands-on experience with the American health care system, and I know how important good health care is, and I know how important good health insurance is. I can tell my colleagues there is not a single person in this country that does not worry that they may lose their health care if they change jobs, or even worse, they would be denied their health care coverage just because they have had a previous illness.

But this Republican-controlled House is once again about to put the good of special interests before the good of the Nation.

Mr. Speaker, this is a time of great uncertainty in our country. Today many workers wake up each morning wondering whether they will have a job at the end of the day and even whether they will be able to provide their family health care. Today health care costs are skyrocketing, and the Republican House is turning a blind eye to the needs of working men and women.

But we have heard over and over again our Republican colleagues talk about providing opportunity for America's middle class. Mr. Speaker, if ever there was a chance to do that, this is the bill. This is our chance to do something for the people of this country, and we should take it.

I urge my colleagues to defeat the rule, defeat the previous question. It is time to put the American people and their health care before politics.

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

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

Mr. Speaker, I think there are a couple of points that need to be made here.

Technically of course, at the very onset of this rule debate, this is not a closed rule which we are debating. This is a modified closed rule. What is the difference? The difference in the importance of a modified closed rule is that the modified closed rule allows their side the opportunity to offer a complete substitute. In addition to that, it allows them to make a motion to recommit. There is certainly plenty of room for them to maneuver over there, to offer the kind of amendments or changes that they feel are important.

Second, Mr. Speaker, I think a few words should be said in response to the comments made about the waiver of clause 5(c) of rule XXI in this rule against the bill and the amendments thereto. As my colleagues are aware, clause 5(c) requires a three-fifths vote on the adoption or passage of any bill, joint resolution, amendment or conference report carrying, quote, a Federal income tax rate increase, unquote.

We do not feel there is any provision in this bill that raises Federal income tax rates as construed by the legislative history on this rule. As the section-by-section analysis of this rule explained when the rule was adopted on January 4 of 1995, and I quote:

> For purposes of these rules the term "Federal income tax rate increase" is, for example, an increase in the individual income tax rates established in section 1 and the corporate income tax rates established in section 11, respectfully, of the Internal Revenue Code of 1986.

Those are commonly understood marginal tax rates, or income bracket tax rates, applicable to various minimum and maximum income dollar amounts for individuals and corporations.

In response to the letter from the ranking minority member of the Committee on Rules to the chairman last year requesting a clarification of this rule, the Committee on Rules published such a clarification in the report on the rule for the reconciliation bill. The bottom lien of that clarification reads as follows, and again I quote:

> It is the intent of this committee that the term "Federal income tax rate increase" should be narrowly construed and confined to the rate specified in those two sections,

that is sections 1 and 11 of the Internal Revenue Code, respectfully, establishing marginal rates for individuals and corporations.

Nothing in the bill before us increases either the individual income tax rates contained in section 1 of the Code or the corporate income tax rates contained in section 11 of the Code. Thus, according to the Committee on Rules clarification, as requested by the ranking minority member, this bill does not trigger a three-fifths vote on either the minority substitute or on the bill itself. However, as was mentioned in the opening statement on this rule, the waiver was provided out of an abundance of caution to avoid unnecessary points of order.

EXPLANATION AND DISCUSSION OF CLAUSE 5(c), RULE XXI WAIVER

(Excerpted From the Rules Committee's Report on H. Res. 245, the Reconciliation Rule)

As indicated in the preceding paragraph, the Committee has provided in this rule that the provisions of clause 5(c) of House Rule XXI, which require a three-fifths vote on any bill, joint resolution, amendment or conference report "carrying a Federal income tax rate increase," shall not apply to the votes on passage of H.R. 2491, or to the votes any amendment thereto or conference report thereon.

The suspension of clause 5(c) of rule XXI is not being done because there are any Federal income tax rate increases contained in the reconciliation substitute being made in order as base text by this rule. As the Committee on Ways and Means has pointed out in its portion of the report on the reconciliation bill—

"The Committee has carefully reviewed the provisions of Title XIII and XIV of the revenue reconciliation provisions approved by the Committee to determine whether any of these provisions constitute a Federal income tax rate increase within the meaning of the House Rules. It is the opinion of the Committee that there is no provision of Titles XIII and XIV of the revenue reconciliation provisions that constitutes a Federal income tax rate increase within the meaning of House Rule XXI, 5(c) of (d)."

Nevertheless, the Committee on Rules has suspended the application of clause 5(c) as a precautionary measure to avoid unnecessary points of order that might otherwise arise over confusion or misinterpretations of what is meant by an income tax rate increase.

Such point of order was raised and overruled on the final passage vote of H.R. 1215, the omnibus tax bill, on April 15, 1995. The ranking minority member of the Rules Committee subsequently wrote to the chairman of this Committee requesting a clarification of the rule. An exchange of correspondence with the Parliamentarian and the Counsel of the Joint Tax Committee was subsequently released by the chairman of this Committee on June 13, 1995, regarding the ruling and the provision of the bill which gave rise to the point of order.

The Committee would simply conclude this discussion by citing from the section-by-section analysis of H. Res. 6, adopting House Rules for the 104th Congress, placed in the Congressional Record at the time the rules were adopted on January 4, 1995. With respect to clauses 5(c) and (d) which require a three-fifths vote on any income tax rate increase and prohibit consideration of any retroactive income tax rate increase, respectively:

"For purposes of these rules, the term "Federal income tax rate increase" is, for example, an increase in the individual income tax rates established in section 1, and the corporate income tax rates established in section 11, respectively, of the Internal Revenue Code of 1986, (Congressional Record, Jan. 4, 1995, p. H-34)".

The rates established by those sections are the commonly understood "marginal' tax rates or income "bracket" tax rates applicable to various minimum and maximum income dollar amounts for individuals and corporations. It is the intent of this committee that the term "Federal income tax rate increase" should be narrowly construed and confined to the rates specified in those two sections. As indicated in the Ways and Means Committee's report, those rates have not been increased by any provision contained in H.R. 2491 as made in order as base text by this resolution.

Mr. Speaker, I yield 6 minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. I think the gentleman from Colorado for yielding me this time.

Mr. Speaker, I think we need to talk about how this bill came about and what is in it and what is not in it. The bill is an amalgam of ideas that have been tested around this House for the last 5 or 6 years, things that made eminent good sense.

Now this year of course the House has been working on Medicare and Medicaid, and insurance reform has been on the back burner, but we have always tried to use the issue and work the issue of portability so that we could have people move from group to group and group to individual.

Now, in the Senate bill there was some controversy with the group to individual because people who were basically healthy, when they lose their jobs, many times do not go out and buy a very expensive insurance policy. People who are sick, or if they are 15 years of age, and three kids, and a wife who is going to deliver, or if they are 55 years of age and have a preexisting condition, and need to go into immediate health insurance coverage, they are going to go out and buy that insurance policy, probably at whatever cost. So we thought that it was very, very important that we design and change the group to individual policy so that only sick people would not buy individual insurance, that we could hold down the cost so that insurance can be available and affordable to everybody.

So, the way that we structure group to individual allows for that, but it is really the central theme of what this bill does.

Health care availability is something that we all strive for. We know that there are a lot of Mercedes and Rolls Royces out there that are available. The problem is people do not drive them because they cannot afford them. Well, my colleagues, that is the same way in health care. If someone cannot afford the health care, if they cannot afford that insurance policy, then they do not buy it, and those folks riding around in Mercedes and Rolls Royces certainly have a lot of money to spend, and they can probably afford anything. But most of those people are people that do not have jobs.

So that is the issue. How do we take people who need a health care bill and they do not have a job?

Our approach to that is an approach of a type of policy that they can buy that is a low-cost policy, maybe a deductible, but something that is affordable, not for just people who are sick, but people who are well. So the theme of affordability and availability is central to everything that we have put in this package, and my colleagues know this package goes a little bit beyond the Senate package, but it is because we think that the Senate package was lacking.

We have had four committees that have worked on this bill and four committees that went out and structured things that were within their jurisdiction and moved legislation through their committees, had hearings, subcommittee hearings, full committee hearings, took amendments, listened to amendments, went through the debate and moved out a package; each bill within the jurisdiction of that committee. The Committee on Rules then put those three bills together, plus some information or piece of legislation that came out of the Committee on the Judiciary and put it together in the Rules Committee yesterday.

Now what is the difference between this bill, the House Republican bill sponsored by the chairmen of the four committees and subcommittee chairman, and the Senate bill? For one thing, we have medical savings accounts, and my colleagues will hear people over here saying, "Boy, medical savings accounts are only for rich people," and that is just a fraud.

Medical savings accounts are for everybody. The average employer cost per employee family in this country is about $4,500 a year. If my colleagues had a $4,500 savings or $4,500 life insurance policy, Medisave, a policy, probably my colleagues would take a $2,000 deductible and buy a high deductible policy; my colleagues would take that other $2,500 and put it in their medical savings account.

Now is that for rich people? No, that is for the average worker. That is for the guy who carries a lunch bucket to work. But a fellow or a person or a family that wants to control his own choice in health care, that does not want an HMO or an insurance company telling him what doctor to go to, or what hospital to go to, or what type of treatment to get, somebody that wants to control their own health care choice, and with a medical savings account we do just that.

Now if my colleagues do not spend that money, then they get to keep it,

and that is real portability, because if my colleagues had this insurance policy for a couple of years and they have $10,000 or $15,000 or $20,000 in their medical savings account, that gives them real portability. My colleagues can move that and take it wherever they want, or buy insurance with it, pay for health care costs with it.

Also, this bill has long-term care expense so people, seniors, can take their assets and move it into long-term care, or if they have a fatal disease, they can take their life insurance, cash it in, and buy long-term care or health care with it.

We also have small group employer, so the 85 percent of the people who do not have insurance today that live in families that work for small businesses, that they can go to the marketplace and get the same break that big businesses get.

Now this is commonsense reform, my colleagues. It is something that everybody can work with, it makes health care not just available, but affordable. I hope that my colleagues would vote for this rule.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Speaker, I rise in opposition to the Republican effort to sabotage realistic and meaningful health care this year. Senators KENNEDY and KASSEBAUM have sponsored health insurance reform legislation that is a positive first step to removing the barriers for coverage for thousands of Rhode Islanders and millions of Americans.

I am cosponsor of the Kennedy-Kassebaum bill. It will be offered as a Democratic substitute, and this bill would prohibit insurance companies from dropping coverage when a person changes jobs or preventing coverage if a person has a preexisting condition. In addition, this bill would increase the tax deduction for the self-employed from 30 percent to 80 percent by the year 2002. It is also estimated that this bill would help 25 million Americans each year, with minimal impact on individual premiums or the federal budget. In Rhode Island this would be terribly helpful for thousands of Almacs workers who were recently laid off when the store closed, a supermarket chain.

□ 1700

These are individuals that need this type of coverage. Regrettably, House Republicans decided against taking up this bipartisan bill. House Republicans chose instead to cater to special interests and consider a bill with controversial and costly provisions. This Republican plan will doom the prospect of meaningful health care reform this year in the Congress.

Mr. Speaker, I urge rejection of this measure.

Mr. KENNEDY of Massachusetts. Mr. Speaker, will the gentleman yield?

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

Mr. KENNEDY of Massachusetts. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, this bill is very simple. There was a deal cut in the U.S. Senate, the Kennedy-Kassebaum bill. President Clinton agreed to Kennedy-Kassebaum. All the Republicans in the Senate agreed to Kennedy-Kassebaum. The Kennedy-Kassebaum bill does three things. It says to the ordinary citizens of this country that if they are willing to pay their health care premium if they change their jobs, they are going to continue to get health care. If they lose their job, they are going to continue to get health care. If they get sick, they will continue to get health care.

With the Republican substitute, the Republicans have taken a stake and thrown it into the heart of health care reform. This notion of supporting MSA's, this notion of including caps on damages so if you lose your leg you are only going to pay people $250,000, ends up doing one thing; that is, throwing off the track the ability of the American people, once and for all, to get needed health care coverage.

All we are trying to do is enrich the pockets of the doctors, enrich the pockets of the lawyers, and take away from the serious effort of getting the people that do not have health insurance or that lose health insurance simply because they get sick, simply because they lose their job, taking that hope away.

We have the opportunity to get the job done. Let us come together, and let us support the Democratic substitute which will once again put health reform back on track.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I thank my friend, the gentleman from Massachusetts, for yielding me this time.

Mr. Speaker, this is a bad rule. I thought we were going to get a rule and a bill before us that will let us deal with health insurance portability and preexisting conditions, that will let us deal with the problems that our constituents are facing of losing their jobs and losing their health benefits, and being unable to get health insurance without preexisting condition restrictions. Democrats and Republicans agreed to deal with that issue.

Yet this rule makes it less likely we will get to that day. This rule does not permit any amendments to be offered. Many amendments were suggested in the Committee on Rules, that would help improve the bill that has been brought forward.

Let me just mention a couple of the areas that troubled me. The bill preempts State laws in many, many ways. I thought we were supposed to be returning power to our States. This bill makes it very difficult for our States to respond to health insurance problems. In my own State, we have adopted small group market reform. Yet the provisions in the underlying bill would seriously jeopardize Maryland's ability to continue that small market reform.

I had offered an amendment in the Committee on Rules for fraud and abuse. There are new provisions in this bill that make it more difficult for the Justice Department to bring fraud cases against providers that are cheating. Yet the Committee on Rules did not make that amendment in order.

The group-to-individual provisions need to be improved. They are too restrictive to a person who loses their health insurance and must provide an individual plan. This rule does not allow us the opportunity to go forward with the type of portability that we need. The only option before us is to support the Democratic substitute if we want portability and eliminating preexisting conditions.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Speaker, I rise in opposition to this rule. I had hoped to have an amendment made in order which would raise the lifetime benefit cap on health insurance from $1 million to $10 million. My amendment would have benefited the 1,500 Americans a year who exceed the current cap, and some 10,000 Americans between now and the year 2000. It would save Medicaid $7 billion over 5 years, and the cost is small. The American Academy of Actuaries estimates a 1-percent to 2-percent increase in premiums.

Mr. Speaker, a medical catastrophe could befall any one of us here in this Chamber and in this body, any one of our children, our parents, our loved ones, at any time. Many times I say to myself, "There but for the grace of God go I." Not being able to have sufficient health insurance coverage severely compounds the catastrophe. A point that needs to be made is the plight of the distinguished actor Christopher Reeve, who is well known to all of us. In honor of his courage, I introduced legislation upon which the amendment was based, named the Christopher Reeve Health Insurance Reform Act.

Mr. Speaker, every day we see inflation adjustments for other needed services: for consumer products, for education. In some of these cases, the adjustment reflects the reality of current costs. In others, they offer protection to the American people. My amendment would have done both. I am disappointed not for myself, but for the people of this Nation that my amendment was not allowed under this rule.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise today on behalf of the hardworking families in my district, families who struggle to pay their bills, work hard, and they play by the rules. They live in fear of losing their health insurance if they change jobs. They cannot get health care coverage because of a preexisting condition. These families are a pink slip away from disaster.

I went to visit the Tomaso Construction Co. in my district. I met with workers there, and a worker said to me that he was frightened to death that he may lose his job. He has a child with a terminal illness. He stays up nights worrying that he will lose his job and will not be able to have the health insurance he needs for his child. Today Congress has the chance to prove that we are here to help working families.

The bipartisan Kennedy-Kassebaum-Roukema bill expands access to health insurance. It increases portability, it limits a health insurance company's ability to deny coverage because of preexisting medical conditions. Rather than helping these hardworking families, the Republican leadership has hijacked the bill to make a payoff to their special interest cronies. The bill provides a big windfall to the Golden Rule Insurance Company by including a provision for medical savings accounts. The Wall Street Journal said today that Golden Rule was the third biggest corporate giver to the Republican party in the last election. The Washington Times, not a liberal newspaper, says, "Riders imperil health reform."

Mr. Speaker, I urge my colleagues to reject this special interest payoff and support the Democratic substitute. It will provide real health care security to the hardworking families of this country.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, the bill reported out under this rule preempts and therefore eliminates consumer protections existing in State law for employers and employees insuring through associations or multiple employer arrangements known as MEWAs. This preemption of State law is a horrible idea, and deserves separate consideration and debate while the bill is before the House.

The consequence of allowing insuring entities to operate without effective State oversight creates a situation where small businesses will be ripped off. Folks who believe they are insured by their company's plan will find out they are not, often after they have racked up ruinous health bills.

Mr. Speaker, I am the only Member of this Chamber to have served as a State insurance commissioner. I know full well people will be hit with fraudulent insurance practices if this bill is enacted. I have seen it happen. In the home State of the gentleman from Florida [Mr. GOSS], a fraudulent entity collected nearly $35 million in premiums from 7,000 employers. It collapsed, leaving 40,000 employees without coverage, and $29 million in unpaid claims.

Why in the world would the majority want to wipe out the State laws developed to keep this from happening again? Why in the world would the Committee on Rules not allow separate consideration on this issue? Time and time again we have heard the new majority hail the role of State government, yet today's bill wipes out the efforts of States to protect small businesses and the workers they ensure. Vote "no" on this bad bill.

Mr. GOSS. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois [Mr. FAWELL].

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

Mr. Speaker, the gentleman has made the statement that it is a terrible thing to preempt State law, but the gentleman must be aware that under the ERISA statute, most of private health care in this Nation is indeed a situation where State law has been preempted, and employer-provided health care is basically self-insured, or some with fully insured plans. So this is not the evil thing that one would think.

All we are suggesting is that small employers might have the same advantages as large employers have. That is all.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Georgia [Ms. MCKINNEY].

Ms. MCKINNEY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this Congress has a historic opportunity to pass limited, but meaningful health insurance reform. Just an hour from now, however, we'll begin to debate a bill specifically constructed by the Republican leadership to sabotage any meaningful reform this Congress.

Rather than supporting the bipartisan Kennedy-Kassebaum-Roukema bill, the G.O.P. House leaders insist on pushing their own bill which contains controversial provisions like medical savings accounts.

And why medical savings accounts? Just follow the money. The Golden Rule Insurance Co. has given more than $1.4 million to the G.O.P. and, coincidentally, Golden Rule just happens to be the premier company peddling medical savings accounts.

Mr. Speaker, the old saying is true: He who has the gold, rules. And while the American people want serious health insurance reform, all they are getting from the G.O.P. is cash-and-carry government.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank the gentleman from Massachusetts for yielding time to me.

Mr. Speaker, for the whole day today the Republican leadership blocked consideration of a raise in the minimum wage. Then the majority whip, in relation to my speech that I made, said, "This is blatant politics and blatant hypocrisy." His words clearly should have been taken down, but the Speaker disallowed it.

Now the Republican leadership shamefully is not allowing us to consider a clean version of the Kennedy-Kassebaum-Roukema health reform bill, even though the American people want it. The American people want to know that if they lose their jobs, they can continue to have health insurance. The American people want to know that if there is a preexisting condition used as a excuse not to give them or a loved one health insurance, that that cannot be used as an excuse anymore. It has bipartisan support in the Senate, and is supported by the President. It represents the minimum that can be done to provide additional health security to the American people.

Again, the Republican leadership is blocking it, taking this bill and weighing it down with all kinds of strange things that do not belong in this bill. They know it is going to kill the bill. That is their real motive, to kill this bill. They can pretend they are for health care reform, but in reality what they are doing to this bill kills the bill, and the American people ought to know that.

Republicans have been talking a lot about how they want to reconnect with average working people. Is this the way they do it? By blocking the Roukema bill, this demonstrates that the Republican leadership are more interested in political gain than in passing legislation that helps the American worker. This is really shameful.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, as we debate the merits of health insurance reform, it is crucial that we keep in mind a newly emerging and very important aspect of health insurance reform, that is genetic information and the potential for insurance discrimination. Last December, I introduced H.R. 2748, the Genetic Information Non-discrimination in Health Insurance Act—a bill to prevent the potentially devastating consequences of discrimination based on genetic information.

I am very pleased to learn that both the Republican version of health insurance reform and the Democratic substitute contain some of the protections I introduced in my bill last fall.

While the provision included in both versions of the legislation on the floor

today is not as comprehensive as those outlined in my bill, it represents a crucial first step in providing protection for people with predisposition to genetic disease.

As chair of the Women's Health Task Force, I closely followed the reports last year indicating that increased funding for breast cancer research had resulted in the discovery of the BRCA-1 gene-link to breast cancer. While the obvious benefits of the discovery include potential lifesaving early detection and intervention, the inherent dangers of the improper use of genetic information are just becoming evident.

We must learn from the lessons of the past. We must remember the disastrous results of discriminating against those genetically predisposed to sickle cell anemia. And, we must guard against history repeating itself. There are recent reports of people with a family history of breast cancer afraid of getting tested for fear of losing access to insurance. We must assure our citizens that advances in our understanding of human genetics will be used to promote health and not to promote discrimination. Both the lessons of the past and the recent discoveries point to the need for comprehensive Federal regulations.

The bill I introduced last December would prevent discrimination by prohibiting insurance providers from: denying or canceling health insurance coverage, or varying the terms and conditions of health insurance coverage, on the basis of genetic information; requesting or requiring an individual to disclose genetic information, and disclosing genetic information without prior written consent.

Mr. Speaker, the provisions contained in the legislation being considered today prohibit the use of genetic information as a preexisting condition. I applaud the inclusion of that aspect of my legislation in the insurance reform packages. However, the provisions are limited in two major respects. One, the pool of people covered by this legislation is restricted to those in the employment market. Two, the legislation does not address the important issue of privacy protection.

I hope that my colleagues and I can continue to work together to apply the prohibitions on genetic discrimination across the board to cover all insurance policies and to prohibit disclosure of genetic information.

As therapies are developed to cure genetic diseases, and potentially to save lives, the women and men affected must be assured access to genetic testing and therapy without concern that they will be discriminated against. As legislators, I believe it is our responsibility to ensure that protection against genetic discrimination is guaranteed. Today, we will take the first step in that direction. I invite my colleagues to join me in making the commitment to ensuring the passage of comprehensive protections against genetic discrimination.

Mr. Speaker, I urge a "no" vote on this rule.

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

Mr. Speaker, for those who are distressed about the opportunity they might have or might not have a chance to get at the bill known as the Kassebaum-Kennedy-Roukema, I believe it is the substitute that is going to be made in order, and they should take it up with the leadership on the other side of the aisle.

Mr. Speaker, I yield 2 minutes to my friend and colleague, the distinguished gentleman from Florida [Mr. BILIRAKIS].

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

Mr. Speaker, as the chairman of the Subcommittee on Health and Environment of the Committee on Commerce, I truly believe that reforming our Nation's health care system is one of the most important issues before Congress today.

Mr. Speaker, who does not support insurance portability? Who does not believe that people with preexisting conditions have a right to purchase health insurance at a reasonable price, just like everyone else?

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And who can argue that fraud in our health care system has to be controlled or that unnecessary paperwork should be eliminated? The legislation before us today would address these and other important issues so that they could be enacted into law this year.

Mr. Speaker, our legislation is a starting point for reform, a reasonable beginning in resolving our Nation's health care problems. The bill in the Senate is also a reasonable beginning, and I commend Chairwoman KASSEBAUM for her work, but it does not go far enough. Even the President's bill in the last Congress addressed administrative simplicity and medical malpractice reform. Those, along with waste, fraud, and abuse, are consensus items.

If we enact into law, Mr. Speaker, these important consensus items, then many Americans will certainly benefit. I urge my colleagues to show the American people that we truly want change by supporting this rule and acting now on health reform.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, how often do we get a clear shot at helping 25 million people? Twenty-five million. Today, we have that chance. We can help them stay healthy. We can help them end their fear. We can help them achieve their dreams. Unfortunately, however, some Members of this body do not want us to have a clear shot with a clean bill. They want to gum up the works with proposals we do not need, proposals that doom this entire bill.

Why would they do this? Two words, Mr. Speaker: Special interests.

Mr. Speaker, many Democrats agree, many Republicans agree, the President agrees. Do not gum up the works, do not support special interests over our interests. Twenty-five million people are waiting. Do not let them down. Vote against this rule.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Arizona [Mr. SALMON].

Mr. SALMON. Mr. Speaker, I rise to strongly endorse this rule.

I would like to talk about one particular component of the piece of legislation that is exposed in the rule, and that is medical savings accounts. It truly is an idea whose time has come.

Let us face the facts. Those on the other side had more confidence in bureaucracy and the heavy-handed government than they do in individuals. In fact, they do not want to give individuals these kinds of choices because they believe that Washington knows better what their needs are than they know what their own needs are for themselves. Medical savings accounts are being demanded by people out there. In fact, there are some 3,000 companies who are already offering medical savings accounts.

Mr. Speaker, the only problem is our tax policy is discriminatory. It does not give the same kind of tax advantage to people wanting to establish medical savings accounts as it does to those companies providing premium coverage for traditional health care. Despite the charges of the opponents, MSA's are great for sick people and for the less well off. Why? Because you get first-dollar coverage.

It astounds me the arguments that the other side has used against medical savings accounts saying that only healthy people would flock to them. Why? When you have a high deductible health care policy that kicks in when your medical savings account ends, you are going to get first-dollar coverage, and sick people would want it as well as healthy people.

Finally, I would just like to say that they will work, by cutting out the bureaucracy, the redtape and the paperwork and replacing it with a free market. Individuals will be able to shop around and get the best deal that they can. When my last child was born, we had a traditional health care policy that paid $3,500 for the delivery. Two months later my sister-in-law had a baby at the same hospital, same doctor, yet they negotiated a cash payment of $1,500. They work.

Let us talk about special interests, let us talk about the fact that the biggest interest group against this is managed care. Why? Because they would rather see the savings go into the managed care, the HMO programs, than they would back in the individual's pockets. Let us get rid of the heavy-handed government and let us really think about special interests and who is in whose pocket.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. I thank the gentleman from Massachusetts, and I would simply say that every time we address this health reform question, the American people see us collapse. We do not have to collapse today, Mr. Speaker. We can support the Kassebaum-Kennedy-Roukema bill in the Democratic substitute, which allows for portability, and it protects those with preexisting conditions.

In addition, it recognizes the small businessperson who has been working an striving. It allows them an 80-percent deduction for their small business health insurance by the year 2002.

Mr. Speaker, let us stop the game. We know that the medical savings plans are simply for those who are healthy and wealthy. Let us face it. Whenever we hear from our seniors and those that are least able to take care of themselves, they are in these HMO plans and they cap them out, the doctors say I cannot see_you because I have limits.

We need real health reform. Let us provide the American worker with portability and the opportunity to be covered for a preexisting condition. Likewise, let us not take the State administrators out of determining whether the rates are too high when you have to pay for an insurance plan. It is time to support a bill that the Senate will support.

The New York Times said, health reform now. But the Republican plan will kill it. Let us be bipartisan. Support the Kennedy-Kassebaum-Roukema bill, which is a Democratic substitute, and make sure that we do not collapse on the American people. Provide them with good health reform, good insurance, portability, and the coverage of preexisting disease.

Mr. Speaker, I rise today in support of the Democratic substitute to the Health Coverage Availability Act. This bill contains the portability provisions found in the Kassebaum-Kennedy-Roukema proposal, and it also increases the tax deduction for the self-employed health insurance costs, which is 30 to 80 percent in 2002, instead of the 50 percent offered in the Republican bill. I believe that this promise of portability assists the American worker who changes jobs and needs health insurance. I also support increasing the tax deduction to 80 percent because it would grant to the self-employed the tax favored status for approximately the same portion of their health insurance costs as is enjoyed by many employees.

This Democratic substitute has the provisions that hold bipartisan support. I believe that we should work together to pass some meaningful health care reform this year, and we should not attach controversial provisions that will defeat the bill. Contrary to what supporters of MSA's claim, medical savings accounts are not equitable. Medical savings accounts will be used primarily by upper income healthy individuals who can afford the high deductible.

I do not support MSA's, because medical savings accounts would appeal mainly to healthy people, and this would leave less healthy people to buy medical coverage at increased cost. This will obviously make health insurance more expensive. This so-called reform measure goes against the goal of real health care reform, which is to create a more standardized health package for everyone and equalize the less healthy and the poorer with those more able. The bill generally prohibits punitive damages in cases involving drug and medical device manufacturers or sellers whose products had been approved by the Food and Drug Administration. Prohibiting punitive damages for pharmaceutical and manufacturers of medical devices takes away their ongoing responsibility to public health after they have received FDA approval.

The Republican bill allows small employers to band together to purchase coverage for their workers but then exempts them from State taxation. I support such associations, however, this bill would take these co-ops out of State administration, and thus makes State level health reform more difficult.

The substitute amendment like the Republican bill assures group to group and group to individual portability. It limits the exclusion for preexisting conditions to 12 months and provides that the exclusion would be reduced by the period of time the person was covered in his or her previous job.

The substitute prohibits insurance carriers and HMO's from denying coverage to employers with two or more employees and prohibits employment-based health plans from excluding any employee from coverage based on health status. This substitute amendment also requires health plans to renew coverage for groups and individuals as long as the premiums are paid. All of these measures help to assure some significant health reform for Americans.

If we are truly committed to health care reform, then I urge my colleagues to pass the substitute amendment. Thank you, Mr. Speaker, and I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Speaker, I thank the gentleman from Florida for yielding me this time.

Mr. Speaker, I rise today in support of Medical Savings Accounts. Unfortunately, MSAs have become a polarizing and partisan issue in this House. By giving MSAs tax treatment that is equal to other types of employer-provided health insurance plans, we will be giving the American people what they desperately need in their health care: Portability, lower costs, and more choices.

MSAs should not be a partisan issue. In fact, Democrats were the initial sponsors of MSAs, and MSAs unanimously passed the House Ways and Means Committee in 1994 during the debate on the Clinton health care plan. While I understand that many of my colleagues do not want to weigh down or destroy any health insurance reform with any extraneous and unnecessary provisions, I believe that MSAs are an essential part of insurance reforms that will benefit all Americans. It goes without saying that the health care of the American people should always hold priority over partisan politics.

Those opposed to MSAs claim that they will lead to adverse risk selection. But of the over 2,000 MSA plans that employers have in place, there are no actual examples of adverse risk selection. And the very sick will save money in most cases because their out of-pocket-costs will be less under MSAs.

I also support basic health insurance provisions included in the Democratic substitute that allow for portability, limits on the exclusion for pre-existing conditions, and increases in the health insurance tax deductions for the self-employed. These provisions would allow employees who get laid off to keep their health insurance, and gives an individual the peace of mind to change jobs or start their own business based on what is best for their career and family without worrying about his or her family's health insurance.

In addition to portability, exclusion of pre-existing conditions, tax deductions, and MSA's, an ideal health insurance reform bill would also include provisions that allow small employers to pool together to purchase health insurance. These small businesses should be allowed the same exemptions from State regulations that big businesses enjoy. But, I do not believe that medical malpractice provisions that put a price on pain and suffering as low as $250,000 should be included in any health insurance bill that we pass today.

In any case, MSA's should be added to health insurance reform because they will lower costs while still giving individuals the freedom to make career decisions based on the best interests of the individual. MSA's do lead to cost containment, as studies have shown. Soaring health costs are a large reason for an increasing anxiety among cash-strapped working Americans, and MSA's are proven to lower costs to employers and employees without sacrificing service and care.

Lastly, MSA's give the consumer unlimited choices. Patients are allowed to shop around to choose their personal doctors based on their own unique needs.

Mr. Speaker, we should subdue our partisan politics for 1 day and include MSA's in health insurance reform so Americans can worry less about their health care and more about their career and family.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, when I talk to my constituents about health insurance reform, basically they say, look, the quality of health care is good

in this country, but the problem is a lot of people do not have health care coverage and the cost of health insurance keeps going on.

So when we talk about the Kennedy-Kassebaum-Roukema bill, it accomplishes the goal of expanding coverage because a lot more people that have the problem with preexisting conditions or problems with portability should be able to get health insurance now who were not able to get it before. But on the issue of affordability, essentially by adding these medical savings accounts to this bill, which I think is a big mistake and will essentially kill the bill, what we are doing is making health insurance less affordable, going against the goal and what most people want.

The reason is very simple, and that is why I do not understand some of the comments on the other side. Essentially the people who are going to take advantage of MSAs are people who have a lot of money, or people who are healthy who figure that they can put this money aside and have it collect, and they only need catastrophic health care coverage. People who are sicker and need to go to the doctor or the hospital more often are not going to be able to afford a medical savings account, because they will have to constantly shell out money to pay for the health care coverage that they are receiving.

So what is essentially going to happen is that this risk pool is going to be split. The healthy and the wealthy are going to get out of the risk pool and have the MSAs. The people who are sicker or do not have as much money, probably who will be the majority, they will see their premiums go up; and in essence health insurance will be less affordable.

Vote against the rule and vote against this Republican leadership bill.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, I thank the gentleman from the opportunity to address the question of MSA's and also follow the gentleman from New Jersey [Mr. PALLONE].

I serve as chairman of the Subcommittee on Civil Service of the Committee on Government Reform and Oversight and actually had the opportunity to conduct hearings on MSA's. We have heard the other side of the aisle and the gentleman from New Jersey [Mr. PALLONE] just bash MSA's.

Let me say what Mayor Schundler testified to, the mayor of Jersey City, NJ, who came before our subcommittee. He said MSA's were offered and 60 percent of eligible employees chose MSA's over their previous plan. What were the results? And this is a city facing financial disaster and not being able to provide health care for their employees. The results reduced the out-of-pocket costs to employees and still saved the city about $275 per employee, but they do not want to deal with the facts on the other side.

Let us take another area, a small county, Ada County, ID, testified that under their county's MSA plan, the taxpayer saved money and the employees saved out-of-pocket costs which were reduced.

Then the private sector was at our hearing. At the hearing the subcommittee heard of reported cost savings ranging from 17 to 40 percent by more than 1,000 private businesses that have adopted MSA's.

Finally, how about the AFL–CIO? Let us see what one of their affiliates said. They called MSA's an option offered to their employees a win win situation.

So if we went to provide health care cost effectively, these are the facts, this is the result, and this is how we can do it. It just happens to be a new idea whose time has arrived.

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Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, there is a lot that could and should be said about MSA's. I am going to save that for another time. Right now I would like to spend maybe a minute and a half and talk about the subject of hypocrisy.

Tomorrow the Committee on Rules is going to bring up a rule for a constitutional amendment that would require a two-thirds vote to raise income taxes, and then, the very next legislative day, April 15, when we get back from vacation, we are going to bring that bill up on the floor to require a two-thirds vote.

Now on the first day of this legislative term back in January 1995, we passed a law that was supposed to govern all of our actions that said we require a three-fifths vote to raise taxes, and do you know, every single time it has applied, it has been waived, and here is the third time that the Committee on Rules again waives the three-fifths requirement.

We had to waive it, with that Contract With America, Tax Relief Act that was a big issue. Remember I raised a point of order. It turns out that, sure enough, it did include a tax increase. So the Parliamentarian recognized we had to waive it.

The second time we had the budget resolution, we had the Committee on Rules had to waive it, and now the third time we have got tax increases here. We are going to waive the rule because it is inconvenient to let it apply to this bill, but is it not unbelievable that tomorrow the Committee on Rules—just for pure expedience, political gain—is going to bring up this rule saying that you need a two-thirds vote, putting it in the Constitution and then expecting us to vote on it April 15. Unbelievable. I think some of the members of the Committee on Rules ought to be embarrassed about this one.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. ROYCE].

Mr. ROYCE. Mr. Speaker, I rise in support of the rule and this legislation because this legislation gives individuals greater control over their own health care through the introduction of medical savings accounts.

These medical savings accounts put individuals in charge of their own health care. It gives them greater freedom and more choices, and it will drive down costs. At the same time, they help resolve the portability issue.

One problem with the current health insurance system in this country is that coverage for working people is usually tied to the job rather than the individual. Medical savings accounts, which would be owned by the individual for life, move with the individual. It is the ultimate in portability.

Medical savings accounts are becoming increasingly common in the public sector. This popularity in the private sector is even more significant considering the fact that they are handicapped by tax laws which give deductions to employers who pay their workers' insurance premiums but not to the employers who are paying into the medical savings accounts. This inequitable tax treatment penalizes individuals who want to select their own health providers and plans as well as individuals without health plans at work.

The legislation before us today removes this handicap and allows individuals and employers to make tax-deductible contributions to the accounts when employees are covered by a high deductible health insurance policy.

Further, in allowing for a tax-free buildup of these accounts, this bill makes the choice of medical savings accounts available to many more Americans, and everyone owning an MSA would have an incentive to spend their money wisely. That is a marked contrast to the use-it-or-lose-it approach fostered by third-payer plans. The savings would be theirs, and so would the choice.

The competition would also put pressure on providers to reduce costs so everyone would benefit, and while MSA options may not solve every problem, it would certainly help consumers giving them more choices, more control, lifetime security, and lower costs.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan [Mr. DINGELL], the former chairman of the Committee on Commerce.

Mr. DINGELL. Mr. Speaker, I rise in opposition to this closed rule.

I want to acknowledge the gracious reception I received at the Committee on Rules hearing yesterday from Chairman SOLOMON and the other members

of the Rules Committee. And I appreciate that the rule makes in order a substitute, which I will offer together with my colleagues (Mr. SPRATT and Mr. BENTSEN), that will enable us to pare this bill down to two simple and uncontroversial propositions: a clean Kassebaum-Roukema bill, and tax deductibility of health insurance for the self-employed.

But what we asked for was an open rule, and we have not gotten one. Thus, while the Republican leadership has loaded this bill down with a fine assortment of goodies for their friends in the health insurance industry, the medical profession, the HMO's, and other special pleaders, Democrats will not have a fair opportunity out here on the floor to make changes in those special-interest provisions.

For example, I had hoped to offer an amendment to strike a provision in the Republican bill that contains a sneak attack on the pocketbooks of America's seniors. This sneaky provision would put millions of our senior citizens at the mercy of health insurance scam artists who want to sell policy after policy to the same frightened and infirm people, whether they need it or not. The Republican bill would repeal existing protections in the Medicare law that regulate the sale of duplicative policies that had seniors paying premiums over and over again for coverage they didn't need.

But my amendment was not made in order. It seems that my Republican colleagues care more about helping their friends in the health insurance business than about protecting seniors from rip-offs. Oppose this rule.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Speaker, the original bill had broad bipartisan support that guaranteed that those who lose their job for any reason can still get health insurance coverage.

This bill is loaded up with so many special interest provisions that for the consumer, the poor and the sick, it does more harm than good. The medical savings accounts will allow a few health people to take money out of the Medicare Program, leaving behind a group that are, on average, sicker and, therefore, will have higher health care costs.

The malpractice changes are all slanted to help the wrongdoer at the expense of the victim. They only preempt State laws to the extent that they hurt the victim. Incredibly, the bill provides if the victim is hurt worse under State law, then the State law prevails.

Mr. Speaker, we should reject the special-interest wrongdoer protections and instead pass the original bipartisan consumer protection health care bill.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I am sure that the Members are watching and listening to this debate on the rule for the so-called Health Coverage Availability and Affordability Act.

I hope Members will really take a look at what is happened here. This is blatant politics and blatant hypocrisy. The bill's title speaks of laudatory goals, while the provisions of the bill for medical savings accounts will ultimately have adverse effects on health insurance policies of all persons in this country who are not wealthy and cannot afford a medical savings account. The Golden Rule Insurance Co. is being repaid by the Gingrich majority for Golden Rules contribution to GOPAC and the Republican's campaign coffers. It's more than 30 pieces of silver. It is millions from taxpayers' pockets to put into the pockets of Golden Rule. Blatant politics and blatant hypocrisy.

Mr. GOSS. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Speaker, I would like to talk about what the American people want and the facts about the bill before us. They want medical insurance that is available, affordable, and portable. Most Americans without health insurance work for small business. Most small businesses also want to provide health insurance to their employees but find it too expensive to do so. Large corporations, on the other hand, are able to buy health insurance in bulk for their thousands of employees at more affordable rates.

Current law does not give small businesses the same opportunities to join together with other small businesses and purchase insurance in bulk. The end result is that insurance is not affordable.

Our bill makes health insurance affordable and available for small businesses by allowing them to pool together and buy insurance for their employees in bulk at affordable rates. This change will make medical insurance available and affordable for tens of millions of Americans who work for small businesses and have no insurance today. This is supported by small business associations across the board and deserves the full support of Congress.

We also make insurance more portable. We make it easier for employees to take their health insurance with them when they change jobs. For too long employees have resisted changing jobs and advancing in their careers because of fear of losing their health insurance. By making health insurance more portable, we open new job opportunities for millions of Americans. This is a good bill. Let us pass the bill. Let us pass the rule. If there is anything blatant about this, it is blatant democracy at work.

Mr. GOSS. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Florida [Mr. SCARBOROUGH].

Mr. SCARBOROUGH. Mr. Speaker, I have been really intrigued by this debate. We hear actually some of the architects of the Clinton health care plan, that would socialize the health care system and one-seventh of our economy, lecturing us on how we need to now fix health care in America. Very intriguing.

The fact of the matter is that what it shows is we have two different views of America; those Americans who believe in empowering Americans, and those Americans who believe that we must socialize government, socialize health care, and do everything we can to take the decision out of the hands of the consumers and the doctors.

Who could not like medical savings accounts? Who could not? They take the middle man out. They give power to patients and doctors, family doctors, to sit down and decide what the best course of treatment is to cure people who are ill that come to their office without having to call an insurance company first and decide how to use the money.

Somebody said it helps special interests and actually drives up costs. Let me tell my colleagues, that is a novel approach. I wonder what economics class has ever been taught that shows that free enterprise and empowering consumers drives up the cost of medical care. It makes absolutely no sense.

So let us look at the two different views of America. With Democrats in control, they wanted to socialize; with the Republicans in control, we want to privatize. We want to drive down cost, and we want to empower doctors and patients to sit down together and decide what is best for their medical future. That makes sense to me.

I support the rule and the bill.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I thank my colleague for yielding this time to me.

Mr. Speaker, I rise in support of this rule. The legislation we will vote on today addressed the most fundamental and important issues that currently prevent a large majority of the uninsured from accessing the health care system.

What do Americans want from Health Care Reform?

They want health care reform that ensures portability, controls costs, and expands access.

If we are to have true health care reform, we must include malpractice reforms, medical savings accounts, increases in tax deduction for health insurance for self-employed individuals, provisions to prevent waste, fraud, and abuse, and administrative reforms. Without providing such necessary relief, we will not succeed in bringing down the costs associated with delivering health care.

Passage of this bill will benefit all Americans, especially the 39 million who lack any

type of health coverage. These individuals must live in constant fear of becoming sick and not having the necessary insurance to meet their medical needs.

Lastly, I am particularly pleased that my suggestion to include "genetic information" in the definition of health status was agreed to and made part of the final package. I believe by doing so we have enhanced and made it an even better piece of legislation. I will have more to say about this in the next period of debate.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Speaker, I find it amazing that last year the group that wanted to nationalize health care has taken exception with the Republican Party because we want to go beyond the portability issue. What is it that we want to do that we disagree? Medical savings accounts, giving consumers choices rather than command-and-control Washington Bureaucrats. We want to stop waste, fraud, and abuse.

I realize the Democratic Party is partial to waste, and I can understand that. We want to stop medical malpractice, and we have tort reform. The Hill newspaper, though, explains the Democrats' position on that with $2.2 million in campaign contributions last year going to political candidates, 94 percent Democrats.

I will put this in the RECORD, Mr. Speaker.

That is why they are against this. It is a tort reform issue. It is a trial lawyers' issue. They are also against small businesses. I like the idea of pet shops, clothes stores, bicycle shops, combining together to get economies of scale that large corporations can. My small businesses are in favor of that, as are all small businesses all over America. Then again, the Democratic Party has never been partial to small businesses. What is it on long-term health care? We want long-term health care.

Mr. Speaker, I support the rule and strongly urge a "yes" vote on the bill.

The article referred to follows:

TRIAL ATTORNEYS SEEK MORE HILL CLOUT

(By Craig Karmin)

In a move that would increase the political power of trial lawyers and benefit Democratic congressional candidates, the Association of Trial Lawyers of America is planning a new program to encourage its members to contribute to ATLA-endorsed candidates.

These individual contributions would supplement ATLA's political action committee, which was the sixth largest contributor during the 1994 elections. It donated more than $2.2 million to congressional campaigns, with Democrats receiving 94 percent of the funds. In 1995, despite Republican majorities in the House and Senate, the association gave 79 percent of its $700,000 in campaign contributions to Democrats.

The political and financial clout of the trial lawyers has been credited with President Clinton's threat to veto the product liability law, and the group has come under fire from congressional Republicans.

According to a letter the association sent to the Federal Election Commission, ATLA would "obtain advance commitments from its members to contribute a specified amount" to certain candidates. It would further "recommend the size of contributions that members should send to particular candidates" and "suggest when members should mail their contributions."

The FEC met last week on the subject and is expected to approve ATLA's request to engage in these activities in the near future. But these contributions could be prohibited under bipartisan campaign finance reform bills pending in both the House and Senate. ATLA contends that these contributions are constitutionally protected by the First Amendment.

The association's plan to strongly urge its 60,000 members to contribute to congressional campaigns would expand the power and influence of an already formidable special interest on Capitol Hill and in the White House.

Josh Goldstein of the Center for Responsive Politics said he thought the ATLA plan would provide "a way for trial lawyers to distinguish themselves from other lawyers when giving to campaigns," and therefore "give them more bang for their buck on Capitol Hill."

ATLA's program encouraged Democrats about their chances in the fall elections. "I think it could impact a number of races because it will probably benefit Democrats more than Republicans," said Don Sweizer, a Democratic consultant and former finance director at the Democratic National Committee. "It's good news for our team."

Republicans seemed to agree. "In general, I think Republicans should be concerned," said Dawn Sciarrino, a vice president at Brockmeyer, Allen and Associates, a Republican consulting firm. "This helps them funnel a great deal of money to the candidates of their choice."

Pam Liapakis, president of ATLA, said that she was inspired by a similar program at EMILY's List, an association whose contributors give money to Democratic pro-choice women candidates. Liapakis expects to have the program "up and running" well before the November elections.

But if campaign reformers have their way, this could be the only election in which ATLA, EMILY's List, or any other organization can engage in what is sometimes referred to as "bundling" contributions. Bipartisan campaign finance reform bills submitted in the House and Senate would ban this kind of activity.

Liapakis, however, said she believed ATLA's program was within the law. "There is a right under the First Amendment to communicate and to participate in elections," she said.

□ 1745

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Speaker, as a physician, I am particularly concerned with the section of this bill that many may not have had a chance to study. Buried within the 300-plus pages of this bill is a 29-page section called "Administrative simplification."

Now, "administrative simplification" has a nice right to it, but let me tell you why everyone concerned with the future of health care in this country should oppose the inclusion of this section in any health care reform bill.

First of all, section 1173 on page 222 forces a physician to reveal confidential patient information for billing purposes. The bill says "The Secretary shall adopt standards for transactions and data elements for such transactions to enable health information to be exchange electronically." This bill sets up electronic elearinghouses for all the health care administration information in this country.

Now, among the transactions that doctors will be forced to make, on page 223, it says "Claims or equivalent encounter information." This will require doctors to submit not just general information, but personal, private information that patients need to disclose to their doctors.

Next, this bill fails to adequately protect the privacy of patient health information, which is vital if you are going to have good quality care in this country. Instead of actual privacy protections, the administrative simplification section provided vague promises to develop privacy standards in the future.

The bottom of page 226, part E of section 1173, it says "Privacy standards for health information." It reads, "The Secretary shall adopt standards with respect to the privacy of individually identifiable health information."

Now, we do not know what those protections are going to look like, yet we are going to set in place a collection mechanism from all the patients in this country in this bill. We have overridden all States, all insurance commissioners, everybody else in one provision, stuck in a 300-page bill that most people on this floor have never read.

When I asked in the Committee on Ways and Means about this section, they said it has been cleared with all the groups. So I called some of the groups, and it has not been cleared with the groups. They understand that this is an invasion of privacy.

I cannot understand how Republicans can be putting a bill out here that invades the public privacy for people who say they want privacy, and they want the Government out of their lives, to suddenly say to the insurance industry in a 29-page section buried in this bill, you can gather all the information you want and have a electronic transfer, so any insurance company can type in a name and here it will come printed out somewhere in a computer somewhere.

That is what is being set up in this bill, and it is for the insurance industry, and everybody ought to understand it. You are going to come to rue the day that you pass this bill without talking about it.

Mr. MOAKLEY. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. KOLBE). The gentleman from Massachusetts is recognized for 1½ minutes.

Mr. MOAKLEY. Mr. Speaker, I urge a "no" vote on the previous question. If

the previous question is defeated, I shall offer an amendment to the rule which will make in order the amendment by the gentleman from Wisconsin [Mr. GUNDERSON], the gentleman from Illinois [Mr. POSHARD], the gentleman from Kansas [Mr. ROBERTS], the gentleman from Texas [Mr. STENHOLM], the gentleman from Minnesota [Mr. GUTKNECHT], and other members of the Rural Health Coalition.

Yesterday several of these members appeared before the Committee on Rules and spoke eloquently on the importance of a 24-hour emergency care antitrust relief to small rural hospitals and expanded telemedicine services in rural areas. It is important when we consider health care reform to ensure that Americans who live in small towns and rural communities are able to enjoy the same access to health care as those in urban areas.

Mr. Speaker, the text of my proposed amendment is as follows:

PREVIOUS QUESTION AMENDMENT TEXT (H.R. 3103–H. RES. 392)

On page 3, line 11 of House Resolution 392, immediately after "opponent;" strike "and 93)" and insert the following:

"(3) the amendment printed in Section 2 of the resolution by Representatives Gunderson, Poshard, Roberts and Gutknecht or their designee, which shall be in order without intervention of any point of order (except those arising under section 425(a) of the Congressional Budget Act of 1974) or demand for division of the question, shall be considered as read, and shall be separately debatable for 30 minutes equally divided and controlled by the proponent and opponent; and (4)".

At the end of the resolution, add the following new section:

"Sec. 2. At the end of the bill, add the following new title (and conform the table of contents accordingly):

TITLE V—PROMOTING ACCESS AND AVAILABILITY OF HEALTH COVERAGE IN RURAL AREAS

Subtitle A—Medicare Program

SEC. 501. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—Section 1820 of the Social Security Act (42 U.S.C. 1395i–4) is amended to read as follows:

"MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM

"SEC. 1820. (a) ESTABLISHMENT.—Any State that submits an application in accordance with subsection (b) may establish a medicare rural hospital flexibility program described in subsection (c).

"(b) APPLICATION.—A State may establish a medicare rural hospital flexibility program described in subsection (c) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

"(1) assurances that the State—

"(A) has developed, or is in the process of developing, a State rural health care plan that—

"(i) provides for the creation of one or more rural health networks (as defined in subsection (d)) in the State,

"(ii) promotes regionalization of rural health services in the State, and

"(iii) improves access to hospital and other health services for rural residents of the State;

"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

"(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

"(3) such other information and assurances as the Secretary may require.

"(c) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM DESCRIBED.—

"(1) IN GENERAL.—A State that has submitted an application in accordance with subsection (b), may establish a medicare rural hospital flexibility program that provides that—

"(A) the State shall develop at least one rural health network (as defined in subsection (d)) in the State; and

"(B) at least one facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

"(2) STATE DESIGNATION OF FACILITIES.—

"(A) IN GENERAL.—A State may designate one or more facilities as a critical access hospital in accordance with subparagraph (B).

"(B) CRITERIA FOR DESIGNATION AS CRITICAL ACCESS HOSPITAL.—A State may designate a facility as a critical access hospital if the facility—

"(i) is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)) that—

"(I) is located more than a 35-mile drive from a hospital, or another facility described in this subsection, or

"(II) is certified by the State as being a necessary provider of health care services to residents in the area;

"(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

"(iii) provides not more than 6 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 72 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 72-hour restriction on a case-by-case basis;

"(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present,

"(II) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off-site basis under arrangements as defined in section 1861(w)(1), and

"(III) the inpatient care described in clause (iii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

"(v) meets the requirements of subparagraph (I) of paragraph (2) of section 1861(aa).

"(d) RURAL HEALTH NETWORK DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'rural health network' means, with respect to a State, an organization consisting of—

"(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital, and

"(B) at least 1 hospital that furnishes acute care services.

"(2) AGREEMENTS.—

"(A) IN GENERAL.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

"(B) ITEMS DESCRIBED.—The items described in this subparagraph are the following:

"(i) Patient referral and transfer.

"(ii) The development and use of communications systems including (where feasible)—

"(I) telemetry systems, and

"(II) systems for electronic sharing of patient data.

"(iii) The provision of emergency and nonemergency transportation among the facility and the hospital.

"(C) CREDENTIALING AND QUALITY ASSURANCE.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least 1—

"(i) hospital that is a member of the network;

"(ii) peer review organization or equivalent entity; or

"(iii) other appropriate and qualified entity identified in the State rural health care plan.

"(e) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a critical access hospital if the facility—

"(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (c);

"(2) is designated as a critical access hospital by the State in which it is located; and

"(3) meets such other criteria as the Secretary may require.

"(f) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a State from designating or the Secretary from certifying a facility as a critical access hospital solely because, at the time the facility applies to the State for designation as a critical access hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed 12 beds (minus the number of inpatient beds used for providing inpatient care in the facility pursuant to subsection (c)(2)(B)(iii)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a

unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a critical access hospital.

"(g) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.".

(b) PART A AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOSPITALS.—

(1) DEFINITIONS.—Section 1861(mm) of such Act (42 U.S.C. 1395x(mm)) is amended to read as follows:

"Critical Access Hospital; Critical Access Hospital Services

"(mm)(1) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820(e).

"(2) The term 'inpatient critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.".

(2) COVERAGE AND PAYMENT.—(A) Section 1812(a)(1) of such Act (42 U.S.C. 1395d(a)(1)) is amended by striking "or inpatient rural primary care hospital services" and inserting "or inpatient critical access hospital services".

(B) Sections 1813(a) and section 1813(b)(3)(A) of such Act (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient rural primary care hospital services" each place it appears, and inserting "inpatient critical access hospital services".

(C) Section 1813(b)(3)(B) of such Act (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient rural primary care hospital services" and inserting "inpatient critical access hospital services".

(D) Section 1814 of such Act (42 U.S.C. 1395f) is amended—

(i) in subsection (a)(8) by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(ii) in subsection (b), by striking "other than a rural primary care hospital providing inpatient rural primary care hospital services," and inserting "other than a critical access hospital providing inpatient critical access hospital services,"; and

(iii) by amending subsection (l) to read as follows:

"(l) PAYMENT FOR INPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(3) TREATMENT OF CRITICAL ACCESS HOSPITALS AS PROVIDERS OF SERVICES.—(A) Section 1861(u) of such Act (42 U.S.C. 1395x(u)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(B) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking "a rural primary care hospital" and inserting "a critical access hospital".

(4) CONFORMING AMENDMENTS.—(A) Section 1128A(b)(1) of such Act (42 U.S.C. 1320a-7a(b)(1)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(B) Section 1128B(c) of such Act (42 U.S.C. 1320a-7b(c)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(C) Section 1134 of such Act (42 U.S.C. 1320b-4) is amended by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(D) Section 1138(a)(1) of such Act (42 U.S.C. 1320b-8(a)(1)) is amended—

(i) in the matter preceding subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(ii) in the matter preceding clause (i) of subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital".

(E) Section 1816(c)(2)(C) of such Act (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(F) Section 1833 of such Act (42 U.S.C. 1395l) is amended—

(i) in subsection (h)(5)(A)(iii), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in subsection (i)(1)(A), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (i)(3)(A), by striking "rural primary care hospital services" and inserting "critical access hospital services";

(iv) in subsection (l)(5)(A), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(v) in subsection (l)(5)(B), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(G) Section 1835(c) of such Act (42 U.S.C. 1395n(c)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(H) Section 1842(b)(6)(A)(ii) of such Act (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(I) Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(i) in subsection (a)—

(I) in paragraph (1), by striking "inpatient rural primary care hospital services" and inserting "inpatient critical access hospital services"; and

(II) in paragraph (2), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in the last sentence of subsection (e), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (v)(1)(S)(ii)(III), by striking "rural primary care hospital" and inserting "critical access hospital";

(iv) in subsection (w)(1), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(v) in subsection (w)(2), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(J) Section 1862(a)(14) of such Act (42 U.S.C. 1395y(a)(14)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(K) Section 1866(a)(1) of such Act (42 U.S.C 1395cc(a)(1)) is amended—

(i) in subparagraph (F)(ii), by striking "rural primary care hospitals" and inserting "critical access hospitals";

(ii) in subparagraph (H), in the matter preceding clause (i), by striking "rural primary care hospitals" and "rural primary care hospital services" and inserting "critical access hospitals" and "critical access hospital services", respectively;

(iii) in subparagraph (I), in the matter preceding clause (i), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(iv) in subparagraph (N)—

(I) in the matter preceding clause (i), by striking "rural primary care hospitals" and inserting "critical access hospitals", and

(II) in clause (i), by striking "rural primary care hospital" and inserting "critical access hospital".

(L) Section 1866(a)(3) of such Act (42 U.S.C. 1395cc(a)(3)) is amended—

(i) by striking "rural primary care hospital" each place it appears in subparagraphs (A) and (B) and inserting "critical access hospital"; and

(ii) in subparagraph (C)(ii)(II), by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(M) Section 1867(e)(5) of such Act (42 U.S.C. 1395dd(e)(5)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(c) PAYMENT CONTINUED TO DESIGNATED EACHs.—Section 1886(d)(5)(D) of such Act (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(1) in clause (iii)(III), by inserting "as in effect on September 30, 1995" before the period at the end; and

(2) in clause (v)—

(A) by inserting "as in effect on September 30, 1995" after "1820 (i)(1)"; and

(B) by striking "1820(g)" and inserting "1820(e)".

(d) PART B AMENDMENTS RELATING TO CRITICAL ACCESS HOSPITALS.—

(1) COVERAGE.—(A) Section 1861(mm) of such Act (42 U.S.C. 1395x(mm)) as amended by subsection (d)(1), is amended by adding at the end the following new paragraph:

"(3) The term 'outpatient critical access hospital services' means medical and other health services furnished by a critical access hospital on an outpatient basis.".

(B) Section 1832(a)(2)(H) of such Act (42 U.S.C. 1395k(a)(2)(H)) is amended by striking "rural primary care hospital services" and inserting "critical access hospital services".

(2) PAYMENT.—(A) Section 1833(a) of such Act (42 U.S.C. 1395l(a)) is amended in paragraph (6), by striking "outpatient rural primary care hospital services" and inserting "outpatient critical access hospital services".

(B) Section 1834(g) of such Act (42 U.S.C. 1395m(g)) is amended to read as follows:

"(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1996.

SEC. 502. ESTABLISHMENT OF RURAL EMERGENCY ACCESS CARE HOSPITALS.

(a) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Rural Emergency Access Care Hospital; Rural Emergency Access Care Hospital Services

"(oo)(1) The term 'rural emergency access care hospital' means, for a fiscal year, a facility with respect to which the Secretary finds the following:

"(A) The facility is located in a rural area (as defined in section 1886(d)(2)(D)).

"(B) The facility was a hospital under this title at any time during the 5-year period that ends on the date of the enactment of this subsection.

"(C) The facility is in danger of closing due to low inpatient utilization rates and operating losses, and the closure of the facility

would limit the access to emergency services of individuals residing in the facility's service area.

"(D) The facility has entered into (or plans to enter into) an agreement with a hospital with a participation agreement in effect under section 1866(a), and under such agreement the hospital shall accept patients transferred to the hospital from the facility and receive data from and transmit data to the facility.

"(E) There is a practitioner who is qualified to provide advanced cardiac life support services (as determined by the State in which the facility is located) on-site at the facility on a 24-hour basis.

"(F) A physician is available on-call to provide emergency medical services on a 24-hour basis.

"(G) The facility meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(i) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open, except insofar as the facility is required to provide emergency care on a 24-hour basis under subparagraphs (E) and (F); and

"(ii) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, or radiological technologist on a part-time, off-site basis.

"(H) The facility meets the requirements applicable to clinics and facilities under subparagraphs (C) through (J) of paragraph (2) of section 1861(aa) and of clauses (ii) and (iv) of the second sentence of such paragraph (or, in the case of the requirements of subparagraph (E), (F), or (J) of such paragraph, would meet the requirements if any reference in such subparagraph to a 'nurse practitioner' or to 'nurse practitioners' were deemed to be a reference to a 'nurse practitioner or nurse' or to 'nurse practitioners or nurses'); except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).

"(2) The term 'rural emergency access care hospital services' means the following services provided by a rural emergency access care hospital and furnished to an individual over a continuous period not to exceed 24 hours (except that such services may be furnished over a longer period in the case of an individual who is unable to leave the hospital because of inclement weather):

"(A) An appropriate medical screening examination (as described in section 1867(a)).

"(B) Necessary stabilizing examination and treatment services for an emergency medical condition and labor (as described in section 1867(b)).".

(b) REQUIRING RURAL EMERGENCY ACCESS CARE HOSPITALS TO MEET HOSPITAL ANTI-DUMPING REQUIREMENTS.—Section 1867(e)(5) of such Act (42 U.S.C. 1395dd(e)(5)) is amended by striking "1861(mm)(1))" and inserting "1861(mm)(1)) and a rural emergency access care hospital (as defined in section 1861(oo)(1))".

(c) COVERAGE AND PAYMENT FOR SERVICES.—

(1) COVERAGE.—Section 1832(a)(2) of such Act (42 U.S.C. 1395k(a)(2)) is amended—

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

(B) by striking the period at the end of subparagraph (J) and inserting "; and"; and

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

"(K) rural emergency access care hospital services (as defined in section 1861(oo)(2)).".

(2) PAYMENT BASED ON PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—

(A) IN GENERAL.—Section 1833(a)(6) of such Act (42 U.S.C. 13951(a)(6)), as amended by section 501(f)(2), is amended by striking "services," and inserting "services and rural emergency access care hospital services,".

(B) PAYMENT METHODOLOGY DESCRIBED.—Section 1834(g) of such Act (42 U.S.C. 1395m(g)), as amended by section 501(f)(2)(B), is amended—

(i) in the heading, by striking "SERVICES" and inserting "SERVICES AND RURAL EMERGENCY ACCESS CARE HOSPITAL SERVICES"; and

(ii) by adding at the end the following new sentence: "The amount of payment for rural emergency access care hospital services provided during a year shall be determined using the applicable method provided under this subsection for determining payment for outpatient rural primary care hospital services during the year.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning on or after October 1, 1996.

SEC. 503. CLASSIFICATION OF RURAL REFERRAL CENTERS.

(a) PROHIBITING DENIAL OF REQUEST FOR RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES.—

(1) IN GENERAL.—Section 1886(d)(10)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(10)(D)) is amended—

(A) by redesignating clause (iii) as clause (iv); and

(B) by inserting after clause (ii) the following new clause:

"(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which is classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.".

(2) EFFECTIVE DATE.—Notwithstanding section 1886(d)(10)(C)(ii) of the Social Security Act, a hospital may submit an application to the Medicare Geographic Classification Review Board during the 30-day period beginning on the date of the enactment of this Act requesting a change in its classification for purposes of determining the area wage index applicable to the hospital under section 1886(d)(3)(D) of such Act for fiscal year 1997, if the hospital would be eligible for such a change in its classification under the standards described in section 1886(d)(10)(D) of such Act (as amended by paragraph (1)) but for its failure to meet the deadline for applications under section 1886(d)(10)(C)(ii) of such Act.

(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED CENTERS.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1994 shall be classified as such a rural referral center for fiscal year 1997 and each subsequent fiscal year.

Subtitle B—Small Rural Hospital Antitrust Fairness

SEC. 511. ANTITRUST EXEMPTION.

The antitrust laws shall not apply with respect to—

(1) the merger of, or the attempt to merge, 2 or more hospitals,

(2) a contract entered into solely by 2 or more hospitals to allocate hospital services, or

(3) the attempt by only 2 or more hospitals to enter into a contract to allocate hospital services,

if each of such hospitals satisfies all of the requirements of section 512 at the time such hospitals engage in the conduct described in paragraph (1), (2), or (3), as the case may be.

SEC. 512. REQUIREMENTS.

The requirements referred to in section 511 are as follows:

(1) The hospital is located outside of a city, or in a city that has less than 150,000 inhabitants, as determined in accordance with the most recent data available from the Bureau of the Census.

(2) In the most recently concluded calendar year, the hospital received more than 40 percent of its gross revenue from payments made under Federal programs.

(3) There is in effect with respect to the hospital a certificate issued by the Health Care Financing Administration specifying that such Administration has determined that Federal expenditures would be reduced, consumer costs would not increase, and access to health care services would not be reduced, if the hospital and the other hospitals that requested such certificate merge, or allocate the hospital services specified in such request, as the case may be.

SEC. 513. DEFINITION.

For purposes of this title, the term "antitrust laws" has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies with respect to unfair methods of competition.

Subtitle C—Miscellaneous Provisions

SEC. 521. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS.

"(a) GENERAL RULE.—Gross income shall not include any qualified loan repayment.

"(b) QUALIFIED LOAN REPAYMENT.—For purposes of this section, the term 'qualified loan repayment' means any payment made on behalf of the taxpayer by the National Health Service Corps Loan Repayment Program under section 338B(g) of the Public Health Service Act.".

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 338B(g) of the Public Health Service Act is amended by striking "Federal, State, or local" and inserting "State or local".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. National Health Service Corps loan repayments.

"Sec. 138. Cross references to other Acts.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made under section 338B(g) of the Public Health Service Act after the date of the enactment of this Act.

SEC. 522. TELEMEDICINE SERVICES.

The Secretary of Health and Human Services shall establish a methodology for making payments under part B of the medicare program for telemedicine services furnished on an emergency basis to individuals residing in an area designated as a health professional shortage area (under section 332(a) of the Public Health Service Act).

Mr. Speaker, every single rule the House has adopted this session has been a restrictive rule. You heard that correctly. The Republican House has so far adopted 100 percent restrictive rules in this session. If it is adopted, the rule before us will leave that 100 percent purely restrictive rules record intact.

This is the 65th restrictive rule reported out of the Committee on Rules in this Congress. In addition, 71 percent of the legislation considered this session has not been reported from committee. Ten out of 14 measures brought up this session have been unreported. Mr. Speaker, I include the following material for the RECORD:

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 101	To transfer a parcel of land to the Taos Pueblo Indians of New Mexico.	H. Res. 51	Open	N/A.
H.R. 400	To provide for the exchange of lands within Gates of the Arctic National Park Preserve.	H. Res. 52	Open	N/A.
H.R. 440	To provide for the conveyance of lands to certain individuals in Butte County, California.	H. Res. 53	Open	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed: Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) cf rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D; 1R.
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A.
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A.
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment.	N/A.
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min. each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments.	N/A.
H.R. 1977 *Rule Defeated*	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1977	Interior Appropriations	H.Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments preprinted before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl. 3 Of rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl. 6 and cl. 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority. ***RULE AMENDED***.	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; Makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title..	N/A.
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted it will be considered as base text (30 min.); waives all points of order against the Klug and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	ID.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl. 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl. 5(a) of rule XXI against the amendment; Makes in order the Bliely amendment (30 min.) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bipartisan.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; Provides that the first order of business will be the managers amendments (10 min.), if adopted they will be considered as base text; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr of gen. debate. makes in order the committee substitute as original text	N/A.
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional record.	N/A.
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A.
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A.
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332), cl. 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A.
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of the Budget Act against consideration of the bill; Makes H.R. 2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min.) If adopted, it is considered as base text; Pre-printing gets priority.	N/A.
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D
H.R. 743	The Teamwork for Employees and managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A.
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A.
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A.
H.J. Res. 108	Making Continuing Appropriations for FY 1996	H. Res. 230	Closed: Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A.
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a senate hook-up after adoption.	1D
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes).	1D
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 2491 H. Con. Res. 109	7 Year Balanced Budget Reconciliation Social Security Earnings Test Reform.	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all pints of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅔ requirement on votes raising taxes).	1D
H.R. 1833	Partial Birth Abortion Ban Act of 1995	H. Res. 251	Closed	N/A.
H.R. 2546	D.C. Appropriations FY 1996	H. Res. 252	Restrictive; waives all points of order against the bill's consideration; Makes in order the Walsh amendment as the first order of business (10 min.); if adopted it is considered as base text; waives cl 2 and 6 of rule XXI against the bill; makes in order the Bonilla, Gunderson and Hostettler amendments (30 min.); waives all points of order against the amendments; debate on any further amendments is limited to 30 min. each.	N/A
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 257	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	N/A
H.R. 2586	Temporary Increase in the Statutory Debt Limit	H. Res. 258	Restrictive; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee; self-executes 4 amendments in the rule; Solomon, Medicare Coverage of Certain Anti-Cancer Drug Treatments, Habeas Corpus Reform, Chrysler (MI); makes in order the Walker amend (40 min.) on regulatory reform.	5R
H.R. 2539	ICC Termination	H. Res. 259	Open; waives section 302(f) and section 308(a)	
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 261	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H.R. 2586	Temporary Increase in the Statutory Limit on the Public Debt	H. Res. 262	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H. Res. 250	House Gift Rule Reform	H. Res. 268	Closed; provides for consideration of the bill in the House; 30 min. of debate; makes in order the Burton amendment and the Gingrich en bloc amendment (30 min. each); waives all points of order against the amendments; Gingrich is only in order if Burton fails or is not offered.	2R
H.R. 2564	Lobbying Disclosure Act of 1995	H. Res. 269	Open; waives cl. 2(l)(6) of rule XI against the bill's consideration; waives all points of order against the Istook and McIntosh amendments.	N/A.
H.R. 2606	Prohibition on Funds for Bosnia Deployment	H. Res. 273	Restrictive; waives all points of order against the bill's consideration; provides one motion to amend if offered by the Minority Leader or designee (1 hr non-amendable); motion to recommit which may have instructions only if offered by Minority Leader or his designee; if Minority Leader motion is not offered debate time will be extended by 1 hr.	N/A.
H.R. 1788	Amtrak Reform and Privatization Act of 1995	H. Res. 289	Open; waives all points of order against the bill's consideration; makes in order the Transportation substitute modified by the amend in the report; Bill read by title; waives all points of order against the substitute; makes in order a managers amend as the first order of business, if adopted it is considered base text (10 min.); waives all points of order against the amendment; Pre-printing gets priority.	N/A.
H.R. 1350	Maritime Security Act of 1995	H. Res. 287	Open; makes in order the committee substitute as original text; makes in order a managers amendment which if adopted is considered as original text (20 min.) unamendable; pre-printing gets priority.	N/A.
H.R. 2621	To Protect Federal Trust Funds	H. Res.	Closed; provides for the adoption of the Ways & Means amendment printed in the report. 1 hr. of general debate.	N/A.
H.R. 1745	Utah Public Lands Management Act of 1995	H.Res. 303	Open; waives cl 2(l)(6) of rule XI and sections 302(f) and 311(a) of the Budget Act against the bill's consideration. Makes in order the Resources substitute as base text and waives cl 7 of rule XVI and sections 302(f) and 308(a) of the Budget Act; makes in order a managers' amend as the first order of business, if adopted it is considered base text (10 min)..	N/A.
H.Res. 304	Providing for Debate and Consideration of Three Measures Relating to U.S. Troop Deployments in Bosnia.	N/A	Closed; makes in order three resolutions; H.R. 2770 (Dorman), H.Res. 302 (Buyer), and H.Res. 306 (Gephardt); 1 hour of debate on each..	1D; 2R
H.Res. 309	Revised Budget Resolution	H.Res. 309	Closed; provides 2 hours of general debate in the House.	N/A.
H.R. 558	Texas Low-Level Radioactive Waste Disposal Compact Consent Act	H.Res. 313	Open; pre-printing gets priority	N/A.
H.R. 2677	The National Parks and National Wildlife Refuge Systems Freedom Act of 1995.	H. Res. 323	Closed; consideration in the House; self-executes Young amendment	N/A.
			PROCEDURE IN THE 104TH CONGRESS 2D SESSION	
H.R. 1643	To authorize the extension of nondiscriminatory treatment (MFN) to the products of Bulgaria.	H. Res. 334	Closed; provides to take the bill from the Speaker's table with the Senate amendment, and consider in the House the motion printed in the Rules Committee report; 1 hr. of general debate; previous question is considered as ordered. ** NR.	N/A.
H.J. Res. 134 H. Con. Res. 131	Making continuing appropriations/establishing procedures making the transmission of the continuing resolution H.J. Res. 134.	H. Res. 336	Closed; provides to take from the Speaker's table H.J. Res. 134 with the Senate amendment and concur with the Senate amendment with an amendment (H. Con. Res. 131) which is self-executed in the rule. The rule provides further that the bill shall not be sent back to the Senate until the Senate agrees to the provisions of H. Con. Res. 131. ** NR.	N/A.
H. R. 1358	Conveyance of National Marine Fisheries Service Laboratory at Gloucester, Massachusetts.	H. Res. 338	Closed; provides to take the bill from the Speakers table with the Senate amendment, and consider in the house the motion printed in the Rules Committee report; 1 hr. of general debate; previous quesetion is considered as ordered. ** NR.	N/A.
H.R. 2924	Social Security Guarantee Act	H. Res. 355	Closed. ** NR	N/A.
H.R. 2854	The Agricultural Market Transition Program	H. Res. 366	Restrictive; waives all points of order against the bill; 2 hrs of general debate; makes in order a committee substitute as original text and waives all points of order against the substitute; makes in order only the 16 amends printed in the report and waives all points of order against the amendments; circumvents unfunded mandates law; Chairman has en bloc authority for amends in report (20 min.) on each en bloc..	5D; 9R; 2 Bipartisan.
H.R. 994	Regulatory Sunset & Review Act of 1995	H.Res 368	Open rule; makes in order the Hyde substitute printed in the Record as original text; waives cl 7 of rule XVI against the substitute; Pre-printing gets priority; vacates the House action on S. 219 and provides to take the bill from the Speakers table and consider the Senate bill; allows Chrmn. Clinger a motion to strike all after the enacting clause of the Senate bill and insert the text of H.R. 994 as passed by the House (1 hr) debate; waives germaneness against the motion; provides if the motion is adopted that it is in order for the House to insist on its amendments and request a conference.	N/A.
H.R. 3021	To Guarantee the Continuing Full Investment of Social security and Other Federal Funds in Obligations of the United States.	H.Res 371	Closed rule; gives one motion to recommit, which if it contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	N/A.
H.R. 3019	A Further Downpayment Toward a Balanced Budget	H.Res. 372	Restrictive; self-executes CBO language regarding contingency funds in section 2 of the rule; makes in order only the amendments printed in the report; Lowey (20 min), Istook (20 min), Crapo (20 min), Obey (1 hr); waives all points of order against the amendments; give one motion to recommit, which if contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	2D/2R.
H.R. 2703	The Effective Death Penalty and Public Safety Act of 1996	H. Res. 380	Restrictive; makes in order only the amendments printed in the report; waives all points of orer against the amendments; gives Judiciary Chairman en bloc authority (20 min.) on enblocs; provides a Senate hook-up with S. 735. ** NR.	6D; 7R; 4 Bipartisan.
H.R. 2202	The Immigration and National Interest Act of 1995	H. Res. 384	Restrictive; waives all points of order against the bill and amendments in the report except for those arising under sec. 425(a) of the Budget Act (unfunded mandates); 2 hrs. of general debate on the bill; makes in order the committee substitute as base text; makes in order only the amends in the report; gives the Judiciary Chairman en bloc authority (20 min.) of debate on the en blocs; self-executes the Smith (TX) amendment re: employee verification program..	12D; 19R; 1 Bipartisan.
H.J. Res. 165	Making further continuing appropriations for FY 1996	H. Res. 386	Closed; provides for the consideration of the CR in the House and gives one motion to recommit which may contain instructions only if offered by the Minority Leader; the rule also waives cl 4(b) of rule XI against the following: an omnibus appropriations bill, another CR, a bill extending the debt limit. ** NR.	N/A.
H.R. 125	The Gun Crime Enforcement and Second Amendment Restoration Act of 1996.	H. Res. 388	Closed; self-executes an amendment; provides one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee. ** NR.	N/A
H.R. 3136	The Contract With America Advancement Act of 1996	H. Res. 391	Closed; provides for the consideration of the bill in the House; self-executes an amendment in the Rules report; waives all points of order, except sec. 425(a)(unfunded mandates) of the CBA, against the bill's consideration; orders the PQ except 1 hr. of general debate between the Chairman and Ranking Member of Ways and Means; one Archer amendment (10 min.); one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee; Provides a Senate hookup if the Senate passes S. 4 by March 30, 1996. **NR.	N/A

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 3103	The Health Coverage Availability and Affordability Act of 1996	H. Res. 392	Restrictive: 2 hrs. of general debate (45 min. split by Ways and Means) (45 split by Commerce) (30 split by Economic and Educational Opportunities); self-executes H.R. 3160 as modified by the amendment in the Rules report as original text; waives all points of order, except sec. 425(a) (unfunded mandates) of the CBA; makes in order a Democratic substitute (1 hr.) waives all points of order, except sec. 425(a) (unfunded mandates) of the CBA, against the amendment; one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee; waives cl 5(c) of Rule XXI (requiring 3/5 vote on any tax increase) on votes on the bill, amendments or conference reports.	N/A

*Contract Bills, 67% restrictive; 33% open. **All legislation 1st Session, 53% restrictive; 47% open. ***All legislation 2d Session, 94% restrictive; 6% open. ****All legislation 104th Congress, 65% restrictive; 35% open. *****NR indicates that the legislation being considered by the House for amendment has circumvented standard procedure and was never reported from any House committee. ******Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103d Congress. N/A means not available.

Mr. GOSS. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Florida is recognized for 1 minute.

Mr. GOSS. Mr. Speaker, first of all I would like to say that we have considered many amendments in this process and it is quite clear there are many good ideas.

This does not pretend to be comprehensive health care reform. This is very special, and it is meant to be doable and accomplished now, to take a subject we think we can do to make improvement for access and affordability for a great many Americans, to take the bill the Senate has worked on and to make it better here and to send it to the American people. We think that is doable.

We have given the other side two bites at this. We have given them their own substitute and the right to recommit, of course.

Some have said, "Oh, my gosh; what we need to do here is get back on the health care track." Let me remind you, the health care track of the last 40 years was derailed in a monumental train wreck under the Clinton administration. They cannot even find the engineer for that.

We now have something that is doable today, and all we need to do is get this rule on the floor, have the debate, vote this health care reform, and we come out with more health care opportunities for more Americans than we have today. It is worth doing.

Mr. Speaker, I urge support of the rule.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

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

Mr. GOSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 229, nays 186, not voting 16, as follows:

[Roll No. 103]

YEAS—229

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

NAYS—186

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gunderson
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOT VOTING—16

Becerra	Lantos	Stokes
Bryant (TX)	McNulty	Torricelli
Collins (IL)	Neal	Weldon (PA)
Conyers	Ros-Lehtinen	Wilson
Fields (LA)	Smith (TX)	
Fowler	Smith (WA)	

□ 1809

Ms. FURSE and Mr. BALDACCI changed their vote from "yea" to "nay."

Mr. COBURN and Mr. THOMAS of California changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. COMBEST). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed without amendment a bill and joint resolution of the House of the following titles:

H.R. 3136. An act to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line-Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit; and

H.J. Res. 168. Joint resolution waiving certain enrollment requirements with respect to two bills of the One Hundred Fourth Congress.

The message also announced that the Senate agrees, to the report of the committee of conference on the disagreeing votes of the two House on the amendment of the Senate to the bill (H.R. 2854) "An act to modify the operation of certain agricultural programs."

□ 1815

HEALTH COVERAGE AVAILABILITY AND AFFORDABILITY ACT OF 1996

Mr. ARCHER. Mr. Speaker, pursuant to House Resolution 392, I call up the bill (H.R. 3103), to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. COMBEST). Pursuant to House Resolution 392, the amendment in the nature of a substitute consisting of the text of H.R. 3160 modified by the amendment specified in part 1 of House Report 104–501 is adopted.

The text of H.R. 3103 consisting of the text of H.R. 3160, as modified, is as follows:

H.R. 3160

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Coverage Availability and Affordability Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVED AVAILABILITY AND PORTABILITY OF HEALTH INSURANCE COVERAGE

Subtitle A—Coverage Under Group Health Plans

Sec. 101. Portability of coverage for previously covered individuals.

Sec. 102. Limitation on preexisting condition exclusions; no application to certain newborns, adopted children, and pregnancy.

Sec. 103. Prohibiting exclusions based on health status and providing for enrollment periods.

Sec. 104. Enforcement.

Subtitle B—Certain Requirements for Insurers and HMOs in the Group and Individual Markets

PART 1—AVAILABILITY OF GROUP HEALTH INSURANCE COVERAGE

Sec. 131. Guaranteed availability of general coverage in the small group market.

Sec. 132. Guaranteed renewability of group coverage.

PART 2—AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE

Sec. 141. Guaranteed availability of individual health insurance coverage to certain individuals with prior group coverage.

Sec. 142. Guaranteed renewability of individual health insurance coverage.

PART 3—ENFORCEMENT

Sec. 151. Incorporation of provisions for State enforcement with Federal fallback authority.

Subtitle C—Affordable and Available Health Coverage Through Multiple Employer Pooling Arrangements

Sec. 161. Clarification of duty of the Secretary of Labor to implement provisions of current law providing for exemptions and solvency standards for multiple employer health plans.

"PART 7—RULES GOVERNING REGULATION OF MULTIPLE EMPLOYER HEALTH PLANS

"Sec. 701. Definitions.

"Sec. 702. Clarification of duty of the Secretary to implement provisions of current law providing for exemptions and solvency standards for multiple employer health plans.

"Sec. 703. Requirements relating to sponsors, boards of trustees, and plan operations.

"Sec. 704. Other requirements for exemption.

"Sec. 705. Maintenance of reserves.

"Sec. 706. Notice requirements for voluntary termination.

"Sec. 707. Corrective actions and mandatory termination.

"Sec. 708. Additional rules regarding State authority.".

Sec. 162. Affordable and available fully insured health coverage through voluntary health insurance associations.

Sec. 163. State authority fully applicable to self-insured multiple employer welfare arrangements providing medical care which are not exempted under new part 7.

Sec. 164. Clarification of treatment of single employer arrangements.

Sec. 165. Clarification of treatment of certain collectively bargained arrangements.

Sec. 166. Treatment of church plans.

Sec. 167. Enforcement provisions relating to multiple employer welfare arrangements.

Sec. 168. Cooperation between Federal and State authorities.

Sec. 169. Filing and disclosure requirements for multiple employer welfare arrangements offering health benefits.

Sec. 170. Single annual filing for all participating employers.

Sec. 171. Effective date; transitional rule.

Subtitle D—Definitions; General Provisions

Sec. 191. Definitions; scope of coverage.

Sec. 192. State flexibility to provide greater protection.

Sec. 193. Effective date.

Sec. 194. Rule of construction.

Sec. 195. Findings relating to exercise of commerce clause authority.

TITLE II—PREVENTING HEALTH CARE FRAUD AND ABUSE; ADMINISTRATIVE SIMPLIFICATION; MEDICAL LIABILITY REFORM

Sec. 200. References in title.

Subtitle A—Fraud and Abuse Control Program

Sec. 201. Fraud and abuse control program.

Sec. 202. Medicare integrity program.

Sec. 203. Beneficiary incentive programs.

Sec. 204. Application of certain health anti-fraud and abuse sanctions to fraud and abuse against Federal health care programs.

Sec. 205. Guidance regarding application of health care fraud and abuse sanctions.

Subtitle B—Revisions to Current Sanctions for Fraud and Abuse

Sec. 211. Mandatory exclusion from participation in medicare and State health care programs.

Sec. 212. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.

Sec. 213. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.

Sec. 214. Sanctions against practitioners and persons for failure to comply with statutory obligations.

Sec. 215. Intermediate sanctions for medicare health maintenance organizations.

Sec. 216. Additional exception to anti-kickback penalties for discounting and managed care arrangements.

Sec. 217. Criminal penalty for fraudulent disposition of assets in order to obtain medicaid benefits.
Sec. 218. Effective date.
Subtitle C—Data Collection
Sec. 221. Establishment of the health care fraud and abuse data collection program.
Subtitle D—Civil Monetary Penalties
Sec. 231. Social security act civil monetary penalties.
Sec. 232. Clarification of level of intent required for imposition of sanctions.
Sec. 233. Penalty for false certification for home health services.
Subtitle E—Revisions to Criminal Law
Sec. 241. Definitions relating to Federal health care offense.
Sec. 242. Health care fraud.
Sec. 243. Theft or embezzlement.
Sec. 244. False statements.
Sec. 245. Obstruction of criminal investigations of health care offenses.
Sec. 246. Laundering of monetary instruments.
Sec. 247. Injunctive relief relating to health care offenses.
Sec. 248. Authorized investigative demand procedures.
Sec. 249. Forfeitures for Federal health care offenses.
Sec. 250. Relation to ERISA authority.
Subtitle F—Administrative Simplification
Sec. 251. Purpose.
Sec. 252. Administrative simplification.
"PART C—ADMINISTRATIVE SIMPLIFICATION
"Sec. 1171. Definitions.
"Sec. 1172. General requirements for adoption of standards.
"Sec. 1173. Standards for information transactions and data elements.
"Sec. 1174. Timetables for adoption of standards.
"Sec. 1175. Requirements.
"Sec. 1176. General penalty for failure to comply with requirements and standards.
"Sec. 1177. Wrongful disclosure of individually identifiable health information.
"Sec. 1178. Effect on State law.
Sec. 253. Changes in membership and duties of National Committee on Vital and Health Statistics.
Subtitle G—Duplication and Coordination of Medicare-Related Plans
Sec. 261. Duplication and coordination of medicare-related plans.
Subtitle H—Medical Liability Reform
PART 1—GENERAL PROVISIONS
Sec. 271. Federal reform of health care liability actions.
Sec. 272. Definitions.
Sec. 273. Effective date.
PART 2—UNIFORM STANDARDS FOR HEALTH CARE LIABILITY ACTIONS
Sec. 281. Statute of limitations.
Sec. 282. Calculation and payment of damages.
Sec. 283. Alternative dispute resolution.
TITLE III—TAX-RELATED HEALTH PROVISIONS
Sec. 300. Amendment of 1986 code.
Subtitle A—Medical Savings Accounts
Sec. 301. Medical savings accounts.
Subtitle B—Increase in Deduction for Health Insurance Costs of Self-Employed Individuals
Sec. 311. Increase in deduction for health insurance costs of self-employed individuals.
Subtitle C—Long-Term Care Services and Contracts
PART I—GENERAL PROVISIONS
Sec. 321. Treatment of long-term care insurance.
Sec. 322. Qualified long-term care services treated as medical care.
Sec. 323. Reporting requirements.
PART II—CONSUMER PROTECTION PROVISIONS
Sec. 325. Policy requirements.
Sec. 326. Requirements for issuers of long-term care insurance policies.
Sec. 327. Coordination with State requirements.
Sec. 328. Effective dates.
Subtitle D—Treatment of Accelerated Death Benefits
Sec. 331. Treatment of accelerated death benefits by recipient.
Sec. 332. Tax treatment of companies issuing qualified accelerated death benefit riders.
Subtitle E—High-Risk Pools
Sec. 341. Exemption from income tax for State-sponsored organizations providing health coverage for high-risk individuals.
Subtitle F—Organizations Subject to Section 833
Sec. 351. Organizations subject to section 833.
TITLE IV—REVENUE OFFSETS
Sec. 400. Amendment of 1986 Code.
Subtitle A—Repeal of Bad Debt Reserve Method for Thrift Savings Associations
Sec. 401. Repeal of bad debt reserve method for thrift savings associations.
Subtitle B—Reform of the Earned Income Credit
Sec. 411. Earned income credit denied to individuals not authorized to be employed in the United States.
Subtitle C—Treatment of Individuals Who Lose United States Citizenship
Sec. 421. Revision of income, estate, and gift taxes on individuals who lose United States citizenship.
Sec. 422. Information on individuals losing United States citizenship.
Sec. 423. Report on tax compliance by United States citizens and residents living abroad.

TITLE I—IMPROVED AVAILABILITY AND PORTABILITY OF HEALTH INSURANCE COVERAGE

Subtitle A—Coverage Under Group Health Plans

SEC. 101. PORTABILITY OF COVERAGE FOR PREVIOUSLY COVERED INDIVIDUALS.

(a) CREDITING PERIODS OF PREVIOUS COVERAGE TOWARD PREEXISTING CONDITION RESTRICTIONS.—Subject to the succeeding provisions of this section, a group health plan, and an insurer or health maintenance organization offering health insurance coverage in connection with a group health plan, shall provide that any preexisting condition limitation period (as defined in subsection (b)(2)) is reduced by the length of the aggregate period of qualified prior coverage (if any, as defined in subsection (b)(3)) applicable to the participant or beneficiary as of the date of commencement of coverage under the plan.

(b) DEFINITIONS AND OTHER PROVISIONS RELATING TO PREEXISTING CONDITIONS.—

(1) PREEXISTING CONDITION.—

(A) IN GENERAL.—For purposes of this subtitle, subject to subparagraph (B), the term "preexisting condition" means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before—

(i) the effective date of the coverage of such participant or beneficiary, or

(ii) the earliest date upon which such coverage could have been effective if there were no waiting period applicable,

whichever is earlier.

(B) TREATMENT OF GENETIC INFORMATION.—For purposes of this section, genetic information shall not be considered to be a preexisting condition, so long as treatment of the condition to which the information is applicable has not been sought during the 6-month period described in subparagraph (A).

(2) PREEXISTING CONDITION LIMITATION PERIOD.—For purposes of this subtitle, the term "preexisting condition limitation period" means, with respect to coverage of an individual under a group health plan or under health insurance coverage, the period during which benefits with respect to treatment of a condition of such individual are not provided based on the fact that the condition is a preexisting condition.

(3) AGGREGATE PERIOD OF QUALIFIED PRIOR COVERAGE.—

(A) IN GENERAL.—For purposes of this section, the term "aggregate period of qualified prior coverage" means, with respect to commencement of coverage of an individual under a group health plan or health insurance coverage offered in connection with a group health plan, the aggregate of the qualified coverage periods (as defined in subparagraph (B)) of such individual occurring before the date of such commencement. Such period shall be treated as zero if there is more than a 60-day break in coverage under a group health plan (or health insurance coverage offered in connection with such a plan) between the date the most recent qualified coverage period ends and the date of such commencement.

(B) QUALIFIED COVERAGE PERIOD.—

(i) IN GENERAL.—For purposes of this paragraph, subject to subsection (c), the term "qualified coverage period" means, with respect to an individual, any period of coverage of the individual under a group health plan, health insurance coverage, under title XVIII or XIX of the Social Security Act, coverage under the TRICARE program under chapter 55 of title 10, United States Code, a program of the Indian Health Service, and State health insurance coverage or risk pool, and includes coverage under a health plan offered under chapter 89 of title 5, United States Code.

(ii) DISREGARDING PERIODS BEFORE BREAKS IN COVERAGE.—Such term does not include any period occurring before any 60-day break in coverage described in subparagraph (A).

(C) WAITING PERIOD NOT TREATED AS A BREAK IN COVERAGE.—For purposes of subparagraphs (A) and (B), any period that is in a waiting period for any coverage under a group health plan (or for health insurance coverage offered in connection with a group health plan) shall not be considered to be a break in coverage described in subparagraph (B)(ii).

(D) ESTABLISHMENT OF PERIOD.—A qualified coverage period with respect to an individual shall be established through presentation of certifications described in subsection (c) or in such other manner as may be specified in regulations to carry out this title.

(c) CERTIFICATIONS OF COVERAGE; CONFORMING COVERAGE.—

(1) IN GENERAL.—The plan administrator of a group health plan, or the insurer or HMO

offering health insurance coverage in connection with a group health plan, shall, on request made on behalf of an individual covered (or previously covered within the previous 18 months) under the plan or coverage, provide for a certification of the period of coverage of the individual under such plan or coverage and of the waiting period (if any) imposed with respect to the individual for any coverage under the plan.

(2) STANDARD METHOD.—Subject to paragraph (3), a group health plan, or insurer or HMO offering health insurance coverage in connection with a group health plan, shall determine qualified coverage periods under subsection (b)(3)(B) by including all periods described in such subsection, without regard to the specific benefits offered during such a period.

(3) ALTERNATIVE METHOD.—Such a plan, insurer, or HMO may elect to make such determination on a benefit-specific basis for all participants and beneficiaries and not to include as a qualified coverage period with respect to a specific benefit coverage during a previous period unless such previous coverage for that benefit was included at the end of the most recent period of coverage. In the case of such an election—

(A) the plan, insurer, or HMO shall prominently state in any disclosure statements concerning the plan or coverage and to each enrollee at the time of enrollment under the plan (or at the time the health insurance coverage is offered for sale in the group health market) that the plan or coverage has made such election and shall include a description of the effect of this election; and

(B) upon the request of the plan, insurer, or HMO, the entity providing a certification under paragraph (1)—

(i) shall promptly disclose to the requesting plan, insurer, or HMO the plan statement (insofar as it relates to health benefits under the plan) or other detailed benefit information on the benefits available under the previous plan or coverage, and

(ii) may charge for the reasonable cost of providing such information.

SEC. 102. LIMITATION ON PREEXISTING CONDITION EXCLUSIONS; NO APPLICATION TO CERTAIN NEWBORNS, ADOPTED CHILDREN, AND PREGNANCY.

(a) LIMITATION OF PERIOD.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, a group health plan, and an insurer or HMO offering health insurance coverage in connection with a group health plan, shall provide that any preexisting condition limitation period (as defined in section 101(b)(2)) does not exceed 12 months, counting from the effective date of coverage.

(2) EXTENSION OF PERIOD IN THE CASE OF LATE ENROLLMENT.—In the case of a participant or beneficiary whose initial coverage commences after the date the participant or beneficiary first becomes eligible for coverage under the group health plan, the reference in paragraph (1) to "12 months" is deemed a reference to "18 months".

(b) EXCLUSION NOT APPLICABLE TO CERTAIN NEWBORNS AND CERTAIN ADOPTIONS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan, and an insurer or HMO offering health insurance coverage in connection with a group health plan, may not provide any limitation on benefits based on the existence of a preexisting condition in the case of—

(A) an individual who within the 30-day period beginning with the date of birth, or

(B) an adopted child or a child placed for adoption beginning at the time of adoption or placement if the individual, within the 30-day period beginning on the date of adoption or placement,

becomes covered under a group health plan or otherwise becomes covered under health insurance coverage (or covered for medical assistance under title XIX of the Social Security Act).

(2) LOSS IF BREAK IN COVERAGE.—Paragraph (1) shall no longer apply to an individual if the individual does not have any coverage described in section 101(b)(3)(B)(i) for a continuous period of 60 days, not counting in such period any days that are in a waiting period for any coverage under a group health plan.

(3) PLACED FOR ADOPTION DEFINED.—In this subsection and section 103(e), the term "placement", or being "placed", for adoption, in connection with any placement for adoption of a child with any person, means the assumption and retention by such person of a legal obligation for total or partial support of such child in anticipation of adoption of such child. The child's placement with such person terminates upon the termination of such legal obligation.

(c) EXCLUSION NOT APPLICABLE TO PREGNANCY.—For purposes of this section, pregnancy shall not be treated as a preexisting condition.

(d) ELIGIBILITY PERIOD IMPOSED BY HEALTH MAINTENANCE ORGANIZATIONS AS ALTERNATIVE TO PREEXISTING CONDITION LIMITATION.—A health maintenance organization which offers health insurance coverage in connection with a group health plan and which does not use the preexisting condition limitations allowed under this section and section 101 with respect to any particular coverage option may impose an eligibility period for such coverage option, but only if such period does not exceed—

(1) 60 days, in the case of a participant or beneficiary whose initial coverage commences at the time such participant or beneficiary first becomes eligible for coverage under the plan, or

(2) 90 days, in the case of a participant or beneficiary whose initial coverage commences after the date on which such participant or beneficiary first becomes eligible for coverage.

Such an HMO may use alternative methods, from those described in the previous sentence, to address adverse selection as approved by the applicable State authority. For purposes of this subsection, the term "eligibility period" means a period which, under the terms of the health insurance coverage offered by the health maintenance organization, must expire before the health insurance coverage becomes effective. Any such eligibility period shall be treated for purposes of this subtitle as a waiting period under the plan and shall run concurrently with any other applicable waiting period under the plan.

SEC. 103. PROHIBITING EXCLUSIONS BASED ON HEALTH STATUS AND PROVIDING FOR ENROLLMENT PERIODS.

(a) PROHIBITION OF EXCLUSION OF PARTICIPANTS OR BENEFICIARIES BASED ON HEALTH STATUS.—

(1) IN GENERAL.—A group health plan, and an insurer or HMO offering health insurance coverage in connection with a group health plan, may not exclude an employee or his or her beneficiary from being (or continuing to be) enrolled as a participant or beneficiary under the terms of such plan or coverage based on health status (as defined in section 191(c)(6)).

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing the establishment of preexisting condition limitations and restrictions to the extent consistent with the provisions of this subtitle.

(b) PROHIBITION OF DISCRIMINATION IN PREMIUM CONTRIBUTIONS OF INDIVIDUAL PARTICIPANTS OR BENEFICIARIES BASED ON HEALTH STATUS.—

(1) IN GENERAL.—A group health plan, and an insurer or HMO offering health insurance coverage in connection with a group health plan, may not require a participant or beneficiary to pay a premium or contribution which is greater than such premium or contribution for a similarly situated participant or beneficiary solely on the basis of the health status of the participant or beneficiary.

(2) CONSTRUCTION.—Nothing in this subsection is intended—

(A) to effect the premium rates an insurer or HMO may charge an employer for health insurance coverage provided in connection a group health plan,

(B) to prevent a group health plan (or insurer or HMO in health insurance coverage offered in connection with such a plan) from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention, or

(C) to prevent such a plan, insurer, or HMO from varying the premiums or contributions required of participants or beneficiaries based on factors (such as scope of benefits, geographic area of residence, or wage levels) that are not directly related to health status.

(c) ENROLLMENT OF ELIGIBLE INDIVIDUALS WHO LOSE OTHER COVERAGE.—A group health plan shall permit an uncovered employee who is otherwise eligible for coverage under the terms of the plan (or an uncovered dependent, as defined under the terms of the plan, of such an employee, if family coverage is available) to enroll for coverage under the plan under at least one benefit option if each of the following conditions is met:

(1) The employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or individual.

(2) The employee stated in writing at such time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment.

(3) The employee or dependent lost coverage under a group health plan or health insurance coverage (as a result of loss of eligibility for the coverage, termination of employment, or reduction in the number of hours of employment).

(4) The employee requests such enrollment within 30 days after the date of termination of such coverage.

(d) DEPENDENT BENEFICIARIES.—

(1) IN GENERAL.—If a group health plan makes family coverage available, the plan may not require, as a condition of coverage of an individual as a dependent (as defined under the terms of the plan) of a participant in the plan, a waiting period applicable to the coverage of a dependent who—

(A) is a newborn,

(B) is an adopted child or child placed for adoption (within the meaning of section 102(b)(3)), at the time of adoption or placement, or

(C) is a spouse, at the time of marriage,

if the participant has met any waiting period applicable to that participant.

(2) TIMELY ENROLLMENT.—

(A) IN GENERAL.—Enrollment of a participant's beneficiary described in paragraph (1)

shall be considered to be timely if a request for enrollment is made within 30 days of the date family coverage is first made available or, in the case described in—

(i) paragraph (1)(A), within 30 days of the date of the birth,

(ii) paragraph (1)(B), within 30 days of the date of the adoption or placement for adoption, or

(iii) paragraph (1)(C), within 30 days of the date of the marriage with such a beneficiary who is the spouse of the participant,

if family coverage is available as of such date.

(B) COVERAGE.—If available coverage includes family coverage and enrollment is made under such coverage on a timely basis under subparagraph (A), the coverage shall become effective not later than the first day of the first month beginning 15 days after the date the completed request for enrollment is received.

(e) MULTIEMPLOYER PLANS, MULTIPLE EMPLOYER HEALTH PLANS, AND MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—A group health plan which is a multi-employer plan, a multiple employer health plan (as defined in section 701(4) of the Employee Retirement Income Security Act of 1974), or a multiple employer welfare arrangement (to the extent to which benefits under the arrangement consist of medical care) may not deny an employer whose employees are covered under such a plan or arrangement continued access to the same or different coverage under the terms of such a plan or arrangement, other than—

(1) for nonpayment of contributions,

(2) for fraud or other intentional misrepresentation of material fact by the employer,

(3) for noncompliance with material plan or arrangement provisions,

(4) because the plan or arrangement is ceasing to offer any coverage in a geographic area,

(5) for failure to meet the terms of an applicable collective bargaining agreement, to renew a collective bargaining or other agreement requiring or authorizing contributions to the plan, or to employ employees covered by such an agreement,

(6) in the case of a plan or arrangement to which subparagraph (C), (D), or (E) of section 3(40) of the Employee Retirement Income Security Act of 1974 applies, to the extent necessary to meet the requirements of such subparagraph, or

(7) in the case of a multiple employer health plan (as defined in section 701(4) of such Act), for failure to meet the requirements under part 7 of subtitle B of title I of such Act for exemption under section 514(b)(6)(B) of such Act.

SEC. 104. ENFORCEMENT.

(a) ENFORCEMENT THROUGH COBRA PROVISIONS IN INTERNAL REVENUE CODE.—

(1) APPLICATION OF COBRA SANCTIONS.—Subsection (a) of section 4980B of the Internal Revenue Code of 1986 is amended by striking "the requirements of" and all that follows and inserting "the requirements of—

"(1) subsection (f) with respect to any qualified beneficiary, or

"(2) subject to subsection (h)—

"(A) section 101 or 102 of the Health Coverage Availability and Affordability Act of 1996 with respect to any individual covered under the group health plan, or

"(B) section 103 (other than subsection (e)) of such Act with respect to any individual.".

(2) NOTICE REQUIREMENT.—Section 4980B(f)(6)(A) of such Code is amended by inserting before the period the following: "and subtitle A of title I of the Health Coverage Availability and Affordability Act of 1996".

(3) SPECIAL RULES.—Section 4980B of such Code is amended by adding at the end the following:

"(h) SPECIAL RULES.—For purposes of applying this section in the case of requirements described in subsection (a)(2) relating to section 101, section 102, or section 103 (other than subsection (e)) of the Health Coverage Availability and Affordability Act of 1996—

"(1) IN GENERAL.—

"(A) DEFINITION OF GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term in section 191(a) of the Health Coverage Availability and Affordability Act of 1996.

"(B) QUALIFIED BENEFICIARY.—Subsections (b), (c), and (e) shall be applied by substituting the term 'individual' for the term 'qualified beneficiary' each place it appears.

"(C) NONCOMPLIANCE PERIOD.—Clause (ii) of subsection (b)(2)(B) and the second sentence of subsection (b)(2) shall not apply.

"(D) LIMITATION ON TAX.—Subparagraph (B) of subsection (c)(3) shall not apply.

"(E) LIABILITY FOR TAX.—Paragraph (2) of subsection (e) shall not apply.

"(2) DEFERRAL TO STATE REGULATION.—No tax shall be imposed by this section on any failure to meet the requirements of such section by any entity which offers health insurance coverage and which is an insurer or health maintenance organization (as defined in section 191(c) of the Health Coverage Availability and Affordability Act of 1996) regulated by a State unless the Secretary of Health and Human Services has made the determination described in section 104(c)(2) of such Act with respect to such State, section, and entity.

"(3) LIMITATION FOR INSURED PLANS.—In the case of a group health plan of a small employer (as defined in section 191 of the Health Coverage Availability and Affordability Act of 1996) that provides health care benefits solely through a contract with an insurer or health maintenance organization (as defined in such section), no tax shall be imposed by this section upon the employer on a failure to meet such requirements if the failure is solely because of the product offered by the insurer or organization under such contract.

"(4) LIMITATION ON IMPOSITION OF TAX.—In no case shall a tax be imposed by this section for a failure to meet such a requirement if—

"(A) a civil money penalty has been imposed by the Secretary of Labor under part 5 of subtitle A of title I of the Employee Retirement Income Security Act of 1974 with respect to such failure, or

"(B) a civil money penalty has been imposed by the Secretary of Health and Human Services under section 104(c) of the Health Coverage Availability and Affordability Act of 1996 with respect to such failure.".

(b) ENFORCEMENT THROUGH ERISA SANCTIONS FOR CERTAIN GROUP HEALTH PLANS.—

(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, sections 101 through 103 of this subtitle (and subtitle D insofar as it is applicable to such sections) shall be deemed to be provisions of title I of the Employee Retirement Income Security Act of 1974 for purposes of applying such title.

(2) FEDERAL ENFORCEMENT ONLY IF NO ENFORCEMENT THROUGH STATE.—The Secretary of Labor shall enforce each section referred to in paragraph (1) with respect to any entity which is an insurer or health maintenance organization regulated by a State only if the Secretary of Labor determines that such State has not provided for enforcement of State laws which govern the same matters as are governed by such section and which require compliance by such entity with at least the same requirements as those provided under such section.

(3) LIMITATIONS ON LIABILITY.—

(A) NO APPLICATION WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No liability shall be imposed under this subsection on the basis of any failure during any period for which it is established to the satisfaction of the Secretary of Labor that none of the persons against whom the liability would be imposed knew, or exercising reasonable diligence would have known, that such failure existed.

(B) NO APPLICATION WHERE FAILURE CORRECTED WITHIN 30 DAYS.—No liability shall be imposed under this subsection on the basis of any failure if such failure was due to reasonable cause and not to willful neglect, and such failure is corrected during the 30-day period beginning on the first day any of the persons against whom the liability would be imposed knew, or exercising reasonable diligence would have known, that such failure existed.

(4) AVOIDING DUPLICATION OF CERTAIN PENALTIES.—In no case shall a civil money penalty be imposed under the authority provided under paragraph (1) for a violation of this subtitle for which an excise tax has been imposed under section 4980B of the Internal Revenue Code of 1986 or a civil money penalty imposed under subsection (c).

(c) ENFORCEMENT THROUGH CIVIL MONEY PENALTIES.—

(1) IMPOSITION.—

(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, any group health plan, insurer, or organization that fails to meet a requirement of this subtitle (other than section 103(e)) is subject to a civil money penalty under this section.

(B) LIABILITY FOR PENALTY.—Rules similar to the rules described in section 4980B(e) of the Internal Revenue Code of 1986 for liability for a tax imposed under section 4980B(a) of such Code shall apply to liability for a penalty imposed under subparagraph (A).

(C) AMOUNT OF PENALTY.—

(i) IN GENERAL.—The maximum amount of penalty imposed under this paragraph is $100 for each day for each individual with respect to which such a failure occurs.

(ii) CONSIDERATIONS IN IMPOSITION.—In determining the amount of any penalty to be assessed under this paragraph, the Secretary of Health and Human Services shall take into account the previous record of compliance of the person being assessed with the applicable requirements of this subtitle, the gravity of the violation, and the overall limitations for unintentional failures provided under section 4980B(c)(4) of the Internal Revenue Code of 1986.

(iii) LIMITATIONS.—

(I) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No civil money penalty shall be imposed under this paragraph on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons against whom the penalty would be imposed knew, or exercising reasonable diligence would have known, that such failure existed.

(II) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No civil money penalty shall be imposed under this paragraph on any failure if such failure was due to reasonable cause and not to willful neglect, and such failure is corrected during the 30-day period beginning on the first day

any of the persons against whom the penalty would be imposed knew, or exercising reasonable diligence would have known, that such failure existed.

(D) ADMINISTRATIVE REVIEW.—

(i) OPPORTUNITY FOR HEARING.—The person assessed shall be afforded an opportunity for hearing by the Secretary upon request made within 30 days after the date of the issuance of a notice of assessment. In such hearing the decision shall be made on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested, the assessment shall constitute a final and unappealable order.

(ii) HEARING PROCEDURE.—If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within 30 days after the date of the decision of the judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subparagraph (D).

(E) JUDICIAL REVIEW.—

(i) FILING OF ACTION FOR REVIEW.—Any person against whom an order imposing a civil money penalty has been entered after an agency hearing under this paragraph may obtain review by the United States district court for any district in which such person is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within 30 days from the date of such order, and simultaneously sending a copy of such notice be registered mail to the Secretary.

(ii) CERTIFICATION OF ADMINISTRATIVE RECORD.—The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed.

(iii) STANDARD FOR REVIEW.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

(iv) APPEAL.—Any final decision, order, or judgment of such district court concerning such review shall be subject to appeal as provided in chapter 83 of title 28 of such Code.

(F) FAILURE TO PAY ASSESSMENT; MAINTENANCE OF ACTION.—

(i) FAILURE TO PAY ASSESSMENT.—If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General who shall recover the amount assessed by action in the appropriate United States district court.

(ii) NONREVIEWABILITY.—In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(G) PAYMENT OF PENALTIES.—Except as otherwise provided, penalties collected under this paragraph shall be paid to the Secretary (or other officer) imposing the penalty and shall be available without appropriation and until expended for the purpose of enforcing the provisions with respect to which the penalty was imposed.

(2) FEDERAL ENFORCEMENT ONLY IF NO ENFORCEMENT THROUGH STATE.—Paragraph (1) shall apply to enforcement of the requirements of section 101, 102, or 103 (other than section 103(e)) with respect to any entity which offers health insurance coverage and which is an insurer or HMO regulated by a State only if the Secretary of Health and Human Services has determined that such State has not provided for enforcement of State laws which govern the same matters as are governed by such section and which require compliance by such entity with at least the same requirements as those provided under such section.

(3) NONDUPLICATION OF SANCTIONS.—In no case shall a civil money penalty be imposed under this subsection for a violation of this subtitle for which an excise tax has been imposed under section 4980B of the Internal Revenue Code of 1986 or for which a civil money penalty has been imposed under the authority provided under subsection (b).

(d) COORDINATION IN ADMINISTRATION.—The Secretaries of the Treasury, Labor, and Health and Human Services shall issue regulations that are nonduplicative to carry out this subtitle. Such regulations shall be issued in a manner that assures coordination and nonduplication in their activities under this subtitle.

Subtitle B—Certain Requirements for Insurers and HMOs in the Group and Individual Markets

PART 1—AVAILABILITY OF GROUP HEALTH INSURANCE COVERAGE

SEC. 131. GUARANTEED AVAILABILITY OF GENERAL COVERAGE IN THE SMALL GROUP MARKET.

(a) ISSUANCE OF COVERAGE.—

(1) IN GENERAL.—Subject to the succeeding subsections of this section, each insurer or HMO that offers health insurance coverage in the small group market in a State—

(A) must accept every small employer in the State that applies for such coverage; and

(B) must accept for enrollment under such coverage every eligible individual (as defined in paragraph (2)) who applies for enrollment during the initial period in which the individual first becomes eligible for coverage under the group health plan and may not place any restriction which is inconsistent with section 103(a) on an individual being a participant or beneficiary so long as such individual is an eligible individual.

(2) ELIGIBLE INDIVIDUAL DEFINED.—In this section, the term "eligible individual" means, with respect to an insurer or HMO that offers health insurance coverage to any small employer in the small group market, such an individual in relation to the employer as shall be determined—

(A) in accordance with the terms of such plan,

(B) as provided by the insurer or HMO under rules of the insurer or HMO which are uniformly applicable, and

(C) in accordance with all applicable State laws governing such insurer or HMO.

(b) SPECIAL RULES FOR NETWORK PLANS AND HMOS.—

(1) IN GENERAL.—In the case of an insurer that offers health insurance coverage in the small group market through a network plan and in the case of an HMO that offers health insurance coverage in connection with such a plan, the insurer or HMO may—

(A) limit the employers that may apply for such coverage to those with eligible individuals whose place of employment or residence is in the service area for such plan or HMO;

(B) limit the individuals who may be enrolled under such coverage to those whose place of residence or employment is within the service area for such plan or HMO; and

(C) within the service area of such plan or HMO, deny such coverage to such employers if the insurer or HMO demonstrates that—

(i) it will not have the capacity to deliver services adequately to enrollees of any additional groups because of its obligations to existing group contract holders and enrollees, and

(ii) it is applying this paragraph uniformly to all employers without regard to the claims experience of those employers and their employees (and their beneficiaries) or the health status of such employees and beneficiaries.

(2) 180-DAY SUSPENSION UPON DENIAL OF COVERAGE.—An insurer or HMO, upon denying health insurance coverage in any service area in accordance with paragraph (1)(C), may not offer coverage in the small group market within such service area for a period of 180 days after such coverage is denied.

(c) SPECIAL RULE FOR FINANCIAL CAPACITY LIMITS.—

(1) IN GENERAL.—An insurer or HMO may deny health insurance coverage in the small group market if the insurer or HMO demonstrates to the applicable State authority that—

(A) it does not have the financial reserves necessary to underwrite additional coverage, and

(B) it is applying this paragraph uniformly to all employers without regard to the claims experience or duration of coverage of those employers and their employees (and their beneficiaries) or the health status of such employees and beneficiaries.

(2) 180-DAY SUSPENSION UPON DENIAL OF COVERAGE.—An insurer or HMO upon denying health insurance coverage in connection with group health plans in any service area in accordance with paragraph (1) may not offer coverage in connection with group health plans in the small group market within such service area for a period of 180 days after such coverage is denied.

(d) EXCEPTION TO REQUIREMENT FOR ISSUANCE OF COVERAGE BY REASON OF FAILURE BY PLAN TO MEET CERTAIN MINIMUM PARTICIPATION OR CONTRIBUTION RULES.—

(1) IN GENERAL.—Subsection (a) shall not apply in the case of any group health plan with respect to which—

(A) participation rules of an insurer or HMO which are described in paragraph (2) are not met, or

(B) contribution rules of an insurer or HMO which are described in paragraph (3) are not met.

(2) PARTICIPATION RULES.—For purposes of paragraph (1)(A), participation rules (if any) of an insurer or HMO shall be treated as met with respect to a group health plan only if such rules are uniformly applicable and in accordance with applicable State law and the number or percentage of eligible individuals who, under the plan, are participants or beneficiaries equals or exceeds a level which is determined in accordance with such rules.

(3) CONTRIBUTION RULES.—For purposes of paragraph (1)(B), contribution rules (if any) of an insurer or HMO shall be treated as met with respect to a group health plan only if such rules are in accordance with applicable State law.

SEC. 132. GUARANTEED RENEWABILITY OF GROUP COVERAGE.

(a) IN GENERAL.—Except as provided in this section, if an insurer or health maintenance organization offers health insurance coverage in the small or large group market, the insurer or organization must renew or continue in force such coverage at the option of the employer.

(b) GENERAL EXCEPTIONS.—An insurer or organization may nonrenew or discontinue health insurance coverage offered an employer based only on one or more of the following:

(1) NONPAYMENT OF PREMIUMS.—The employer has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the insurer or organization has not received timely premium payments.

(2) FRAUD.—The employer has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

(3) VIOLATION WITH PARTICIPATION OR CONTRIBUTION RULES.—The employer has failed to comply with a material plan provision relating to participation or contribution rules in accordance with section 131(d).

(4) TERMINATION OF PLAN.—Subject to subsection (c), the insurer or organization is ceasing to offer coverage in the small or large group market in a State (or, in the case of a network plan or HMO, in a geographic area).

(5) MOVEMENT OUTSIDE SERVICE AREA.—The employer has changed the place of employment in such manner that employees and dependents reside and are employed outside the service area of the insurer or organization or outside the area for which the insurer or organization is authorized to do business.

Paragraph (5) shall apply to an insurer or HMO only if it is applied uniformly without regard to the claims experience of employers and their employees (and their beneficiaries) or the health status of such employees and beneficiaries.

(c) EXCEPTIONS FOR UNIFORM TERMINATION OF COVERAGE.—

(1) PARTICULAR TYPE OF COVERAGE NOT OFFERED.—In any case in which a insurer or HMO decides to discontinue offering a particular type of health insurance coverage in the small or large group market, coverage of such type may be discontinued by the insurer or organization only if—

(A) the insurer or organization provides notice to each employer provided coverage of this type in such market (and participants and beneficiaries covered under such coverage) of such discontinuation at least 90 days prior to the date of the discontinuation of such coverage;

(B) the insurer or organization offers to each employer in the small employer or large employer market provided coverage of this type, the option to purchase any other health insurance coverage currently being offered by the insurer or organization for employers in such market; and

(C) in exercising the option to discontinue coverage of this type and in offering one or more replacement coverage, the insurer or organization acts uniformly without regard to the health status or insurability of participants or beneficiaries covered or new participants or beneficiaries who may become eligible for such coverage.

(2) DISCONTINUANCE OF ALL COVERAGE.—

(A) IN GENERAL.—Subject to subparagraph (C), in any case in which an insurer or HMO elects to discontinue offering all health insurance coverage in the small group market or the large group market, or both markets, in a State, health insurance coverage may be discontinued by the insurer or organization only if—

(i) the insurer or organization provides notice to the applicable State authority and to each employer (and participants and beneficiaries covered under such coverage) of such discontinuation at least 180 days prior to the date of the expiration of such coverage, and

(ii) all health insurance issued or delivered for issuance in the State in such market (or markets) are discontinued and coverage under such health insurance coverage in such market (or markets) is not renewed.

(B) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under subparagraph (A) in one or both markets, the insurer or organization may not provide for the issuance of any health insurance coverage in the market and State involved during the 5-year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.

(d) EXCEPTION FOR UNIFORM MODIFICATION OF COVERAGE.—At the time of coverage renewal, an insurer or HMO may modify the coverage offered to a group health plan in the group health market so long as such modification is effective on a uniform basis among group health plans with that type of coverage.

PART 2—AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE

SEC. 141. GUARANTEED AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE TO CERTAIN INDIVIDUALS WITH PRIOR GROUP COVERAGE.

(a) GOALS.—The goals of this section are—

(1) to guarantee that any qualifying individual (as defined in subsection (b)(1)) is able to obtain qualifying coverage (as defined in subsection (b)(2)); and

(2) to assure that qualifying individuals obtaining such coverage receive credit for their prior coverage toward the new coverage's preexisting condition exclusion period (if any) in a manner consistent with subsection (b)(3).

(b) QUALIFYING INDIVIDUAL AND HEALTH INSURANCE COVERAGE DEFINED.—In this section—

(1) QUALIFYING INDIVIDUAL.—The term "qualifying individual" means an individual—

(A)(i) for whom, as of the date on which the individual seeks coverage under this section, the aggregate of the qualified coverage periods (as defined in section 101(b)(3)(B)) is 18 or more months and (ii) whose most recent prior coverage was under a group health plan, governmental plan, or church plan (or health insurance coverage offered in connection with any such plan);

(B) who is not eligible for coverage under (i) a group health plan, (ii) part A or part B of title XVIII of the Social Security Act, or (iii) a State plan under title XIX of such Act (or any successor program), and does not have individual health insurance coverage;

(C) with respect to whom the most recent coverage within the coverage period described in subparagraph (A)(i) was not terminated based on a factor described in paragraph (1) or (2) of section 132(b);

(D) if the individual had been offered the option of continuation coverage under a COBRA continuation provision or under a similar State program, who elected such coverage; and

(E) who, if the individual elected such continuation coverage, has exhausted such continuation coverage.

In applying subparagraph (A)(i), the reference in section 101(b)(3)(B)(ii) to a 60-day break in coverage is deemed a reference to a 60-day break in any coverage described in section 101(b)(3)(B)(i).

(2) QUALIFYING COVERAGE.—

(A) IN GENERAL.—The term "qualifying coverage" means, with respect to an insurer or HMO in relation to an qualifying individual, individual health insurance coverage for which the actuarial value of the benefits is not less than—

(i) the weighted average actuarial value of the benefits provided by all the individual health insurance coverage issued by the insurer or HMO in the State during the previous year (not including coverage issued under this section), or

(ii) the weighted average of the actuarial value of the benefits provided by all the individual health insurance coverage issued by all insurers and HMOs in the State during the previous year (not including coverage issued under this section),

as elected by the plan or by the State under subsection (c)(1).

(B) ASSUMPTIONS.—For purposes of subparagraph (A), the actuarial value of benefits provided under individual health insurance coverage shall be calculated based on a standardized population and a set of standardized utilization and cost factors.

(3) CREDITING FOR PREVIOUS COVERAGE.—Crediting is consistent with this paragraph only if any preexisting condition exclusion period is reduced at least to the extent such a period would be reduced if the coverage under this section were under a group health plan to which section 101(a) applies. In carrying out this subsection, provisions similar to the provisions of section 101(c) shall apply.

(c) OPTIONAL STATE ESTABLISHMENT OF MECHANISMS TO ACHIEVE GOALS OF GUARANTEEING AVAILABILITY OF COVERAGE.—

(1) IN GENERAL.—Any State may establish, to the extent of the State's authority, public or private mechanisms reasonably designed to meet the goals specified in subsection (a). If a State implements such a mechanism by the deadline specified in paragraph (4), the State may elect to have such mechanisms apply instead of having subsection (d)(3) apply in the State. An election under this paragraph shall be by notice from the chief executive officer of the State to the Secretary of Health and Human Services on a timely basis consistent with the deadlines specified in paragraph (4). In establishing what is qualifying coverage under such a mechanism under this subsection, a State may exercise the election described in subsection (b)(2)(A) with respect to each insurer or HMO in the State (or on a collective basis after exercising such election for each such insurer or HMO).

(2) TYPES OF MECHANISMS.—State mechanisms under this subsection may include one or more (or a combination) of the following:

(A) Health insurance coverage pools or programs authorized or established by the State.

(B) Mandatory group conversion policies.

(C) Guaranteed issue of one or more plans of individual health insurance coverage to qualifying individuals.

(D) Open enrollment by one or more insurers or HMOs.

The mechanisms described in the previous sentence are not an exclusive list of the mechanisms (or combinations of mechanisms) that may be used under this subsection.

(3) SAFE HARBOR FOR BENEFITS UNDER CURRENT RISK POOLS.—In the case of a State that has a health insurance coverage pool or risk pool in effect on March 12, 1996, and that implements the mechanism described in paragraph (2)(A), the benefits under such mechanism (or benefits the actuarial value of which is not less than the actuarial value of such current benefits, using the assumptions described in subsection (b)(2)(B)) are deemed, for purposes of this section, to constitute qualified coverage.

(4) DEADLINE FOR STATE IMPLEMENTATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the deadline under this paragraph is July 1, 1997.

(B) EXTENSION TO PERMIT LEGISLATION.—The deadline under this paragraph is July 1, 1998, in the case of a State the legislature of which does not have a regular legislative session at any time between January 1, 1997, and June 30, 1997.

(C) CONSTRUCTION.—Nothing in this section shall be construed as preventing a State from—

(i) implementing guaranteed availability mechanisms before the deadline,

(ii) continuing in effect mechanisms that are in effect before the date of the enactment of this Act,

(iii) offering guaranteed availability of coverage that is not qualifying coverage, or

(iv) offering guaranteed availability of coverage to individuals who are not qualifying individuals.

(d) FALLBACK PROVISIONS.—

(1) NO STATE ELECTION.—If a State has not provided notice to the Secretary of an election on a timely basis under subsection (c), the Secretary shall notify the State that paragraph (3) will be applied in the State.

(2) PRELIMINARY DETERMINATION AFTER STATE ELECTION.—If—

(A) a State has provided notice of an election on a timely basis under subsection (c), and

(B) the Secretary finds, after consultation with the chief executive officer of the State and the insurance commissioner or chief insurance regulatory official of the State, that such a mechanism (for which notice was provided) is not reasonably designed to meet the goals specified in subsection (a),

the Secretary shall notify the State of such preliminary determination, of the consequences under paragraph (3) of a failure to implement such a mechanism, and permit the State a reasonable opportunity in which to modify the mechanism (or to adopt another mechanism) that is reasonably designed to meet the goals specified in subsection (a). The Secretary shall not make such a determination on any basis other than the basis described in subparagraph (B). If, after providing such notice and opportunity, the Secretary finds that the State has not implemented such a mechanism, the Secretary shall notify the State that paragraph (3) will be applied in the State.

(3) DESCRIPTION OF FALLBACK MECHANISM.—As provided under paragraphs (1) and (2) and subject to paragraph (5), each insurer or HMO in the State involved that issues individual health insurance coverage—

(A) shall offer qualifying health insurance coverage, in which qualifying individuals obtaining such coverage receive credit for their prior coverage toward the new coverage's preexisting condition exclusion period (if any) in a manner consistent with subsection (b)(3), to each qualifying individual in the State, and

(B) may not decline to issue such coverage to such an individual based on health status (except as permitted under paragraph (4)).

(4) APPLICATION OF NETWORK AND CAPACITY LIMITS.—Under regulations, the provisions of subsections (b) and (c) of section 131 shall apply to an individual in the individual health insurance market under this subsection in the same manner as they apply under section 131 to an employer in the small group market.

(5) TERMINATION OF FALLBACK MECHANISM.—The provisions of this subsection shall cease to apply to a State if the Secretary finds that a State has implemented a mechanism that is reasonably designed to meet the goals specified in subsection (a), and until the Secretary finds that such mechanism is no longer being implemented.

(e) CONSTRUCTION.—

(1) PREMIUMS.—Nothing in this section shall be construed to affect the determination of an insurer or HMO as to the amount of the premium payable under an individual health insurance coverage under applicable state law.

(2) MARKET REQUIREMENTS.—

(A) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that an insurer or HMO offering health insurance coverage only in connection with a group health plan or an association offer individual health insurance coverage.

(B) CONVERSION POLICIES.—An insurer or HMO offering health insurance coverage in connection with a group health plan under subtitle A shall not be deemed to be an insurer or HMO offering an individual health insurance coverage solely because such insurer or HMO offers a conversion policy.

(3) DISREGARD OF ASSOCIATION COVERAGE.—An insurer or HMO that offers health insurance coverage only in connection with a group health plan or in connection with individuals based on affiliation with one or more bona fide associations is not considered, for purposes of this subtitle, to be offering individual health insurance coverage.

(4) MARKETING OF PLANS.—Nothing in this section shall be construed to prevent a State from requiring insurer or HMOs offering individual health insurance coverage to actively market such coverage.

SEC. 142. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE.

(a) GUARANTEED RENEWABILITY.—Subject to the succeeding provisions of this section, an insurer or HMO that provides individual health insurance coverage to an individual shall renew or continue such coverage at the option of the individual.

(b) NONRENEWAL PERMITTED IN CERTAIN CASES.—An insurer or HMO may nonrenew or discontinue individual health insurance coverage of an individual only based on one or more of the following:

(1) NONPAYMENT.—The individual fails to pay payment of premiums or contributions in accordance with the terms of the coverage or the insurer or organization has not failed to receive timely premium payments.

(2) FRAUD.—The individual has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

(3) TERMINATION OF COVERAGE.—Subject to subsection (c), the insurer or HMO is ceasing to offer health insurance coverage in the individual market in a State (or, in the case of a network plan or HMO, in a geographic area).

(4) MOVEMENT OUTSIDE SERVICE AREA.—The individual has changed residence and resides outside the service area of the insurer or organization or outside the area for which the insurer or organization is authorized to do business.

Paragraph (4) shall apply to an insurer or HMO only if it is applied uniformly without regard to the claims experience of employers and their employees (and their beneficiaries) or the health status of such employees and beneficiaries.

(c) TERMINATION OF INDIVIDUAL COVERAGE.—The provisions of section 132(c) shall apply to this section in the same manner as they apply under section 132, except that any reference to an employer or market is deemed a reference to the covered individual or the individual market, respectively.

(d) EXCEPTION FOR UNIFORM MODIFICATION OF COVERAGE.—The provisions of section 132(d) shall apply to individual health insurance coverage in the individual market under this section in the same manner as it applies to health insurance coverage offered in connection with a group health plan in the group market under such section.

PART 3—ENFORCEMENT

SEC. 151. INCORPORATION OF PROVISIONS FOR STATE ENFORCEMENT WITH FEDERAL FALLBACK AUTHORITY.

The provisions of paragraphs (1) and (2) of section 104(c) shall apply to enforcement of requirements in each section in part 1 or part 2 with respect to insurers and HMOs regulated by a State in the same manner as such provisions apply to enforcement of requirements in section 101, 102, or 103 with respect to insurers and HMOs regulated by a State.

Subtitle C—Affordable and Available Health Coverage Through Multiple Employer Pooling Arrangements

SEC. 161. CLARIFICATION OF DUTY OF THE SECRETARY OF LABOR TO IMPLEMENT PROVISIONS OF CURRENT LAW PROVIDING FOR EXEMPTIONS AND SOLVENCY STANDARDS FOR MULTIPLE EMPLOYER HEALTH PLANS.

(a) RULES GOVERNING REGULATION OF MULTIPLE EMPLOYER HEALTH PLANS.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by the preceding provisions of this title) is amended by inserting after part 6 the following new part:

"PART 7—RULES GOVERNING REGULATION OF MULTIPLE EMPLOYER HEALTH PLANS

"SEC. 701. DEFINITIONS.

"For purposes of this part—

"(1) FULLY INSURED.—A particular benefit under a group health plan or a multiple employer welfare arrangement is 'fully insured' if such benefit (irrespective of any recourse available against other parties) is provided by an insurer or a health maintenance organization in a manner so that such benefit constitutes insurance regulated by the law of a State (within the meaning of section 514(b)(2)(A)).

"(2) INSURER.—The term 'insurer' means an insurance company, insurance service, or insurance organization which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance (within the meaning of section 514(b)(2)(A)).

"(3) HEALTH MAINTENANCE ORGANIZATION.—The terms 'health maintenance organization' means—

"(A) a Federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act (42 U.S.C. 300e(a))),

"(B) an organization recognized under State law as a health maintenance organization, or

"(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization,

if it is subject to State law which regulates insurance (within the meaning of section 514(b)(2)(A)).

"(4) MULTIPLE EMPLOYER HEALTH PLAN.—The term 'multiple employer health plan' means a multiple employer welfare arrangement which provides medical care and which is or has been exempt under section 514(b)(6)(B).

"(5) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with a multiple employer welfare arrangement, any employer if any of its employees, or any of the individuals who are dependents (as defined under the terms of the arrangement) of its employees, are or were covered under such arrangement in connection with the employment of the employees.

"(6) SPONSOR.—The term 'sponsor' means, in connection with a multiple employer welfare arrangement, the association or other entity which establishes or maintains the arrangement.

"(7) STATE INSURANCE COMMISSIONER.—The term 'State insurance commissioner' means the insurance commissioner (or similar official) of a State.

"SEC. 702. CLARIFICATION OF DUTY OF THE SECRETARY TO IMPLEMENT PROVISIONS OF CURRENT LAW PROVIDING FOR EXEMPTIONS AND SOLVENCY STANDARDS FOR MULTIPLE EMPLOYER HEALTH PLANS.

"(a) TREATMENT AS EMPLOYEE WELFARE BENEFIT PLAN WHICH IS A GROUP HEALTH PLAN.—

"(1) IN GENERAL.—A multiple employer welfare arrangement—

"(A) under which the benefits consist solely of medical care (disregarding such incidental benefits as the Secretary shall specify by regulation), and

"(B) under which some or all benefits are not fully insured,

shall be treated for purposes of subtitle A and the other parts of this title as an employee welfare benefit plan which is a group health plan if the arrangement is exempt under section 514(b)(6)(B) in accordance with this part.

"(2) EXCEPTION.—In the case of a multiple employer welfare arrangement which would be described in section 3(40)(A)(i) but solely for the failure to meet the requirements of section 3(40)(C)(ii), paragraph (1) shall apply with respect to such arrangement, but only with respect to benefits provided thereunder which constitute medical care.

"(b) TREATMENT UNDER PREEMPTION RULES.—

"(1) IN GENERAL.—The Secretary shall prescribe regulations described in section 514(b)(6)(B)(i), applicable to multiple employer welfare arrangements described in subparagraphs (A) and (B) of subsection (a)(1), providing a procedure for granting exemptions from section 514(b)(6)(A)(ii) with respect to such arrangements. Under such regulations, any such arrangement treated under subsection (a) as an employee welfare benefit plan shall be deemed to be an arrangement described in section 514(b)(6)(B)(ii).

"(2) STANDARDS.—Under the procedure prescribed pursuant to paragraph (1), the Secretary shall grant an arrangement described in subsection (a) an exemption described in subsection (a) only if the Secretary finds that—

"(A) such exemption—

"(i) is administratively feasible,

"(ii) is not adverse to the interests of the individuals covered under the arrangement, and

"(iii) is protective of the rights and benefits of the individuals covered under the arrangement,

"(B) the application for the exemption meets the requirements of paragraph (3), and

"(C) the requirements of sections 703 and 704 are met with respect to the arrangement.

"(3) INFORMATION TO BE INCLUDED IN APPLICATION FOR EXEMPTION.—An application for an exemption described in subsection (a) meets the requirements of this paragraph only if it includes, in a manner and form prescribed in regulations of the Secretary, at least the following information:

"(A) IDENTIFYING INFORMATION.—The names and addresses of—

"(i) the sponsor, and

"(ii) the members of the board of trustees of the arrangement.

"(B) STATES IN WHICH ARRANGEMENT INTENDS TO DO BUSINESS.—The States in which individuals covered under the arrangement are to be located and the number of such individuals expected to be located in each such State.

"(C) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

"(D) PLAN DOCUMENTS.—A copy of the documents governing the arrangement (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits and coverage that will be provided to individuals covered under the arrangement.

"(E) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the arrangement and contract administrators and other service providers.

"(F) FUNDING REPORT.—A report setting forth information determined as of a date within the 120-day period ending with the date of the application, including the following:

"(i) RESERVES.—A statement, certified by the board of trustees of the arrangement, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 705 are or will be met in accordance with regulations which the Secretary shall prescribe.

"(ii) ADEQUACY OF CONTRIBUTION RATES.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the arrangement for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the arrangement. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

"(iii) CURRENT AND PROJECTED VALUE OF ASSETS AND LIABILITIES.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the arrangement and a projection of the assets, liabilities, income, and expenses of the arrangement for the 12-month period referred to in clause (ii). The income statement shall identify separately the arrangement's administrative expenses and claims.

"(iv) COSTS OF COVERAGE TO BE CHARGED AND OTHER EXPENSES.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the arrangement.

"(v) OTHER INFORMATION.—Any other information which may be prescribed in regulations of the Secretary as necessary to carry out the purposes of this part.

"(4) FILING FEE.—Under the procedure prescribed pursuant to paragraph (1), a multiple employer welfare arrangement shall pay to the Secretary at the time of filing an application for an exemption referred to in subsection (a) a filing fee in the amount of $5,000, which shall be available, to the extent provided in appropriation Acts, to the Secretary for the sole purpose of administering the exemption procedures applicable with respect to such arrangement.

"(5) CLASS EXEMPTION TREATMENT FOR EXISTING LARGE ARRANGEMENTS.—Under the procedure prescribed pursuant to paragraph (1), if—

"(A) at the time of application for an exemption under section 514(b)(6)(B) with respect to an arrangement which has been in existence as of the date of the enactment of the Health Coverage Availability and Affordability Act of 1996 for at least 3 years, either (A) the arrangement covers at least 1,000 participants and beneficiaries, or (B) with respect to the arrangement there are at least 2,000 employees of eligible participating employers,

"(B) a complete application for the exemption with respect to the arrangement has been filed and is pending, and

"(C) the application meets such requirements (if any) as the Secretary may provide with respect to class exemptions under this subsection,

the exemption shall be treated as having been granted with respect to the arrangement unless and until the Secretary provides appropriate notice that the exemption has been denied.

"(c) FILING NOTICE OF EXEMPTION WITH STATES.—An exemption granted under section 514(b)(6)(B) to a multiple employer welfare arrangement shall not be effective unless written notice of such exemption is filed with the State insurance commissioner of each State in which at least 5 percent of the individuals covered under the arrangement are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed. The Secretary may by regulation provide in specified cases for the application of the preceding sentence with lesser percentages in lieu of such 5 percent amount.

"(d) NOTICE OF MATERIAL CHANGES.—In the case of any multiple employer welfare arrangement exempt under section 514(b)(6)(B), descriptions of material changes in any information which was required to be submitted with the application for the exemption under this part shall be filed in such form and manner as shall be prescribed in regulations of the Secretary. The Secretary may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the exemption.

"(e) REPORTING REQUIREMENTS.—Under regulations of the Secretary, the requirements of sections 102, 103, and 104 shall apply with respect to any multiple employer welfare arrangement which is or has been exempt under section 514(b)(6)(B) in the same manner and to the same extent as such requirements apply to employee welfare benefit plans, irrespective of whether such exemption continues in effect. The annual report required under section 103 for any plan year in the case of any such multiple employer welfare arrangement shall also include information described in subsection (b)(3)(F) with respect to the plan year and, notwithstanding section 104(a)(1)(A), shall be filed not later than 90 days after the close of the plan year.

"(f) ENGAGEMENT OF QUALIFIED ACTUARY.—The board of trustees of each multiple employer welfare arrangement which is or has

been exempt under section 514(b)(6)(B) shall engage, on behalf of all covered individuals, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

"(1) are in the aggregate reasonably related to the experience of the arrangement and to reasonable expectations, and

"(2) represent such actuary's best estimate of anticipated experience under the arrangement.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

"SEC. 703. REQUIREMENTS RELATING TO SPONSORS, BOARDS OF TRUSTEES, AND PLAN OPERATIONS.

"(a) IN GENERAL.—A complete application for an exemption under section 514(b)(6)(B) shall include information which the Secretary determines to be complete and accurate and sufficient to demonstrate that the following requirements are met with respect to the arrangement:

"(1) SPONSOR.—The sponsor is, and has been (together with its immediate predecessor, if any) for a continuous period of not less than 5 years before the date of the application, organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a trade association, an industry association, a professional association, or a chamber of commerce (or similar business group, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care (within the meaning of section 607(1)), and the applicant demonstrates to the satisfaction of the Secretary that the sponsor is established as a permanent entity which receives the active support of its members and collects dues or contributions from its members on a periodic basis, without conditioning such dues or contributions on the basis of the health status of the employees of such members or the dependents of such employees or on the basis of participation in a group health plan. Any sponsor consisting of an association of entities meeting the preceding requirements of this paragraph shall be treated as meeting the requirements of this paragraph.

"(2) BOARD OF TRUSTEES.—The arrangement is operated, pursuant to a trust agreement, by a board of trustees which has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement, and the board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the arrangement and to meet all requirements of this title applicable to the arrangement. The members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business. No such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the arrangement, except that officers or employees of a sponsor which is a service provider (other than a contract administrator) to the arrangement may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the arrangement other than on behalf of the sponsor. The board has sole authority to approve applications for participation in the arrangement and to contract with a service provider to administer the day-to-day affairs of the arrangement.

"(3) COVERED PERSONS.—The instruments governing the arrangement include a written instrument which provides that, effective upon becoming an arrangement exempt under section 514(b)(6)(B)—

"(A) all participating employers must be members or affiliated members of the sponsor, except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or affiliated member of the sponsor, participating employers may also include such employer,

"(B) all individuals thereafter commencing coverage under the arrangement must be—

"(i) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers, or

"(ii) the beneficiaries of individuals described in clause (i), and

"(C) no participating employer may provide health insurance coverage in the individual market for any employee not covered under the arrangement which is similar to the coverage contemporaneously provided to employees of the employer under the arrangement, if such exclusion of the employee from coverage under the arrangement is based in whole or in part on the health status of the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the arrangement.

"(4) INCLUSION OF ELIGIBLE EMPLOYERS AND EMPLOYEES.—No employer described in paragraph (3) is excluded as a participating employer (except to the extent that requirements of the type referred to in section 131(d)(2) of the Health Coverage Availability and Affordability Act of 1996 are not met) and the requirements of section 103 of such Act (as referred to in section 104(b)(1) of such Act) are met.

"(5) RESTRICTION ON VARIATIONS OF PREMIUM RATES.—Premium rates under the arrangement with respect to any particular employer do not vary on the basis of the claims experience of such employer alone.

"(b) TREATMENT OF FRANCHISE NETWORKS.—In the case of a multiple employer welfare arrangement which is established and maintained by a franchisor for a franchise network consisting of its franchisees, the requirements of subsection (a)(1) shall not apply with respect to such network in any case in which such requirements would be met if the franchisor were deemed to be the sponsor referred to in subsection (a)(1), such network were deemed to be an association described in subsection (a)(1), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in subsection (a)(1).

"(c) CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.—In the case of a multiple employer welfare arrangement in existence on March 6, 1996, which would be described in section 3(40)(A)(i) but solely for the failure to meet the requirements of section 3(40)(C)(ii) or (to the extent provided in regulations of the Secretary) solely for the failure to meet the requirements of subparagraph (D) or (F) of section 3(40)—

"(1) subsection (a)(1) shall not apply, and

"(2) the joint board of trustees shall be considered the board of trustees required under subsection (a)(2).

"(d) CERTAIN ARRANGEMENTS NOT MEETING SINGLE EMPLOYER REQUIREMENT.—

"(1) IN GENERAL.—In any case in which the majority of the employees covered under a multiple employer welfare arrangement are employees of a single employer (within the meaning of clauses (i) and (ii) of section 3(40)(B)), if all other employees covered under the arrangement are employed by employers who are related to such single employer—

"(A) subsection (a)(1) shall not apply if the sponsor of the arrangement is the person who would be the plan sponsor if the related employers were disregarded in determining whether the requirements of section 3(40)(B) are met, and

"(B) subsection (a)(2) shall be treated as satisfied if the board of trustees is the named fiduciary in connection with the arrangement.

"(2) RELATED EMPLOYERS.—For purposes of paragraph (1), employers are 'related' if there is among all such employers a common ownership interest or a substantial commonality of business operations based on common suppliers or customers.

"SEC. 704. OTHER REQUIREMENTS FOR EXEMPTION.

"A multiple employer welfare arrangement exempt under section 514(b)(6)(B) shall meet the following requirements:

"(1) CONTENTS OF GOVERNING INSTRUMENTS.—The instruments governing the arrangement include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

"(A) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A)),

"(B) provides that the sponsor of the arrangement is to serve as plan sponsor (referred to in section 3(16)(B)), and

"(C) incorporates the requirements of section 705.

"(2) CONTRIBUTION RATES.—The contribution rates referred to in section 702(b)(3)(F)(ii) are adequate.

"(3) REGULATORY REQUIREMENTS.—Such other requirements as the Secretary may prescribe by regulation as necessary to carry out the purposes of this part.

"SEC. 705. MAINTENANCE OF RESERVES.

"(a) IN GENERAL.—Each multiple employer welfare arrangement which is or has been exempt under section 514(b)(6)(B) and under which benefits are not fully insured shall establish and maintain reserves, consisting of—

"(1) a reserve sufficient for unearned contributions,

"(2) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities, and

"(3) a reserve, in an amount recommended by the qualified actuary, for any other obligations of the arrangement.

"(b) MINIMUM AMOUNT FOR CERTAIN RESERVES.—The total of the reserves described in subsection (a)(2) shall not be less than an amount equal to the greater of—

"(1) 25 percent of expected incurred claims and expenses for the plan year, or

"(2) $400,000.

"(c) REQUIRED MARGIN.—In determining the amounts of reserves required under this section in connection with any multiple employer welfare arrangement, the qualified actuary shall include a margin for error and other fluctuations taking into account the specific circumstances of such arrangement.

"(d) ADDITIONAL REQUIREMENTS.—The Secretary may provide such additional requirements relating to reserves and excess/stop loss coverage as the Secretary considers appropriate. Such requirements may be provided, by regulation or otherwise, with respect to any arrangement or any class of arrangements.

"(e) ADJUSTMENTS FOR EXCESS/STOP LOSS COVERAGE.—The Secretary may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any arrangement or class of arrangements to take into account excess/stop loss coverage provided with respect to such arrangement or arrangements.

"(f) ALTERNATIVE MEANS OF COMPLIANCE.—The Secretary may permit an arrangement to substitute, for all or part of the requirements of this section, such security, guarantee, hold-harmless arrangement, or other financial arrangement as the Secretary determines to be adequate to enable the arrangement to fully meet all its financial obligations on a timely basis. The Secretary may take into account, for purposes of this subsection, evidence provided by the arrangement or sponsor which demonstrates an assumption of liability with respect to the arrangement. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letter of credit, recourse under applicable terms of the arrangement in the form of assessments of participating employers, security, or other financial arrangement.

"SEC. 706. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

"Except as provided in section 707(b), a multiple employer welfare arrangement which is or has been exempt under section 514(b)(6)(B) may terminate only if the board of trustees—

"(1) not less than 60 days before the proposed termination date, provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date,

"(2) develops a plan for winding up the affairs of the arrangement in connection with such termination in a manner which will result in timely payment of all benefits for which the arrangement is obligated, and

"(3) submits such plan in writing to the Secretary.

Actions required under this paragraph shall be taken in such form and manner as may be prescribed in regulations of the Secretary.

"SEC. 707. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

"(a) ACTIONS TO AVOID DEPLETION OF RESERVES.—A multiple employer welfare arrangement which is or has been exempt under section 514(b)(6)(B) shall continue to meet the requirements of section 705, irrespective of whether such exemption continues in effect. The board of trustees of such arrangement shall determine quarterly whether the requirements of section 705 are met. In any case in which the committee determines that there is reason to believe that there is or will be a failure to meet such requirements, or the Secretary makes such a determination and so notifies the committee, the committee shall immediately notify the qualified actuary engaged by the arrangement, and such actuary shall, not later than the end of the next following month, make such recommendations to the committee for corrective action as the actuary determines necessary to ensure compliance with section 705. Not later than 10 days after receiving from the actuary recommendations for corrective actions, the committee shall notify the Secretary (in such form and manner as the Secretary may prescribe by regulation) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the committee has taken or plans to take in response to such recommendations. The committee shall thereafter report to the Secretary, in such form and frequency as the Secretary may specify to the committee, regarding corrective action taken by the committee until the requirements of section 705 are met.

"(b) MANDATORY TERMINATION.—In any case in which—

"(1) the Secretary has been notified under subsection (a) of a failure of a multiple employer welfare arrangement which is or has been exempt under section 514(b)(6)(B) to meet the requirements of section 705 and has not been notified by the board of trustees of the arrangement that corrective action has restored compliance with such requirements, and

"(2) the Secretary determines that the continuing failure to meet the requirements of section 705 can be reasonably expected to result in a continuing failure to pay benefits for which the arrangement is obligated,

the board of trustees of the arrangement shall, at the direction of the Secretary, terminate the arrangement and, in the course of the termination, take such actions as the Secretary may require, including recovering for the arrangement any liability under section 705(f), as necessary to ensure that the affairs of the arrangement will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the arrangement is obligated.

"SEC. 708. ADDITIONAL RULES REGARDING STATE AUTHORITY.

"(a) EXCLUSION OF ARRANGEMENTS FROM THE SMALL GROUP MARKET IN ANY STATE UPON STATE'S CERTIFICATION OF GUARANTEED ACCESS TO HEALTH INSURANCE COVERAGE IN SUCH STATE.—

"(1) IN GENERAL.—If a State certifies to the Secretary that such State provides to its residents guaranteed access to health insurance coverage, during the period for which such certification is in effect, the law of such State may regulate any health care coverage provided in the small group market in such State (or prohibit the provision of such coverage) by a multiple employer welfare arrangement which is otherwise exempt under section 514(b)(6)(B) and whose sponsor is described in section 703(a)(1), notwithstanding such exemption. Any such certification shall be in effect for such period, not greater than 3 years, as is designated in such certification. Such certification shall apply with respect to such arrangements as are identified, individually or by class, in the certification.

"(2) GUARANTEED ACCESS.—For purposes of this subsection, the certification by a State that such State provides 'guaranteed access' to health insurance coverage to the residents of such State means—

"(A) certification that the number of residents of such State who are covered by a group health plan or otherwise have health insurance coverage exceeds 90 percent of the total number of the residents of such State, or

"(B) certification that—

"(i) the small group market in such State provides guaranteed issue for employees with respect to at least one option of health insurance coverage offered by insurers and health maintenance organizations in such market, and

"(ii) the State has implemented rating reforms in the small group market in such State which are designed to make health insurance coverage more affordable.

"(b) EXCEPTIONS.—

"(1) CERTAIN MULTISTATE ASSOCIATIONS.—Subsection (a) shall not apply in the case of a multiple employer welfare arrangement operating in any State which has made a certification under subsection (a)(2)(B) if—

"(A) in the application for the exemption under section 514(b)(6)(B), the sponsor of such arrangement demonstrates to the Secretary (in such form and manner as shall be prescribed in regulations of the Secretary) that—

"(i) such sponsor operates in the majority of the 50 States and in at least 2 of the regions of the United States, and

"(ii) the arrangement covers, or is to cover (in the case of a newly established arrangement), at least 7,500 participants and beneficiaries, and

"(B) at the time of such application, the arrangement does not have pending against it any enforcement action by the State.

"(2) EXISTING ARRANGEMENTS.—Subsection (a) shall not apply with respect to an arrangement operating in any State if—

"(A) such arrangement was operating in such State as of March 6, 1996, and

"(B) at the time of the application for the exemption under section 514(b)(6), the arrangement does not have pending against it any enforcement action by the State.

"(3) LIMITATIONS.—Paragraphs (1) and (2) shall not apply in the case of any State which has made a certification under subsection (a) and which, as of January 1, 1996, had enacted a law that either—

"(A) provided guaranteed issue of individual health insurance coverage offered by insurers and health maintenance organizations in the individual market using pure community rating and did not provide for any transition period (after the effective date of the guaranteed issue requirement) in the implementation of pure community rating; or

"(B) required insurers offering health insurance coverage in connection with group health plans to reimburse insurers offering individual health insurance coverage for losses resulting from those insurers offering individual health insurance coverage on an open enrollment basis.

Regulations under this part may provide for an exemption from the applicability of paragraph (1) in the case of certain arrangements that are limited to a single industry.

"(c) ASSESSMENT AUTHORITY WITH RESPECT TO NEW ARRANGEMENTS.—

"(1) IN GENERAL.—Notwithstanding section 514, a State may impose by law a premium tax on multiple employer welfare arrangements which are otherwise exempt under section 514(b)(6)(B) and the sponsor of which is described in section 703(a)(1)—

"(A) in the case of an arrangement established after March 6, 1996, and

"(B) in the case of an arrangement in existence as of March 6, 1996, if the arrangement commenced operations in such State after March 6, 1996.

"(2) PREMIUM TAX.—For purposes of this subsection, the term 'premium tax' imposed by a State on a multiple employer welfare arrangement means any tax imposed by such State if—

"(A) such tax is computed by applying a rate to the amount of premiums or contributions received by the arrangement from participating employers located in such State with respect to individuals covered under the arrangement who are residents of such State,

"(B) the rate of such tax does not exceed the rate of any tax imposed by such State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage offered in such State in connection with a group health plan,

"(C) such tax is otherwise nondiscriminatory, and

"(D) the amount of any such tax assessed on the arrangement is reduced by the amount of any tax or assessment imposed by the State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage (or other insurance related to the provision of medical care under the arrangement) provided by such insurers or health maintenance organizations in such State to such arrangement.

"(d) DEFINITIONS.—For purposes of this section—

"(1) SMALL GROUP MARKET.—The term 'small group market' means the health insurance coverage market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) on the basis of employment or other relationship with respect to a small employer.

"(2) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a calandar year, an employer who employs at least 2 but fewer than 51 employees on a typical business day in the year. For purposes of this paragraph, 2 or more trades or businesses, whether or not incorporated, shall be deemed a single employer if such trades or businesses are within the same control group (within the meaning of section 3(40)(B)(ii)).

"(3) REGION.—The term 'region' means any of the following regions:

"(A) The East Region, consisting of the States of Maine, New Hampshire, Vermont, New York, Massachusetts, Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, and Ohio, and the District of Columbia.

"(B) The Southeast Region, consisting of the States of Texas, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, and Tennessee.

"(C) The Midwest Region, consisting of the States of Montana, South Dakota, North Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Wisconsin, Michigan, Illinois, and Indiana.

"(D) The West Region, consisting of the States of Oregon, Washington, Idaho, Nevada, California, New Mexico, Arizona, Nebraska, Wyoming, Hawaii, Alaska, Colorado, and Utah.".

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6)(A)(i) of such Act (29 U.S.C. 1144(b)(6)(A)(i)) is amended by striking "is fully insured" and inserting "under which all benefits are fully insured", and by inserting "and which is not described in section 702(a)(1)" after "subparagraph (B)".

(2) Section 514(b)(6)(B) of such Act (29 U.S.C. 1144(b)(6)(B)) is amended—

(A) by inserting "(i)" after "(B)";

(B) by striking "which are not fully insured" and inserting "under which any benefit is not fully insured"; and

(C) by striking "Any such exemption" and inserting:

"(ii) Subject to part 7, any exemption under clause (i)".

(c) CONFORMING AMENDMENT TO DEFINITION OF PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 1002(16)(B)) is amended by adding at the end the following new sentence: "Such term also includes the sponsor (as defined in section 701(6)) of a multiple employer welfare arrangement which is or has been a multiple employer health plan (as defined in section 701(4)).".

(d) DEFINITIONS.—

(1) GROUP HEALTH PLAN.—Section 3 of such Act (29 U.S.C. 1002) is amended by adding at the end the following new paragraph:

"(42) Except as otherwise provided in this title, the term 'group health plan' means an employee welfare benefit plan to the extent that the plan provides medical care (within the meaning of section 607(1)) to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise.".

(2) INCLUSION OF CERTAIN PARTNERS AND SELF-EMPLOYED SPONSORS IN DEFINITION OF PARTICIPANT.—Section 3(7) of such Act (29 U.S.C. 1002(7)) is amended—

(A) by inserting "(A)" after "(7)"; and

(B) by adding at the end the following new paragraph:

"(B) In the case of a group health plan, such term includes—

"(i) in connection with a group health plan maintained by a partnership, an individual who is a partner in relation to the partnership, or

"(ii) in connection with a group health plan maintained by a self-employed individual (under which one or more employees are participants), the self-employed individual, if such individual is or may become eligible to receive a benefit under the plan or such individual's beneficiaries may be eligible to receive any such benefit.".

(3) HEALTH INSURANCE COVERAGE.—Section 3 of such Act (as amended by paragraph (1)) is amended further by adding at the end the following new paragraph:

"(43)(A) Except as provided in subparagraph (B), the term 'health insurance coverage' means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract offered by an insurer or a health maintenance organization.

"(B) Such term does not include coverage under any separate policy, certificate, or contract only for one or more of any of the following:

"(i) Coverage for accident, credit-only, vision, disability income, long-term care, nursing home care, community-based care dental, on-site medical clinics, or employee assistance programs, or any combination thereof.

"(ii) Medicare supplemental health insurance (within the meaning of section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1))) and similar supplemental coverage provided under a group health plan.

"(iii) Coverage issued as a supplement to liability insurance.

"(iv) Liability insurance, including general liability insurance and automobile liability insurance.

"(v) Workers' compensation or similar insurance.

"(vi) Automobile medical-payment insurance.

"(vii) Coverage for a specified disease or illness.

"(viii) Hospital or fixed indemnity insurance.

"(ix) Short-term limited duration insurance.

"(x) Such other coverage, comparable to that described in previous clauses, as may be specified in regulations.".

(4) MEDICAL CARE.—Section 607(1) of such Act (29 U.S.C. 1167(1)) is amended—

(A) by striking "The term" and inserting the following:

"(A) IN GENERAL.—The term";

(B) by striking "(as defined" and all that follows through "1986)"; and

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

"(B) MEDICAL CARE.—For purposes of this paragraph, the term 'medical care' means—

"(i) amounts paid for, or items or services in the form of, the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for, or items or services provided for, the purpose of affecting any structure or function of the body,

"(ii) amounts paid for, or services in the form of, transportation primarily for and essential to medical care referred to in clause (i), and

"(iii) amounts paid for insurance covering medical care referred to in clauses (i) and (ii).".

(5) OTHER DEFINITIONS.—Section 514 of such Act is further amended by adding at the end the following new subsection:

"(e) For purposes of this section, the terms 'fully insured', 'health maintenance organization', and 'insurer' have the meanings given such terms in section 701.".

(e) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (as amended by section 102(g)) is amended by inserting after the item relating to section 609 the following new items:

"PART 7—RULES GOVERNING REGULATION OF MULTIPLE EMPLOYER HEALTH PLANS

"Sec. 701. Definitions.
"Sec. 702. Clarification of duty of the Secretary to implement provisions of current law provising for exemptions and solvency standards for multiple employer health plans.
"Sec. 703. Requirements relating to sponsors, boards of trustees, and plan operations.
"Sec. 704. Other requirements for exemption.
"Sec. 705. Maintenance of reserves.
"Sec. 706. Notice requirements for voluntary termination.
"Sec. 707. Corrective actions and mandatory termination.
"Sec. 708. Additional rules regarding State authority.

SEC. 162. AFFORDABLE AND AVAILABLE FULLY INSURED HEALTH COVERAGE THROUGH VOLUNTARY HEALTH INSURANCE ASSOCIATIONS.

Section 514 of the Employee Retirement Income Security Act of 1974 is amended—

(1) by redesignating subsections (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) The provisions of this title shall supercede any and all State laws which regulate insurance insofar as they may now or hereafter—

"(A) preclude an insurer or health maintenance organization from offering health insurance coverage under voluntary health insurance associations,

"(B) preclude an insurer or health maintenance organization from setting premium rates under a voluntary health insurance association based on the claims experience of the voluntary health insurance association (without varying the premium rates of any particular employer on the basis of the claims experience of such employer alone), or

"(C) require—

"(i) health insurance coverage in connection with a voluntary health insurance association to include specific items or services consisting of medical care, or

"(ii) an insurer or health maintenance organization offering health insurance coverage in connection with a voluntary health insurance association to include in such health insurance coverage specific items or services consisting of medical care,

except to the extent that such State laws prohibit an exclusion for a specific disease in such health insurance coverage.

Subparagraph (C) shall apply only with respect to items and services which shall be specified in a list which shall be prescribed in regulations of the Secretary.

"(2)(A) If a State certifies to the Secretary that such State provides to its residents guaranteed access to health insurance coverage, during the period for which such certification is in effect, the law of such State may regulate any health insurance coverage provided in the small group market in such State (or prohibit the provision of such coverage) by a voluntary health insurance association. Any such certification shall be in effect for such period, not greater than 3 years, as is designated in such certification.

"(B) For purposes of this paragraph, the certification by a State that such State provides 'guaranteed access' to health insurance coverage to the residents of such State means—

"(i) certification that the number of residents of such State who are covered by a group health plan or otherwise have health insurance coverage exceeds 90 percent of the total number of the residents of such State, or

"(ii) certification that—

"(I) the small group market in such State provides guaranteed issue for employees with respect to at least one option of health insurance coverage offered by insurers and health maintenance organizations in such market, and

"(II) the State has implemented rating reforms in the small group market in such State which are designed to make health insurance coverage more affordable.

"(3)(A) Paragraph (2) shall not apply in the case of any voluntary health insurance association with respect to any State if the qualified association demonstrates to the Secretary (in such form and manner as shall be prescribed in regulations of the Secretary) that—

"(i) such qualified association operates in the majority of the 50 States and in at least 2 of the regions of the United States,

"(ii) the arrangement covers, or is to cover (in the case of a newly established arrangement), at least 7,500 participants and beneficiaries, and

"(iii) under the terms of the arrangement, either—

"(I) the qualified association does not exclude from membership any small employer in the State, or

"(II) the arrangement accepts every small employer in the State that applies for coverage.

"(B)(i) Subject to clause (ii), paragraph (2) shall not apply with respect to a voluntary health insurance association operating in any State if such association was operating in such State as of March 6, 1996.

"(ii) Clause (i) shall apply in the case of an arrangement in connection with any State only if the qualified association demonstrates to the Secretary (in such form and manner as shall be prescribed in regulations of the Secretary) either—

"(I) that the qualified association does not exclude from membership any small employer in the State, or

"(II) that the arrangement accepts every small employer in such State that applies for coverage.

"(C) Subparagraphs (A) and (B) shall not apply in the case of any State which has made a certification under paragraph (2) and which, as of January 1, 1996, had enacted a law that either—

"(i) provided guaranteed issue of individual health insurance coverage offered by insurers and health maintenance organizations in the individual market using pure community rating and did not provide for any transition period (after the effective date of the guaranteed issue requirement) in the implementation of pure community rating; or

"(ii) required insurers offering health insurance coverage in connection with group health plans to reimburse insurers offering individual health insurance coverage for losses resulting from those insurers offering individual health insurance coverage on an open enrollment basis.

"(5) For purposes of this subsection—

"(A) The term 'voluntary health insurance association' means a multiple employer welfare arrangement—

"(i) under which benefits include medical care (within the meaning of section 607(1)),

"(ii) under which all benefits consisting of such medical care are fully insured,

"(iii) which is maintained by a qualified association,

"(iv) under which no employer is excluded as a participating employer (except to the extent that requirements of the type referred to in section 131(d)(2) of the Health Coverage Availability and Affordability Act of 1996 are not met), the requirements of section 103 of such Act (as referred to in section 104(b)(1) of such Act) are met, and all health insurance coverage options are aggressively marketed to eligible employees and their dependents, and

"(v) under which, with respect to the operations of the arrangement in any State, the health insurance coverage is provided by an insurer or health maintenance organization to which the laws of such State applies.

"(B) The term 'qualified association' means an association with respect to which the following requirements are met:

"(i) The sponsor of the association is, and has been (together with its immediate predecessor, if any) for a continuous period of not less than 5 years, organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose, as a trade association, an industry association, a professional association, or a chamber of commerce (or similar business group), for substantial purposes other than that of obtaining or providing medical care (within the meaning of section 607(1)).

"(ii) The sponsor of the association is established as a permanent entity which receives the active support of its members.

"(iii) The constitution and bylaws of the association provide for periodic meetings on at least an annual basis.

"(iv) The association collects dues or contributions from its members on a periodic basis, without conditioning such dues or contributions on the basis of the health status of the employees of such members or the dependents of such employees or on the basis of participation in a group health plan or voluntary health insurance association.

Such term includes a group of qualified associations, as defined in the preceding provisions of this clause.

"(C) The term 'small group market' means the health insurance coverage market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) on the basis of employment or other relationship with respect to a small employer.

"(D) The term 'small employer' means, in connection with a group health plan with respect to a calandar year, an employer who employs at least 2 but fewer than 51 employees on a typical business day in the year. For purposes of this paragraph, 2 or more trades or businesses, whether or not incorporated, shall be deemed a single employer if such trades or businesses are within the same control group (within the meaning of section 3(40)(B)(ii)).

"(E) The term 'region' means any of the following regions:

"(i) The East Region, consisting of the States of Maine, New Hampshire, Vermont, New York, Massachusetts, Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, and Ohio and the District of Columbia.

"(ii) The Southeast Region, consisting of the States of Texas, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, and Tennessee.

"(iii) The Midwest Region, consisting of the States of Montana, South Dakota, North Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Wisconsin, Michigan, Illinois, and Indiana.

"(iv) The West Region, consisting of the States of Oregon, Washington, Idaho, Nevada, California, New Mexico, Arizona, Nebraska, Wyoming, Hawaii, Alaska, Colorado, and Utah.".

SEC. 163. STATE AUTHORITY FULLY APPLICABLE TO SELF-INSURED MULTIPLE EMPLOYER WELFARE ARRANGEMENTS PROVIDING MEDICAL CARE WHICH ARE NOT EXEMPTED UNDER NEW PART 7.

(a) IN GENERAL.—Section 514(b)(6)(A)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(6)(A)(ii)) is amended by inserting before the period the following: ", except that, in any such case, if the arrangement provides medical care (within the meaning of section 607(1)), such a law of any State may apply without limitation under this title".

(b) CROSS-REFERENCE.—Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) (as amended by section 301) is amended by adding at the end the following new subparagraph:

"(G) For additional rules relating to exemption from subparagraph (A)(ii) of multiple employer health plans, see part 7.".

SEC. 164. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting "for any plan year of any such plan, or any fiscal year of

any such other arrangement," after "single employer", and by inserting "during such year or at any time during the preceding 1-year period" after "control group";

(2) in clause (iii)—

(A) by striking "common control shall not be based on an interest of less than 25 percent" and inserting "an interest of greater than 25 percent may not be required as the minimum interest necessary for common control"; and

(B) by striking "similar to" and inserting "consistent and coextensive with";

(3) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(4) by inserting after clause (iii) the following new clause:

"(iv) in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only 1 participating employer if, after the application of clause (i), the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 75 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement,".

SEC. 165. CLARIFICATION OF TREATMENT OF CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.

(a) IN GENERAL.—Section 3(40)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(A)(i)) is amended to read as follows:

"(i)(I) under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, and (II) in accordance with subparagraphs (C), (D), and (E),".

(b) LIMITATIONS.—Section 3(40) of such Act (29 U.S.C. 1002(40)) is amended by adding at the end the following new subparagraphs:

"(C) A plan or other arrangement is established or maintained in accordance with this subparagraph only if the following requirements are met:

"(i) The plan or other arrangement, and the employee organization or any other entity sponsoring the plan or other arrangement, do not—

"(I) utilize the services of any licensed insurance agent or broker for soliciting or enrolling employers or individuals as participating employers or covered individuals under the plan or other arrangement, or

"(II) pay a commission or any other type of compensation to a person, other than a full time employee of the employee organization (or a member of the organization to the extent provided in regulations of the Secretary), that is related either to the volume or number of employers or individuals solicited or enrolled as participating employers or covered individuals under the plan or other arrangement, or to the dollar amount or size of the contributions made by participating employers or covered individuals to the plan or other arrangement,

except to the extent that the services used by the plan, arrangement, organization, or other entity consist solely of preparation of documents necessary for compliance with the reporting and disclosure requirements of part 1 or administrative, investment, or consulting services unrelated to solicitation or enrollment of covered individuals.

"(ii) As of the end of the preceding plan year, the number of covered individuals under the plan or other arrangement who are identified to the plan or arrangement and who are neither—

"(I) employed within a bargaining unit covered by any of the collective bargaining agreements with a participating employer (nor covered on the basis of an individual's employment in such a bargaining unit), nor

"(II) present employees (or former employees who were covered while employed) of the sponsoring employee organization, of an employer who is or was a party to any of the collective bargaining agreements, or of the plan or other arrangement or a related plan or arrangement (nor covered on the basis of such present or former employment),

does not exceed 15 percent of the total number of individuals who are covered under the plan or arrangement and who are present or former employees who are or were covered under the plan or arrangement pursuant to a collective bargaining agreement with a participating employer. The requirements of the preceding provisions of this clause shall be treated as satisfied if, as of the end of the preceding plan year, such covered individuals are comprised solely of individuals who were covered individuals under the plan or other arrangement as of the date of the enactment of the Health Coverage Availability and Affordability Act 1996 and, as of the end of the preceding plan year, the number of such covered individuals does not exceed 25 percent of the total number of present and former employees enrolled under the plan or other arrangement.

"(iii) The employee organization or other entity sponsoring the plan or other arrangement certifies to the Secretary each year, in a form and manner which shall be prescribed in regulations of the Secretary that the plan or other arrangement meets the requirements of clauses (i) and (ii).

"(D) A plan or arrangement is established or maintained in accordance with this subparagraph only if—

"(i) all of the benefits provided under the plan or arrangement are fully insured (as defined in section 701(2)), or

"(ii)(I) the plan or arrangement is a multiemployer plan, and

"(II) the requirements of clause (B) of the proviso to clause (5) of section 302(c) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)) are met with respect to such plan or other arrangement.

"(E) A plan or arrangement is established or maintained in accordance with this subparagraph only if—

"(i) the plan or arrangement is in effect as of the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, or

"(ii) the employee organization or other entity sponsoring the plan or arrangement—

"(I) has been in existence for at least 3 years or is affiliated with another employee organization which has been in existence for at least 3 years, or

"(II) demonstrates to the satisfaction of the Secretary that the requirements of subparagraphs (C) and (D) are met with respect to the plan or other arrangement.".

(c) CONFORMING AMENDMENTS TO DEFINITIONS OF PARTICIPANT AND BENEFICIARY.—Section 3(7) of such Act (29 U.S.C. 1002(7)) is amended by adding at the end the following new sentence: "Such term includes an individual who is a covered individual described in paragraph (40)(C)(ii).".

SEC. 166. TREATMENT OF CHURCH PLANS.

(a) SPECIAL RULES FOR CHURCH PLANS.—

(1) IN GENERAL.—Part 7 of subtitle B of title I of such Act (as added and amended by the preceding provisions of this Act) is amended by adding at the end the following new section:

"SEC. 709. SPECIAL RULES FOR CHURCH PLANS.

"(a) ELECTION FOR CHURCH PLANS.—

"(1) IN GENERAL.—Notwithstanding section 4(b)(2), if the church or convention or association of churches which maintains a church plan covered under this section makes an election with respect to such plan under this subsection (in such form and manner as the Secretary may by regulations prescribe), then, subject to this section, the provisions of this part (and other provisions of this title to the extent that they apply to group health plans which are multiple employer welfare arrangements) shall apply to such church plan, with respect to benefits provided under such plan consisting of medical care, as if—

"(A) section 4(b)(2) did not contain an exclusion for church plans, and

"(B) such plan were an arrangement eligible to apply for an exemption under this part.

"(2) ELECTION IRREVOCABLE.—An election under this subsection with respect to any church plan shall be binding with respect to such plan, and, once made, shall be irrevocable.

"(b) COVERED CHURCH PLANS.—A church plan is covered under this section if such plan provides benefits which include medical care and some or all of such benefits are not fully insured.

"(c) SPONSOR AND BOARD OF TRUSTEES.—For purposes of this part, in the case of a church plan to which this part applies pursuant to an election under subsection (a), in treating such plan as if it were a multiple employer welfare arrangement under this part—

"(1) the church, convention or association of churches, or other organization described in section 3(33)(C)(i) which is the entity maintaining the plan shall be treated as the sponsor referred to in section 703(a)(1), and the requirements of section 703(a)(1) shall not apply, and

"(2) the board of trustees, board of directors, or other similar governing body of such sponsor shall be treated as the board of trustees referred to in section 703(a)(2), and the requirements of section 703(a)(2) shall be deemed satisfied with respect to the board of trustees.

"(d) DEEMED SATISFACTION OF TRUST REQUIREMENTS.—The requirements of section 403 shall not be treated as not satisfied with respect to a church plan to which this part applies pursuant to an election under subsection (a) solely because assets of the plan are held by an organization described in section 3(33)(C)(i), if—

"(1) such organization is incorporated separately from the church or convention or association of churches involved, and

"(2) such assets with respect to medical care are separately accounted for.

"(e) DEEMED SATISFACTION OF EXCLUSIVE BENEFIT REQUIREMENTS.—The requirements of section 404 shall not be treated as not satisfied with respect to a church plan to which this part applies pursuant to an election under subsection (a) solely because assets of the plan which are in excess of reserves required for exemption under section 514(b)(6)(B) are held in a fund in which such assets are pooled with assets of other church plans, if the assets held by such fund may

not, under the terms of the plan and the terms governing such fund, be used for, or diverted to, any purpose other than for the exclusive benefit of the participants and beneficiaries of the church plans whose assets are pooled in such fund.

"(f) INAPPLICABILITY OF CERTAIN PROVISIONS.—

"(1) PROHIBITED TRANSACTIONS.—Section 406 shall not apply to a church plan by reason of an election under subsection (a).

"(2) CONTINUATION COVERAGE.—Section 601 shall not apply to a church plan by reason of an election under subsection (a).".

(b) CONFORMING AMENDMENTS.—

(1) Section 4(b)(2) of such Act (29 U.S.C. 1003(b)(2)) is amended by inserting before the semicolon the following: ", except with respect to provisions made applicable under any election made under section 704(a) of this Act".

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (a), by inserting "(including a church plan which is not exempt under section 4(b)(2) by reason of an election under section 704)" before the period in the first sentence; and

(B) in subsection (b)(2)(B), by inserting "and including a church plan which is not exempt under section 4(b)(2) by reason of an election under section 704" after "death benefits".

(c) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (as amended by the preceding provisions of this title) is further amended by inserting after the item relating to section 703 the following new item:

"Sec. 709. Special rules for church plans.".

SEC. 167. ENFORCEMENT PROVISIONS RELATING TO MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.

(a) ENFORCEMENT OF FILING REQUIREMENTS.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) (as amended by sections 102(c)) is further amended—

(1) in subsection (a)(6), by striking "paragraph (2) or (5)" and inserting "paragraph (2), (5), or (6)"; and

(2) by adding at the end of subsection (c) the following new paragraph:

"(6) The Secretary may assess a civil penalty against any person of up to $1,000 a day from the date of such person's failure or refusal to file the information required to be filed with the Secretary under section 101(g).".

(b) ACTIONS BY STATES IN FEDERAL COURT.—Section 502(a) of such Act (29 U.S.C. 1132(a)) is amended—

(1) in paragraph (8), by striking "or" at the end;

(2) in paragraph (9), by striking the period and inserting ", or"; and

(3) by adding at the end the following:

"(10) by a State official having authority under the law of such State to enforce the laws of such State regulating insurance, to enjoin any act or practice which violates any requirement under part 7 for an exemption under section 514(b)(6)(B) which such State has the power to enforce pursuant to section 506(c)(1).".

(c) CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.—Section 501 of such Act (29 U.S.C. 1131) is amended—

(1) by inserting "(a)" after "SEC. 501."; and

(2) by adding at the end the following new subsection:

"(b) Any person who, either willfully or with willful blindness, falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, an arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

"(1) being a multiple employer welfare arrangement to which an exemption has been granted under section 514(b)(6)(B),

"(2) having been established or maintained under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, or

"(3) being a plan or arrangement with respect to which the requirements of subparagraph (C), (D), or (E) of section 3(40) are met, shall, upon conviction, be imprisoned not more than five years, be fined under title 18, United States Code, or both.".

(d) CESSATION OF ACTIVITIES IN ABSENCE OF EFFECTIVE STATE REGULATION UNLESS STANDARDS UNDER ERISA EXEMPTION ARE MET.—Section 502 of such Act (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

"(n)(1) Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of a multiple employer welfare arrangement providing benefits consisting of medical care (within the meaning of section 607(1)) that—

"(A) is not licensed, registered, or otherwise approved under the insurance laws of the States in which the arrangement offers or provides benefits, and

"(B) if there is in effect with respect to such arrangement an exemption under section 514(b)(6)(B), is not operating in accordance with the requirements under part 7 for such an exemption,

a district court of the United States shall enter an order requiring that the arrangement cease activities.

"(2) Paragraph (1) shall not apply in the case of a multiple employer welfare arrangement if the arrangement shows that—

"(A) all benefits under it referred to in paragraph (1) are fully insured, within the meaning of section 701(1), and

"(B) with respect to each State in which the arrangement offers or provides benefits, the arrangement is operating in accordance with applicable State insurance laws that are not superseded under section 514.

"(3) The court may grant such additional equitable relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the arrangement.".

(e) RESPONSIBILITY FOR CLAIMS PROCEDURE.—Section 503 of such Act (29 U.S.C. 1133) is amended by adding at the end (after and below paragraph (2)) the following new sentence: "The terms of each multiple employer health plan (within the meaning of section 701(4)) shall require the board of trustees or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the plan.".

SEC. 168. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

"(c) STATE AUTHORITY WITH RESPECT TO MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—

"(1) STATE ENFORCEMENT.—

"(A) AGREEMENTS WITH STATES.—A State may enter into an agreement with the Secretary for delegation to the State of some or all of the Secretary's authority under sections 502 and 504 to enforce the requirements under section 514(d) or the requirements under part 7 for an exemption under section 514(b)(6)(B). The Secretary shall enter into the agreement if the Secretary determines that the delegation provided for therein would not result in a lower level or quality of enforcement of the provisions of this title.

"(B) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this paragraph may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.

"(C) CONCURRENT AUTHORITY OF THE SECRETARY.—If the Secretary delegates authority to a State in an agreement entered into under subparagraph (A), the Secretary may continue to exercise such authority concurrently with the State.

"(D) RECOGNITION OF PRIMARY DOMICILE STATE.—In entering into any agreement with a State under subparagraph (A), the Secretary shall ensure that, as a result of such agreement and all other agreements entered into under subparagraph (A), only one State will be recognized, with respect to any particular multiple employer welfare arrangement, as the primary domicile State to which authority has been delegated pursuant to such agreements.

"(2) ASSISTANCE TO STATES.—The Secretary shall—

"(A) provide enforcement assistance to the States with respect to multiple employer welfare arrangements, including, but not limited to, coordinating Federal and State efforts through the establishment of cooperative agreements with appropriate State agencies under which the Pension and Welfare Benefits Administration keeps the States informed of the status of its cases and makes available to the States information obtained by it,

"(B) provide continuing technical assistance to the States with respect to issues involving multiple employer welfare arrangements and this Act,

"(C) make readily available to the States timely and complete responses to requests for advisory opinions on issues described in subparagraph (B), and

"(D) distribute copies of all advisory opinions described in subparagraph (C) to the State insurance commissioner of each State.".

SEC. 169. FILING AND DISCLOSURE REQUIREMENTS FOR MULTIPLE EMPLOYER WELFARE ARRANGEMENTS OFFERING HEALTH BENEFITS.

(a) IN GENERAL.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended—

(1) by redesignating subsection (g) as subsection (i); and

(2) by inserting after subsection (f) the following new subsections:

"(g) REGISTRATION OF MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—(1) Each multiple employer welfare arrangement shall file with the Secretary a registration statement described in paragraph (2) within 60 days before commencing operations (in the case of an arrangement commencing operations on or after January 1, 1997) and no later than February 15 of each year (in the case of an arrangement in operation since the beginning of such year), unless, as of the date by which

such filing otherwise must be made, such arrangement provides no benefits consisting of medical care (within the meaning of section 607(1))).

"(2) Each registration statement—

"(A) shall be filed in such form, and contain such information concerning the multiple employer welfare arrangement and any persons involved in its operation (including whether coverage under the arrangement is fully insured), as shall be provided in regulations which shall be prescribed by the Secretary, and

"(B) if any benefits under the arrangement consisting of medical care (within the meaning of section 607(1)) are not fully insured, shall contain a certification that copies of such registration statement have been transmitted by certified mail to—

"(i) in the case of an arrangement which is a multiple employer health plan (as defined in section 701(4)), the State insurance commissioner of the domicile State of such arrangement, or

"(ii) in the case of an arrangement which is not a multiple employer health plan, the State insurance commissioner of each State in which the arrangement is located.

"(3) The person or persons responsible for filing the annual registration statement are—

"(A) the trustee or trustees so designated by the terms of the instrument under which the multiple employer welfare arrangement is established or maintained, or

"(B) in the case of a multiple employer welfare arrangement for which the trustee or trustees cannot be identified, or upon the failure of the trustee or trustees of an arrangement to file, the person or persons actually responsible for the acquisition, disposition, control, or management of the cash or property of the arrangement, irrespective of whether such acquisition, disposition, control, or management is exercised directly by such person or persons or through an agent designated by such person or persons.

"(4) Any agreement entered into under section 506(c) with a State as the primary domicile State with respect to any multiple employer welfare arrangement shall provide for simultaneous filings of reports required under this subsection with the Secretary and with the State insurance commissioner of such State.

"(5) For purposes of this subsection, the term 'domicile State' means, in connection with a multiple employer welfare arrangement, the State in which, according to the application for an exemption under this 514(b)(6)(B), most individuals to be covered under the arrangement are located, except that, in any case in which information contained in the latest annual report of the arrangement filed under this part indicates that most individuals covered under the arrangement are located in a different State, such term means such different State.

"(6) The Secretary may exempt from the requirements of this subsection such class of multiple employer welfare arrangements as the Secretary deems appropriate.

"(h) FILING REQUIREMENTS FOR MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—

"(1) IN GENERAL.—A multiple employer welfare arrangement which provides benefits consisting of medical care (within the meaning of section 607(1)) shall issue to each participating employer—

"(A) a document equivalent to the summary plan description required of plans under this part,

"(B) information describing the contribution rates applicable to participating employers, and

"(C) a statement indicating—

"(i) that the arrangement is not a licensed insurer under the laws of any State,

"(ii) the extent to which any benefits under the arrangement are fully insured,

"(iii) if any benefits under the arrangement are not fully insured, whether the arrangement has been granted an exemption under section 514(b)(6)(B) (or whether such an exemption has ceased to be effective).

"(2) TIME FOR DISCLOSURE.—Such information shall be issued to employers within such reasonable period of time before becoming participating employers as may be prescribed in regulations of the Secretary.".

(b) EFFECTIVE DATES.—Section 101(g) of the Employee Retirement Income Security Act of 1974 (added by subsection (a)) shall take effect on the date of the enactment of this Act. Section 101(h) of such Act (added by subsection (a)) shall take effect as provided in section 171.

SEC. 170. SINGLE ANNUAL FILING FOR ALL PARTICIPATING EMPLOYERS.

(a) IN GENERAL.—Section 110 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1030) is amended by adding at the end the following new subsection:

"(c) The Secretary shall prescribe by regulation or otherwise an alternative method providing for the filing of a single annual report (as referred to in section 104(a)(1)(A)) with respect to all employers who are participating employers under a multiple employer welfare arrangement under which all coverage consists of medical care (within the meaning of section 607(1)) and is fully insured (as defined in section 701(1)).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. The Secretary of Labor shall prescribe the alternative method referred to in section 110(c) of the Employee Retirement Income Security Act of 1974, as added by such amendment, within 90 days after the date of the enactment of this Act.

SEC. 171. EFFECTIVE DATE; TRANSITIONAL RULE.

(a) EFFECTIVE DATE.—Except as otherwise provided in section 170(b), the amendments made by this subtitle shall take effect January 1, 1998. The Secretary shall issue all regulations necessary to carry out the amendments made by this subtitle before January 1, 1998.

(b) TRANSITIONAL RULE.—

(1) IN GENERAL.—If the sponsor of a multiple employer welfare arrangement which, as of the effective date specified in subsection (a), provides benefits consisting of medical care (within the meaning of section 607(1) of the Employee Retirement Income Security Act of 1974) files with the Secretary of Labor an application for an exemption under section 514(b)(6)(B) of such Act within 180 days after such date and the Secretary has not, as of 90 days after receipt of such application, found such application to be materially deficient, then section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) shall not apply with respect to such arrangement during the period following such date and ending on the earlier of—

(A) the date on which the Secretary denies the application under the amendments made by this title or determines, in the Secretary's sole discretion, that such exclusion from coverage under the provisions of such section 514(b)(6)(A) of such arrangement would be detrimental to the interests of individuals covered under such arrangement, or

(B) 18 months after such effective date.

(2) NO PENDING STATE ACTION.—Subparagraph (A) shall apply in the case of an arrangement only if, at the time of the application for the exemption under section 514(b)(6)(B), the arrangement does not have pending against it an enforcement action by a State.

Subtitle D—Definitions; General Provisions

SEC. 191. DEFINITIONS; SCOPE OF COVERAGE.

(a) GROUP HEALTH PLAN.—

(1) DEFINITION.—Subject to the succeeding provisions of this subsection and subsection (d)(1), the term "group health plan" means an employee welfare benefit plan to the extent that the plan provides medical care (as defined in subsection (c)(9)) to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise, and includes a group health plan (within the meaning of section 5000(b)(1) of the Internal Revenue Code of 1986).

(2) LIMITATION OF REQUIREMENTS TO PLANS WITH 2 OR MORE EMPLOYEE PARTICIPANTS.—The requirements of subtitle A and part 1 of subtitle B shall apply in the case of a group health plan for any plan year, or for health insurance coverage offered in connection with a group health plan for a year, only if the group health plan has two or more participants as current employees on the first day of the plan year.

(3) EXCLUSION OF PLANS WITH LIMITED COVERAGE.—An employee welfare benefit plan shall be treated as a group health plan under this title only with respect to medical care which is provided under the plan and which does not consist of coverage excluded from the definition of health insurance coverage under subsection (c)(4)(B).

(4) TREATMENT OF CHURCH PLANS.—

(A) EXCLUSION.—The requirements of this title insofar as they apply to group health plans shall not apply to church plans.

(B) OPTIONAL DISREGARD IN DETERMINING PERIOD OF COVERAGE.—For purposes of applying section 101(b)(3)(B)(i), a group health plan may elect to disregard periods of coverage of an individual under a church plan that, pursuant to subparagraph (A), is not subject to the requirements of this title.

(5) TREATMENT OF GOVERNMENTAL PLANS.—

(A) ELECTION TO BE EXCLUDED.—If the plan sponsor of a governmental plan which is a group health plan to which the provisions of this subtitle otherwise apply makes an election under this paragraph for any specified period (in such form and manner as the Secretary of Health and Human Services may by regulations prescribe), then the requirements of this title insofar as they apply to group health plans shall not apply to such governmental plans for such period.

(B) OPTIONAL DISREGARD IN DETERMINING PERIOD OF COVERAGE IF ELECTION MADE.—For purposes of applying section 101(b)(3)(B)(i), a group health plan may elect to disregard periods of coverage of an individual under a governmental plan that, under an election under subparagraph (A), is not subject to the requirements of this title.

(6) TREATMENT OF MEDICAID PLAN AS GROUP HEALTH PLAN.—A State plan under title XIX of the Social Security Act shall be treated as a group health plan for purposes of applying section 101(c)(1), unless the State elects not to be so treated.

(7) TREATMENT OF MEDICARE AND INDIAN HEALTH SERVICE PROGRAMS AS GROUP HEALTH PLAN.—Title XVIII of the Social Security Act and a program of the Indian Health Service shall be treated as a group health plan for purposes of applying section 101(c)(1).

(b) INCORPORATION OF CERTAIN DEFINITIONS IN EMPLOYEE RETIREMENT INCOME SECURITY

ACT OF 1974.—Except as provided in this section, the terms "beneficiary", "church plan", "employee", "employee welfare benefit plan", "employer", "governmental plan", "multiemployer plan", "multiple employer welfare arrangement", "participant", "plan sponsor", and "State" have the meanings given such terms in section 3 of the Employee Retirement Income Security Act of 1974.

(c) OTHER DEFINITIONS.—For purposes of this title:

(1) APPLICABLE STATE AUTHORITY.—The term "applicable State authority" means, with respect to an insurer or health maintenance organization in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State involved with respect to such insurer or organization.

(2) BONA FIDE ASSOCIATION.—The term "bona fide association" means an association which—

(A) has been actively in existence for at least 5 years,

(B) has been formed and maintained in good faith for purposes other than obtaining insurance,

(C) does not condition membership in the association on health status,

(D) makes health insurance coverage offered through the association available to all members regardless of health status,

(E) does not make health insurance coverage offered through the association available to any individual who is not a member (or dependent of a member) of the association at the time the coverage is initially issued,

(F) does not impose preexisting condition exclusions except in a manner consistent with the requirements of sections 101 and 102 as they relate to group health plans, and

(G) provides for renewal and continuation of health insurance coverage in a manner consistent with the requirements of section 132 as they relate to the renewal and continuation in force of coverage in a group market.

(3) COBRA CONTINUATION PROVISION.—The term "COBRA continuation provision" means any of the following:

(A) Section 4980B of the Internal Revenue Code of 1986, other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines.

(B) Part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.), other than section 609.

(C) Title XXII of the Public Health Service Act.

(4) HEALTH INSURANCE COVERAGE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "health insurance coverage" means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract offered by an insurer or a health maintenance organization.

(B) EXCEPTION.—Such term does not include coverage under any separate policy, certificate, or contract only for one or more of any of the following:

(i) Coverage for accident, credit-only, vision, disability income, long-term care, nursing home care, community-based care dental, on-site medical clinics, or employee assistance programs, or any combination thereof.

(ii) Medicare supplemental health insurance (within the meaning of section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1))) and similar supplemental coverage provided under a group health plan.

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers' compensation or similar insurance.

(vi) Automobile medical-payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Such other coverage, comparable to that described in previous clauses, as may be specified in regulations prescribed under this title.

(5) HEALTH MAINTENANCE ORGANIZATION; HMO.—The terms "health maintenance organization" and "HMO" mean—

(A) a Federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act (42 U.S.C. 300e(a))),

(B) an organization recognized under State law as a health maintenance organization, or

(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization,

if (other than for purposes of part 2 of subtitle B) it is subject to State law which regulates insurance (within the meaning of section 514(b)(2) of the Employee Retirement Income Security Act of 1974).

(6) HEALTH STATUS.—The term "health status" includes, with respect to an individual, medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability.

(7) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term "individual health insurance coverage" means health insurance coverage offered to individuals if the coverage is not offered in connection with a group health plan (other than such a plan that has fewer than two participants as current employees on the first day of the plan year).

(8) INSURER.—The term "insurer" means an insurance company, insurance service, or insurance organization which is licensed to engage in the business of insurance in a State and which (except for purposes of part 2 of subtitle B) is subject to State law which regulates insurance (within the meaning of section 514(b)(2)(A) of the Employee Retirement Income Security Act of 1974).

(9) MEDICAL CARE.—The term "medical care" means—

(A) amounts paid for, or items or services in the form of, the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for, or items or services provided for, the purpose of affecting any structure or function of the body,

(B) amounts paid for, or services in the form of, transportation primarily for and essential to medical care referred to in subparagraph (A), and

(C) amounts paid for insurance covering medical care referred to in subparagraphs (A) and (B).

(10) NETWORK PLAN.—The term "network plan" means, with respect to health insurance coverage, an arrangement of an insurer or a health maintenance organization under which the financing and delivery of medical care are provided, in whole or in part, through a defined set of providers under contract with the insurer or health maintenance organization.

(11) WAITING PERIOD.—The term "waiting period" means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the minimum period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the plan.

(d) TREATMENT OF PARTNERSHIPS.—

(1) TREATMENT AS A GROUP HEALTH PLAN.—Any plan, fund, or program which would not be (but for this paragraph) an employee welfare benefit plan and which is established or maintained by a partnership, to the extent that such plan, fund, or program provides medical care to present or former partners in the partnership or to their dependents (as defined under the terms of the plan, fund, or program), directly or through insurance, reimbursement, or otherwise, shall be treated (subject to paragraph (1)) as an employee welfare benefit plan which is a group health plan.

(2) TREATMENT OF PARTNERSHIP AND PARTNERS AND EMPLOYER AND PARTICIPANTS.—In the case of a group health plan—

(A) the term "employer" includes the partnership in relation to any partner; and

(B) the term "participant" includes—

(i) in connection with a group health plan maintained by a partnership, an individual who is a partner in relation to the partnership, or

(ii) in connection with a group health plan maintained by a self-employed individual (under which one or more employees are participants), the self-employed individual,

if such individual is or may become eligible to receive a benefit under the plan or such individual's beneficiaries may be eligible to receive any such benefit.

(e) DEFINITIONS RELATING TO MARKETS AND SMALL EMPLOYERS.—As used in this title:

(1) INDIVIDUAL MARKET.—The term "individual market" means the market for health insurance coverage offered to individuals and not to employers or in connection with a group health plan and does not include the market for such coverage issued only by an insurer or HMO that makes such coverage available only on the basis of affiliation with a bona fide association (as defined in subsection (c)(2)).

(2) LARGE GROUP MARKET.—The term "large group market" means the market for health insurance coverage offered to employers (other than small employers) on behalf of their employees (and their dependents) and does not include health insurance coverage available solely in connection with a bona fide association (as defined in subsection (c)(2)).

(3) SMALL EMPLOYER.—The term "small employer" means, in connection with a group health plan with respect to a calendar year, an employer who employs at least 2 but fewer than 51 employees on a typical business day in the year. All persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer for purposes of this title.

(4) SMALL GROUP MARKET.—The term "small group market" means the health insurance market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) on the

basis of employment or other relationship with respect to a small employer and does not include health insurance coverage available solely in connection with a bona fide association (as defined in subsection (c)(2)).

SEC. 192. STATE FLEXIBILITY TO PROVIDE GREATER PROTECTION.

(a) STATE FLEXIBILITY TO PROVIDE GREATER PROTECTION.—Subject to subsection (b), nothing in this subtitle or subtitle A or B shall be construed to preempt State laws—

(1) that relate to matters not specifically addressed in such subtitles; or

(2) that require insurers or HMOs—

(A) to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition for a period that is shorter than the applicable period provided for under such subtitles;

(B) to allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 60-day periods provided for under sections 101(b)(3)(A), 101(b)(3)(B)(ii), and 102(b)(2); or

(C) in defining pre-existing condition, to have a look-back period that is shorter than the 6-month period described in section 101(b)(1)(A).

(b) NO OVERRIDE OF ERISA PREEMPTION.—Except as provided specifically in subtitle C, nothing in this Act shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 193. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided for in this title, the provisions of this title shall apply with respect to—

(1) group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after January 1, 1998, and

(2) individual health insurance coverage issued, renewed, in effect, or operated on or after July 1, 1998.

(b) CONSIDERATION OF PREVIOUS COVERAGE.—The Secretaries of Health and Human Services, Treasury, and Labor shall jointly establish rules regarding the treatment (in determining qualified coverage periods under sections 102(b) and 141(b)) of coverage before the applicable effective date specified in subsection (a).

(c) TIMELY ISSUANCE OF REGULATIONS.—The Secretaries of Health and Human Services, the Treasury, and Labor shall issue such regulations on a timely basis as may be required to carry out this title.

SEC. 194. RULE OF CONSTRUCTION.

Nothing in this title or any amendment made thereby may be construed to require (or to authorize any regulation that requires) the coverage of any specific procedure, treatment, or service under a group health plan or health insurance coverage.

SEC. 195. FINDINGS RELATING TO EXERCISE OF COMMERCE CLAUSE AUTHORITY.

Congress finds the following in relation to the provisions of this title:

(1) Provisions in group health plans and health insurance coverage that impose certain pre-existing conditions impact the ability of employees to seek employment in interstate commerce, thereby impeding such commerce.

(2) Health insurance coverage is commercial in nature and is in and affects interstate commerce.

(3) It is a necessary and proper exercise of Congressional authority to impose requirements under this title on group health plans and health insurance coverage (including coverage offered to individuals previously covered under group health plans) in order to promote commerce among the States.

(4) Congress, however, intends to defer to States, to the maximum extent practicable, in carrying out such requirements with respect to insurers and health maintenance organizations that are subject to State regulation, consistent with the provisions of the Employee Retirement Income Security Act of 1974.

TITLE II—PREVENTING HEALTH CARE FRAUD AND ABUSE; ADMINISTRATIVE SIMPLIFICATION; MEDICAL LIABILITY REFORM

SEC. 200. REFERENCES IN TITLE.

Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

Subtitle A—Fraud and Abuse Control Program

SEC. 201. FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

"FRAUD AND ABUSE CONTROL PROGRAM

"SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—Not later than January 1, 1997, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

"(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to health plans,

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

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

"(D) to provide for the modification and establishment of safe harbors and to issue advisory opinions and special fraud alerts pursuant to section 1128D, and

"(E) to provide for the reporting and disclosure of certain final adverse actions against health care providers, suppliers, or practitioners pursuant to the data collection system established under section 1128E.

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

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

"(B) INFORMATION GUIDELINES.—

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

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

"(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

"(4) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

"(5) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

"(b) ADDITIONAL USE OF FUNDS BY INSPECTOR GENERAL.—

"(1) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payor, or otherwise.

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

"(c) HEALTH PLAN DEFINED.—For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

"(1) a policy of health insurance;

"(2) a contract of a service benefit organization; and

"(3) a membership agreement with a health maintenance organization or other prepaid health plan.".

(b) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(k) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

"(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud and Abuse Control Account' (in this subsection referred to as the 'Account').

"(2) APPROPRIATED AMOUNTS TO TRUST FUND.—

"(A) IN GENERAL.—There are hereby appropriated to the Trust Fund—

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

"(ii) such amounts as may be deposited in the Trust Fund as provided in sections 242(b) and 249(c) of the Health Coverage Availability and Affordability Act of 1996, and title XI; and

"(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

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

"(C) TRANSFER OF AMOUNTS.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

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

"(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XIX, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

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

"(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

"(3) APPROPRIATED AMOUNTS TO ACCOUNT FOR FRAUD AND ABUSE CONTROL PROGRAM, ETC.—

"(A) DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND JUSTICE.—

"(i) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (C), to be available without further appropriation, in an amount not to exceed—

"(I) for fiscal year 1997, $104,000,000,

"(II) for each of the fiscal years 1998 through 2003, the limit for the preceding fiscal year, increased by 15 percent; and

"(III) for each fiscal year after fiscal year 2003, the limit for fiscal year 2003.

"(ii) MEDICARE AND MEDICAID ACTIVITIES.—For each fiscal year, of the amount appropriated in clause (i), the following amounts shall be available only for the purposes of the activities of the Office of the Inspector General of the Department of Health and Human Services with respect to the medicare and medicaid programs—

"(I) for fiscal year 1997, not less than $60,000,000 and not more than $70,000,000;

"(II) for fiscal year 1998, not less than $80,000,000 and not more than $90,000,000;

"(III) for fiscal year 1999, not less than $90,000,000 and not more than $100,000,000;

"(IV) for fiscal year 2000, not less than $110,000,000 and not more than $120,000,000;

"(V) for fiscal year 2001, not less than $120,000,000 and not more than $130,000,000;

"(VI) for fiscal year 2002, not less than $140,000,000 and not more than $150,000,000; and

"(VII) for each fiscal year after fiscal year 2002, not less than $150,000,000 and not more than $160,000,000.

"(B) FEDERAL BUREAU OF INVESTIGATION.—There are hereby appropriated from the general fund of the United States Treasury and hereby appropriated to the Account for transfer to the Federal Bureau of Investigation to carry out the purposes described in subparagraph (C), to be available without further appropriation—

"(i) for fiscal year 1997, $47,000,000;

"(ii) for fiscal year 1998, $56,000,000;

"(iii) for fiscal year 1999, $66,000,000;

"(iv) for fiscal year 2000, $76,000,000;

"(v) for fiscal year 2001, $88,000,000;

"(vi) for fiscal year 2002, $101,000,000; and

"(vii) for each fiscal year after fiscal year 2002, $114,000,000.

"(C) USE OF FUNDS.—The purposes described in this subparagraph are to cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

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

"(ii) investigations;

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

"(iv) inspections and other evaluations; and

"(v) provider and consumer education regarding compliance with the provisions of title XI.

"(4) APPROPRIATED AMOUNTS TO ACCOUNT FOR MEDICARE INTEGRITY PROGRAM.—

"(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund for each fiscal year such amounts as are necessary to carry out the Medicare Integrity Program under section 1893, subject to subparagraph (B) and to be available without further appropriation.

"(B) AMOUNTS SPECIFIED.—The amount appropriated under subparagraph (A) for a fiscal year is as follows:

"(i) For fiscal year 1997, such amount shall be not less than $430,000,000 and not more than $440,000,000.

"(ii) For fiscal year 1998, such amount shall be not less than $490,000,000 and not more than $500,000,000.

"(iii) For fiscal year 1999, such amount shall be not less than $550,000,000 and not more than $560,000,000.

"(iv) For fiscal year 2000, such amount shall be not less than $620,000,000 and not more than $630,000,000.

"(v) For fiscal year 2001, such amount shall be not less than $670,000,000 and not more than $680,000,000.

"(vi) For fiscal year 2002, such amount shall be not less than $690,000,000 and not more than $700,000,000.

"(vii) For each fiscal year after fiscal year 2002, such amount shall be not less than $710,000,000 and not more than $720,000,000.

"(5) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account in each fiscal year.".

SEC. 202. MEDICARE INTEGRITY PROGRAM.

(a) ESTABLISHMENT OF MEDICARE INTEGRITY PROGRAM.—Title XVIII is amended by adding at the end the following new section:

"MEDICARE INTEGRITY PROGRAM

"SEC. 1893. (a) ESTABLISHMENT OF PROGRAM.—There is hereby established the Medicare Integrity Program (in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the medicare program by entering into contracts in accordance with this section with eligible private entities to carry out the activities described in subsection (b).

"(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are as follows:

"(1) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, including equipment and software technologies which surpass the capability of the equipment and technologies used in the review of claims under this title as of the date of the enactment of this section).

"(2) Audit of cost reports.

"(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

"(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

"(5) Developing (and periodically updating) a list of items of durable medical equipment in accordance with section 1834(a)(15) which are subject to prior authorization under such section.

"(c) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if—

"(1) the entity has demonstrated capability to carry out such activities;

"(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General of the United States, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities;

"(3) the entity demonstrates to the Secretary that the entity's financial holdings, interests, or relationships will not interfere with its ability to perform the functions to be required by the contract in an effective and impartial manner; and

"(4) the entity meets such other requirements as the Secretary may impose.

In the case of the activity described in subsection (b)(5), an entity shall be deemed to be eligible to enter into a contract under the Program to carry out the activity if the entity is a carrier with a contract in effect under section 1842.

"(d) PROCESS FOR ENTERING INTO CONTRACTS.—The Secretary shall enter into contracts under the Program in accordance with such procedures as the Secretary shall by regulation establish, except that such procedures shall include the following:

"(1) The Secretary shall determine the appropriate number of separate contracts which are necessary to carry out the Program and the appropriate times at which the Secretary shall enter into such contracts.

"(2)(A) Except as provided in subparagraph (B), the provisions of section 1153(e)(1) shall apply to contracts and contracting authority under this section.

"(B) Competitive procedures must be used when entering into new contracts under this section, or at any other time considered appropriate by the Secretary, except that the Secretary may contract with entities that are carrying out the activities described in this section pursuant to agreements under section 1816 or contracts under section 1842 in effect on the date of the enactment of this section.

"(3) A contract under this section may be renewed without regard to any provision of law requiring competition if the contractor

has met or exceeded the performance requirements established in the current contract.

"(e) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.".

(b) ELIMINATION OF FI AND CARRIER RESPONSIBILITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PROGRAM.—

(1) RESPONSIBILITIES OF FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(l) No agency or organization may carry out (or receive payment for carrying out) any activity pursuant to an agreement under this section to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893.".

(2) RESPONSIBILITIES OF CARRIERS UNDER PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(6) No carrier may carry out (or receive payment for carrying out) any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893. The previous sentence shall not apply with respect to the activity described in section 1893(b)(5) (relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).".

SEC. 203. BENEFICIARY INCENTIVE PROGRAMS.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall provide an explanation of benefits under the medicare program under title XVIII of the Social Security Act with respect to each item or service for which payment may be made under the program which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to the item or service.

(b) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(c) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

SEC. 204. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH CARE PROGRAMS.

(a) IN GENERAL.—Section 1128B (42 U.S.C. 1320a–7b) is amended as follows:

(1) In the heading, by striking "MEDICARE OR STATE HEALTH CARE PROGRAMS" and inserting "FEDERAL HEALTH CARE PROGRAMS".

(2) In subsection (a)(1), by striking "a program under title XVIII or a State health care program (as defined in section 1128(h))" and inserting "a Federal health care program".

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

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

(A) by striking "a State plan approved under title XIX" and inserting "a Federal health care program", and

(B) by striking "the State may at its option (notwithstanding any other provision of that title or of such plan)" and inserting "the administrator of such program may at its option (notwithstanding any other provision of such program)".

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

(6) In subsection (c), by inserting "(as defined in section 1128(h))" after "a State health care program".

(7) By adding at the end the following new subsection:

"(f) For purposes of this section, the term 'Federal health care program' means—

"(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the United States Government (other than the health insurance program under chapter 89 of title 5, United States Code); or

"(2) any State health care program, as defined in section 1128(h).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997.

SEC. 205. GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS.

Title XI (42 U.S.C. 1301 et seq.), as amended by section 201, is amended by inserting after section 1128C the following new section:

"GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS

"SEC. 1128D. (a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

"(1) IN GENERAL.—

"(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1997, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

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

"(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) and shall not serve as the basis for an exclusion under section 1128(b)(7);

"(iii) advisory opinions to be issued pursuant to subsection (b); and

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

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

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

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

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

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

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

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

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

"(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f)).

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

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

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

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

"(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Federal health care programs (as so defined).

"(b) ADVISORY OPINIONS.—

"(1) ISSUANCE OF ADVISORY OPINIONS.—The Secretary shall issue written advisory opinions as provided in this subsection.

"(2) MATTERS SUBJECT TO ADVISORY OPINIONS.—The Secretary shall issue advisory opinions as to the following matters:

"(A) What constitutes prohibited remuneration within the meaning of section 1128B(b).

"(B) Whether an arrangement or proposed arrangement satisfies the criteria set forth in section 1128B(b)(3) for activities which do not result in prohibited remuneration.

"(C) Whether an arrangement or proposed arrangement satisfies the criteria which the Secretary has established, or shall establish by regulation for activities which do not result in prohibited remuneration.

"(D) What constitutes an inducement to reduce or limit services to individuals entitled to benefits under title XVIII or title XIX or title XXI within the meaning of section 1128B(b).

"(E) Whether any activity or proposed activity constitutes grounds for the imposition of a sanction under section 1128, 1128A, or 1128B.

"(3) MATTERS NOT SUBJECT TO ADVISORY OPINIONS.—Such advisory opinions shall not address the following matters:

"(A) Whether the fair market value shall be, or was paid or received for any goods, services or property.

"(B) Whether an individual is a bona fide employee within the requirements of section 3121(d)(2) of the Internal Revenue Code of 1986.

"(4) EFFECT OF ADVISORY OPINIONS.—

"(A) BINDING AS TO SECRETARY AND PARTIES INVOLVED.—Each advisory opinion issued by the Secretary shall be binding as to the Secretary and the party or parties requesting the opinion.

"(B) FAILURE TO SEEK OPINION.—The failure of a party to seek an advisory opinion may not be introduced into evidence to prove that the party intended to violate the provisions of sections 1128, 1128A, or 1128B.

"(5) REGULATIONS.—

"(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Secretary shall issue regulations to carry out this section. Such regulations shall provide for—

"(i) the procedure to be followed by a party applying for an advisory opinion;

"(ii) the procedure to be followed by the Secretary in responding to a request for an advisory opinion;

"(iii) the interval in which the Secretary shall respond;

"(iv) the reasonable fee to be charged to the party requesting an advisory opinion; and

"(v) the manner in which advisory opinions will be made available to the public.

"(B) SPECIFIC CONTENTS.—Under the regulations promulgated pursuant to subparagraph (A)—

"(i) the Secretary shall be required to respond to a party requesting an advisory opinion by not later than 30 days after the request is received; and

"(ii) the fee charged to the party requesting an advisory opinion shall be equal to the costs incurred by the Secretary in responding to the request.

"(c) SPECIAL FRAUD ALERTS.—

"(1) IN GENERAL.—

"(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under the medicare program or a State health care program, as defined in section 1128(h) (in this subsection referred to as a 'special fraud alert').

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

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

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

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

Subtitle B—Revisions to Current Sanctions for Fraud and Abuse

SEC. 211. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

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

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

"(3) FELONY CONVICTION RELATING TO HEALTH CARE FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 1128(b) (42 U.S.C. 1320a–7(b)) is amended to read as follows:

"(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, under Federal or State law—

"(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

"(i) in connection with the delivery of a health care item or service, or

"(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

"(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.".

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

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

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

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

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

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

SEC. 212. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

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

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

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

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

SEC. 213. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

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

"(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—(A) Any individual—

"(i) who has a direct or indirect ownership or control interest in a sanctioned entity and who knows or should know (as defined in section 1128A(i)(6)) of the action constituting the basis for the conviction or exclusion described in subparagraph (B); or

"(ii) who is an officer or managing employee (as defined in section 1126(b)) of such an entity.

"(B) For purposes of subparagraph (A), the term 'sanctioned entity' means an entity—

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

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

SEC. 214. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

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

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

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

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

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

(2) by striking the third sentence.

SEC. 215. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

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

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

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

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

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

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

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

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

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

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

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

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

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

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

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

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

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

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—Section 1876(i)(7)(A) (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1996.

SEC. 216. ADDITIONAL EXCEPTION TO ANTI-KICKBACK PENALTIES FOR DISCOUNTING AND MANAGED CARE ARRANGEMENTS.

(a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a-7b(b)(3)) is amended—

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

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) any remuneration between an organization and an individual or entity providing items or services, or a combination thereof, pursuant to a written agreement between the organization and the individual or entity if the organization is an eligible organization under section 1876 or if the written agreement places the individual or entity at substantial financial risk for the cost or utilization of the items or services, or a combination thereof, which the individual or entity is obligated to provide, whether through a withhold, capitation, incentive pool, per diem payment, or any other similar risk arrangement which places the individual or entity at substantial financial risk.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to written agreements entered into on or after January 1, 1997.

SEC. 217. CRIMINAL PENALTY FOR FRAUDULENT DISPOSITION OF ASSETS IN ORDER TO OBTAIN MEDICAID BENEFITS.

Section 1128B(a) (42 U.S.C. 1320a-7b(a)) is amended—

(1) by striking "or" at the end of paragraph (4);

(2) by adding "or" at the end of paragraph (5); and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) knowingly and willfully disposes of assets (including by any transfer in trust) in order for an individual to become eligible for medical assistance under a State plan under title XIX, if disposing of the assets results in the imposition of a period of ineligibility for such assistance under section 1917(c),".

SEC. 218. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall take effect January 1, 1997.

Subtitle C—Data Collection

SEC. 221. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) IN GENERAL.—Title XI (42 U.S.C. 1301 et seq.), as amended by sections 201 and 205, is amended by inserting after section 1128D the following new section:

"HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM

"SEC. 1128E. (a) GENERAL PURPOSE.—Not later than January 1, 1997, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

"(b) REPORTING OF INFORMATION.—

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

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

"(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

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

"(C) The nature of the final adverse action and whether such action is on appeal.

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

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

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

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

"(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

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

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

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

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

"(d) ACCESS TO REPORTED INFORMATION.—

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

"(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee shall be sufficient to recover the full costs of operating the database. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

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

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

"(1) FINAL ADVERSE ACTION.—

"(A) IN GENERAL.—The term 'final adverse action' includes:

"(i) Civil judgments against a health care provider, supplier, or practitioner in Federal or State court related to the delivery of a health care item or service.

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

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

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

"(II) any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, nonrenewability, or otherwise, or

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

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

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

"(B) EXCEPTION.—The term does not include any action with respect to a malpractice claim.

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

"(3) GOVERNMENT AGENCY.—The term 'Government agency' shall include:

"(A) The Department of Justice.

"(B) The Department of Health and Human Services.

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

"(D) State law enforcement agencies.

"(E) State medicaid fraud control units.

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

"(4) HEALTH PLAN.—The term 'health plan' has the meaning given such term by section 1128C(c).

"(5) DETERMINATION OF CONVICTION.—For purposes of paragraph (1), the existence of a conviction shall be determined under paragraph (4) of section 1128(i).".

(b) IMPROVED PREVENTION IN ISSUANCE OF MEDICARE PROVIDER NUMBERS.—Section 1842(r) (42 U.S.C. 1395u(r)) is amended by adding at the end the following new sentence: "Under such system, the Secretary may impose appropriate fees on such physicians to cover the costs of investigation and recertification activities with respect to the issuance of the identifiers.".

Subtitle D—Civil Monetary Penalties

SEC. 231. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A (42 U.S.C. 1320a–7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking "programs under title XVIII" and inserting "Federal health care programs (as defined in section 1128B(f)(1))".

(2) In subsection (f)—

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

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

"(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Health Coverage Availability and Affordability Act of 1996 (as estimated by the Secretary) shall be deposited into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C).".

(3) In subsection (i)—

(A) in paragraph (2), by striking "title V, XVIII, XIX, or XX of this Act" and inserting "a Federal health care program (as defined in section 1128B(f))",

(B) in paragraph (4), by striking "a health insurance or medical services program under title XVIII or XIX of this Act" and inserting "a Federal health care program (as so defined)", and

(C) in paragraph (5), by striking "title V, XVIII, XIX, or XX" and inserting "a Federal health care program (as so defined)".

(4) By adding at the end the following new subsection:

"(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

"(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

"(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

"(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

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

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

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

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

"(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection—

"(A) retains a direct or indirect ownership or control interest in an entity that is participating in a program under title XVIII or a State health care program, and who knows or should know of the action constituting the basis for the exclusion; or

"(B) is an officer or managing employee (as defined in section 1126(b)) of such an entity;".

(c) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

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

(2) by inserting "; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs" after "false or misleading information was given"; and

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

(d) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)) is amended—

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

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

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

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

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

(f) PROCEDURAL PROVISIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)), as amended by section 215(a)(2), is amended by adding at the end the following new subparagraph:

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

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

(1) OFFER OF REMUNERATION.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)), as amended by subsection (b), is amended—

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

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

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

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

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

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

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

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

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

"(iii) the person—

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

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

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

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payers, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996; or

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

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1997.

SEC. 232. CLARIFICATION OF LEVEL OF INTENT REQUIRED FOR IMPOSITION OF SANCTIONS.

(a) CLARIFICATION OF LEVEL OF KNOWLEDGE REQUIRED FOR IMPOSITION OF CIVIL MONETARY PENALTIES.—

(1) IN GENERAL.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(A) in paragraphs (1) and (2), by inserting "knowingly" before "presents" each place it appears; and

(B) in paragraph (3), by striking "gives" and inserting "knowingly gives or causes to be given".

(2) DEFINITION OF STANDARD.—Section 1128A(i) (42 U.S.C. 1320a-7a(i)), as amended by section 231(g)(2), is amended by adding at the end the following new paragraph:

"(7) The term 'should know' means that a person, with respect to information—

"(A) acts in deliberate ignorance of the truth or falsity of the information; or

"(B) acts in reckless disregard of the truth or falsity of the information,

and no proof of specific intent to defraud is required.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to acts or omissions occurring on or after January 1, 1997.

SEC. 233. PENALTY FOR FALSE CERTIFICATION FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1128A(b) (42 U.S.C. 1320a-7a(b)) is amended by adding at the end the following new paragraph:

"(3)(A) Any physician who executes a document described in subparagraph (B) with respect to an individual knowing that all of the requirements referred to in such subparagraph are not met with respect to the individual shall be subject to a civil monetary penalty of not more than the greater of—

"(i) $5,000, or

"(ii) three times the amount of the payments under title XVIII for home health services which are made pursuant to such certification.

"(B) A document described in this subparagraph is any document that certifies, for purposes of title XVIII, that an individual meets the requirements of section 1814(a)(2)(C) or 1835(a)(2)(A) in the case of home health services furnished to the individual.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to certifications made on or after the date of the enactment of this Act.

Subtitle E—Revisions to Criminal Law

SEC. 241. DEFINITIONS RELATING TO FEDERAL HEALTH CARE OFFENSE.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

"§ 24. Definitions relating to Federal health care offense

"(a) As used in this title, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(1) section 669, 1035, 1347, or 1518 of this title; or

"(2) section 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of this title, if the violation or conspiracy relates to a health care benefit program.

"(b) As used in this title, the term 'health care benefit program' means any public or private plan or contract, affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the plan or contract.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by inserting after the item relating to section 23 the following new item:

"24. Definitions relating to Federal health care offense.".

SEC. 242. HEALTH CARE FRAUD.

(a) OFFENSE.—

(1) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1347. Health care fraud

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

"(1) to defraud any health care benefit program; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program,

in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365 of this title), such person shall be fined under this title or imprisoned not more than 20 years, or both; and if the violation results in death, such person shall be fined under this title, or imprisoned for any term of years or for life, or both.".

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

"1347. Health care fraud.".

(b) CRIMINAL FINES DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—The Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act (42 U.S.C. 1395i) an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. 243. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"§ 669. Theft or embezzlement in connection with health care

"(a) Whoever embezzles, steals, or otherwise without authority knowingly converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health care benefit program, shall be fined under this title or imprisoned not more than 10 years, or both; but if the value of such property does not exceed the sum of $100 the defendant shall be fined under this title or imprisoned not more than one year, or both.

"(b) As used in this section, the term 'health care benefit program' has the meaning given such term in section 1347(b) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"669. Theft or embezzlement in connection with health care.".

SEC. 244. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1035. False statements relating to health care matters

"(a) Whoever, in any matter involving a health care benefit program, knowingly—

"(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; or

"(2) makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry,

in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) As used in this section, the term 'health care benefit program' has the meaning given such term in section 1347(b) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following new item:

"1035. False statements relating to health care matters.".

SEC. 245. OBSTRUCTION OF CRIMINAL INVESTIGATIONS OF HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"§ 1518. Obstruction of criminal investigations of health care offenses

"(a) Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a violation of a Federal health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new item:

"1518. Obstruction of criminal investigations of health care offenses.".

SEC. 246. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following:

"(F) Any act or activity constituting an offense involving a Federal health care offense.".

SEC. 247. INJUNCTIVE RELIEF RELATING TO HEALTH CARE OFFENSES.

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

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

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

(3) by adding at the end the following:

"(C) committing or about to commit a Federal health care offense.".

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting "or a Federal health care offense" after "title)".

SEC. 248. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding after section 3485 the following:

"§ 3486. Authorized investigative demand procedures

"(a) AUTHORIZATION.—In any investigation relating to any act or activity involving a Federal health care offense, the Attorney General or the Attorney General's designee may issue in writing and cause to be served a subpoena requiring the production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control. A subpoena shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

"(b) SERVICE.—A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c) ENFORCEMENT.—In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

"(d) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a summons under this section, who complies in good faith with the summons and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

"(e) LIMITATION ON USE.—(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefor.

"(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

"(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3485 the following new item:

"3486. Authorized investigative demand procedures.".

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Department of Justice subpoena (issued under section 3486 of title 18)," after "subpoena".

SEC. 249. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

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

"(6) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.".

(b) CONFORMING AMENDMENT.—Section 982(b)(1)(A) of title 18, United States Code, is amended by inserting "or (a)(6)" after "(a)(1)".

(c) PROPERTY FORFEITED DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—After the payment of the costs of asset forfeiture has been made, and notwithstanding any other provision of law, the Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 301(b), an amount equal to the net amount realized from the forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

(2) COSTS OF ASSET FORFEITURE.—For purposes of paragraph (1), the term "payment of the costs of asset forfeiture" means—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited, or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for—

(i) contract services;

(ii) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph;

(B) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Health Care Fraud and Abuse Control Account;

(C) the compromise and payment of valid liens and mortgages against property that has been forfeited, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(D) payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(E) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

SEC. 250. RELATION TO ERISA AUTHORITY.

Nothing in this subtitle shall be construed as affecting the authority of the Secretary of Labor under section 506(b) of the Employee Retirement Income Security Act of 1974, including the Secretary's authority with respect to violations of title 18, United States Code (as amended by this subtitle).

Subtitle F—Administrative Simplification

SEC. 251. PURPOSE.

It is the purpose of this subtitle to improve the medicare program under title XVIII of the Social Security Act, the medicaid program under title XIX of such Act, and the efficiency and effectiveness of the health care system, by encouraging the development of a health information system through the establishment of standards and requirements for the electronic transmission of certain health information.

SEC. 252. ADMINISTRATIVE SIMPLIFICATION.

(a) IN GENERAL.—Title XI (42 U.S.C. 1301 et seq.) is amended by adding at the end the following:

"PART C—ADMINISTRATIVE SIMPLIFICATION

"DEFINITIONS

"SEC. 1171. For purposes of this part:

"(1) CLEARINGHOUSE.—The term 'clearinghouse' means a public or private entity that processes or facilitates the processing of nonstandard data elements of health information into standard data elements.

"(2) CODE SET.—The term 'code set' means any set of codes used for encoding data elements, such as tables of terms, medical concepts, medical diagnostic codes, or medical procedure codes.

"(3) HEALTH CARE PROVIDER.—The term 'health care provider' includes a provider of services (as defined in section 1861(u)), a provider of medical or other health services (as defined in section 1861(s)), and any other person furnishing health care services or supplies.

"(4) HEALTH INFORMATION.—The term 'health information' means any information, whether oral or recorded in any form or medium that—

"(A) is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or clearinghouse; and

"(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

"(5) HEALTH PLAN.—The term 'health plan' means a plan which provides, or pays the cost of, health benefits. Such term includes the following, and any combination thereof:

"(A) Part A or part B of the medicare program under title XVIII.

"(B) The medicaid program under title XIX.

"(C) A medicare supplemental policy (as defined in section 1882(g)(1)).

"(D) A long-term care policy, including a nursing home fixed indemnity policy (unless the Secretary determines that such a policy does not provide sufficiently comprehensive coverage of a benefit so that the policy should be treated as a health plan).

"(E) Health benefits of an employee welfare benefit plan, as defined in section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), but only to the extent the plan is established or maintained for the purpose of providing health benefits and has 50 or more participants (as defined in section 3(7) of such Act).

"(F) An employee welfare benefit plan or any other arrangement which is established or maintained for the purpose of offering or providing health benefits to the employees of 2 or more employers.

"(G) The health care program for active military personnel under title 10, United States Code.

"(H) The veterans health care program under chapter 17 of title 38, United States Code.

"(I) The Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), as defined in section 1073(4) of title 10, United States Code.

"(J) The Indian health service program under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"(K) The Federal Employees Health Benefit Plan under chapter 89 of title 5, United States Code.

"(6) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—The term 'individually identifiable health information' means any information, including demographic information collected from an individual, that—

"(A) is created or received by a health care provider, health plan, employer, or clearinghouse; and

"(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, and—

"(i) identifies the individual; or

"(ii) with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

"(7) STANDARD.—The term 'standard', when used with reference to a data element of health information or a transaction referred to in section 1173(a)(1), means any such data element or transaction that meets each of the standards and implementation specifications adopted or established by the Secretary with respect to the data element or transaction under sections 1172 through 1174.

"(8) STANDARD SETTING ORGANIZATION.—The term 'standard setting organization' means a standard setting organization accredited by the American National Standards Institute, including the National Council for Prescription Drug Programs, that develops standards for information transactions, data elements, or any other standard that is necessary to, or will facilitate, the implementation of this part.

"GENERAL REQUIREMENTS FOR ADOPTION OF STANDARDS

"SEC. 1172. (a) APPLICABILITY.—Any standard adopted under this part shall apply, in whole or in part, to the following persons:

"(1) An health plan.

"(2) A clearinghouse.

"(3) A health care provider who transmits any health information in electronic form in connection with a transaction referred to in section 1173(a)(1).

"(b) REDUCTION OF COSTS.—Any standard adopted under this part shall be consistent with the objective of reducing the administrative costs of providing and paying for health care.

"(c) ROLE OF STANDARD SETTING ORGANIZATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any standard adopted under this part shall be a standard that has been developed, adopted, or modified by a standard setting organization.

"(2) SPECIAL RULES.—

"(A) DIFFERENT STANDARDS.—The Secretary may adopt a standard that is different from any standard developed, adopted, or modified by a standard setting organization, if—

"(i) the different standard will substantially reduce administrative costs to health care providers and health plans compared to the alternatives; and

"(ii) the standard is promulgated in accordance with the rulemaking procedures of subchapter III of chapter 5 of title 5, United States Code.

"(B) NO STANDARD BY STANDARD SETTING ORGANIZATION.—If no standard setting organization has developed, adopted, or modified any standard relating to a standard that the Secretary is authorized or required to adopt under this part—

"(i) paragraph (1) shall not apply; and

"(ii) subsection (f) shall apply.

"(d) IMPLEMENTATION SPECIFICATIONS.—The Secretary shall establish specifications for implementing each of the standards adopted under this part.

"(e) PROTECTION OF TRADE SECRETS.—Except as otherwise required by law, a standard adopted under this part shall not require disclosure of trade secrets or confidential commercial information by a person required to comply with this part.

"(f) ASSISTANCE TO THE SECRETARY.—In complying with the requirements of this part, the Secretary shall rely on the recommendations of the National Committee on Vital and Health Statistics established under section 306(k) of the Public Health Service Act (42 U.S.C. 242k(k)) and shall consult with appropriate Federal and State agencies and private organizations. The Secretary shall publish in the Federal Register any recommendation of the National Committee on Vital and Health Statistics regarding the adoption of a standard under this part.

"(g) APPLICATION TO MODIFICATIONS OF STANDARDS.—This section shall apply to a modification to a standard (including an addition to a standard) adopted under section 1174(b) in the same manner as it applies to an initial standard adopted under section 1174(a).

"STANDARDS FOR INFORMATION TRANSACTIONS AND DATA ELEMENTS

"SEC. 1173. (a) STANDARDS TO ENABLE ELECTRONIC EXCHANGE.—

"(1) IN GENERAL.—The Secretary shall adopt standards for transactions, and data elements for such transactions, to enable health information to be exchanged electronically, that are appropriate for—

"(A) the financial and administrative transactions described in paragraph (2); and

"(B) other financial and administrative transactions determined appropriate by the Secretary consistent with the goals of improving the operation of the health care system and reducing administrative costs.

"(2) TRANSACTIONS.—The transactions referred to in paragraph (1)(A) are the following:

"(A) Claims (including coordination of benefits) or equivalent encounter information.

"(B) Claims attachments.

"(C) Enrollment and disenrollment.

"(D) Eligibility.

"(E) Health care payment and remittance advice.

"(F) Premium payments.

"(G) First report of injury.

"(H) Claims status.

"(I) Referral certification and authorization.

"(3) ACCOMMODATION OF SPECIFIC PROVIDERS.—The standards adopted by the Secretary under paragraph (1) shall accommodate the needs of different types of health care providers.

"(b) UNIQUE HEALTH IDENTIFIERS.—

"(1) IN GENERAL.—The Secretary shall adopt standards providing for a standard unique health identifier for each individual, employer, health plan, and health care provider for use in the health care system. In carrying out the preceding sentence for each health plan and health care provider, the Secretary shall take into account multiple uses for identifiers and multiple locations and specialty classifications for health care providers.

"(2) USE OF IDENTIFIERS.—The standards adopted under paragraphs (1) shall specify the purposes for which a unique health identifier may be used.

"(c) CODE SETS.—

"(1) IN GENERAL.—The Secretary shall adopt standards that—

"(A) select code sets for appropriate data elements for the transactions referred to in subsection (a)(1) from among the code sets that have been developed by private and public entities; or

"(B) establish code sets for such data elements if no code sets for the data elements have been developed.

"(2) DISTRIBUTION.—The Secretary shall establish efficient and low-cost procedures for distribution (including electronic distribution) of code sets and modifications made to such code sets under section 1174(b).

"(d) SECURITY STANDARDS FOR HEALTH INFORMATION.—

"(1) SECURITY STANDARDS.—The Secretary shall adopt security standards that—

"(A) take into account—

"(i) the technical capabilities of record systems used to maintain health information;

"(ii) the costs of security measures;

"(iii) the need for training persons who have access to health information;

"(iv) the value of audit trails in computerized record systems; and

"(v) the needs and capabilities of small health care providers and rural health care providers (as such providers are defined by the Secretary); and

"(B) ensure that a clearinghouse, if it is part of a larger organization, has policies and security procedures which isolate the activities of the clearinghouse with respect to processing information in a manner that prevents unauthorized access to such information by such larger organization.

"(2) SAFEGUARDS.—Each person described in section 1172(a) who maintains or transmits health information shall maintain reasonable and appropriate administrative, technical, and physical safeguards—

"(A) to ensure the integrity and confidentiality of the information;

"(B) to protect against any reasonably anticipated—

"(i) threats or hazards to the security or integrity of the information; and

"(ii) unauthorized uses or disclosures of the information; and

"(C) otherwise to ensure compliance with this part by the officers and employees of such person.

"(e) PRIVACY STANDARDS FOR HEALTH INFORMATION.—The Secretary shall adopt standards with respect to the privacy of individually identifiable health information transmitted in connection with the transactions referred to in subsection (a)(1). Such standards shall include standards concerning at least the following:

"(1) The rights of an individual who is a subject of such information.

"(2) The procedures to be established for the exercise of such rights.

"(3) The uses and disclosures of such information that are authorized or required.

"(f) ELECTRONIC SIGNATURE.—

"(1) IN GENERAL.—

"(A) STANDARDS.—The Secretary, in coordination with the Secretary of Commerce, shall adopt standards specifying procedures for the electronic transmission and authentication of signatures with respect to the transactions referred to in subsection (a)(1).

"(B) EFFECT OF COMPLIANCE.—Compliance with the standards adopted under subparagraph (A) shall be deemed to satisfy Federal and State statutory requirements for written signatures with respect to the transactions referred to in subsection (a)(1).

"(2) PAYMENTS FOR SERVICES AND PREMIUMS.—Nothing in this part shall be construed to prohibit payment for health care services or health plan premiums by debit, credit, payment card or numbers, or other electronic means.

"(g) TRANSFER OF INFORMATION AMONG HEALTH PLANS.—The Secretary shall adopt standards for transferring among health plans appropriate standard data elements needed for the coordination of benefits, the sequential processing of claims, and other data elements for individuals who have more than one health plan.

"TIMETABLES FOR ADOPTION OF STANDARDS

"SEC. 1174. (a) INITIAL STANDARDS.—The Secretary shall carry out section 1173 not later than 18 months after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, except that standards relating to claims attachments shall be adopted not later than 30 months after such date.

"(b) ADDITIONS AND MODIFICATIONS TO STANDARDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall review the standards adopted under section 1173, and shall adopt modifications to the standards (including additions to the standards), as determined appropriate, but not more frequently than once every 6 months. Any addition or modification to a standard shall be completed in a manner which minimizes the disruption and cost of compliance.

"(2) SPECIAL RULES.—

"(A) FIRST 12-MONTH PERIOD.—Except with respect to additions and modifications to code sets under subparagraph (B), the Secretary may not adopt any modification to a standard adopted under this part during the 12-month period beginning on the date the standard is initially adopted, unless the Secretary determines that the modification is necessary in order to permit compliance with the standard.

"(B) ADDITIONS AND MODIFICATIONS TO CODE SETS.—

"(i) IN GENERAL.—The Secretary shall ensure that procedures exist for the routine maintenance, testing, enhancement, and expansion of code sets.

"(ii) ADDITIONAL RULES.—If a code set is modified under this subsection, the modified code set shall include instructions on how data elements of health information that were encoded prior to the modification may be converted or translated so as to preserve the informational value of the data elements that existed before the modification. Any modification to a code set under this subsection shall be implemented in a manner that minimizes the disruption and cost of complying with such modification.

"REQUIREMENTS

"SEC. 1175. (a) CONDUCT OF TRANSACTIONS BY PLANS.—

"(1) IN GENERAL.—If a person desires to conduct a transaction referred to in section 1173(a)(1) with a health plan as a standard transaction—

"(A) the health plan may not refuse to conduct such transaction as a standard transaction;

"(B) the health plan may not delay such transaction, or otherwise adversely affect, or attempt to adversely affect, the person or the transaction on the ground that the transaction is a standard transaction; and

"(C) the information transmitted and received in connection with the transaction shall be in the form of standard data elements of health information.

"(2) SATISFACTION OF REQUIREMENTS.—A health plan may satisfy the requirements under paragraph (1) by—

"(A) directly transmitting and receiving standard data elements of health information; or

"(B) submitting nonstandard data elements to a clearinghouse for processing into standard data elements and transmission by the clearinghouse, and receiving standard data elements through the clearinghouse.

"(3) TIMETABLE FOR COMPLIANCE.—Paragraph (1) shall not be construed to require a health plan to comply with any standard, implementation specification, or modification to a standard or specification adopted or established by the Secretary under sections 1172 through 1174 at any time prior to the date on which the plan is required to comply with the standard or specification under subsection (b).

"(b) COMPLIANCE WITH STANDARDS.—

"(1) INITIAL COMPLIANCE.—

"(A) IN GENERAL.—Not later than 24 months after the date on which an initial standard or implementation specification is adopted or established under sections 1172 and 1173, each person to whom the standard or implementation specification applies shall comply with the standard or specification.

"(B) SPECIAL RULE FOR SMALL HEALTH PLANS.—In the case of a small health plan, paragraph (1) shall be applied by substituting '36 months' for '24 months'. For purposes of this subsection, the Secretary shall determine the plans that qualify as small health plans.

"(2) COMPLIANCE WITH MODIFIED STANDARDS.—If the Secretary adopts a modification to a standard or implementation specification under this part, each person to whom the standard or implementation specification applies shall comply with the modified standard or implementation specification at such time as the Secretary determines appropriate, taking into account the time needed to comply due to the nature and extent of the modification. The time determined appropriate under the preceding sentence may not be earlier than the last day of the 180-day period beginning on the date such modification is adopted. The Secretary may extend the time for compliance for small insurance plans, if the Secretary determines that such extension is appropriate.

"GENERAL PENALTY FOR FAILURE TO COMPLY WITH REQUIREMENTS AND STANDARDS

"SEC. 1176. (a) GENERAL PENALTY.—

"(1) IN GENERAL.—Except as provided in subsection (b), the Secretary shall impose on any person who violates a provision of this part a penalty of not more than $100 for each such violation, except that the total amount imposed on the person for all violations of an

identical requirement or prohibition during a calendar year may not exceed $25,000.

"(2) PROCEDURES.—The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil money penalty under this subsection in the same manner as such provisions apply to the imposition of a penalty under such section 1128A.

"(b) LIMITATIONS.—

"(1) OFFENSES OTHERWISE PUNISHABLE.—A penalty may not be imposed under subsection (a) with respect to an act if the act constitutes an offense punishable under section 1177.

"(2) NONCOMPLIANCE NOT DISCOVERED.—A penalty may not be imposed under subsection (a) with respect to a provision of this part if it is established to the satisfaction of the Secretary that the person liable for the penalty did not know, and by exercising reasonable diligence would not have known, that such person violated the provision.

"(3) FAILURES DUE TO REASONABLE CAUSE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a penalty may not be imposed under subsection (a) if—

"(i) the failure to comply was due to reasonable cause and not to willful neglect; and

"(ii) the failure to comply is corrected during the 30-day period beginning on the first date the person liable for the penalty knew, or by exercising reasonable diligence would have known, that the failure to comply occurred.

"(B) EXTENSION OF PERIOD.—

"(i) NO PENALTY.—The period referred to in subparagraph (A)(ii) may be extended as determined appropriate by the Secretary based on the nature and extent of the failure to comply.

"(ii) ASSISTANCE.—If the Secretary determines that a person failed to comply because the person was unable to comply, the Secretary may provide technical assistance to the person during the period described in subparagraph (A)(ii). Such assistance shall be provided in any manner determined appropriate by the Secretary.

"(4) REDUCTION.—In the case of a failure to comply which is due to reasonable cause and not to willful neglect, any penalty under subsection (a) that is not entirely waived under paragraph (3) may be waived to the extent that the payment of such penalty would be excessive relative to the compliance failure involved.

"WRONGFUL DISCLOSURE OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION

"SEC. 1177. (a) OFFENSE.—A person who knowingly and in violation of this part—

"(1) uses or causes to be used a unique health identifier;

"(2) obtains individually identifiable health information relating to an individual; or

"(3) discloses individually identifiable health information to another person,

shall be punished as provided in subsection (b).

"(b) PENALTIES.—A person described in subsection (a) shall—

"(1) be fined not more than $50,000, imprisoned not more than 1 year, or both;

"(2) if the offense is committed under false pretenses, be fined not more than $100,000, imprisoned not more than 5 years, or both; and

"(3) if the offense is committed with intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain, or malicious harm, fined not more than $250,000, imprisoned not more than 10 years, or both.

"EFFECT ON STATE LAW

"SEC. 1178. (a) GENERAL EFFECT.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), a provision or requirement under this part, or a standard or implementation specification adopted or established under sections 1172 through 1174, shall supersede any contrary provision of State law, including a provision of State law that requires medical or health plan records (including billing information) to be maintained or transmitted in written rather than electronic form.

"(2) EXCEPTIONS.—A provision or requirement under this part, or a standard or implementation specification adopted or established under sections 1172 through 1174, shall not supersede a contrary provision of State law, if the provision of State law—

"(A) imposes requirements, standards, or implementation specifications that are more stringent than the requirements, standards, or implementation specifications under this part with respect to the privacy of individually identifiable health information; or

"(B) is a provision the Secretary determines—

"(i) is necessary to prevent fraud and abuse, or for other purposes; or

"(ii) addresses controlled substances.

"(b) PUBLIC HEALTH REPORTING.—Nothing in this part shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention.".

(b) CONFORMING AMENDMENTS.—

(1) REQUIREMENT FOR MEDICARE PROVIDERS.—Section 1866(a)(1) (42 U.S.C. 1395cc(a)(1)) is amended—

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

(B) by striking the period at the end of subparagraph (Q) and inserting "; and"; and

(C) by inserting immediately after subparagraph (Q) the following new subparagraph:

"(R) to contract only with a clearinghouse (as defined in section 1171) that meets each standard and implementation specification adopted or established under part C of title XI on or after the date on which the clearinghouse is required to comply with the standard or specification.".

(2) TITLE HEADING.—Title XI (42 U.S.C. 1301 et seq.) is amended by striking the title heading and inserting the following:

"TITLE XI—GENERAL PROVISIONS, PEER REVIEW, AND ADMINISTRATIVE SIMPLIFICATION".

SEC. 253. CHANGES IN MEMBERSHIP AND DUTIES OF NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS.

Section 306(k) of the Public Health Service Act (42 U.S.C. 242k(k)) is amended—

(1) in paragraph (1), by striking "16" and inserting "18";

(2) by amending paragraph (2) to read as follows:

"(2) The members of the Committee shall be appointed from among persons who have distinguished themselves in the fields of health statistics, electronic interchange of health care information, privacy and security of electronic information, population-based public health, purchasing or financing health care services, integrated computerized health information systems, health services research, consumer interests in health information, health data standards, epidemiology, and the provision of health services. Members of the Committee shall be appointed for terms of 4 years.";

(3) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and inserting after paragraph (2) the following:

"(3) Of the members of the Committee—

"(A) 1 shall be appointed, not later than 60 days after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, by the Speaker of the House of Representatives after consultation with the minority leader of the House of Representatives;

"(B) 1 shall be appointed, not later than 60 days after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, by the President pro tempore of the Senate after consultation with the minority leader of the Senate; and

"(C) 16 shall be appointed by the Secretary.";

(4) by amending paragraph (5) (as so redesignated) to read as follows:

"(5) The Committee—

"(A) shall assist and advise the Secretary—

"(i) to delineate statistical problems bearing on health and health services which are of national or international interest;

"(ii) to stimulate studies of such problems by other-organizations and agencies whenever possible or to make investigations of such problems through subcommittees;

"(iii) to determine, approve, and revise the terms, definitions, classifications, and guidelines for assessing health status and health services, their distribution and costs, for use (I) within the Department of Health and Human Services, (II) by all programs administered or funded by the Secretary, including the Federal-State-local cooperative health statistics system referred to in subsection (e), and (III) to the extent possible as determined by the head of the agency involved, by the Department of Veterans Affairs, the Department of Defense, and other Federal agencies concerned with health and health services;

"(iv) with respect to the design of and approval of health statistical and health information systems concerned with the collection, processing, and tabulation of health statistics within the Department of Health and Human Services, with respect to the Cooperative Health Statistics System established under subsection (e), and with respect to the standardized means for the collection of health information and statistics to be established by the Secretary under subsection (j)(1);

"(v) to review and comment on findings and proposals developed by other organizations and agencies and to make recommendations for their adoption or implementation by local, State, national, or international agencies;

"(vi) to cooperate with national committees of other countries and with the World Health Organization and other national agencies in the studies of problems of mutual interest;

"(vii) to issue an annual report on the state of the Nation's health, its health services, their costs and distributions, and to make proposals for improvement of the Nation's health statistics and health information systems; and

"(viii) in complying with the requirements imposed on the Secretary under part C of title XI of the Social Security Act;

"(B) shall study the issues related to the adoption of uniform data standards for patient medical record information and the electronic exchange of such information;

"(C) shall report to the Secretary not later than 4 years after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996 recommendations and legislative proposals for such standards and electronic exchange; and

"(D) shall be responsible generally for advising the Secretary and the Congress on the status of the implementation of part C of title XI of the Social Security Act."; and

(5) by adding at the end the following:

"(7) Not later than 1 year after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, and annually thereafter, the Committee shall submit to the Congress, and make public, a report regarding—

"(A) the extent to which persons required to comply with part C of title XI of the Social Security Act are cooperating in implementing the standards adopted under such part;

"(B) the extent to which such entities are meeting the privacy and security standards adopted under such part and the types of penalties assessed for noncompliance with such standards;

"(C) whether the Federal and State Governments are receiving information of sufficient quality to meet their responsibilities under such part;

"(D) any problems that exist with respect to implementation of such part; and

"(E) the extent to which timetables under such part are being met.".

Subtitle G—Duplication and Coordination of Medicare-Related Plans

SEC. 261. DUPLICATION AND COORDINATION OF MEDICARE-RELATED PLANS.

(a) TREATMENT OF CERTAIN HEALTH INSURANCE POLICIES AS NONDUPLICATIVE.—Effective as if included in the enactment of section 4354 of the Omnibus Budget Reconciliation Act of 1990, section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(1) in clause (iii), by striking "clause (i)" and inserting "clause (i)(II)"; and

(2) by adding at the end the following:

"(iv) For purposes of this subparagraph, a health insurance policy providing for benefits which are payable to or on behalf of an individual without regard to other health benefit coverage of such individual is not considered to 'duplicate' any health benefits under this title, under title XIX, or under a health insurance policy, and subclauses (I) and (III) of clause (i) does not apply to such a policy.

"(v)(I) For purposes of this subparagraph, a health insurance policy (or a rider to an insurance contract which is not a health insurance policy), providing benefits for long-term care, nursing home care, home health care, or community-based care and that coordinates against or excludes items and services available or paid for under this title and (for policies sold or issued on or after 90 days after the date of enactment of this clause) that discloses such coordination or exclusion in the policy's outline of coverage, is not considered to 'duplicate' health benefits under this title.

"(II) For purposes of this subparagraph, a health insurance policy (which may be a contract with a health maintenance organization) that is a replacement product for another health insurance policy that is being terminated by the issuer, that is being provided to an individual entitled to benefits under part A on the basis of section 226(b), and that coordinates against or excludes items and services available or paid for under this title is not considered to 'duplicate' health benefits under this title.

"(III) For purposes of this clause, the terms 'coordinates' and 'coordination' mean, with respect to a policy in relation to health benefits under this title, that the policy under its terms is secondary to, or excludes from payment, items and services to the extent available or paid for under this title.

"(vi) Notwithstanding any other provision of law, no criminal or civil penalty may be imposed at any time under this subparagraph and no legal action may be brought or continued at any time in any Federal or State court if the penalty or action is based on an act or omission that occurred after November 5, 1991, and before the date of the enactment of this clause, and relates to the sale, issuance, or renewal of any health insurance policy or rider during such period, if such policy or rider meets the nonduplication requirements of clause (iv) or (v).

"(vii) A State may not impose, in the case of the sale, issuance, or renewal of a health insurance policy (other than a medicare supplemental policy) or rider to an insurance contract which is not a health insurance policy, that meets the nonduplication requirements of this section pursuant to clause (iv) or (v) to an individual entitled to benefits under part A or enrolled under part B, any requirement relating to any duplication (or nonduplication) of health benefits under such policy or rider with health benefits to which the individual is otherwise entitled to under this title.".

(b) CONFORMING AMENDMENTS.—Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended—

(1) in subparagraph (C)—

(A) by striking "with respect to (i)" and inserting "with respect to", and

(B) by striking ", (ii) the sale" and all that follows up to the period at the end; and

(2) by striking subparagraph (D).

Subtitle H—Medical Liability Reform

PART 1—GENERAL PROVISIONS

SEC. 271. FEDERAL REFORM OF HEALTH CARE LIABILITY ACTIONS.

(a) APPLICABILITY.—This subtitle shall apply with respect to any health care liability action brought in any State or Federal court, except that this subtitle shall not apply to—

(1) an action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the action, or

(2) an action under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(b) PREEMPTION.—This subtitle shall preempt any State law to the extent such law is inconsistent with the limitations contained in this subtitle. This subtitle shall not preempt any State law that provides for defenses or places limitations on a person's liability in addition to those contained in this subtitle or otherwise imposes greater restrictions than those provided in this subtitle.

(c) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in subsection (b) shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(d) AMOUNT IN CONTROVERSY.—In an action to which this subtitle applies and which is brought under section 1332 of title 28, United States Code, the amount of noneconomic damages or punitive damages, and attorneys' fees or costs, shall not be included in determining whether the matter in controversy exceeds the sum or value of $50,000.

(e) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this subtitle shall be construed to establish any jurisdiction in the district courts of the United States over health care liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

SEC. 272. DEFINITIONS.

As used in this subtitle:

(1) ACTUAL DAMAGES.—The term "actual damages" means damages awarded to pay for economic loss.

(2) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term "alternative dispute resolution system" or "ADR" means a system established under Federal or State law that provides for the resolution of health care liability claims in a manner other than through health care liability actions.

(3) CLAIMANT.—The term "claimant" means any person who brings a health care liability action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(4) CLEAR AND CONVINCING EVIDENCE.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. Such measure or degree of proof is more than that required under preponderance of the evidence but less than that required for proof beyond a reasonable doubt.

(5) COLLATERAL SOURCE PAYMENTS.—The term "collateral source payments" means any amount paid or reasonably likely to be paid in the future to or on behalf of a claimant, or any service, product, or other benefit provided or reasonably likely to be provided in the future to or on behalf of a claimant, as a result of an injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident or workers' compensation Act;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(6) DRUG.—The term "drug" has the meaning given such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(7) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from injury (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent recovery for such loss is allowed under applicable State law.

(8) HARM.—The term "harm" means any legally cognizable wrong or injury for which punitive damages may be imposed.

(9) HEALTH BENEFIT PLAN.—The term "health benefit plan" means—

(A) a hospital or medical expense incurred policy or certificate,

(B) a hospital or medical service plan contract,

(C) a health maintenance subscriber contract,

(D) a multiple employer welfare arrangement or employee benefit plan (as defined under the Employee Retirement Income Security Act of 1974), or

(E) a MedicarePlus product (offered under part C of title XVIII of the Social Security Act),

that provides benefits with respect to health care services.

(10) HEALTH CARE LIABILITY ACTION.—The term "health care liability action" means a civil action brought in a State or Federal court against a health care provider, an entity which is obligated to provide or pay for health benefits under any health benefit plan (including any person or entity acting under a contract or arrangement to provide or administer any health benefit), or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, in which the claimant alleges a claim (including third party claims, cross claims, counter claims, or distribution claims) based upon the provision of (or the failure to provide or pay for) health care services or the use of a medical product, regardless of the theory of liability on which the claim is based or the number of plaintiffs, defendants, or causes of action.

(11) HEALTH CARE LIABILITY CLAIM.—The term "health care liability claim" means a claim in which the claimant alleges that injury was caused by the provision of (or the failure to provide) health care services.

(12) HEALTH CARE PROVIDER.—The term "health care provider" means any person that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(13) HEALTH CARE SERVICE.—The term "health care service" means any service for which payment may be made under a health benefit plan including services related to the delivery or administration of such service.

(14) MEDICAL DEVICE.—The term "medical device" has the meaning given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(15) NONECONOMIC DAMAGES.—The term "noneconomic damages" means damages paid to an individual for pain and suffering, inconvenience, emotional distress, mental anguish, loss of consortium, injury to reputation, humiliation, and other nonpecuniary losses.

(16) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(17) PRODUCT SELLER.—The term "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, rents, leases, prepares, blends, packages, labels a product, is otherwise involved in placing a product in the stream of commerce, or installs, repairs, or maintains the harm-causing aspect of a product. The term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; or

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor.

(18) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded against any person not to compensate for actual injury suffered, but to punish or deter such person or others from engaging in similar behavior in the future.

(19) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 273. EFFECTIVE DATE.

This subtitle will apply to any health care liability action brought in a Federal or State court and to any health care liability claim subject to an alternative dispute resolution system, that is initiated on or after the date of enactment of this subtitle, except that any health care liability claim or action arising from an injury occurring prior to the date of enactment of this subtitle shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

PART 2—UNIFORM STANDARDS FOR HEALTH CARE LIABILITY ACTIONS

SEC. 281. STATUTE OF LIMITATIONS.

A health care liability action may not be brought after the expiration of the 2-year period that begins on the date on which the alleged injury that is the subject of the action was discovered or should reasonably have been discovered, but in no case after the expiration of the 5-year period that begins on the date the alleged injury occurred.

SEC. 282. CALCULATION AND PAYMENT OF DAMAGES.

(a) TREATMENT OF NONECONOMIC DAMAGES.—

(1) LIMITATION ON NONECONOMIC DAMAGES.—The total amount of noneconomic damages that may be awarded to a claimant for losses resulting from the injury which is the subject of a health care liability action may not exceed $250,000, regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury.

(2) JOINT AND SEVERAL LIABILITY.—In any health care liability action brought in State or Federal court, a defendant shall be liable only for the amount of noneconomic damages attributable to such defendant in direct proportion to such defendant's share of fault or responsibility for the claimant's actual damages, as determined by the trier of fact. In all such cases, the liability of a defendant for noneconomic damages shall be several and not joint.

(b) TREATMENT OF PUNITIVE DAMAGES.—

(1) GENERAL RULE.—Punitive damages may, to the extent permitted by applicable State law, be awarded in any health care liability action for harm in any Federal or State court against a defendant if the claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct—

(A) specifically intended to cause harm, or

(B) conduct manifesting a conscious, flagrant indifference to the rights or safety of others.

(2) PROPORTIONAL AWARDS.—The amount of punitive damages that may be awarded in any health care liability action subject to this subtitle shall not exceed 3 times the amount of damages awarded to the claimant for economic loss, or $250,000, whichever is greater. This paragraph shall be applied by the court and shall not be disclosed to the jury.

(3) APPLICABILITY.—This subsection shall apply to any health care liability action brought in any Federal or State court on any theory where punitive damages are sought. This subsection does not create a cause of action for punitive damages. This subsection does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages.

(4) BIFURCATION.—At the request of any party, the trier of fact shall consider in a separate proceeding whether punitive damages are to be awarded and the amount of such award. If a separate proceeding is requested, evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether actual damages are to be awarded.

(5) DRUGS AND DEVICES.—

(A) IN GENERAL.—(i) Punitive damages shall not be awarded against a manufacturer or product seller of a drug or medical device which caused the claimant's harm where—

(I) such drug or device was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm, or the adequacy of the packaging or labeling of such drug or device which caused the harm, and such drug, device, packaging, or labeling was approved by the Food and Drug Administration; or

(II) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(ii) Clause (i) shall not apply in any case in which the defendant, before or after premarket approval of a drug or device—

(I) intentionally and wrongfully withheld from or misrepresented to the Food and Drug Administration information concerning such drug or device required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and relevant to the harm suffered by the claimant, or

(II) made an illegal payment to an official or employee of the Food and Drug Administration for the purpose of securing or maintaining approval of such drug or device.

(B) PACKAGING.—In a health care liability action for harm which is alleged to relate to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the court by clear and convincing evidence to be substantially out of compliance with such regulations.

(c) PERIODIC PAYMENTS FOR FUTURE LOSSES.—

(1) GENERAL RULE.—In any health care liability action in which the damages awarded for future economic and noneconomic loss exceeds $50,000, a person shall not be required

to pay such damages in a single, lump-sum payment, but shall be permitted to make such payments periodically based on when the damages are found likely to occur, as such payments are determined by the court.

(2) FINALITY OF JUDGMENT.—The judgment of the court awarding periodic payments under this subsection may not, in the absence of fraud, be reopened at any time to contest, amend, or modify the schedule or amount of the payments.

(3) LUMP-SUM SETTLEMENTS.—This subsection shall not be construed to preclude a settlement providing for a single, lump-sum payment.

(d) TREATMENT OF COLLATERAL SOURCE PAYMENTS.—

(1) INTRODUCTION INTO EVIDENCE.—In any health care liability action, any defendant may introduce evidence of collateral source payments. If any defendant elects to introduce such evidence, the claimant may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the claimant to secure the right to such collateral source payments.

(2) NO SUBROGATION.—No provider of collateral source payments shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated the right of the claimant in a health care liability action.

(3) APPLICATION TO SETTLEMENTS.—This subsection shall apply to an action that is settled as well as an action that is resolved by a fact finder.

SEC. 283. ALTERNATIVE DISPUTE RESOLUTION.

Any ADR used to resolve a health care liability action or claim shall contain provisions relating to statute of limitations, noneconomic damages, joint and several liability, punitive damages, collateral source rule, and periodic payments which are identical to the provisions relating to such matters in this subtitle.

TITLE III—TAX-RELATED HEALTH PROVISIONS

SEC. 300. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Medical Savings Accounts

SEC. 301. MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. MEDICAL SAVINGS ACCOUNTS.

"(a) DEDUCTION ALLOWED.—In the case of an individual who is an eligible individual for any month during the taxable year, there shall be allowed as a deduction for the taxable year an amount equal to the aggregate amount paid in cash during such taxable year by such individual to a medical savings account of such individual.

"(b) LIMITATIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount allowable as a deduction under subsection (a) to an individual for the taxable year shall not exceed—

"(A) except as provided in subparagraph (B), the lesser of—

"(i) $2,000, or

"(ii) the annual deductible limit for any individual covered under the high deductible health plan, or

"(B) in the case of a high deductible health plan covering the taxpayer and any other eligible individual who is the spouse or any dependent (as defined in section 152) of the taxpayer, the lesser of—

"(i) $4,000, or

"(ii) the annual limit under the plan on the aggregate amount of deductibles required to be paid by all individuals.

The preceding sentence shall not apply if the spouse of such individual is covered under any other high deductible health plan.

"(2) SPECIAL RULE FOR MARRIED INDIVIDUALS.—

"(A) IN GENERAL.—This subsection shall be applied separately for each married individual.

"(B) SPECIAL RULE.—If individuals who are married to each other are covered under the same high deductible health plan, then the amounts applicable under paragraph (1)(B) shall be divided equally between them unless they agree on a different division.

"(3) COORDINATION WITH EXCLUSION FOR EMPLOYER CONTRIBUTIONS.—No deduction shall be allowed under this section for any amount paid for any taxable year to a medical savings account of an individual if—

"(A) any amount is paid to any medical savings account of such individual which is excludable from gross income under section 106(b) for such year, or

"(B) in a case described in paragraph (2)(B), any amount is paid to any medical savings account of either spouse which is so excludable for such year.

"(4) PRORATION OF LIMITATION.—

"(A) IN GENERAL.—The limitation under paragraph (1) shall be the sum of the monthly limitations for months during the taxable year that the individual is an eligible individual if—

"(i) such individual is not an eligible individual for all months of the taxable year,

"(ii) the deductible under the high deductible health plan covering such individual is not the same throughout such taxable year, or

"(iii) such limitation is determined under paragraph (1)(B) for some but not all months during such taxable year.

"(B) MONTHLY LIMITATION.—The monthly limitation for any month shall be an amount equal to 1/12 of the limitation which would (but for this paragraph and paragraph (3)) be determined under paragraph (1) if the facts and circumstances as of the first day of such month that such individual is covered under a high deductible health plan were true for the entire taxable year.

"(5) DENIAL OF DEDUCTION TO DEPENDENTS.—No deduction shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'eligible individual' means, with respect to any month, any individual—

"(i) who is covered under a high deductible health plan as of the 1st day of such month, and

"(ii) who is not, while covered under a high deductible health plan, covered under any health plan—

"(I) which is not a high deductible health plan, and

"(II) which provides coverage for any benefit which is covered under the high deductible health plan.

"(B) CERTAIN COVERAGE DISREGARDED.—Subparagraph (A)(ii) shall be applied without regard to—

"(i) coverage for any benefit provided by permitted insurance, and

"(ii) coverage (whether through insurance or otherwise) for accidents, disability, dental care, vision care, or long-term care.

"(2) HIGH DEDUCTIBLE HEALTH PLAN.—The term 'high deductible health plan' means a health plan which—

"(A) has an annual deductible limit for each individual covered by the plan which is not less than $1,500, and

"(B) has an annual limit on the aggregate amount of deductibles required to be paid with respect to all individuals covered by the plan which is not less than $3,000.

Such term does not include a health plan if substantially all of its coverage is coverage described in paragraph (1)(B). A plan shall not fail to be treated as a high deductible health plan by reason of failing to have a deductible for preventive care if the absence of a deductible for such care is required by State law.

"(3) PERMITTED INSURANCE.—The term 'permitted insurance' means—

"(A) Medicare supplemental insurance,

"(B) insurance if substantially all of the coverage provided under such insurance relates to—

"(i) liabilities incurred under workers' compensation laws,

"(ii) tort liabilities,

"(iii) liabilities relating to ownership or use of property, or

"(iv) such other similar liabilities as the Secretary may specify by regulations,

"(C) insurance for a specified disease or illness, and

"(D) insurance paying a fixed amount per day (or other period) of hospitalization.

"(d) MEDICAL SAVINGS ACCOUNT.—For purposes of this section—

"(1) MEDICAL SAVINGS ACCOUNT.—The term 'medical savings account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified medical expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

"(A) Except in the case of a rollover contribution described in subsection (f)(5), no contribution will be accepted—

"(i) unless it is in cash, or

"(ii) to the extent such contribution, when added to previous contributions to the trust for the calendar year, exceeds $4,000.

"(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts.

"(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(E) The interest of an individual in the balance in his account is nonforfeitable.

"(2) QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The term 'qualified medical expenses' means, with respect to an account holder, amounts paid by such holder for medical care (as defined in section 213(d))

for such individual, the spouse of such individual, and any dependent (as defined in section 152) of such individual, but only to the extent such amounts are not compensated for by insurance or otherwise.

"(B) HEALTH INSURANCE MAY NOT BE PURCHASED FROM ACCOUNT.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any payment for insurance.

"(ii) EXCEPTIONS.—Clause (i) shall not apply to any expense for coverage under—

"(I) a health plan during any period of continuation coverage required under any Federal law,

"(II) a qualified long-term care insurance contract (as defined in section 7702B(b)), or

"(III) a health plan during a period in which the individual is receiving unemployment compensation under any Federal or State law.

"(3) ACCOUNT HOLDER.—The term 'account holder' means the individual on whose behalf the medical savings account was established.

"(4) CERTAIN RULES TO APPLY.—Rules similar to the following rules shall apply for purposes of this section:

"(A) Section 219(d)(2) (relating to no deduction for rollovers).

"(B) Section 219(f)(3) (relating to time when contributions deemed made).

"(C) Except as provided in section 106(b), section 219(f)(5) (relating to employer payments).

"(D) Section 408(g) (relating to community property laws).

"(E) Section 408(h) (relating to custodial accounts).

"(e) TAX TREATMENT OF ACCOUNTS.—

"(1) IN GENERAL.—A medical savings account is exempt from taxation under this subtitle unless such account has ceased to be a medical savings account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) ACCOUNT TERMINATIONS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to medical savings accounts, and any amount treated as distributed under such rules shall be treated as not used to pay qualified medical expenses.

"(f) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) AMOUNTS USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—Any amount paid or distributed out of a medical savings account which is used exclusively to pay qualified medical expenses of any account holder (or any spouse or dependent of the holder) shall not be includible in gross income.

"(B) TREATMENT AFTER DEATH OF ACCOUNT HOLDER.—

"(i) TREATMENT IF HOLDER IS SPOUSE.—If, after the death of the account holder, the account holder's interest is payable to (or for the benefit of) the holder's spouse, the medical savings account shall be treated as if the spouse were the account holder.

"(ii) TREATMENT IF DESIGNATED HOLDER IS NOT SPOUSE.—In the case of an account holder's interest in a medical savings account which is payable to (or for the benefit of) any person other than such holder's spouse upon the death of such holder—

"(I) such account shall cease to be a medical savings account as of the date of death, and

"(II) an amount equal to the fair market value of the assets in such account on such date shall be includible if such person is not the estate of such holder, in such person's gross income for the taxable year which includes such date, or if such person is the estate of such holder, in such holder's gross income for the last taxable year of such holder.

"(2) INCLUSION OF AMOUNTS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—Any amount paid or distributed out of a medical savings account which is not used exclusively to pay the qualified medical expenses of the account holder or of the spouse or dependents of such holder shall be included in the gross income of such holder.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all medical savings accounts of the account holder shall be treated as 1 account,

"(ii) all payments and distributions during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—If the aggregate contributions (other than rollover contributions) for a taxable year to the medical savings accounts of an individual exceed the amount allowable as a deduction under this section for such contributions, paragraph (2) shall not apply to distributions from such accounts (in an amount not greater than such excess) if—

"(A) such distribution is received by the individual on or before the last day prescribed by law (including extensions of time) for filing such individual's return for such taxable year, and

"(B) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (B) shall be included in the gross income of the individual for the taxable year in which it is received.

"(4) PENALTY FOR DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The tax imposed by this chapter on the account holder for any taxable year in which there is a payment or distribution from a medical savings account of such holder which is includible in gross income under paragraph (2) shall be increased by 10 percent of the amount which is so includible.

"(B) EXCEPTION FOR DISABILITY OR DEATH.—Subparagraph (A) shall not apply if the payment or distribution is made after the account holder becomes disabled within the meaning of section 72(m)(7) or dies.

"(C) EXCEPTION FOR DISTRIBUTIONS AFTER AGE 59½.—Subparagraph (A) shall not apply to any payment or distribution after the date on which the account holder attains age 59½.

"(5) ROLLOVER CONTRIBUTION.—An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

"(A) IN GENERAL.—Paragraph (2) shall not apply to any amount paid or distributed from a medical savings account to the account holder to the extent the amount received is paid into a medical savings account for the benefit of such holder not later than the 60th day after the day on which the holder receives the payment or distribution.

"(B) LIMITATION.—This paragraph shall not apply to any amount described in subparagraph (A) received by an individual from a medical savings account if, at any time during the 1-year period ending on the day of such receipt, such individual received any other amount described in subparagraph (A) from a medical savings account which was not includible in the individual's gross income because of the application of this paragraph.

"(6) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—For purposes of determining the amount of the deduction under section 213, any payment or distribution out of a medical savings account for qualified medical expenses shall not be treated as an expense paid for medical care.

"(7) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—The transfer of an individual's interest in a medical savings account to an individual's spouse or former spouse under a divorce or separation instrument described in subparagraph (A) of section 71(b)(2) shall not be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest shall, after such transfer, be treated as a medical savings account with respect to which the spouse is the account holder.

"(g) COST-OF-LIVING ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1997, each dollar amount in subsection (b)(1), (c)(2), or (d)(1)(A) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the medical care cost adjustment for such calendar year.

If any increase under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.

"(2) MEDICAL CARE COST ADJUSTMENT.—For purposes of paragraph (1), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(A) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(B) such component for August of 1996.

"(h) REPORTS.—The Secretary may require the trustee of a medical savings account to make such reports regarding such account to the Secretary and to the account holder with respect to contributions, distributions, and such other matters as the Secretary determines appropriate. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations."

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

"(16) MEDICAL SAVINGS ACCOUNTS.—The deduction allowed by section 220."

(c) EXCLUSIONS FOR EMPLOYER CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

(1) EXCLUSION FROM INCOME TAX.—The text of section 106 (relating to contributions by employer to accident and health plans) is amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, gross income of an employee does not include employer-provided coverage under an accident or health plan.

"(b) CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

"(1) IN GENERAL.—In the case of an employee who is an eligible individual, gross income does not include amounts contributed by such employee's employer to any medical savings account of such employee.

"(2) COORDINATION WITH DEDUCTION LIMITATION.—The amount excluded from the gross income of an employee under this subsection for any taxable year shall not exceed the limitation under section 220(b)(1) (determined without regard to this subsection)

which is applicable to such employee for such taxable year.

"(3) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of any employee solely because the employee may choose between the contributions referred to in paragraph (1) and employer contributions to another health plan of the employer.

"(4) SPECIAL RULE FOR DEDUCTION OF EMPLOYER CONTRIBUTIONS.—Any employer contribution to a medical savings account, if otherwise allowable as a deduction under this chapter, shall be allowed only for the taxable year in which paid.

"(5) DEFINITIONS.—For purposes of this subsection, the terms 'eligible individual' and 'medical savings account' have the respective meanings given to such terms by section 220."

(2) EXCLUSION FROM EMPLOYMENT TAXES.—

(A) SOCIAL SECURITY TAXES.—

(i) Subsection (a) of section 3121 is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting "; or", and by inserting after paragraph (21) the following new paragraph:

"(22) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(ii) Subsection (a) of section 209 of the Social Security Act is amended by striking "or" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting "; or", and by inserting after paragraph (18) the following new paragraph:

"(19) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b) of the Internal Revenue Code of 1986."

(B) RAILROAD RETIREMENT TAX.—Subsection (e) of section 3231 is amended by adding at the end the following new paragraph:

"(10) MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS.—The term 'compensation' shall not include any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(C) UNEMPLOYMENT TAX.—Subsection (b) of section 3306 is amended by striking "or" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting "; or", and by inserting after paragraph (16) the following new paragraph:

"(17) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(D) WITHHOLDING TAX.—Subsection (a) of section 3401 is amended by striking "or" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting "; or", and by inserting after paragraph (20) the following new paragraph:

"(21) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(d) MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS NOT AVAILABLE UNDER CAFETERIA PLANS.—Subsection (f) of section 125 of such Code is amended by inserting "106(b)," before "117".

(e) EXCLUSION OF MEDICAL SAVINGS ACCOUNTS FROM ESTATE TAX.—Part IV of subchapter A of chapter 11 is amended by adding at the end the following new section:

"SEC. 2057. MEDICAL SAVINGS ACCOUNTS.

"For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any medical savings account (as defined in section 220(d)) included in the gross estate."

(f) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting **"MEDICAL SAVINGS ACCOUNTS,"** after **"ACCOUNTS,"** in the heading of such section,

(2) by striking "or" at the end of paragraph (1) of subsection (a),

(3) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) a medical savings account (within the meaning of section 220(d)), or", and

(4) by adding at the end the following new subsection:

"(d) EXCESS CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—For purposes of this section, in the case of a medical savings accounts (within the meaning of section 220(d)), the term 'excess contributions' means the sum of—

"(1) the amount by which the amount contributed for the taxable year to the accounts (other than rollover contributions described in section 220(f)(5)) exceeds the amount allowable as a deduction under section 220 for such contributions, and

"(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of distributions out of the account included in gross income under section 220(f) (2) or (3) and the excess (if any) of the maximum amount allowable as a deduction under section 220 for the taxable year over the amount contributed to the accounts.

For purposes of this subsection, any contribution which is distributed out of the medical savings account in a distribution to which section 220(f)(3) applies shall be treated as an amount not contributed."

(g) TAX ON PROHIBITED TRANSACTIONS.—

(1) Section 4975 (relating to tax on prohibited transactions) is amended by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR MEDICAL SAVINGS ACCOUNTS.—An individual for whose benefit a medical savings account (within the meaning of section 220(d)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical savings account by reason of the application of section 220(e)(2) to such account."

(2) Paragraph (1) of section 4975(e) is amended to read as follows:

"(1) PLAN.—For purposes of this section, the term 'plan' means—

"(A) a trust described in section 401(a) which forms a part of a plan, or a plan described in section 403(a), which trust or plan is exempt from tax under section 501(a),

"(B) an individual retirement account described in section 408(a),

"(C) an individual retirement annuity described in section 408(b),

"(D) a medical savings account described in section 220(d), or

"(E) a trust, plan, account, or annuity which, at any time, has been determined by the Secretary to be described in any preceding subparagraph of this paragraph."

(h) FAILURE TO PROVIDE REPORTS ON MEDICAL SAVINGS ACCOUNTS.—

(1) Subsection (a) of section 6693 (relating to failure to provide reports on individual retirement accounts or annuities) is amended to read as follows:

"(a) REPORTS.—

"(1) IN GENERAL.—If a person required to file a report under a provision referred to in paragraph (2) fails to file such report at the time and in the manner required by such provision, such person shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.

"(2) PROVISIONS.—The provisions referred to in this paragraph are—

"(A) subsections (i) and (l) of section 408 (relating to individual retirement plans), and

"(B) section 220(h) (relating to medical savings accounts)."

(i) EXCEPTION FROM CAPITALIZATION OF POLICY ACQUISITION EXPENSES.—Subparagraph (B) of section 848(e)(1) (defining specified insurance contract) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) any contract which is a medical savings account (as defined in section 220(d))."

(j) CLERICAL AMENDMENTS.—

(1) The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following:

"Sec. 220. Medical savings accounts.

"Sec. 221. Cross reference."

(2) The table of sections for part IV of subchapter A of chapter 11 is amended by adding at the end the following new item:

"Sec. 2057. Medical savings accounts."

(k) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle B—Increase in Deduction for Health Insurance Costs of Self-Employed Individuals

SEC. 311. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—

"(A) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined under the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
1998	35 percent
1999, 2000, or 2001	40 percent
2002	45 percent
2003 or thereafter	50 percent."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

Subtitle C—Long-Term Care Services and Contracts

PART I—GENERAL PROVISIONS

SEC. 321. TREATMENT OF LONG-TERM CARE INSURANCE.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by inserting after section 7702A the following new section:

"SEC. 7702B. TREATMENT OF QUALIFIED LONG-TERM CARE INSURANCE.

"(a) IN GENERAL.—For purposes of this title—

"(1) a qualified long-term care insurance contract shall be treated as an accident and health insurance contract,

"(2) amounts (other than policyholder dividends, as defined in section 808, or premium refunds) received under a qualified long-term care insurance contract shall be treated as amounts received for personal injuries and sickness and shall be treated as reimbursement for expenses actually incurred for medical care (as defined in section 213(d)),

"(3) any plan of an employer providing coverage under a qualified long-term care insurance contract shall be treated as an accident and health plan with respect to such coverage,

"(4) except as provided in subsection (e)(3), amounts paid for a qualified long-term care insurance contract providing the benefits described in subsection (b)(2)(A) shall be treated as payments made for insurance for purposes of section 213(d)(1)(D), and

"(5) a qualified long-term care insurance contract shall be treated as a guaranteed renewable contract subject to the rules of section 816(e).

"(b) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—For purposes of this title—

"(1) IN GENERAL.—The term 'qualified long-term care insurance contract' means any insurance contract if—

"(A) the only insurance protection provided under such contract is coverage of qualified long-term care services,

"(B) such contract does not pay or reimburse expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

"(C) such contract is guaranteed renewable,

"(D) such contract does not provide for a cash surrender value or other money that can be—

"(i) paid, assigned, or pledged as collateral for a loan, or

"(ii) borrowed,

other than as provided in subparagraph (E) or paragraph (2)(C),

"(E) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits, and

"(F) such contract meets the requirements of subsection (f).

"(2) SPECIAL RULES.—

"(A) PER DIEM, ETC. PAYMENTS PERMITTED.—A contract shall not fail to be described in subparagraph (A) or (B) of paragraph (1) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

"(B) SPECIAL RULES RELATING TO MEDICARE.—

"(i) Paragraph (1)(B) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

"(ii) No provision of law shall be construed or applied so as to prohibit the offering of a qualified long-term care insurance contract on the basis that the contract coordinates its benefits with those provided under such title.

"(C) REFUNDS OF PREMIUMS.—Paragraph (1)(E) shall not apply to any refund on the death of the insured, or on a complete surrender or cancellation of the contract, which cannot exceed the aggregate premiums paid under the contract. Any refund on a complete surrender or cancellation of the contract shall be includible in gross income to the extent that any deduction or exclusion was allowable with respect to the premiums.

"(c) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services, which—

"(A) are required by a chronically ill individual, and

"(B) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"(2) CHRONICALLY ILL INDIVIDUAL.—

"(A) IN GENERAL.—The term 'chronically ill individual' means any individual who has been certified by a licensed health care practitioner as—

"(i) being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living for a period of at least 90 days due to a loss of functional capacity,

"(ii) having a level of disability similar (as determined by the Secretary in consultation with the Secretary of Health and Human Services) to the level of disability described in clause (i), or

"(iii) requiring substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the preceding 12-month period a licensed health care practitioner has certified that such individual meets such requirements.

"(B) ACTIVITIES OF DAILY LIVING.—For purposes of subparagraph (A), each of the following is an activity of daily living:

"(i) Eating.

"(ii) Toileting.

"(iii) Transferring.

"(iv) Bathing.

"(v) Dressing.

"(vi) Continence.

Nothing in this section shall be construed to require a contract to take into account all of the preceding activities of daily living.

"(3) MAINTENANCE OR PERSONAL CARE SERVICES.—The term 'maintenance or personal care services' means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

"(4) LICENSED HEALTH CARE PRACTITIONER.—The term 'licensed health care practitioner' means any physician (as defined in section 1861(r)(1) of the Social Security Act) and any registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary.

"(d) AGGREGATE PAYMENTS IN EXCESS OF LIMITS.—

"(1) IN GENERAL.—If the aggregate amount of periodic payments under all qualified long-term care insurance contracts with respect to an insured for any period exceeds the dollar amount in effect for such period under paragraph (3), such excess payments shall be treated as made for qualified long-term care services only to the extent of the costs incurred by the payee (not otherwise compensated for by insurance or otherwise) for qualified long-term care services provided during such period for such insured.

"(2) PERIODIC PAYMENTS.—For purposes of paragraph (1), the term 'periodic payment' means any payment (whether on a periodic basis or otherwise) made without regard to the extent of the costs incurred by the payee for qualified long-term care services.

"(3) DOLLAR AMOUNT.—The dollar amount in effect under this subsection shall be $175 per day (or the equivalent amount in the case of payments on another periodic basis).

"(4) INFLATION ADJUSTMENT.—In the case of a calendar year after 1997, the dollar amount contained in paragraph (3) shall be increased at the same time and in the same manner as amounts are increased pursuant to section 213(d)(10).

"(e) TREATMENT OF COVERAGE PROVIDED AS PART OF A LIFE INSURANCE CONTRACT.—Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage (whether or not qualified) provided by a rider on or as part of a life insurance contract—

"(1) IN GENERAL.—This section shall apply as if the portion of the contract providing such coverage is a separate contract.

"(2) APPLICATION OF 7702.—Section 7702(c)(2) (relating to the guideline premium limitation) shall be applied by increasing the guideline premium limitation with respect to a life insurance contract, as of any date—

"(A) by the sum of any charges (but not premium payments) against the life insurance contract's cash surrender value (within the meaning of section 7702(f)(2)(A)) for such coverage made to that date under the contract, less

"(B) any such charges the imposition of which reduces the premiums paid for the contract (within the meaning of section 7702(f)(1)).

"(3) APPLICATION OF SECTION 213.—No deduction shall be allowed under section 213(a) for charges against the life insurance contract's cash surrender value described in paragraph (2), unless such charges are includible in income as a result of the application of section 72(e)(10) and the rider is a qualified long-term care insurance contract under subsection (b).

"(4) PORTION DEFINED.—For purposes of this subsection, the term 'portion' means only the terms and benefits under a life insurance contract that are in addition to the terms and benefits under the contract without regard to the coverage under a qualified long-term care insurance contract."

(b) LONG-TERM CARE INSURANCE NOT PERMITTED UNDER CAFETERIA PLANS OR FLEXIBLE SPENDING ARRANGEMENTS.—

(1) CAFETERIA PLANS.—Section 125(f) is amended by adding at the end the following new sentence: "Such term shall not include any long-term care insurance contract (as defined in section 4980C)."

(2) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106 (relating to contributions by employer to accident and health plans), as amended by section 301(c), is amended by adding at the end the following new subsection:

"(c) INCLUSION OF LONG-TERM CARE BENEFITS PROVIDED THROUGH FLEXIBLE SPENDING ARRANGEMENTS.—

"(1) IN GENERAL.—Effective on and after January 1, 1997, gross income of an employee shall include employer-provided coverage for qualified long-term care services (as defined in section 7702B(c)) to the extent that such

coverage is provided through a flexible spending or similar arrangement.

"(2) FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, a flexible spending arrangement is a benefit program which provides employees with coverage under which—

"(A) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

"(B) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the value of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage."

(c) CONTINUATION COVERAGE EXCISE TAX NOT TO APPLY.—Subsection (f) of section 4980B is amended by adding at the end the following new paragraph:

"(9) CONTINUATION OF LONG-TERM CARE COVERAGE NOT REQUIRED.—A group health plan shall not be treated as failing to meet the requirements of this subsection solely by reason of failing to provide coverage under any qualified long-term care insurance contract (as defined in section 7702B(b))."

(d) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by inserting after the item relating to section 7702A the following new item:

"Sec. 7702B. Treatment of qualified long-term care insurance.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts issued after December 31, 1996.

(2) CONTINUATION OF EXISTING POLICIES.—In the case of any contract issued before January 1, 1997, which met the long-term care insurance requirements of the State in which the contract was sitused at the time the contract was issued—

(A) such contract shall be treated for purposes of the Internal Revenue Code of 1986 as a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), and

(B) services provided under, or reimbursed by, such contract shall be treated for such purposes as qualified long-term care services (as defined in section 7702B(c) of such Code).

(3) EXCHANGES OF EXISTING POLICIES.—If, after the date of enactment of this Act and before January 1, 1998, a contract providing for long-term care insurance coverage is exchanged solely for a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), no gain or loss shall be recognized on the exchange. If, in addition to a qualified long-term care insurance contract, money or other property is received in the exchange, then any gain shall be recognized to the extent of the sum of the money and the fair market value of the other property received. For purposes of this paragraph, the cancellation of a contract providing for long-term care insurance coverage and reinvestment of the cancellation proceeds in a qualified long-term care insurance contract within 60 days thereafter shall be treated as an exchange.

(4) ISSUANCE OF CERTAIN RIDERS PERMITTED.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a rider which is treated as a qualified long-term care insurance contract under section 7702B, and

(B) the addition of any provision required to conform any other long-term care rider to be so treated,

shall not be treated as a modification or material change of such contract.

SEC. 322. QUALIFIED LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.

(a) GENERAL RULE.—Paragraph (1) of section 213(d) (defining medical care) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified long-term care services (as defined in section 7702B(c)), or".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 213(d)(1) (as redesignated by subsection (a)) is amended by inserting before the period "or for any qualified long-term care insurance contract (as defined in section 7702B(b))".

(2)(A) Paragraph (1) of section 213(d) is amended by adding at the end the following new flush sentence:

"In the case of a qualified long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in paragraph (10)) shall be taken into account under subparagraph (D)."

(B) Subsection (d) of section 213 is amended by adding at the end the following new paragraphs:

"(10) ELIGIBLE LONG-TERM CARE PREMIUMS.—

"(A) IN GENERAL.—For purposes of this section, the term 'eligible long-term care premiums' means the amount paid during a taxable year for any qualified long-term care insurance contract (as defined in section 7702B(b)) covering an individual, to the extent such amount does not exceed the limitation determined under the following table:

"In the case of an individual with an attained age before the close of the taxable year of:	The limitation is:
40 or less	$ 200
More than 40 but not more than 50	375
More than 50 but not more than 60	750
More than 60 but not more than 70	2,000
More than 70	2,500.

"(B) INDEXING.—

"(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1997, each dollar amount contained in subparagraph (A) shall be increased by the medical care cost adjustment of such amount for such calendar year. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

"(ii) MEDICAL CARE COST ADJUSTMENT.—For purposes of clause (i), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(I) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(II) such component for August of 1996.

The Secretary shall, in consultation with the Secretary of Health and Human Services, prescribe an adjustment which the Secretary determines is more appropriate for purposes of this paragraph than the adjustment described in the preceding sentence, and the adjustment so prescribed shall apply in lieu of the adjustment described in the preceding sentence.

"(11) CERTAIN PAYMENTS TO RELATIVES TREATED AS NOT PAID FOR MEDICAL CARE.—An amount paid for a qualified long-term care service (as defined in section 7702B(c)) provided to an individual shall be treated as not paid for medical care if such service is provided—

"(A) by the spouse of the individual or by a relative (directly or through a partnership, corporation, or other entity) unless the service is provided by a licensed professional with respect to such service, or

"(B) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.

For purposes of this paragraph, the term 'relative' means an individual bearing a relationship to the individual which is described in any of paragraphs (1) through (8) of section 152(a). This paragraph shall not apply for purposes of section 105(b) with respect to reimbursements through insurance."

(3) Paragraph (6) of section 213(d) is amended—

(A) by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)", and

(B) by striking "paragraph (1)(C)" in subparagraph (A) and inserting "paragraph (1)(D)".

(4) Paragraph (7) of section 213(d) is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

(2) DEDUCTION FOR LONG-TERM CARE SERVICES.—Amounts paid for qualified long-term care services (as defined in section 7702B(c) of the Internal Revenue Code of 1986, as added by this Act) furnished in any taxable year beginning before January 1, 1998, shall not be taken into account under section 213 of the Internal Revenue Code of 1986.

SEC. 323. REPORTING REQUIREMENTS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new section:

"SEC. 6050Q. CERTAIN LONG-TERM CARE BENEFITS.

"(a) REQUIREMENT OF REPORTING.—Any person who pays long-term care benefits shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth—

"(1) the aggregate amount of such benefits paid by such person to any individual during any calendar year, and

"(2) the name, address, and TIN of such individual.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the person making the payments, and

"(2) the aggregate amount of long-term care benefits paid to the individual which are required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(c) LONG-TERM CARE BENEFITS.—For purposes of this section, the term 'long-term care benefit' means—

"(1) any amount paid under a long-term care insurance policy (within the meaning of section 4980C(e)), and

"(2) payments which are excludable from gross income by reason of section 101(g).".

(b) PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) is amended by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, and by inserting after clause (viii) the following new clause:

"(ix) section 6050Q (relating to certain long-term care benefits),".

(2) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (Q) through (T) as subparagraphs (R) through (U), respectively, and by inserting after subparagraph (P) the following new subparagraph:

"(Q) section 6050Q(b) (relating to certain long-term care benefits),".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6050Q. Certain long-term care benefits."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits paid after December 31, 1996.

PART II—CONSUMER PROTECTION PROVISIONS

SEC. 325. POLICY REQUIREMENTS.

Section 7702B (as added by section 321) is amended by adding at the end the following new subsection:

"(f) CONSUMER PROTECTION PROVISIONS.—

"(1) IN GENERAL.—The requirements of this subsection are met with respect to any contract if any long-term care insurance policy issued under the contract meets—

"(A) the requirements of the model regulation and model Act described in paragraph (2),

"(B) the disclosure requirement of paragraph (3), and

"(C) the requirements relating to nonforfeitability under paragraph (4).

"(2) REQUIREMENTS OF MODEL REGULATION AND ACT.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any policy if such policy meets—

"(i) MODEL REGULATION.—The following requirements of the model regulation:

"(I) Section 7A (relating to guaranteed renewal or noncancellability), and the requirements of section 6B of the model Act relating to such section 7A.

"(II) Section 7B (relating to prohibitions on limitations and exclusions).

"(III) Section 7C (relating to extension of benefits).

"(IV) Section 7D (relating to continuation or conversion of coverage).

"(V) Section 7E (relating to discontinuance and replacement of policies).

"(VI) Section 8 (relating to unintentional lapse).

"(VII) Section 9 (relating to disclosure), other than section 9F thereof.

"(VIII) Section 10 (relating to prohibitions against post-claims underwriting).

"(IX) Section 11 (relating to minimum standards).

"(X) Section 12 (relating to requirement to offer inflation protection), except that any requirement for a signature on a rejection of inflation protection shall permit the signature to be on an application or on a separate form.

"(XI) Section 23 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

"(ii) MODEL ACT.—The following requirements of the model Act:

"(I) Section 6C (relating to preexisting conditions).

"(II) Section 6D (relating to prior hospitalization).

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) MODEL PROVISIONS.—The terms 'model regulation' and 'model Act' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of January 1993).

"(ii) COORDINATION.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

"(iii) DETERMINATION.—For purposes of this section and section 4980C, the determination of whether any requirement of a model regulation or the model Act has been met shall be made by the Secretary.

"(3) DISCLOSURE REQUIREMENT.—The requirement of this paragraph is met with respect to any policy if such policy meets the requirements of section 4980C(d)(1).

"(4) NONFORFEITURE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any level premium long-term care insurance policy, if the issuer of such policy offers to the policyholder, including any group policyholder, a nonforfeiture provision meeting the requirements of subparagraph (B).

"(B) REQUIREMENTS OF PROVISION.—The nonforfeiture provision required under subparagraph (A) shall meet the following requirements:

"(i) The nonforfeiture provision shall be appropriately captioned.

"(ii) The nonforfeiture provision shall provide for a benefit available in the event of a default in the payment of any premiums and the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying policies approved by the Secretary for the same policy form.

"(iii) The nonforfeiture provision shall provide at least one of the following:

"(I) Reduced paid-up insurance.

"(II) Extended term insurance.

"(III) Shortened benefit period.

"(IV) Other similar offerings approved by the Secretary.

"(5) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this subsection, the term 'long-term care insurance policy' has the meaning given such term by section 4980C(e).".

SEC. 326. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

(a) IN GENERAL.—Chapter 43 is amended by adding at the end the following new section:

"SEC. 4980C. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

"(a) GENERAL RULE.—There is hereby imposed on any person failing to meet the requirements of subsection (c) or (d) a tax in the amount determined under subsection (b).

"(b) AMOUNT.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be $100 per policy for each day any requirements of subsection (c) or (d) are not met with respect to each long-term care insurance policy.

"(2) WAIVER.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that payment of the tax would be excessive relative to the failure involved.

"(c) RESPONSIBILITIES.—The requirements of this subsection are as follows:

"(1) REQUIREMENTS OF MODEL PROVISIONS.—

"(A) MODEL REGULATION.—The following requirements of the model regulation must be met:

"(i) Section 13 (relating to application forms and replacement coverage).

"(ii) Section 14 (relating to reporting requirements), except that the issuer shall also report at least annually the number of claims denied during the reporting period for each class of business (expressed as a percentage of claims denied), other than claims denied for failure to meet the waiting period or because of any applicable preexisting condition.

"(iii) Section 20 (relating to filing requirements for marketing).

"(iv) Section 21 (relating to standards for marketing), including inaccurate completion of medical histories, other than sections 21C(1) and 21C(6) thereof, except that—

"(I) in addition to such requirements, no person shall, in selling or offering to sell a long-term care insurance policy, misrepresent a material fact; and

"(II) no such requirements shall include a requirement to inquire or identify whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance.

"(v) Section 22 (relating to appropriateness of recommended purchase).

"(vi) Section 24 (relating to standard format outline of coverage).

"(vii) Section 25 (relating to requirement to deliver shopper's guide).

"(B) MODEL ACT.—The following requirements of the model Act must be met:

"(i) Section 6F (relating to right to return), except that such section shall also apply to denials of applications and any refund shall be made within 30 days of the return or denial.

"(ii) Section 6G (relating to outline of coverage).

"(iii) Section 6H (relating to requirements for certificates under group plans).

"(iv) Section 6I (relating to policy summary).

"(v) Section 6J (relating to monthly reports on accelerated death benefits).

"(vi) Section 7 (relating to incontestability period).

"(C) DEFINITIONS.—For purposes of this paragraph, the terms 'model regulation' and 'model Act' have the meanings given such terms by section 7702B(f)(2)(B).

"(2) DELIVERY OF POLICY.—If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is approved, the issuer shall deliver to the applicant (or policyholder or certificateholder) the policy (or certificate) of insurance not later than 30 days after the date of the approval.

"(3) INFORMATION ON DENIALS OF CLAIMS.—If a claim under a long-term care insurance policy is denied, the issuer shall, within 60 days of the date of a written request by the policyholder or certificateholder (or representative)—

"(A) provide a written explanation of the reasons for the denial, and

"(B) make available all information directly relating to such denial.

"(d) DISCLOSURE.—The requirements of this subsection are met if the issuer of a long-term care insurance policy discloses in such

policy and in the outline of coverage required under subsection (c)(1)(B)(ii) that the policy is intended to be a qualified long-term care insurance contract under section 7702B(b).

"(e) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this section, the term 'long-term care insurance policy' means any product which is advertised, marketed, or offered as long-term care insurance.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end the following new item:

"Sec. 4980C. Requirements for issuers of long-term care insurance policies.".

SEC. 327. COORDINATION WITH STATE REQUIREMENTS.

Nothing in this part shall prevent a State from establishing, implementing, or continuing in effect standards related to the protection of policyholders of long-term care insurance policies (as defined in section 4980C(e) of the Internal Revenue Code of 1986), if such standards are not in conflict with or inconsistent with the standards established under such Code.

SEC. 328. EFFECTIVE DATES.

(a) IN GENERAL.—The provisions of, and amendments made by, this part shall apply to contracts issued after December 31, 1996. The provisions of section 321(g) (relating to transition rule) shall apply to such contracts.

(b) ISSUERS.—The amendments made by section 326 shall apply to actions taken after December 31, 1996.

Subtitle D—Treatment of Accelerated Death Benefits

SEC. 331. TREATMENT OF ACCELERATED DEATH BENEFITS BY RECIPIENT.

(a) IN GENERAL.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, the following amounts shall be treated as an amount paid by reason of the death of an insured:

"(A) Any amount received under a life insurance contract on the life of an insured who is a terminally ill individual.

"(B) Any amount received under a life insurance contract on the life of an insured who is a chronically ill individual (as defined in section 7702B(c)(2)) but only if such amount is received under a rider or other provision of such contract which is treated as a qualified long-term care insurance contract under section 7702B and such amount is treated under section 7702B (after the application of subsection (d) thereof) as a payment for qualified long-term care services (as defined in such section).

"(2) TREATMENT OF VIATICAL SETTLEMENTS.—

"(A) IN GENERAL.—In the case of a life insurance contract on the life of an insured described in paragraph (1), if—

"(i) any portion of such contract is sold to any viatical settlement provider, or

"(ii) any portion of the death benefit is assigned to such a provider,

the amount paid for such sale or assignment shall be treated as an amount paid under the life insurance contract by reason of the death of such insured.

"(B) VIATICAL SETTLEMENT PROVIDER.—The term 'viatical settlement provider' means any person regularly engaged in the trade or business of purchasing, or taking assignments of, life insurance contracts on the lives of insureds described in paragraph (1) if—

"(i) such person is licensed for such purposes in the State in which the insured resides, or

"(ii) in the case of an insured who resides in a State not requiring the licensing of such persons for such purposes—

"(I) such person meets the requirements of sections 8 and 9 of the Viatical Settlements Model Act of the National Association of Insurance Commissioners, and

"(II) meets the requirements of the Model Regulations of the National Association of Insurance Commissioners (relating to standards for evaluation of reasonable payments) in determining amounts paid by such person in connection with such purchases or assignments.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) TERMINALLY ILL INDIVIDUAL.—The term 'terminally ill individual' means an individual who has been certified by a physician as having an illness or physical condition which can reasonably be expected to result in death in 24 months or less after the date of the certification.

"(B) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r)(1) of the Social Security Act (42 U.S.C. 1395x(r)(1)).

"(4) EXCEPTION FOR BUSINESS-RELATED POLICIES.—This subsection shall not apply in the case of any amount paid to any taxpayer other than the insured if such taxpayer has an insurable interest with respect to the life of the insured by reason of the insured being a director, officer, or employee of the taxpayer or by reason of the insured being financially interested in any trade or business carried on by the taxpayer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after December 31, 1996.

SEC. 332. TAX TREATMENT OF COMPANIES ISSUING QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.

(a) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—Section 818 (relating to other definitions and special rules) is amended by adding at the end the following new subsection:

"(g) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—For purposes of this part—

"(1) IN GENERAL.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

"(2) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.—For purposes of this subsection, the term 'qualified accelerated death benefit rider' means any rider on a life insurance contract if the only payments under the rider are payments meeting the requirements of section 101(g).

"(3) EXCEPTION FOR LONG-TERM CARE RIDERS.—Paragraph (1) shall not apply to any rider which is treated as a long-term care insurance contract under section 7702B."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall take effect on January 1, 1997.

(2) ISSUANCE OF RIDER NOT TREATED AS MATERIAL CHANGE.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a qualified accelerated death benefit rider (as defined in section 818(g) of such Code (as added by this Act)), and

(B) the addition of any provision required to conform an accelerated death benefit rider to the requirements of such section 818(g),

shall not be treated as a modification or material change of such contract.

Subtitle E—High-Risk Pools

SEC. 341. EXEMPTION FROM INCOME TAX FOR STATE-SPONSORED ORGANIZATIONS PROVIDING HEALTH COVERAGE FOR HIGH-RISK INDIVIDUALS.

(a) IN GENERAL.—Subsection (c) of section 501 (relating to list of exempt organizations) is amended by adding at the end the following new paragraph:

"(26) Any membership organization if—

"(A) such organization is established by a State exclusively to provide coverage for medical care (as defined in section 213(d)) on a not-for-profit basis to individuals described in subparagraph (B) through—

"(i) insurance issued by the organization, or

"(ii) a health maintenance organization under an arrangement with the organization,

"(B) the only individuals receiving such coverage through the organization are individuals—

"(i) who are residents of such State, and

"(ii) who, by reason of the existence or history of a medical condition, are unable to acquire medical care coverage for such condition through insurance or from a health maintenance organization or are able to acquire such coverage only at a rate which is substantially in excess of the rate for such coverage through the membership organization,

"(C) the composition of the membership in such organization is specified by such State, and

"(D) no part of the net earnings of the organization inures to the benefit of any private shareholder or individual."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle F—Organizations Subject to Section 833

SEC. 351. ORGANIZATIONS SUBJECT TO SECTION 833.

(a) IN GENERAL.—Section 833(c) (relating to organization to which section applies) is amended by adding at the end the following new paragraph:

"(4) TREATMENT AS EXISTING BLUE CROSS OR BLUE SHIELD ORGANIZATION.—

"(A) IN GENERAL.—Paragraph (2) shall be applied to an organization described in subparagraph (B) as if it were a Blue Cross or Blue Shield organization.

"(B) APPLICABLE ORGANIZATION.—An organization is described in this subparagraph if it—

"(i) is organized under, and governed by, State laws which are specifically and exclusively applicable to not-for-profit health insurance or health service type organizations, and

"(ii) is not a Blue Cross or Blue Shield organization or health maintenance organization.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 1996.

TITLE IV—REVENUE OFFSETS

SEC. 400. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Repeal of Bad Debt Reserve Method for Thrift Savings Associations

SEC. 401. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is amended by adding at the end the following new subsections:

"(f) TERMINATION OF RESERVE METHOD.—Subsections (a), (b), (c), and (d) shall not apply to any taxable year beginning after December 31, 1995.

"(g) 6-YEAR SPREAD OF ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of any taxpayer who is required by reason of subsection (f) to change its method of computing reserves for bad debts—

"(A) such change shall be treated as a change in a method of accounting,

"(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

"(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

"(i) shall be determined by taking into account only applicable excess reserves, and

"(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

"(2) APPLICABLE EXCESS RESERVES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

"(i) the balance of the reserves described in subsection (c)(1) (other than the supplemental reserve) as of the close of the taxpayer's last taxable year beginning before December 31, 1995, over

"(ii) the lesser of—

"(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

"(II) the balance of the reserves described in subclause (I), reduced in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

"(B) SPECIAL RULE FOR THRIFTS WHICH BECOME SMALL BANKS.—In the case of a bank (as defined in section 581) which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995—

"(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before such date if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A), and

"(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5) and (6) or subsection (e)(1).

"(3) RECAPTURE OF PRE-1988 RESERVES WHERE TAXPAYER CEASES TO BE BANK.—If, during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in paragraph (2)(A)(ii) and the supplemental reserve; except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

"(4) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT MET.—

"(A) IN GENERAL.—In the case of a bank which meets the residential loan requirement of subparagraph (B) for the first taxable year beginning after December 31, 1995, or for the following taxable year—

"(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

"(ii) such taxable year shall be disregarded in determining—

"(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

"(II) the amount of such adjustment.

"(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

"(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term 'residential loan' means any loan described in clause (v) of section 7701(a)(19)(C) but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

"(D) BASE AMOUNT.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning on or before December 31, 1995. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after such date, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary.

"(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1), subparagraph (B) shall be applied with respect to such group.

"(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995:

"(A) IN GENERAL.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii), there shall be taken into account only the excess (if any) of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

"(B) TREATMENT UNDER ELECTIVE CUT-OFF METHOD.—For purposes of applying section 585(c)(4)—

"(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

"(ii) no amount shall be includible in gross income by reason of such reduction.

"(6) SUSPENDED RESERVE INCLUDED AS SECTION 381(c) ITEMS.—The balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection and the supplemental reserve shall be treated as items described in section 381(c).

"(7) CONVERSIONS TO CREDIT UNIONS.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c) and exempt from taxation under section 501(a)—

"(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

"(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection and subsection (e), including regulations providing for the application of such subsections in the case of acquisitions, mergers, spin-offs, and other reorganizations."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence:

"Paragraphs (1)(A), (2)(A), and (4) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995."

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking "or to which section 593 applies".

(6) Subparagraph (A) of section 585(a)(2) is amended by striking "other than an organization to which section 593 applies".

(7)(A) The material preceding subparagraph (A) of section 593(e)(1) is amended by striking "by a domestic building and loan association or an institution that is treated as a mutual savings bank under section 591(b)" and inserting "by a taxpayer having a balance described in subsection (g)(2)(A)(ii)".

(B) Subparagraph (B) of section 593(e)(1) is amended to read as follows:

"(B) then out of the balance taken into account under subsection (g)(2)(A)(ii) (properly adjusted for amounts charged against such reserves for taxable years beginning after December 31, 1987),".

(C) Paragraph (1) of section 593(e) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any distribution of all of the stock of a bank (as defined in section 581) to another corporation if, immediately after the distribution, such bank and such other corporation are members of the same affiliated group (as defined in section 1504) and the provisions of section 5(e) of the Federal Deposit Insurance Act (as in effect on December 31, 1995) or similar provisions are in effect."

(8) Section 595 is hereby repealed.

(9) Section 596 is hereby repealed.

(10) Subsection (a) of section 860E is amended—

(A) by striking "Except as provided in paragraph (2), the" in paragraph (1) and inserting "The",

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(C) by striking in paragraph (2) (as so redesignated) all that follows "subsection" and inserting a period.

(11) Paragraph (3) of section 992(d) is amended by striking "or 593".

(12) Section 1038 is amended by striking subsection (f).

(13) Clause (ii) of section 1042(c)(4)(B) is amended by striking "or 593".

(14) Subsection (c) of section 1277 is amended by striking "or to which section 593 applies".

(15) Subparagraph (B) of section 1361(b)(2) is amended by striking "or to which section 593 applies".

(16) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 595 and 596.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SUBSECTION (b)(7).—The amendments made by subsection (b)(7) shall not apply to any distribution with respect to preferred stock if—

(A) such stock is outstanding at all times after October 31, 1995, and before the distribution, and

(B) such distribution is made before the date which is 1 year after the date of the enactment of this Act (or, in the case of stock which may be redeemed, if later, the date which is 30 days after the earliest date that such stock may be redeemed).

(3) SUBSECTION (b)(8).—The amendment made by subsection (b)(8) shall apply to property acquired in taxable years beginning after December 31, 1995.

(4) SUBSECTION (b)(10).—The amendments made by subsection (b)(10) shall not apply to any residual interest held by a taxpayer if such interest has been held by such taxpayer at all times after October 31, 1995.

Subtitle B—Reform of the Earned Income Credit

SEC. 411. EARNED INCOME CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) (relating to individuals eligible to claim the earned income credit) is amended by adding at the end the following new subparagraph:

"(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

"(i) such individual's taxpayer identification number, and

"(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse.".

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 is amended by adding at the end the following new subsection:

"(1) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act).".

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting after subparagraph (E) the following new subparagraphs:

"(F) an omission of a correct taxpayer identification number required under section 32 (relating to the earned income credit) to be included on a return, and

"(G) an entry on a return claiming the credit under section 32 with respect to net earnings from self-employment described in section 32(c)(2)(A) to the extent the tax imposed by section 1401 (relating to self-employment tax) on such net earnings has not been paid.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle C—Treatment of Individuals Who Lose United States Citizenship

SEC. 421. REVISION OF INCOME, ESTATE, AND GIFT TAXES ON INDIVIDUALS WHO LOSE UNITED STATES CITIZENSHIP.

(a) IN GENERAL.—Subsection (a) of section 877 is amended to read as follows:

"(a) TREATMENT OF EXPATRIATES.—

"(1) IN GENERAL.—Every nonresident alien individual who, within the 10-year period immediately preceding the close of the taxable year, lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle B, shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection exceeds the tax which, without regard to this section, is imposed pursuant to section 871.

"(2) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if—

"(A) the average annual net income tax (as defined in section 38(c)(1)) of such individual for the period of 5 taxable years ending before the date of the loss of United States citizenship is greater than $100,000, or

"(B) the net worth of the individual as of such date is $500,000 or more.

In the case of the loss of United States citizenship in any calendar year after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1994' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000."

(b) EXCEPTIONS.—

(1) IN GENERAL.—Section 877 is amended by striking subsection (d), by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

"(c) TAX AVOIDANCE NOT PRESUMED IN CERTAIN CASES.—

"(1) IN GENERAL.—Subsection (a)(2) shall not apply to an individual if—

"(A) such individual is described in a subparagraph of paragraph (2) of this subsection, and

"(B) within the 1-year period beginning on the date of the loss of United States citizenship, such individual submits a ruling request for the Secretary's determination as to whether such loss has for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle B.

"(2) INDIVIDUALS DESCRIBED.—

"(A) DUAL CITIZENSHIP, ETC.—An individual is described in this subparagraph if—

"(i) the individual became at birth a citizen of the United States and a citizen of another country and continues to be a citizen of such other country, or

"(ii) the individual becomes (not later than the close of a reasonable period after loss of United States citizenship) a citizen of the country in which—

"(I) such individual was born,

"(II) if such individual is married, such individual's spouse was born, or

"(III) either of such individual's parents were born.

"(B) LONG-TERM FOREIGN RESIDENTS.—An individual is described in this subparagraph if, for each year in the 10-year period ending on the date of loss of United States citizenship, the individual was present in the United States for 30 days or less. The rule of section 7701(b)(3)(D)(ii) shall apply for purposes of this subparagraph.

"(C) RENUNCIATION UPON REACHING AGE OF MAJORITY.—An individual is described in this subparagraph if the individual's loss of United States citizenship occurs before such individual attains age 18½.

"(D) INDIVIDUALS SPECIFIED IN REGULATIONS.—An individual is described in this subparagraph if the individual is described in a category of individuals prescribed by regulation by the Secretary."

(2) TECHNICAL AMENDMENT.—Paragraph (1) of section 877(b) of such Code is amended by striking "subsection (c)" and inserting "subsection (d)".

(c) TREATMENT OF PROPERTY DISPOSED OF IN NONRECOGNITION TRANSACTIONS; TREATMENT OF DISTRIBUTIONS FROM CERTAIN CONTROLLED FOREIGN CORPORATIONS.—Subsection (d) of section 877, as redesignated by subsection (b), is amended to read as follows:

"(d) SPECIAL RULES FOR SOURCE, ETC.—For purposes of subsection (b)—

"(1) SOURCE RULES.—The following items of gross income shall be treated as income from sources within the United States:

"(A) SALE OF PROPERTY.—Gains on the sale or exchange of property (other than stock or debt obligations) located in the United States.

"(B) STOCK OR DEBT OBLIGATIONS.—Gains on the sale or exchange of stock issued by a domestic corporation or debt obligations of United States persons or of the United States, a State or political subdivision thereof, or the District of Columbia.

"(C) INCOME OR GAIN DERIVED FROM CONTROLLED FOREIGN CORPORATION.—Any income or gain derived from stock in a foreign corporation but only—

"(i) if the individual losing United States citizenship owned (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), at any time during the 2-year period ending on the date of the loss of United States citizenship, more than 50 percent of—

"(I) the total combined voting power of all classes of stock entitled to vote of such corporation, or

"(II) the total value of the stock of such corporation, and

"(ii) to the extent such income or gain does not exceed the earnings and profits attributable to such stock which were earned or accumulated before the loss of citizenship and during periods that the ownership requirements of clause (i) are met.

"(2) GAIN RECOGNITION ON CERTAIN EXCHANGES.—

"(A) IN GENERAL.—In the case of any exchange of property to which this paragraph applies, notwithstanding any other provision of this title, such property shall be treated as sold for its fair market value on the date of such exchange, and any gain shall be recognized for the taxable year which includes such date.

"(B) EXCHANGES TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any exchange during the 10-year period described in subsection (a) if—

"(i) gain would not (but for this paragraph) be recognized on such exchange in whole or in part for purposes of this subtitle,

"(ii) income derived from such property was from sources within the United States (or, if no income was so derived, would have been from such sources), and

"(iii) income derived from the property acquired in the exchange would be from sources outside the United States.

"(C) EXCEPTION.—Subparagraph (A) shall not apply if the individual enters into an agreement with the Secretary which specifies that any income or gain derived from the property acquired in the exchange (or any other property which has a basis determined in whole or part by reference to such property) during such 10-year period shall be treated as from sources within the United States. If the property transferred in the exchange is disposed of by the person acquiring such property, such agreement shall terminate and any gain which was not recognized by reason of such agreement shall be recognized as of the date of such disposition.

"(D) SECRETARY MAY EXTEND PERIOD.—To the extent provided in regulations prescribed by the Secretary, subparagraph (B) shall be applied by substituting the 15-year period beginning 5 years before the loss of United States citizenship for the 10-year period referred to therein.

"(E) SECRETARY MAY REQUIRE RECOGNITION OF GAIN IN CERTAIN CASES.—To the extent provided in regulations prescribed by the Secretary—

"(i) the removal of appreciated tangible personal property from the United States, and

"(ii) any other occurrence which (without recognition of gain) results in a change in the source of the income or gain from property from sources within the United States to sources outside the United States,

shall be treated as an exchange to which this paragraph applies.

"(3) SUBSTANTIAL DIMINISHING OF RISKS OF OWNERSHIP.—For purposes of determining whether this section applies to any gain on the sale or exchange of any property, the running of the 10-year period described in subsection (a) shall be suspended for any period during which the individual's risk of loss with respect to the property is substantially diminished by—

"(A) the holding of a put with respect to such property (or similar property),

"(B) the holding by another person of a right to acquire the property, or

"(C) a short sale or any other transaction."

(d) CREDIT FOR FOREIGN TAXES IMPOSED ON UNITED STATES SOURCE INCOME.—

(1) Subsection (b) of section 877 is amended by adding at the end the following new sentence: "The tax imposed solely by reason of this section shall be reduced (but not below zero) by the amount of any income, war profits, and excess profits taxes (within the meaning of section 903) paid to any foreign country or possession of the United States on any income of the taxpayer on which tax is imposed solely by reason of this section."

(2) Subsection (a) of section 877, as amended by subsection (a), is amended by inserting "(after any reduction in such tax under the last sentence of such subsection)" after "such subsection".

(e) COMPARABLE ESTATE AND GIFT TAX TREATMENT.—

(1) ESTATE TAX.—

(A) IN GENERAL.—Subsection (a) of section 2107 is amended to read as follows:

"(a) TREATMENT OF EXPATRIATES.—

"(1) RATE OF TAX.—A tax computed in accordance with the table contained in section 2001 is hereby imposed on the transfer of the taxable estate, determined as provided in section 2106, of every decedent nonresident not a citizen of the United States if, within the 10-year period ending with the date of death, such decedent lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

"(2) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—

"(A) IN GENERAL.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a decedent meeting the requirements of section 877(c)(1)."

(B) CREDIT FOR FOREIGN DEATH TAXES.—Subsection (c) of section 2107 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) CREDIT FOR FOREIGN DEATH TAXES.—

"(A) IN GENERAL.—The tax imposed by subsection (a) shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any foreign country in respect of any property which is included in the gross estate solely by reason of subsection (b).

"(B) LIMITATION ON CREDIT.—The credit allowed by subparagraph (A) for such taxes paid to a foreign country shall not exceed the lesser of—

"(i) the amount which bears the same ratio to the amount of such taxes actually paid to such foreign country in respect of property included in the gross estate as the value of the property included in the gross estate solely by reason of subsection (b) bears to the value of all property subjected to such taxes by such foreign country, or

"(ii) such property's proportionate share of the excess of—

"(I) the tax imposed by subsection (a), over

"(II) the tax which would be imposed by section 2101 but for this section.

"(C) PROPORTIONATE SHARE.—For purposes of subparagraph (B), a property's proportionate share is the percentage of the value of the property which is included in the gross estate solely by reason of subsection (b) bears to the total value of the gross estate."

(C) EXPANSION OF INCLUSION IN GROSS ESTATE OF STOCK OF FOREIGN CORPORATIONS.—Paragraph (2) of section 2107(b) is amended by striking "more than 50 percent of" and all that follows and inserting "more than 50 percent of—

"(A) the total combined voting power of all classes of stock entitled to vote of such corporation, or

"(B) the total value of the stock of such corporation,".

(2) GIFT TAX.—

(A) IN GENERAL.—Paragraph (3) of section 2501(a) is amended to read as follows:

"(3) EXCEPTION.—

"(A) CERTAIN INDIVIDUALS.—Paragraph (2) shall not apply in the case of a donor who, within the 10-year period ending with the date of transfer, lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

"(B) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—For purposes of subparagraph (A), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).

"(C) EXCEPTION FOR CERTAIN INDIVIDUALS.—Subparagraph (B) shall not apply to a decedent meeting the requirements of section 877(c)(1).

"(D) CREDIT FOR FOREIGN GIFT TAXES.—The tax imposed by this section solely by reason of this paragraph shall be credited with the amount of any gift tax actually paid to any foreign country in respect of any gift which is taxable under this section solely by reason of this paragraph."

(f) COMPARABLE TREATMENT OF LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—

(1) IN GENERAL.—Section 877 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) COMPARABLE TREATMENT OF LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—

"(1) IN GENERAL.—Any long-term resident of the United States who—

"(A) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(B) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country,

shall be treated for purposes of this section and sections 2107, 2501, and 6039F in the same manner as if such resident were a citizen of the United States who lost United States citizenship on the date of such cessation or commencement.

"(2) LONG-TERM RESIDENT.—For purposes of this subsection, the term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the event described in subparagraph (A) or (B) of paragraph (1) occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(3) SPECIAL RULES.—

"(A) EXCEPTIONS NOT TO APPLY.—Subsection (c) shall not apply to an individual who is treated as provided in paragraph (1).

"(B) STEP-UP IN BASIS.—Solely for purposes of determining any tax imposed by reason of this subsection, property which was held by the long-term resident on the date the individual first became a resident of the United States shall be treated as having a basis on such date of not less than the fair market value of such property on such date. The preceding sentence shall not apply if the individual elects not to have such sentence apply. Such an election, once made, shall be irrevocable.

"(4) AUTHORITY TO EXEMPT INDIVIDUALS.—This subsection shall not apply to an individual who is described in a category of individuals prescribed by regulation by the Secretary.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this subsection, including regulations providing for the application of this subsection in cases where an alien individual becomes a resident of the United States during the 10-year period after being treated as provided in paragraph (1)."

(2) CONFORMING AMENDMENTS.—

(A) Section 2107 is amended by striking subsection (d), by redesignating subsection (e) as subsection (d), and by inserting after subsection (d) (as so redesignated) the following new subsection:

"(e) CROSS REFERENCE.—

"For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e)."

(B) Paragraph (3) of section 2501(a) (as amended by subsection (e)) is amended by adding at the end the following new subparagraph:

"(E) CROSS REFERENCE.—

"For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e)."

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to—

(A) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) on or after February 6, 1995, and

(B) long-term residents of the United States with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) of such Code occurs on or after February 6, 1995.

(2) SPECIAL RULE.—

(A) IN GENERAL.—In the case of an individual who performed an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)) before February 6, 1995, but who did not, on or before such date, furnish to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of such act, the amendments made by this section and section 11349 shall apply to such individual except that—

(i) the 10-year period described in section 877(a) of such Code shall not expire before the end of the 10-year period beginning on the date such statement is so furnished, and

(ii) the 1-year period referred to in section 877(c) of such Code, as amended by this section, shall not expire before the date which is 1 year after the date of the enactment of this Act.

(B) EXCEPTION.—Subparagraph (A) shall not apply if the individual establishes to the satisfaction of the Secretary of the Treasury that such loss of United States citizenship occurred before February 6, 1994.

SEC. 422. INFORMATION ON INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. INFORMATION ON INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.

"(a) IN GENERAL.—Notwithstanding any other provision of law, any individual who loses United States citizenship (within the meaning of section 877(a)) shall provide a statement which includes the information described in subsection (b). Such statement shall be—

"(1) provided not later than the earliest date of any act referred to in subsection (c), and

"(2) provided to the person or court referred to in subsection (c) with respect to such act.

"(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN,

"(2) the mailing address of such individual's principal foreign residence,

"(3) the foreign country in which such individual is residing,

"(4) the foreign country of which such individual is a citizen,

"(5) in the case of an individual having a net worth of at least the dollar amount applicable under section 877(a)(2)(B), information detailing the assets and liabilities of such individual, and

"(6) such other information as the Secretary may prescribe.

"(c) ACTS DESCRIBED.—For purposes of this section, the acts referred to in this subsection are—

"(1) the individual's renunciation of his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(2) the individual's furnishing to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(3) the issuance by the United States Department of State of a certificate of loss of nationality to the individual, or

"(4) the cancellation by a court of the United States of a naturalized citizen's certificate of naturalization.

"(d) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year (of the 10-year period beginning on the date of loss of United States citizenship) during any portion of which such failure continues in an amount equal to the greater of—

"(1) 5 percent of the tax required to be paid under section 877 for the taxable year ending during such year, or

"(2) $1,000,

unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(e) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

"(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

"(A) a copy of any such statement, and

"(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

"(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

"(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

"(f) REPORTING BY LONG-TERM LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—In lieu of applying the last sentence of subsection (a), any individual who is required to provide a statement under this section by reason of section 877(e)(1) shall provide such statement with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

"(g) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if he determines that applying this section to such individuals is not necessary to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Information on individuals losing United States citizenship."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) on or after February 6, 1995, and

(2) long-term residents of the United States with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) of such Code occurs on or after such date.

In no event shall any statement required by such amendments be due before the 90th day after the date of the enactment of this Act.

SEC. 423. REPORT ON TAX COMPLIANCE BY UNITED STATES CITIZENS AND RESIDENTS LIVING ABROAD.

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report—

(1) describing the compliance with subtitle A of the Internal Revenue Code of 1986 by citizens and lawful permanent residents of the United States (within the meaning of section 7701(b)(6) of such Code) residing outside the United States, and

(2) recommending measures to improve such compliance (including improved coordination between executive branch agencies).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. ARCHER], the gentleman from California [Mr. STARK], the gentleman from Virginia [Mr. BLILEY], and the gentleman from Michigan [Mr. DINGELL] will each be recognized for 22½ minutes; and the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Missouri [Mr. CLAY] will each be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

GENERAL LEAVE

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous materials on the bill, H.R. 3103.

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

There was no objection.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, I rise in support of the bill.

Mr. Speaker, I want to thank the members and staff of the Commerce and Ways and Means Committees for including administrative simplification in the Health Coverage Availability and Affordability Act. This provision is based on legislation that TOM SAWYER, NANCY JOHNSON, and I introduced earlier in this Congress.

We have the most advanced health care services in the world due mainly to our success in using technology. We can use this same technology to improve the way our health care system is run. Our provision removes the barriers that have prevented modern technology from replacing outdated, paper-based health information systems.

Today, the lack of uniform standards for financial and administrative health information is a barrier to modernizing health information systems. Most health plans already transmit data electronically, but the data is nonstandard or incomplete, and cannot be used to coordinate benefits or effectively track fraud and abuse.

Uniform standards for health information would enable the private sector to reduce paperwork (which adds nearly 10 cents to every health care dollar), expose fraud (which is difficult to do in a confusing, disjointed paperwork system), and provide consumers with the information they need to compare health plans and services.

The Health Care Financing Administration [HCFA] is implementing a Medicare transaction system for handling standardized Medicare claims. Under current law, HCFA has the authority to adopt Government standards for health information, and to mandate the use of those standards by the private sector.

Our administrative simplification provision, as it was included in this bill, limits HCFA to adopting standards that already have been developed by a voluntary, consensus process that has included input from the private and public sectors. It establishes a process for the standardization of health data that builds on progress in the private sector.

Our provision was developed over several years in a cooperative effort between the private and public sectors. Political support for our provision is bipartisan and bicameral—it was introduced as H.R. 1766 by Representatives DAVE HOBSON, TOM SAWYER, and NANCY JOHNSON, and as S. 872 by Senators KIT BOND and JOSEPH LIEBERMAN.

Also, as the original author of this provision, I want to clarify that our intention is that health benefits under employee welfare benefit plans would not include hospital or fixed indemnity, specified disease, accident, disability income, dental, and vision benefits.

These provisions and the overall bill respond to the need for health care reform in a responsible way. I encourage Members to vote for the bill.

Mr. ARCHER. Mr. Speaker, I yield 30 seconds to the gentleman from Ohio [Mr. KASICH], the chairman of the Committee on the Budget.

Mr. KASICH. Mr. Speaker, I want to congratulate all of the chairmen on what we are producing here today, which is a fantastic improvement in the lives for all Americans who have been held hostage from changing jobs because of a lack of portability, which we guarantee in this bill, and to give them security in knowing that preexisting conditions that have denied them health insurance or have denied them the ability to be secure in their homes are being removed with this bill.

This is a great day for the American people, a great day for the American family, and we did it without socializing the system. I thank my colleagues for producing this bill.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. COLLINS].

Mr. COLLINS of Georgia. Mr. Speaker, I rise in full support of this legislation.

Mr. Speaker, the health care reform legislation now under consideration by the Republican-controlled House of Representatives draws a dramatic contrast against the health care reform legislation considered by Congress in 1994 under a Democrat majority.

The legislation of 1994, crafted by President Clinton and introduced by the Democrat leader, Mr. RICHARD GEPHARDT, would have created a new bureaucratic government agency with authority over most of the health care choices each private citizen makes.

This year, however, under a Republican-controlled House, we are considering health care reform legislation that avoids the explosion of government bureaucracy. This legislation is a direct response to the views and concerns expressed by American citizens during the 1994 health care debate when we defeated the Clinton socialistic health care proposal.

This year's reform legislation will provide greater access to health care without increasing government bureaucracy. It will eliminate permanent preexisting condition limitations; ensure greater insurance portability so those who change jobs will have access to coverage; offer greater tax fairness for individuals; provide tax deductible contributions to medical savings accounts targeting those middle-income individuals and families without health care; streamline administrative costs and procedures; combat fraud and abuse in the health care industry; invoke medical malpractice reform that discourages unnecessary litigation currently driving up the cost of health care; and above all preserve the quality and freedom of choice that exists in our current market-based system.

One of the most important and unique components of this health care reform legislation is the creation of medical savings accounts [MSA's]. This provision will allow individuals and families to purchase a high deductible health plan and make tax deductible contributions to MSA's for the purpose of saving money for health care expenditures. In addition, contributions by employers on behalf of their employees will be excludable from taxable income. This proposal will finally provide an ideal way for young individuals and young families just starting out, to obtain affordable, quality health care coverage.

Estimates indicate that at least 1 million people will open medical savings accounts. Approximately 650,000 people who earn between $40,000 and $75,000 per year will choose MSA's; while 120,000 people who earn between $30,000 and $40,000 per year will join. The vast majority of those benefiting from the MSA will be middle-income families who, in today's market, face the most difficult challenge in obtaining coverage.

MSA's create more fairness for small employers and their employees by eliminating barriers to coverage. As a small business owner, I know first hand what kind of limitations small businesses face when trying to establish health care coverage for their employees. Often, providing health care becomes too complicated or too expensive for these employers.

MSA's will be an ideal way for small businesses to assist employees in obtaining health care coverage. MSA's may very well mean the difference between those employees who have no insurance and those that have access to affordable health care.

MSA's will provide the maximum degree of portability for employees. When an employee leaves, he or she will take the MSA to the next job.

MSA's will ultimately reduce the long-term care expenditures of medicare and Medicaid by promoting the purchase of long-term care insurance. The provision will allow individuals to make a tax-free withdrawal for the purposes of paying long-term care insurance premiums. Long-term is among the largest expenditures in entitlement health care programs. Encouraging citizens to purchase coverage in the private markets means reduced costs to the taxpayers.

MSA's will provide the maximum amount of choice for health care consumers. Individuals and families will have the maximum amount of control over the choices they make in their health care. Maximizing the ability of the consumer to choose means increased competition and cost savings for that individual or family purchasing health coverage.

MSA's have a long history of bipartisan support. In 1994, the Democrat party leader, Representative GEPHARDT, endorsed MSA's. In 1994, Senator PAUL SIMON introduced legislation to establish MSA's. In addition, States have passed State-level legislation that exempt MSA deposits from State-level taxes.

Mr. Speaker, the MSA provision is one of several very important health care reform components of the Health Coverage Availability and Affordability Act. The health care debate began during the last Congress (103d). Today, in the 104th Congress we are fulfilling the commitment to enact common sense health care reform that will provide greater portability and accessibility of health care for all Americans.

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

Mr. Speaker, today the House considers the Health Coverage Availability and Affordability Act of 1996. This bill, Mr. Speaker, is truly historic. After years of talking about health reform, we are now, with the new Republican majority in this House, going to enact health reform. Most importantly, H.R. 3103 reflects what Americans want in health reform because it addresses the

two issues that concern our citizens the most, availability and affordability of health insurance coverage and health care.

A key to increasing the availability of health insurance is insuring portability of coverage if a breadwinner changes jobs. No one should ever say no to a new job simply because he or she fears that the new health insurance company will say no to them. This bill tells workers that they will not have to worry about preexisting conditions limiting their ability to get coverage if they change jobs.

Both to increase the availability and affordability of health care coverage, we establish medical savings accounts. Deductions for MSA's with health insurance protection ought to be an option available to working Americans. MSA's offer Americans the ultimate in portability because, with an MSA, you take the money with you and retain the savings to spend on your health care needs regardless of a change in your employment or life circumstances.

A new study by the Joint Committee on Taxation demonstrates that the M in MSA stands for middle income. The joint committee estimates that 650,000 out of the 1 million people who will be covered by MSA's earn between $40,000 and $75,000 a year while another 120,000 people who will choose MSA's earn below $40,000 per year.

The bill further insures affordability of coverage by raising the deductibility of health insurance for 3.2 million self-employed Americans. At the beginning of this Congress the deduction had expired. Congress increased it to 30 percent last year, and now we increase it to 50 percent.

H.R. 3103 also provides important incentives for Americans to protect their families through the purchase of long-term care insurance, and it allows for accelerated death benefits for those with terminal illnesses such as cancer or HIV. Both of these important measures were part of our Contract With America.

Our bill makes health insurance and medical care more affordable by attacking a key health care cost driver that runs up costs for everyone, and that is fraud and abuse. It is tough on health care crooks by creating new criminal penalties for health care fraud, expanding other penalties and providing the necessary funds for Federal investigator to route out health care crime.

Another cost driver this bill addresses is the current quagmire of paperwork. The bill will make the process cheaper and easier by promoting a common claims form and electronic transmission of this information.

Finally H.R. 3103 undermines one of the major cost drivers, and that is medical malpractice. It gives real reform and will promote health insurance pooling for small employers.

The bill was truly a group effort by four of the House committees with health jurisdiction. I cannot stress enough the leadership provided in developing this joint initiative by the gentleman from Illinois [Mr. HASTERT] and all the chairmen of the committees involved and their subcommittee. I am particularly grateful for the contribution of the bill's chief cosponsor, the Committee on Ways and Means' Subcommittee on Health chairman, the gentleman from California [Mr. THOMAS].

Availability and affordability, two issues important to all Americans; both are the prescription for real achievable private sector health care reform this year. I am confident my colleagues will join me in supporting the Health Coverage Availability and Affordability act of 1996.

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

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

Mr. Speaker, this bill is called the Health Coverage Availability and Affordability Act, but it ain't. Because of the medical savings accounts and other provisions in here, the Republicans have managed through some legislative legerdemain to turn a silk purse into a sow's ear.

The Democratic substitute will, in fact, bring back the Roukema-Kassebaum-Kennedy bill with some technical corrections to make sure that it limits preexisting conditions, and would by far be a better bill, a truly bipartisan bill, one that will pass in the Senate and one that would in fact be signed by the President.

Now, if the Republican intention is to fill up prime time with a bill that they know will pass, it is to me a very sick trick to play on the seniors.

First of all, this bill purports to increase the deduction for self-employed, but really it only does it for 50 percent, and that is in 2003. The Democratic alternative does it at 8 percent, and it does it right up front and pays for it. It is not flimflamming the American public into thinking they are getting something that they are not.

It is also a bad bill because the insurance reforms are weaker. It limits individuals to just one policy and guarantees issue only to small firms of less than 50 people. The rest are out on the street. It spends over $2.5 billion of Medicare money on MSA tax breaks. We should save easy anti-fraud money for Medicare trust fund relief. Not only are the MSA's a bad policy, they are a payoff to the Golden Rule Insurance Company who has contributed almost $1.5 million to Speaker GINGRICH'S political operations.

If that is not bad enough policy, I do not know what is.

This bill actually increases costs in traditional insurance pools. The MSA's, the mean ones, will drive up the rates for most people.

The GOP has mislabeled their bill, I suspect intentionally. The GOP anti-fraud provisions contain 3 pro-fraud loopholes: advisory opinions, harder proof for civil monetary penalties, and they are allowing kickbacks in managed care plans. The CBO, the Republican CBO, says their plans will cost the system a billion dollars.

There is also a payoff to American Family Life. It takes out the Medigap anti-duplication laws, will return us to the days of ripping off seniors by unscrupulous insurance salesmen.

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The payoff to the AMA is in the malpractice caps that reward doctors. I would remind Members that it was released today that there are over 13,000 doctors convicted of sex crimes and other crimes who are still practicing in this country, who will go untouched if the Republicans remove the malpractice caps.

Mr. Speaker, the GOP expatriate language is too weak. We should keep it simple. We should support the Dingell-Spratt-Bentsen substitute, and give the people true portability and true reform.

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

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], the most respected chairman of the Subcommittee on Oversight of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman, the chairman of the committee, for yielding time to me.

Mr. Speaker, this is a great day or night for Americans. Health security is important to every man, woman, and child. Tonight we take a giant step toward guaranteeing coverage, in spite of preexisting conditions, protecting millions of Americans and their families.

I introduced the first insurance reform bill, and in fact, with our former colleague Rod Chandler, introduced the first legislation to enable small businesses to group together to provide lower cost insurance for businesses. Tonight we bring a lot of that thinking, 5 years old, to fruition, and for the first time, we are going to put on the President's desk a reform bill that will really directly affect the lives of our constituents and create for them the opportunity to move from job to job, developing their careers, without fear of losing health coverage for their spouse and children.

Twenty-five million workers and dependents are affected by changes in employment every single year; 3.6 million will face job lock. That is 3.6 million workers, but all of their dependents as well. They are the people whose fears will be allayed by tonight's legislation. One hundred and thirty-eight million workers and their dependents

are covered by employer plans, and any one of them at any time could need what we do here tonight. This is, indeed, a giant step toward health security for all working Americans.

Underneath that bill, included in it, is the accomplishment of other goals that we have long aspired to. For 5 years we have tried to spread long-term care insurance to protect seniors against the cost of nursing home care, without forcing them to spend down to poverty. This is a remarkable piece of legislation. It is long overdue. It represents the culmination of solid study over 5 years. Mr. Speaker, I urge the Members' support.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, this could have been a great night in this Chamber. In fact, we came very close to having this a great night in this Chamber.

Mr. Speaker, Senator KASSEBAUM and Senator KENNEDY introduced a piece of legislation, very simple, very precise, very direct. What that legislation said was, "If you lose your job or if you change your job and you have a preexisting health condition, you will not lose your health insurance."

What happened? Senator KASSEBAUM daily appealed to her colleagues to keep the bill direct and simple. This very afternoon, Senator BRADLEY stood next to Senator KASSEBAUM. He was very much interested, as many of us have been, that if you have a baby you should be allowed to stay in the hospital for 48 hours. What did he say? He said, "I will not put forth my amendment because it might jeopardize Senator KASSEBAUM's bill."

Mr. Speaker, did that happen over in this side of the House? It certainly did not. The bill that we have before us tonight has 301 additional pages of insurance changes. As I listened to people talk, and we have talked about this bill all day, I hear some on the majority side say that the additions to the bill have a very definite policy objective; namely, to make health insurance more affordable. How I wish that was true.

However, two of the most controversial riders, tax breaks for medical savings accounts, and an exemption from State insurance laws for certain health plans, could actually make health insurance higher for many, many people, the cost of health insurance. Both of these provisions would promote risk skimming, which puts the healthiest Americans in a separate health care plan. For anyone who knows about insurance, you know when you do not have a decent risk pool, the risk pool does not work.

Mr. Speaker, we have an opportunity tonight to move forward in a bipartisan legislative manner. Senator KASSEBAUM and KENNEDY's bill was put forth here by the gentlewoman from Connecticut, Mrs. ROUKEMA, and many Members of this body. We could take this bill, this simple, precise bill, and have portability for health insurance. That is all we have to do. We do not have to do everything that would just complicate matters. We can help millions of Americans by doing a simple, good bill.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr HOUGHTON], a respected member of the Committee on Ways and Means.

Mr. HOUGHTON. Mr. Speaker, I would like to talk on the portability issue. I think it is an important one. I know that a lot of people have talked on it. It will not be the last discussion about this. However, I think it is important. I know a little bit about it, and it is really at the heart of this whole bill.

Mr. Speaker, basically what it does is to free up somebody to work wherever he or she wants. That is not a bad concept. You work for company A and you want to move to company B, but company B does not have any health insurance program. You get a job at company C, but at a far less salary. You would rather take the job at company B. You cannot do it. You cannot help your family.

Under this condition, you must be given an opportunity to have an insurance policy yourself or through the company, irrespective of where you are working or irrespective of the preexisting conditions. It makes a lot of sense, Mr. Speaker. I fully endorse this.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I thank my friend, the gentleman from California, for yielding me this time.

Mr. Speaker, let me say to my good friend, the chairman of the Committee on Ways and Means, this bill has certainly changed since it left the Committee on Ways and Means. That is unfortunate, because I know that the chairman agrees with me that we are trying to return power to our States. This bill moves in exactly the opposite direction. By preempting our States in health insurance, which has been a traditional role for State governments to regulate, this bill moves in the wrong direction. It preempts our States without providing adequate Federal protection.

Mr. Speaker, let me just give one example of the impact that this bill will have, if it becomes law, on the State of Maryland. We enacted small market reform in our State. It covers employers that have employees, between 2 and 50 employees. It also covers the association plans, and now also covers our self-employed. The plan is working.

Mr. Speaker, let me just read from a letter that I received from our State officials:

> The reforms went into effect July 1, 1994. . . . The small business community (the Maryland Chamber, Retail Merchants Association, individual businesses) and insurance agents report the reforms have stabilized the market, increased price competition, and increased choice of delivery systems.

The reforms proved so successful to the general assembly that they expanded it to include the self-employed.

Yet, the provisions that are included in this bill would seriously jeopardize our ability to continue that plan in Maryland, for, you see, companies would be able to come under Federal regulation and void the State plan, and therefore, defeat the purpose of the pooling arrangements in our State. That is unfortunate and it is wrong.

Let me give a second example. My State has passed the emergency room care legislation, that uses the "reasonable lay person" definition on when that person should be reimbursed for care in an emergency room. We are not waiting for the Federal Government to act on it. The Federal Government has not acted on it. Do not penalize my State by allowing more and more insurance plans to be able to get out from under State regulation and be able to avoid their responsibility to cover emergency room care. That is what this bill will allow to happen. More and more companies will be able to avoid State regulation. That is wrong. It should not happen. We should allow the States to respond.

Let me quote, if I might, from the National Association of Insurance Commissioners:

> Unfortunately, we continue to have grave concerns that subtitle C of title I of H.R. 3160 would significantly erode existing State level insurance reforms. The net effect of the final provisions relating to MEWA's is extremely damaging to States authority to govern their own insurance market.

Mr. Speaker, I do not understand why we are moving in the wrong direction by taking more power, rather than giving our States the ability to control health insurance. The National Association of State legislators opposed those provisions in the bill, and for good reason. I regret that the only option we have is to support the Democratic substitute if we want to deal with preexisting conditions.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. HERGER], another respected member of the Committee on Ways and Means.

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

Mr. Speaker, in 1996, an estimated 3.1 million self-employed Americans will be unfairly denied adequate tax relief for their health insurance costs. Individuals that receive health coverage through their employers do no pay taxes on those benefits while self-employed individuals are only allowed to

deduct 30 percent of what they spend on health care insurance.

Mr. Speaker, this mere 30 percent deduction inadequate, discriminatory, and discourages the self-employed from obtaining proper medical coverage and care. While this bill doesn't completely end this inequitable tax treatment of the self-employed, it moves us closer to that goal by increasing the health care deduction for the self-employed to 50 percent.

Mr. Speaker, I urge my colleagues to support the self-employed in this country by adopting this much-needed legislation.

Mr. STARK. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, I support Kennedy-Kassebaum. This bill before us now is not Kennedy-Kassebaum-plus, it is Kennedy-Kassebaum-minus. In a way, this bill is the story of this session so far. When the Republicans have a chance to do something good, they ruin it by overreaching. They simply cannot resist excess, and they cannot resist turning a bipartisan bill, which Kennedy-Kassebaum is, into a partisan one.

Mr. Speaker, why is this Kennedy-Kassebaum-minus? I think it is very clear, when someone who is covered by group insurance leaves and must have individual insurance, there is going to be less protection for affordability under the bill we have here than Kennedy-Kassebaum, period. It is likely that the individual will pay more.

Second, they have included MSA's, which are likely to draw the healthiest away and hurt everybody else in terms of premiums. Let me just say one thing about MSA's. They are really a potential tax shelter for wealthy people, because if you put money into them, you do not pay Social Security taxes. You indefinitely defer income taxes. And if you keep them until death, you avoid estate taxes. IRA's are structured to avoid that kind of sheltering. What these MSA's, as the Republicans here in the House, once again going to an extreme, what they have done is to promote tax sheltering for very wealthy families.

One last point, and we have made it a number of times, on fraud and abuse. Why make it tougher for the Government to impose civil and monetary penalties in the case of fraud and abuse? Why do that? Why do you require that the proof be recklessness instead of negligence, when the Government relies on the providers, the tens of thousands, to submit accurate bills? Mr. Speaker, I do not understand what pressure group you are reacting to, but it is bad for the public at large.

So for all of these reasons, I urge that we reject this bill. Unfortunately, once again, they have gone much too far. Nothing exceeds like excess, as has been said many years ago. I think we have no alternative but then to vote for the substitute. Let us do Kennedy-Kassebaum, taking care of the self-employed. Let us not go backward. Let us not turn this into a political issue. This reform is long overdue.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana [Mr. MCCRERY], a respected member of the Committee on Ways and Means.

Mr. MCCRERY. Mr. Speaker, medical savings accounts will provide hard-working Americans the freedom to personally manage and even save a portion of their health care dollars. By granting consumers complete control, MSA's allow working men and women and their families to tailor health care spending to their individual needs. This element of personal responsibility will lead to more cost-conscious and cost-efficient spending choices.

MSA's are easily portable from one job to another and provide total freedom when choosing a family's health care provider. In the case of a serious illness or injury, MSA beneficiaries will continue to have comprehensive medical coverage through a high-deductible health plan which meets those costs. Furthermore, this bill helps individuals plan for their future long-term care needs by allowing MSA funds to be used to purchase long-term care insurance or services.

In short, Mr. Speaker, MSA's provide hard-working American families the ultimate in health insurance: choice, flexibility, and portability.

Mr. STARK. Mr. Speaker, I yield 4 minutes to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Speaker, I wish that we were out here voting on the Kennedy-Kassebaum-Roukema bill, but we are not. HIAA, the Health Insurance Association of America, did not want that bill to come to the floor, and so we have this bill we have before us. This bill was written by, or at least for, the insurance industry.

The first thing in it is data collection. I mentioned that under the rule, they collect data, they have electronic clearinghouses that can shift that information. There is no privacy protection in this bill whatsoever. This is the first time the Federal Government has gotten into collecting health care data, and there are no privacy protections.

But worst about this bill is that it purports to be about portability. Portability means you have insurance, you lose your job, what happens to you? Well, how can you carry your insurance until you get your next job, or what do you do to cover your family? Now, this bill says that, if you were in a company that had 50 people or you had a group insurance and you go out there and you start looking for insurance, the insurance company or the State can decide what they are going to offer you.

Mr. Speaker, we are not going to get the same policy we have now. No one listening to this should think that portability means what I have now I will have tomorrow, because it simply is not so. We give the insurance companies the ability to say, we will give you the average actuarial value policy. What does that mean? It has never been done in the United States. This is a pig in a poke. Anybody who thinks that the insurance companies when they do not have to give you insurance are going to give you the same thing, they are going to jack the price. And you are going to get less benefits, particularly if you have any kind of medical problem.

They are going to medically underwrite you. If you have cancer or heart attack or anything, diabetes, whatever, you suddenly are going to find out you do not have the same benefits you had under your old group policy.

Now, let us say we have a job and we lose it and move to another company. We may get into the next company, but the company that has more than 50 employees has no guarantee that they can go out and buy a policy. There is no guarantee of issue to an employer who has more than 50 people.

Mr. Speaker, all of these proposals fit the insurance company's ability to cherry pick and avoid the sick people and make their choices and find ways to make money. Anything that is in this bill could be done now by the insurance companies. The Republicans have put out there essentially what I say is a guarantee that we can buy a Cadillac in this country. Now, we can pass a bill and say everybody can buy a Cadillac. We guarantee that Cadillac dealerships must issue us the keys to a Cadillac.

Mr. Speaker, why do people not have Cadillacs? They have not got the money to buy Cadillacs. This bill is a fraud because it says, we get portability. But just like a bill that says we get a Cadillac, we would not get one.

Now, if that were not enough, if it were not just the issue of portability, the opportunities for fraud by insurance companies are increased in this bill. We passed a law since I came to Congress that said that insurance companies could not sell a policy to old people for things that are covered by Medicare. We could not duplicate without saying to the old folks: This policy covers what is under your Medicare. Now, any old folk would say to that: Well, that is stupid. Why should I buy that policy?

So they quit selling those policies. This bill says that an insurance company can go out selling something all over the place that covers what is covered by Medicare. It is simply an opportunity to legalize their fraud.

This is a bad bill. Vote for Dingell, Spratt, and Bentsen.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. I thank the gentleman for yielding me the time.

Mr. Speaker, last year alone, $31 billion was lost to Medicare fraud and abuse, Medicare and Medicaid fraud and abuse. Everyone here talks about doing something about waste, fraud and abuse in our health care system. This bill finally does something to eliminate these parasites on our health care system.

Mr. Speaker, our bill establishes the Medicare integrity program, which increases the ability of Medicare to prevent payments for fraudulent, abusive or erroneous claims.

We, for the first time, require the Health Care Finance Agency to use state-of-the-art computer software, the same type used by private insurers, and to hire private sector companies with proven track records to prevent fraud and abuse. This will result, according to the CBO, in a net savings of almost $2 billion over the next 6 years.

The other provisions that fight health care fraud and abuse are listed on this chart, Mr. Speaker. I urge approval of this bill to get at waste, fraud, and abuse.

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

It is interesting that the previous speaker spoke about parasites I think here to enlighten us about parasites. is the gentleman from Virginia [Mr. MORAN], who will tell us about the Golden Rule Insurance Company, which gave Mr. GINGRICH's political operations over $1.5 million, which is why we are discussing these MSA's.

Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, as the gentleman from California [Mr. STARK] has explained, I think we know why MSA's are included in this legislation and why the Republican Party wants so much to make them into law. The principal beneficiary of this legislation would be Golden Rule Insurance Co.

All we have to do is to track the campaign contributions to the Speaker and GOPAC and the Republican committee.

Let me explain why the Democrats are not supporting Golden Rule Insurance Co. and their medical savings accounts. In the 1992 annual statement, only 54 cents out of every premium dollar was actually going into medical costs. Imagine. Half of the revenue went into shareholder profits and the like.

Let me explain why the State of Vermont kicked these medical savings account of Golden Rule Insurance Co. out of the State. It is because half of the people in Vermont, 5,000 people have these policies, half of them found that in the tiny writing at the bottom that Golden Rule had excluded whole body parts from coverage. They excluded their arms, their breasts, their backs, their hips, their hands, their legs, their circulatory system. Imagine excluding these things from coverage.

Let me tell my colleagues why the State of Kentucky had so much problem with Golden Rule Insurance Co. Golden Rule Insurance Co. does not want to cover newborns. They will not cover them until they prove that the newborn is healthy. Kentucky passed a law that says you have to cover newborns for the first 30 days of life. Golden Rule sued the State because they do not want to cover newborns for the first 30 days of life.

Mr. Speaker, let me tell my colleagues about some other folks who had specific experience. Carol Schreul of Aurora, IL, Golden Rule rejected her insurance for a brain tumor, $39,000. They would not cover it. They said that she listed her weight as 190 pounds but that it was actually 210 pounds.

Let me tell my colleagues about another Golden Rule policyholder who suffered a stroke, $20,000 in bills. James Anderle was a Milwaukee barber. It turns out that they said he had a preexisting condition, that he had the flu, and that this was a preexisting condition. And so they did not want to cover it.

Claims for $49,000 were denied Harry Baglayan, a self-employed repairman. He underwent bypass surgery. They said that he did not tell them that he had nausea 4 months earlier, and that was a preexisting condition.

I will just quote from the Wall Street Journal, which, it seems to me, probably has a little bit of credibility around these parts. The Wall Street Journal says that they are a sham, that in fact they are most known for cherry picking. In fact, when a claim actually is accepted, they wind up suing the beneficiary and the State. They have piled up $1 billion in assets. It is a sham, Mr. Speaker. We should not include this in our bill.

Mr. ARCHER. Mr. Speaker, I yield myself 15 seconds simply to say that the previous speaker made a very interesting emotional presentation. It just so happens that it has no relevancy to what we are talking about today.

Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. SAM JOHNSON].

Mr. SAM JOHNSON of Texas. Mr. Speaker, medical savings accounts are for middle-income America. There is a chart that proves it. Medical savings accounts, therefore, must be part of any health care plan we pass. They are an important option for both employers and employees. They give enhanced portability, preserve consumer choice, allow retirement savings and contain costs.

Medical savings accounts offer all Americans the opportunity to buy a plan that best meets their individual needs.

Mr. Speaker, middle-income Americans are my constituents. They repeatedly tell me that one of the most important things that they want is the ability to choose their own doctor. Medical savings accounts do that. They will allow people to achieve control over their own health care dollars, make it more cost-conscious and bring down the total cost of medical costs for everyone.

Medical savings accounts are good for America. Medical savings accounts offer Americans a freedom they deserve.

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

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. PORTMAN].

Mr. PORTMAN. Mr. Speaker, I rise today in strong support of the bill and I do so because I think it will provide greater security to millions of working Americans by eliminating some significant obstacles to health care.

I think this is precisely the kind of health care reform, Mr. Speaker, that the American people have called for. It is targeted reform. It is incremental reform. It makes commonsense improvements to an imperfect system.

Let me give my colleagues an example. This bill helps level the playing field between those who are self-employed and those who work for corporations. The health insurance deduction for the self-employed goes from 30 percent to 50 percent over a 7-year period. With this single step, we are making health care more affordable for 3.2 million Americans, many of those Americans who are now caught in the net, Americans who are now uninsured. That means the mon and pop grocery store down the street. That means that our favorite barber. That means that our local mechanic. All of these people may be self-employed.

In my State of Ohio alone, this enhanced deduction will affect more than 50,000 farm families. It makes sense. Corporations receive a significant deduction, and it is only fair that the self-employed do, too.

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Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Nevada [Mr. ENSIGN], a respected member of the Committee on Ways and Means.

Mr. ENSIGN. Mr. Speaker, in southern Nevada, with the fastest-growing senior population in the country, I constantly hear from elderly constituents about the exorbitant costs of long-term care. People like our parents and grandparents are paying about $40,000 a year for nursing home care. If they do not have the money, Medicaid requires that they lose virtually everything or legally hide everything before they can get help with long-term care from the government.

Currently, there is no provision in the Tax Code that relates to long-term care expenses. Most people incorrectly believe that private insurance will pick up this tab when they need it. But this is simply not the case for 98 percent of long-term care recipients. This bill incorporates the Ensign amendment that treats long-term care expenses as tax-deductible medical expenses. Some of my senior Democratic Ways and Means Committee members have told me they have been trying to do this for over 10 years. Best of all, it is fully paid by making billionaires who renounce their U.S. citizenship for tax purposes pay their fair share. This should have been done years ago, and certainly we should all support this bill with this amendment.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. CHRISTENSEN], a respected member of the Committee on Ways and Means.

Mr. CHRISTENSEN. Mr. Speaker, I rise today to speak in favor of a provision that will help senior citizens in my home State of Nebraska, and throughout the country.

What I am referring to are the provisions in this bill that dramatically improve the way we treat long-term care, making long-term care more affordable and accessible.

This bill puts long-term care on a level playing field with other important forms of insurance and provides a much-needed incentive for individuals to take personal responsibility for their long-term care needs.

First, this legislation requires that long-term care insurance be treated like accident and health insurance, meaning that it will generally be excluded from an employee's gross income for tax purposes.

Second, thanks in large part to my colleague Mr. ENSIGN from Nevada, this bill provides that many long-term care expenses will now be deductible.

We as a nation must come together in a bipartisan fashion to put an end to a long-term care system that pulls seniors into poverty and forces taxpayers to step in to bear the burden.

This legislation does just that.

Once again we are doing what we said we would do by ensuring a bright future for our senior citizens.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, I think the Republicans should be lauded for attempting at least to pick up the pieces of what has to be a concern to all Americans, and that is inadequate health care for most of our citizens, especially those people who are working and do not have access to insurance. They are not insured by the Federal Government, because they make too much money, and, of course, they do not have enough money to get their own insurance.

But why the Republicans would come in with an insurance plan that allows tax exemptions for people who can afford just to put it in a bank account and if they make certain that it is a high deductible, that is that the only time that they can use it is for catastrophic diseases, then it just seems to me that what we are doing is allowing the insurance companies to cherry-pick and select those people who are healthy and then those people who are not insured by that can come right back and fall on the regular public system that is there.

What we do need is a comprehensive insurance program that really was the one that was initiated before, and perhaps it was too much to consume at one time, but we cannot forget that there are 40 million people out there in the United States that have no insurance at all, and these are the people that are the most vulnerable and these are the people that cannot afford to have these type of savings accounts which are there to protect those who already have.

I think that instead of just selecting those parts of the people that they believe would give political support, that what we have to have in this country is an insurance, a health insurance system where every American, regardless of how much money they have or whether they do not have any at all, can say in this great country that people will not die just because they lack access to health care.

All over we see we are cutting back the public share. If we want to do more in the private sector, let it be fairer.

Mr. ARCHER. Mr. Speaker, I yield myself 1 minute.

I think the debate, Mr. Speaker, has been very curious today. On the one hand, the Democrats accuse us of overreaching, of having too comprehensive a bill. This is from the same people that gave us the unbelievably complex Government takeover of the entire health care system in 1994. It is fascinating. And then they come and say, oh, we are concerned about insurance companies taking a part of the money paid on the premiums and not spending it on health care, but they want to deny medical savings accounts where the individual spends his or her own money without regard to a third-party payer.

There is an enormous inconsistency here, but in a sense it is consistent because in 1994 they wanted to deny choice to the people of this country and now they want to deny choice to the people of this country to have their own medical savings accounts.

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

Mr. STARK. Mr. Speaker, I yield myself the balance of my time.

I would just suggest that the Republicans would like to spend almost $4 billion on long-term care insurance at the same time they cut $90 billion out of Medicaid, which pays for long-term care for the poorest. It is true that we had a bill that would have provided health insurance to all Americans, and there are 40 million Americans out there uninsured who obviously the Republicans do not give a hoot about. All they care about are the rich, who can enjoy the medical savings accounts.

So if you do not have insurance and your children do not have insurance, the Republicans are doing nothing. If you are very rich or you know some rich people, they get helped by this bill.

The Dingell-Spratt-Bentsen amendment would be the bill to support, which would get us the Roukema-Kennedy-Kassebaum bill, which does all the good things on a bipartisan basis that we need to do and does away with the claptrap that has been added on to this bill with the awful intention of killing it, which to me is cynical, and it is cynical because it is going to hurt the poor and the elderly while it helps the rich, like Ross Perot and the friends of the Republicans. And that is not what this country needs.

We have 40 million people who do not, whose COBRA benefits could protect them; 3½ million who will expire. The Republicans voted against extending it.

Support the Dingell-Spratt-Bentsen amendment.

Mr. ARCHER. Mr. Speaker, I yield the balance of my time to the gentleman from California [Mr. THOMAS], the highly respected, helpful creator of a big part of this bill, the chairman of the health subcommittee of the Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, I thank the chairman, the gentleman from Texas [Mr. ARCHER], for yielding me this time. I want to compliment him as I want to compliment the chairmen of the other committees, the gentleman from Virginia [Mr. BLILEY] and the gentleman from Pennsylvania [Mr. GOODLING]. It really is exciting, and I am pleased that this new majority for the first time in more than 40 years has a work product on the floor that could not be produced by the former majority.

The Democrats had more than 40 years. In fact, it has been more than 10 years since the last health insurance bill has been on the floor. The Democrats owned Washington in the entire 103d Congress; the Democrats had a majority in the House. They had a majority in the Senate. They had a President. Not one product to deal with the plight of the American worker, so eloquently described by the Democrats over and over again, on this floor ever came to the floor. We were never provided the opportunity to help. We had the opportunity to hear of the plight of the poor worker just as we did a few minutes ago. The gentlewoman from

Connecticut talked about that poor beleaguered person, and I am sure he is and he has been for a long time and he was during the entire time the Democrats were in the majority.

The major committees in the House, not just one committee, the major committees of responsibility have come together and we have produced H.R. 3103. It is not too much, it is not too little, it is just about right for responsible and reasonable health care reform. We have actually accomplished a modest improvement for the self-employed. We moved their deductibility from 30 percent to 50 percent, prospectively. That is really all that we thought was prudent and appropriate.

Criticism from the minority over this? We do not do enough, fast enough. Who was it that left those same self-employed without any protection whatsoever for the entire calendar year of 1994? All of a sudden they want to do something for these people. When they were in control they did absolutely nothing. They allowed the deductibility for health care to lapse. When you were running the place, why were not you more responsible?

H.R. 3103 reforms tort law in the area of medical malpractice. Is it radical? Half the States limit noneconomic damages. Is it controversial? Last March, with 247 votes, 44 Democrats, 23 from the North, 21 from the South, joining the new majority, the responsible Democrats and the Republicans passed medical malpractice reform. We put it in the product liability bill. The exact same language as passed the floor of the House is in this bill. We have put together increased penalties for fraud and abuse. Tougher rules, stiffer penalties. We find it, we fix it, and we make sure that we can fight it. Stiffer penalties, stronger rules. What is wrong with requiring the government to tell people when they ask the government is this OK?

What is wrong with advisory opinions? Apparently, the gentleman from California [Mr. STARK] did not find anything wrong with advisory opinions last June, outside the context of the political responses we have been hearing today. In H.R. 1912, the gentleman from California [Mr. STARK] introduced a bill to deal with health care fraud and abuse. On page 41, the gentleman from California has a provision, subtitled (d), advisory opinions, on kickbacks, and self-referrals.

We also have greater availability and greater affordability of health insurance, you have heard from many of my colleagues in the area of medical savings accounts. We have heard over here from the minority, how horrendous is this provision. Well, is it really? It is choice. It does not say that you must, it says you can. It does not say you shall, it says you may. It is a choice. It is one more choice. Possibly it is a product that people who now cannot find a product in the marketplace will use.

Who are those people? We have heard the profile of those individuals characterized as the healthy and the wealthy. Take a look at, again, the chart that the gentleman from Texas, Mr. SAM JOHNSON, focused on. According to the Joint Tax Committee, 51 percent of the people who are going to find this a useful product are in the $50,000 to $74,000 range, middle class. On the far right of the chart that is $100,000 and above; that is everybody who makes more than $100,000, $200,000, $300,000, $400,000, a million. That is out there less than 12%. That is that enormous group on the other end of the chart. Let us look at the lower end, from $40,000 to $49,000, 13 percent, from $30,000 to $39,000, 11 percent, the vast majority of people who will find this product usable are the middle and the lower middle class.

□ 1915

What is wrong with small employers being able to voluntarily pool their resources so they can save on their health insurance, just like large employers? We begin to make sure that people who more and more need to invest in long-term health care, their cost of the insurance, and the cost of the health care itself, thanks to the gentleman from Nevada, an amendment in the Committee on Ways and Means, will be allowed under the Tax Code. Long overdue, and never done by the Democrats when they were in the majority.

Finally, the heart of the matter: The American worker will no longer have to worry about changing jobs or losing insurance.

H.R. 3103 is a good bill support it.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia [Mr. BLILEY] is recognized for 22½ minutes and the gentleman from Michigan [Mr. DINGELL] is recognized for 22½ minutes.

The Chair recognizes the gentleman from Virginia [Mr. BLILEY].

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

Mr. Speaker, I rise in support of the substitute to H.R. 3103, The Health Coverage Availability and Affordability Act of 1996. During my tenure in Congress, I do not recall the House ever passing a health insurance market reform bill. We are about to take an historic action to change that.

The legislation before you today makes real reforms, and most importantly, it makes health insurance coverage both available—and affordable—for millions of Americans.

The substitute represents a consensus agreement that was developed as a result of the provisions that were reported out of the Commerce Committee, as well as those developed by the Committee on Ways and Means, the Committee on the Judiciary, and the Committee on Economic and Educational Opportunities. It is designed to address the interrelated issues of accessibility and affordability of health insurance coverage.

The provisions of this bill within the jurisdiction of the Commerce Committee are designed to deal with the difficult problem of job lock, or, put more simply, an employee's reluctance to change jobs because of pre-existing condition exclusions in health care coverage. This bill will ensure that individuals who have an opportunity to move to new or better jobs will not have to face limitations in their coverage for pre-existing medical conditions that will affect them or their families. This bill will also assure people in group health plans that they cannot be excluded from coverage, or from renewing their coverage, based on their health status. It provides limits on the period of exclusion for a pre-existing condition and assures that, once covered, the condition will not be excluded from future coverage if the individual meets the requirements of the bill.

The Commerce Committee reported provisions also provide for guaranteed availability of coverage to employees in the small group market. Each insurer that offers coverage in the small group market would have to accept every small employer and every eligible individual within the group.

The bill would also ensure portability of health insurance for qualifying individuals moving from group to individual coverage. This is accomplished by giving States flexibility to achieve individual coverage through a variety of means that include risk pools, group conversion policies, open enrollment by one or more insurers and guaranteed issue.

The bill also contains a number of other provisions which we strongly support. It allows small employers to take advantage of pooling so they can purchase affordable health insurance coverage. It reforms the medical malpractice system which will help contain costs and it provides for new health choices for those who want to purchase medical savings accounts.

It also includes provisions on fraud and abuse and administrative simplification. The General Accounting Office has estimated that fraud and abuse accounts for one out of every ten dollars spent on health care. Regrettably, fraud and abuse not only contributes to the ever-increasing cost of health care, it also leads to a lack of confidence in the health care system and its providers. Providing concrete laws and guidelines and stringent penalties for violations will ensure the continued integrity of the nation's health care system.

The administrative simplification provisions are needed to ensure that there are standards for the transmission of financial and administrative

data. Much of this information is currently transmitted in an electronic format. However, there is not a uniform standard and there are no consistent security standards or safeguards regarding the use of this information.

I urge my colleagues to join me in supporting this bill which will begin to help solve some very real problems for many Americans.

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

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, today we choose between the people who carry a lunchbox to work, and the people who carry Gucci briefcases and wear imported loafers.

The people who carry lunchboxes aren't asking for special favors or special treatment. They're not asking for a tax loophole. What they want is very simple. When they change jobs, or if they fall prey to downsizing, or if a loved one contracts cancer or diabetes, they want to be able to buy health insurance. That's all.

I am afraid that this very modest request from the people who carry lunchboxes is going to fall on deaf ears in this House. The majority has instead constructed a monument to the influence industry.

We can pass a bill that makes health insurance portable and prohibits discrimination or restrictions because of pre-existing conditions. This simple bill would help 25 million Americans. Another provision in this bill on the tax deductibility of health insurance for the self-employed would help 3 million Americans.

We could pass that bill, sail it through the Senate, and have it on the President's desk for signature tonight. Instead, we're going to be voting on a Christmas tree bill adorned with ornaments for various special interests. And like a Christmas tree, it's soon going to be put out on the lawn for garbage pickup.

I know whose side I'm on. I'm voting with the people who carry lunchboxes. I urge my colleagues to do the same.

Mr. Speaker, I submit the following material for the RECORD:

HEALTH CARE? YOU COMPARE

H.R. 3103 BASE TEXT

A stripped-down Roukema/Kassebaum bill: no choice of plans for workers who lose their jobs; no guarantees for businesses with more than 50 workers; preempts State laws that protect consumers.

Limits deductibility of health insurance premiums for the self-employed to 50%.

Controversial Medical Savings Accounts.

Controversial medical malpractice law changes.

Controversial repeal of protections for seniors so they won't be ripped off by sale of useless, duplicative health insurance policies.

Controversial provisions overriding state insurance laws.

Controversial provisions making it harder to find and punish wrongdoers.

DINGELL/SPRATT/BENTSEN

A clean Roukema/Kassebaum bill: full portability; protection against discrimination due to preexisting conditions; guaranteed renewal.

Increases deductibility of health insurance premiums for the self-employed from 30% to 80%.

No other controversial provisions to weigh down the bill, slow down the conference, or provoke a Presidential veto.

Keep it simple. Keep it clean. Give the American people what they need.

Support the substitute. Oppose H.R. 3103's base text.

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

Mr. BLILEY. Mr. Speaker, I yield myself 30 seconds to respond to my good friend, the gentleman from Michigan.

What a difference, my colleagues, 2 years makes. On this very night, the night before we broke for our Easter recess, 2 years ago, I sat over there next to my then chairman, the gentleman from Michigan, and said, "Mr. Chairman, the President's bill is too heavy. It is too much. It is socialized medicine. We can't move it. We ought to take up the Rowland-Bilirakis bill, bipartisan bill, which was modest, like our bill, and deal with it and mark it up in committee." He said "It can't be done. I am sorry." Now he is back. What a difference.

Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. BILIRAKIS] the chairman of the subcommittee.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I am pleased to be here today to add my voice to those in favor of health care reform for America's families.

I must say that this moment is both satisfying and, at the same time, deeply ironic. For, now, the House finally has the opportunity to approve health care reforms many of us have advocated for many years. The irony lies in the fact we could have accomplished many of these reforms over 2 years ago if the former leadership had been willing to act and the current administration willing to compromise.

Despite all the political attacks you may hear today—and make no mistake, they are political attacks—health care reform is an idea whose time has come—again and again. The problems we seek to fix today we identified long ago along with many of the solutions contained in this legislation.

Many of you in this Chamber may remember that during the 103d Congress, Congressman Roy Rowland and I introduced consensus health reform legislation. The Rowland-Bilirakis bill was the only true bipartisan bill—but we never got our day in court. Not one vote was ever scheduled on our proposal despite broad support for the provisions contained in the bill.

Despite the great hue and cry in 1994 for reform, my own Commerce Committee did not even schedule a markup on my bill—or any other version of health reform. Today, we have the opportunity to change all that.

We finally have the opportunity to cast a historic vote on a health reform package which contains many of the items advocated by the Rowland-Bilirakis bill in the last Congress.

Like my previous proposal, this legislation will raise deductions for the self-employed, enact provisions on fraud and abuse, promote administrative simplification, establish pooling for small employers, provide for medical malpractice reform, and ensure insurance portability.

To be sure, not all items in this legislation are precisely as we proposed back in 1994. But many of the core items have been subject to bipartisan agreement in the past and should now be viewed in a similar light. I urge my colleagues, on both sides of the aisle, to set aside any remaining differences and pass this bill.

Indeed, it is thus somewhat mystifying when I hear that this bill is somehow too loaded up. And it is a little more than ironic when the main criticism of the previous Rowland-Bilirakis bill was that it didn't do enough.

You can't have it both ways. We have to do something to resolve problems in our health care system now, in this Congress. We never had the chance in 1994.

Health care is too expensive. This bill will help make health care more affordable for millions of families. Access to health care is too restricted—this bill allows policies to be carried from one job to another. Too many people have too few choices with regard to health care—this bill will expand the number of opportunities we all have to secure an effective health care plan for our family.

These are problems we can solve now and which will improve the lives of millions of working Americans. We cannot let this moment pass without passing this bill. I strongly urge my colleagues to support our efforts to improve our Nation's health care delivery system and help make health care in this country both more accessible and affordable.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I am very happy to be here today. Many of my colleagues know that I am the House sponsor of the Kassebaum-Kennedy health insurance reform package. If I had my way, we would be debating and quickly passing a clean version of that legislation.

The portability and the guaranteed issue that it will deliver to 30 million Americans now.

Kassebaum-Kennedy-Roukema is legislation that has been cosponsored in the House by a wide multitude of bipartisan support and in the Senate, Senate Committee on Labor and Resources, it was passed unanimously. It deserves bipartisan support.

The American people want health care reform, and they need it. They are sick and tired of partisan bickering and political gamesmanship. They want results and they want them now.

Unfortunately, I fear the Hastert omnibus bill will inevitably lead to more gridlock and inaction. I fear that, in the end, the American people will not get the common sense reforms that they deserve.

I think it should be noted right here and now that within the last 24 hours, two prominent Republican leaders in the Senate, Senator KASSEBAUM and Senator BENNETT, have confirmed their firm opposition to an omnibus bill. I think we should keep that in mind today.

I expect that if this should be blocked and it should end up in gridlock, I expect that the American people will hold us responsible in November.

Now, do not get me wrong. Some of the reforms that are not part of the Kassebaum-Roukema bill, such as medical malpractice reforms, I have supported in the past and will continue to support. But let us understand and be frank about it. Whether we support them or do not support them, the key components, malpractice, expansion and medical savings account, let us understand and be frank about that, that medical malpractice reform, medical savings account and ERISA expansion are controversial components. They are controversial, they are complex, and they demand individual consideration as individual pieces of legislation.

Mr. Speaker, I again say that we must answer to the American people and pass this legislation in its clean form tonight.

Mr. Speaker, I rise this evening in support of commonsense health insurance reform.

Many of my colleagues know that I am the House sponsor of the Kassebaum-Kennedy health insurance reform package. If I had my way, we would be debating and quickly passing a "clean" version of the Kassebaum-Roukema plan today and the portability and guaranteed issue that it presents to 30 million Americans.

Kassebaum-Roukema is legislation that has been cosponsored by 193 House members, and which the Senate Labor and Human Resources Committee approved unanimously.

The American people want healthcare reform. They are sick and tired of partisan bickering and political gamesmanship. They want results and they want them now.

Unfortunately, I fear the Hastert omnibus package will inevitably lead to more gridlock and inaction. And I fear that, in the end, the American people will not get the commonsense reform they deserve.

And it should be noted that within the last 24 hours 2 prominent Republican leaders in the Senate have confirmed their firm opposition to an omnibus bill.

Should that happen, I expect the American people to hold the 104th Congress accountable, as well they should.

Now don't get me wrong. Some of the reforms in H.R. 3103 that are not part of the Kassebaum-Roukema plan—such as medical malpractice reforms—I have supported in the past, and will continue to support in the future.

However, there can be no doubt that certain elements of the underlying bill (such as medical malpractice reform, medical savings accounts, and an ERISA expansion) should be fully debated by the Congress on a case-by-case basis—not wrapped-up into one gigantic package. Each one of these components are complex and controversial and should be properly considered independently.

In the past, I have been a very strong advocate of medical malpractice reforms so that physicians can stop practicing defensive medicine in order to insulate themselves from frivolous lawsuits that only lead to over-utilization of the health care system and higher liability insurance premiums. I will vigorously support these reforms in the future as well.

Nevertheless, I recognize that medical malpractice reform is a very controversial idea that faces serious obstacles in the Senate, and perhaps a veto by President Clinton.

With regard to medical savings accounts, I have some very serious reservations about this idea.

While the notion of empowering individuals to make their own health care decisions has a certain amount of merit, I am concerned that medical savings accounts could, in the long term, serve to ruin the health insurance market.

Medical savings accounts could serve to segregate the population into two groups: Young, healthy people using medical savings accounts and older, sicker people in conventional health plans. If this kind of risk-segmentation happened, the health insurance premiums for older, sicker individuals would skyrocket beyond imagination.

I refuse to support health reform legislation that makes this scenario a reality. Medical savings accounts should be reviewed and debated on their own merit—not as part of some, larger package.

Finally, I want to discuss my concerns about those provisions in the omnibus package that expand the ERISA pre-emption of state insurance laws.

For many years, I served as the ranking minority member of the then House Education and Labor Subcommittee on Labor and Management Relations, which had jurisdiction over ERISA, the Federal law governing employee benefits such as health care or pensions.

The single, most important lesson I learned about ERISA from my time on the subcommittee was this: the more you think you've learned about ERISA and how it works, the more you realize how little you truly know.

I am increasingly of the view that while ERISA as originally devised served a useful purpose, we need a new ERISA for the modern context.

As more and more employers self-insure, thereby receiving a pre-emption from any State insurance rule, regulation or law, employees find themselves at the mercy of their employer's choice of health benefit plan.

For example, New Jersey and other States have enacted laws that require at least 48 hours of hospitalization coverage for women giving birth. These laws are a response to the efforts of managed care networks to discharge women, and their newborn children, within 24 hours of labor and delivery.

When employers self-insure, their employees do not receive the benefit of any of these protections because of the ERISA preemption.

With the expected rapid growth in managed care networks and their enrolles in the future, this trend will only get worse, not better.

Consequently, rather than the significant expansion of the current ERISA as envisioned in H.R. 3103, I believe we need to carefully examine ERISA and devise a new form of this law to meet our current needs.

We should not be considering any ERISA expansion as part of a larger package, where these kinds of issues get lost in the shuffle.

Passing a clean version of the Kassebaum-Roukema plan avoids all of these problems. I hope that we don't let this golden opportunity to slip through our collective fingers.

□ 1930

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. GANSKE], a valued member of the committee.

Mr. GANSKE. Mr. Speaker, this bill will help fix a health care system that has been beyond the means for many Americans.

Now a worker who wants to pursue his career but cannot change jobs because of an illness in the family would be covered by a new employer's insurance, group-to-group portability. Now an employee who is laid off or between jobs and cannot get individual coverage for his preexisting condition would be able to get coverage, group-to-individual portability. Now the small business employee, whose employer cannot afford to purchase insurance for the firm's five employees because one of them has a chronic illness, would be able to better afford health insurance.

Mr. Speaker, this bill makes it easier for Americans to get and keep health insurance. It is important that this bill includes medical savings accounts. They will return control over health care spending to consumers, save money, and lower health care overutilization. I am pleased that this bill also increases the health insurance deduction for self-employed individuals from 30 percent to 50 percent by the year 2003. While big businesses have been able to deduct all their health care costs, millions of self-employed individuals have been left without a similar benefit. That is not fair. We must give people more incentives and more options to carry health insurance for their families.

The Health Coverage Availability and Affordability Act will also crack down on fraud and abuse, saving millions of dollars. This, too, would keep the cost of your premiums down.

Mr. Speaker, finally, medical malpractice reform will help hold down the cost of defensive medicine and help keep premiums down. If health care is more affordable, more people will have real access to it.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I am so pleased that my colleague, the gentlewoman from New Jersey [Mrs. ROUKEMA] spoke just before me, because basically she pointed out that what we really need tonight is a clean bill, not loaded down with medical savings accounts and all the other things that are being suggested by the Republican leadership.

Mr. Speaker, the gentlewoman was trying to address portability and preexisting conditions, essentially expand coverage for many people now who cannot get coverage, and also keep health insurance affordable, and she achieves that essentially by saying that if you lose your job or change jobs, the insurance companies still have to provide you with individual coverage. She also limits the situations where the insurance companies can refuse to cover you because of preexisting medical conditions.

This is a very modest bill. We, on the Democratic side, managed to get 172 Members here to cosponsor her bill. In the Senate, there are 54 current cosponsors of the Kassebaum-Kennedy bill, so we know we can move this legislation, and the legislation is good because it is very modest. It basically keeps the insurance pool intact. It does not encourage healthy people to opt out. It does not bring in a lot of new people who are unemployed or who cannot afford insurance or who are critically ill that would increase the costs of health insurance.

But lo and behold, what do we get from the Republican leadership? They throw in the medical savings accounts, and what does that do? It breaks the risk pool. It breaks the insurance risk pool. Essentially what it does is to encourage healthy people and wealthy people to opt out and buy catastrophic coverage and get a tax break to put their money aside and leave everyone else in this risk pool so that they have to pay higher premiums, because it is going to cost more to insure them. It does the very thing, the very opposite, if you will, of what the gentlewoman from New Jersey, Mrs. ROUKEMA, and Senators KASSEBAUM and KENNEDY strove to do.

Mr. Speaker, what will be the ultimate result of increasing the costs of health insurance who remain and do not opt for the medical savings accounts? there will be fewer people insured, fewer people insured.

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

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, the chance for basic bipartisan health care reform may be slipping away, because some have taken a good idea and loaded it up with a lot of gifts to special interests. Why do we not put the American people first for a change?

Mr. Speaker, we all agree there are a few minor changes that we could make to our health care system that would cost the American taxpayer nothing, would offer security to millions of Americans in need of basic health care coverage. I say let us do those things that we can agree on. That is preexisting condition and portability.

We have to stop the unjust practice of denying those with preexisting conditions insurance coverage. Many people who need insurance the most cannot get it because of these preexisting conditions. Another 4 million Americans who have insurance are afraid to leave their jobs, fearing that they never might be insured at another job again.

Mr. Speaker, we should ask ourselves, how many are throwing themselves, begging for a medical savings account? That is for the healthy and for the wealthy. All our constituents are definitely knocking down our doors, demanding us to cut important services like medicare and medicaid and education so that we can spend billions on creating medical savings account.

There are too many controversial malpractice reforms in this bill. Why do we have to load it up? Why can we not do like the other body does and for a change let us say they have taken the right path and pass a bill like Roukema-Kennedy-Kassebaum. That is what we were elected to do. We all said we would do it. Now we have other political agendas that might prevent a good bipartisan health package from being enacted.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. NORWOOD].

Mr. NORWOOD. Mr. Speaker, I rise today in support of the Health Care Coverage Availability and Affordability Act. In this time of economic insecurity and increasing pressure on America's working-class families, this bill is a common sense approach to health care access that also makes health care more affordable. In 1993, the Clinton administration and the liberals in Congress lined up behind the big government socialized medicine plan. This plan was an utter failure, not because the American people did not want security in their health coverage but because it was the wrong approach, though our Committee on Commerce in the 103d Congress had the right approach with the gentleman from Florida [Mr. BILIRAKIS] and Dr. Rowland of Georgia.

H.R. 3103 takes the right approach in dealing with their anxiety, ensuring that people who change or lose their jobs will have access to health care, regardless of preexisting conditions. This is important and deals with the same issues as the Kassebaum bill. However, while this is a good starting point, it just does not go far enough. Providing portability is important but on its own, it fails to deal with the forces that drive health care costs higher.

Mr. Speaker, it is nonsense to tell the American people that we will increase their access to health care without making health care more affordable. If we do nothing to bring down the cost of health care, we have the same old problem. We will be told that some provisions were included in this bill to kill health care reform. That is bull. Increasing access and reducing health care costs are two sides of the same coin.

This bill attempts to remove the influence of the trial lawyers in medicine by reforming the medical liability system. It gives young people, a large portion of whom do not have coverage, more health care choices. We must pass H.R. 3103.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, if I might have the attention of the distinguished chairman.

Am I correct that his bill prohibits group health plans or insurers offering coverage through group health plans from requiring a participant to pay a premium contribution that is greater than a premium contribution for a similarly situated participant or beneficiary solely on the basis of the health status of the participant or beneficiary?

Mr. BLILEY. Mr. Speaker, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Speaker, the gentleman is correct.

Mr. STUDDS. Am I further correct that the word "solely" in this provision means that there can be no discrimination at all in the setting of premium contribution amounts for a participant on the basis of health status?

Mr. BLILEY. Mr. Speaker, if the gentleman will continue to yield, the gentleman is correct.

Mr. STUDDS. Mr. Speaker, although I am somewhat underwhelmed by both of the propositions before us, I think this is a significant step in the right direction.

Mr. BLILEY. Mr. Speaker, how much time is remaining on both sides?

The SPEAKER pro tempore (Mr. COMBEST). The gentleman from Virginia [Mr. BLILEY] has 11 minutes remaining, and the gentleman from Michigan [Mr. DINGELL] has 12¾ minutes remaining.

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

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I rise in support of the Kassebaum-Roukema-Kennedy legislation. I rise lamenting the fact that we will not take "yes" for an answer. Very frankly, the Kennedy-Kassebaum-Roukema bill was bottled up in the Senate until the heat got so high recently that the Republican in the Senate who then publicly admitted holding up the bill said no, let it go forward.

Mr. Speaker, all of us in a bipartisan way agree that we ought to preclude preexisting conditions being an impediment to our citizens getting insurance. All of us believe that people ought not to be locked into their jobs because they do not have portability of health care security through their insurance. All of us believe that in a bipartisan way. That is what the gentlewoman from New Jersey [Mrs. ROUKEMA] was saying. That is what Senator KASSEBAUM is saying from Kansas. But we are having trouble taking yes for an answer.

Mr. Speaker, I personally believe that the medical savings account, although superficially appearing to provide some options, in fact will increase the cost for those who are less healthy and less wealthy. That is not just a fancy phrase. I think it is reality.

In addition, as my colleague, the gentleman from Maryland [Mr. CARDIN] expressed when he spoke on Ways and Means, our State is very concerned about precluding it from making determinations. In fact, we are stopping States from having the flexibility that our Republican colleagues say they ought to have.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS], a distinguished member of the committee.

Mr. STEARNS. Mr. Speaker, I rise in support of the Archer/Bliley bill because I believe the issue of genetic privacy is of tremendous importance. I introduced H.R. 2690, the Genetic Privacy and Nondiscrimination Act of 1995. My bill would ban discrimination based on a person's genetic profile.

I wish to acknowledge my colleague and good friend Representative JOE KENNEDY who is helping me on the other side of the aisle. He and I are working together on this bill.

With new forms of genetic testing able to reveal an individual's likelihood of contracting a number of diseases, the possibility arises that employers and health insurers could use that information to discriminate.

This is a civil rights issue. People who are already at risk due to their genetic makeup shouldn't have to worry about the additional hardship of losing their job or health insurance.

Like a companion bill introduced by Senators MARK HATFIELD and CONNIE MACK, H.R. 2690 would also ban the disclosure of genetic information by anyone without the written authorization of the individual. This safeguard would protect the privacy of individuals who would rather their genetic information be kept private.

I am pleased that I was able to add a portion of my bill to the Archer-Bliley bill.

□ 1945

Genetic testing has proved effective in certain cases, and it can be argued that the detection of a gene or a certain genetic characteristic will not necessarily result in the onset of a particular illness. So, we have an ambiguity here. We have an opportunity where somebody could have a defect which somebody would interpret different ways which would prevent them from having good health care insurance.

Genetic testing is moving along, as we all know, and it raises many ethical and legal and social questions relating to access to genetic testing, insurability and employability, and we need to make this confidential. The purpose of the Genetic Privacy Act, which I have provided, is to establish some guidelines concerning disclosure and use of genetic information with the goal of balancing the rights of the individuals against the needs of society.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Speaker, I rise in support of the substitute which gives us an opportunity to pass a reform we know will be signed by the President.

In the last Congress we saw the demise of comprehensive health care reform, and those who objected to that initiative said that it was too much. We ended up with nothing. Hundreds of thousands of New Jerseyans and millions of Americans continued to languish in the insecurity of no health care coverage.

Today we can address one major concern of millions of working Americans, the fear of moving from job to job because of the possible loss of comprehensive health insurance. We can eliminate the condition referred to as job lock and free up opportunities for working men and women to seek new employment.

We also have an opportunity to provide necessary protection for those Americans with preexisting illnesses who are trapped in a job solely because of their inability to become insured if they leave their position. We have the opportunity to eliminate the discriminatory practice of denying continued health care to people with diabetes and other illnesses for which insurance coverage has been nearly impossible to obtain.

But the committee's bill contains provisions which are unacceptable to the President, the Senate and which, if included, may end any hope of enacting even modest health care reform, and I hope this is not the cynical reason behind the bill.

Twenty-five percent of my constituents have no health care insurance whatsoever. If we have to enact health care reform one step at a time, so be it. But let us take the first step today by insuring more people, liberating them in their choices through the adoption of the Democratic substitute.

Mr. BLILEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, I rise to support the Archer-Bliley bill, which will be the antidote to the problem we have in the United States of making sure we have sufficient coverage for all Americans.

As my colleagues know, the United States spends far more per capita on health care than any other major Nation in the world. But yet despite the rising costs of health care, millions of Americans are without health insurance and millions more expected to join the ranks of the uninsured.

The solution to the problem, I believe, Mr. Speaker, is in fact contained in H.R. 3103. The reforms before us here tonight in the House reform current health care insurance practices to make health insurance more available and more affordable.

The bill encourages insurance companies to provide coverages to the workers who change from one-employer provided plan to another. It gives the portability everybody wants. They lose their job and move to a job without coverage. It allows small employers to join together to purchase group health insurance for the first time, to do so for their employees, and allows self-employed individuals, Mr. Speaker, to deduct increasing percentages of their health insurance premiums from their income taxes.

This is an idea whose time has arrived, and I would ask for my colleagues to support this legislation for those reasons, but still a few more. It allows organizations such as trade associations and chambers of commerce to voluntarily associate to purchase health insurance which would be available to all member organizations. Further, it provides incentives to encourage individuals and their employers to make tax-deductible contributions in lieu of health insurance premiums.

Finally, Mr. Speaker, it increases penalties for fraud.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Speaker, three years ago the insurance industry spent $100 million to kill comprehensive health care reform. How many of

these companies are ominously silent on this Gingrich special interest health care bill.

One politically active insurance company located in Indiana would benefit handsomely under the Gingrich plan thinks to a special interest giveaway larded onto the Republican bill. Medical savings accounts will enrich a select group of high-end catastrophic providers, skim the well-off and the healthy out of the insurance pool, and increase costs for everyone left behind.

This Gingrich special interest plan is a bill written by the insurance companies, of the insurance companies, and for the insurance companies. Approximately 40 million Americans are without health care and without health insurance. A majority of these Americans are from working families, working hard, paying their taxes, playing by the rules. They need our help in this Chamber tonight.

Mr. Speaker, pass the Dingell substitute. Defeat the Gingrich special interest bill.

Mr. BILILEY. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Speaker, I find it appalling that the Democrats would bring in this special interest thing. The integrity of the debate; is it possible to have a honest debate any more at all?

I mean if my colleagues want to talk about special interests, read yesterday's Hill newspaper article. The American Trial Lawyers just gave $2.2 million to candidates last year, 94 percent going to Democrats opposed to this bill because it has tort reform. My colleagues want to talk special interests? Weigh on in, because my colleagues are the ones who are in the pocket of the American trial bar.

Let us get to the real issue here. Medical savings accounts gives choice to Americans. It takes it away from our Washington bureaucrat command and control allies and puts it in the hands of the American public where it belongs. That is what our constituents want, and once they start making their own decisions on health care, they are going to decide a whole lot of other things, like they may need somebody else to represent them in Congress.

I think it is important to also know that our colleagues are standing one more time against small businesses by opposing legislation that would allow pet stores and clothing stores and barber shops to pool together and buy their insurance as a group.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, more women in the United States are injured and killed through domestic violence than by automobile accidents, muggings, and rapes by strangers combined. Domestic violence is a terrible plague in American society.

Given that reality, it is an absolute outrage that a number of insurance companies deny health insurance to women who have been battered and who have been victims of domestic violence. These insurance companies argue that domestic violence is a preexisting condition and that it might not be profitable for them to insure these women. Under these conditions women are being abused twice, first by their batterers and, secondly, by the insurance companies who refuse to insure them and their families.

Mr. Speaker, I am delighted that both the Republican and Democratic health care bills before us tonight include an amendment which I offered which would once and for all put an end to this outrage. Women who are battered are entitled to health insurance just like anyone else.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. COX], chairman of the Republican Policy Committee.

Mr. COX of California. Mr. Speaker, I would just like to thank my colleague from Vermont. My understanding of his remarks is that he is pleased with the bill because it includes provisions that will make sure that domestic violence is covered, that it is not excluded from our protections as a preexisting condition.

That is my understanding. Is that correct?

Mr. SANDERS. Mr. Speaker, will the gentleman yield?

Mr. COX of California. I yield to the gentleman from Vermont.

Mr. SANDERS. Included both in the Republican bill and the Dingell bill as well, yes.

Mr. COX of California. I thank the gentleman for pointing out that additional salutary impact of this legislation.

There is something else in this legislation that I would like to highlight, in addition to the fact that it will solve the problems that we have all agreed need to be solved on preexisting conditions and on portability of coverage. That is reducing costs in the way that the Congressional Budget Office has told us is the most effective way possible.

A September 1993 Office of Technology Assessment report said that a ceiling on noneconomic damages in medical lawsuits is the best way that we can get a grip on costs. Earlier in this session we have devoted our attention to this issue, and this Congress has, by overwhelming bipartisan vote, approved this kind of health care liability reform that, I want to point out, is also included in this bill and provides a very solid reason for voting for it.

One of the key elements is what in California we call MICRA. It is health care cost control that we have had in place for many, many years. It was passed by a Democratic legislature, signed by a Democratic governor. It is bipartisan in this Congress, as well. I was very pleased to be the Member who offered this legislation in the first session of Congress and to see the strong bipartisan support that it won.

We do have too many frivolous lawsuits, and, as a matter of fact, we can through this proven technique, already a law in California, control them for the benefit of every single individual insured person in America. Driving down health care costs this way is very, very important.

Mr. DINGELL. I yield 1½ minutes to the distinguished gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, among the many provisions, hundreds of pages of provisions which the insurance industry added to the Kennedy-Kassebaum bill that passed the Senate with, God forbid, bipartisan support, the most insidious of those provisions are those that provide for the medical savings accounts because they would set off a chain reaction.

First, they encourage the healthy and particularly the wealthy who can afford the high deductibles of MSA's to opt out of their current insurance pool. That shrinks the insurance pool needed to keep premiums more affordable for everybody.

Next, that is injury to hard-working middle-income people left behind in the pool because they are going to see their premiums go up, they are going to have to make up the loss of the healthiest and wealthiest.

And, finally to add insult to injury, the same middle-income workers paying higher premiums will also be paying taxes to replace the tax breaks handed to those who can afford these accounts.

Mr. Speaker, that is wrong, and I urge my colleagues to support the substitute which is a clean Kennedy-Kassebaum-Roukema bill. It is real reform with several clean good steps toward real health insurance reform. It eliminates the denials for preexisting conditions when someone changes jobs, it eliminates some of the job lock which keeps people from changing jobs due to fear of losing their insurance, and it reduces the burden on the self-employed by raising their health insurance deduction to 50 percent.

Mr. BLILEY. Mr. Speaker, I have only one speaker left, and I reserve the balance of my time. I understand I have the right to close.

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Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, we have a real opportunity tonight to do something for the working families in this country. The American public is clamoring for health care relief. It is one of the fundamental concerns of the people of this country. People in this Nation are frightened that they will lose their jobs, that they will lose their health care, that they will be denied health insurance because of a preexisting condition that they may have or that their children may have.

Mr. Speaker, the Kassebaum-Kennedy-Roukema bill takes a first step toward addressing these problems. It is a good bill, it is a bipartisan bill. It addresses the needs of the American people. Do not load up the bill with politically contentious issues that are designed to kill this bill, this opportunity for health care reform. It is wrong. It is not what the people of this Nation have sent us here to do. It is not what our jobs are about.

Mr. Speaker, the authors of this bill have asked for a clean bill, not to be loaded up. Mrs. KASSEBAUM earlier today said, "I think there are some who, by design, would like to see problems." The Washington Times today says that "Riders Imperil Health Care Reforms," and it says that "House and Senate Republicans said they planned to add a series of controversial provisions to a popular health insurance reform bill, clouding chances for quick passage."

The gentleman from Virginia [Mr. BLILEY] himself has said that, "If you load up the wagon, it is heavier to pull." Do not sacrifice health care reform. Do not sacrifice the American public for special interests tonight. It is wrong to do that. We have a golden opportunity to do something, not for the Golden Rule Insurance Co., but for the American people, for the working families of this country who deserve to have relief from the perils of a disastrous illness. Vote against this bill, vote for the Democratic substitute.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Speaker, when President Clinton stood here a few months ago and announced his support for a bill that had been authored by Senator KASSEBAUM and the gentlewoman from New Jersey, Mrs. ROUKEMA, to be joined by the gentlemen from Massachusetts, Senator TED KENNEDY, and JOSEPH KENNEDY, the country was ecstatic. They were convinced for the first time we would actually do something about the need to make health insurance portable and to prevent prior conditions from making insurance either unavailable or unaffordable to many people.

Tragically, we are here tonight debating a bill that goes far beyond that consensus, that moves us into conflict on issues like MSAs, that are a pure giveaway to a gentleman from Indiana named Mr. Rooney, who legitimate insurance salesmen in my district claim they would never sell policies for.

We have watered down portability, we have limited the ability to prevent prior conditions from being remedied in this legislation, because we have taken an approach that does not really give people what they have been told they will get. They will pay more if there are fortunate enough at all to be able to continue to have health coverage. They are not going to be able to keep the kind of plan they have had. This proposal ensures they will pay more.

Tragically, in the process of making this bill difficult to pass and sign, we have not done enough to help small business people who need 80 percent, if not 100 percent, deductibility, and we have weakened consumer protections and gutted State law.

Please oppose this bill and support the substitute.

Mr. Speaker, I offer my strong support for the Democratic substitute.

The Republican bill is loaded down with special interest amendments like MSA's political paybacks for the Golden Rule Insurance Co.

These paybacks mean everyone else will have to pay more for their insurance.

The Democratic substitute will help tens of millions of Americans keep their health insurance when they switch jobs, regardless of their condition.

The Democratic substitute addresses several fundamental problems.

If an employee who has been covered for at least 18 months switches or loses his or her job, that employee could buy insurance without exclusions for pre-existing medical conditions.

Workers will no longer be locked into jobs or prevented from starting their own businesses for fear of losing their own coverage.

The substitute also contains an increase in the deductibility of health insurance for the self-employed.

Greater deductibility serves two important goals.

First, greater deductibility increases affordability. Increasing deductibility will help millions of farmers, small businesses, and other working families afford the high cost of health care insurance.

Second, greater deductibility ensures greater fairness in our tax code. Corporations have long enjoyed full deductibility for their health insurance costs. It is time to narrow the gap between Wall Street and Main Street.

This substitute represents legislation that we can pass today and that the President would sign tomorrow. It has received wide bipartisan support, both here in the House and in the other body.

Let us not miss this opportunity to enact health care insurance reform that will benefit millions of hard-working Americans.

I urge a yes vote on this substitute.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. MARKEY] to conclude debate on this side.

Mr. MARKEY. Mr. Speaker, it is with sorrow and frustration that I rise to oppose this bill. Reform of our health care system is long overdue. The fact that some 40 million Americans do not have health insurance is an absolute disgrace, and it is high time that we do something about it. Last week the Committee on Commerce unanimously approved legislation that would have provided at least some relief to millions of hardworking American families by ending job lock and limiting the use of preexisting condition clauses.

It was a good first step. It was incremental, to be sure. It would have guaranteed that health care was affordable, but at least it would have been accessible. It was modest, and for that reason I had hoped that a large majority of Members from both sides of the aisle could support it.

Mr. Speaker, my mother always says that a half a loaf is better than none, and I supported that bill, even though it was really only a couple of slices. I know the American people want the whole loaf. Unfortunately, the leadership has taken a couple of good, wholesome slices of health insurance reform and slapped a whole lot of extraneous junk food on top, creating a health care hoagie of medical savings accounts, caps on medical malpractice awards, and other unhealthy additives. These anchovies and olives and onions are sure to tickle the taste buds of a very few special interests, but cause heartburn for millions of consumers.

Barry Goldwater's old words can be twisted here this evening, because now the Republican Party believes that extremism and the defense of special interests is no vice. "The American Medical Association wants it, we will just toss it into this bill."

Barbara Tuchman wrote a very famous book back in the early 1980's, entitled the "March of Folly", basically chronicling throughout the ages the mistakes.

Mr. BLILEY. Mr. Speaker, it is with pleasure that I yield the balance of my time to the gentleman from Illinois [Mr. HASTERT], the chief deputy whip, a gentleman who has worked tirelessly on this legislation.

The SPEAKER pro tempore (Mr. COMBEST). The gentleman from Illinois [Mr. HASTERT] is recognized for 4½ minutes.

Mr. HASTERT. Mr. Speaker, I thank the chairman of the Committee on Energy and Commerce for yielding time to me. As a matter of fact, Mr. Speaker, I thank all of those chairmen of the committees who have worked together to make this bill possible, and the subcommittee chairmen, and I would be remiss if I did not thank the staff of

the combined committees, who did an excellent job in working together to make sure that this bill was successful.

Mr. Speaker, I have heard a lot of outrageous statements from the other side of the aisle tonight, and even one from our side of the aisle. But it questions me, it wonders me, I guess you would say, who are those special interests that everybody is talking about? Is it the small businessman who needs to have the ability, the deductibility; that if he has a small business and wants to get his employees covered, 85 percent of which are people who work today and do not have insurance and end up in situations with one family member that works for a small business, that we give them the ability to pool that and take it to the marketplace with the same advantages that big business gets? Is that a special interest?

Is it a special interest for a family who wants to get health care and make choices of their own, instead of having an HMO or a doctor or an insurance company tell them, is that the special interest they talk about?

Maybe, Mr. Speaker, there are some dinosaurs still in this Congress that do not want to have change, some dinosaurs that still want to have big Federal health care take care of everything, and take over everything, and if they cannot have it their way, then they are going to do the very minimum, the very minimum to cover the ladies and gentleman of this country and the families of this country.

Mr. Speaker, we have traveled a long road in a short period of time with this reform bill. For that, I applaud the cooperation of everybody. It must be noted that with this legislation, we have succeeded where previous Congresses have failed, and we have put together reforms in the health care delivery system that will help people today. Our legislature will lower the cost of health care insurance while making it more available and affordable to middle-income American families.

Who among our critics will deny that health insurance is too expensive? Who among our critics will deny that American families should have more control over their health care spending? Who among our critics will deny that patients deserve more health care dollars than bureaucrats and trial lawyers? I have listened with intent interest, and the charges of some of the members of the minority party are just outrageous.

They claim our bill does too much, that it goes too far, and that it is too ambitious for this Congress. This claim, coming from proponents of the President's ill-conceived centralized, federalized health care scheme, can only be seen as a farce. I contend that the President's first health care bill was far too big. The Kennedy approach now advocated by the President is just too small. Our health care plan is just right for the American family.

Our colleagues in the other body deserve a great deal of credit for trying to remove the barriers created by preexisting conditions. It is a needed reform, and it is contained in our bill. This bill gives people who lose or change jobs the insurance that they can keep their health insurance when they need it most.

One other misstatement of fact. The Senate has not passed the Kennedy bill. It has only moved out of committee. Only yesterday the letter comes out of the Senate that the leadership in the U.S. Senate approves of our bill. They ratify our bill. They commend us for doing these things, for doing more for the American people.

I have to say that a letter from the small business groups in this country says that this is the right thing to do for the American working people, for those people who have to carry a lunch bucket to work. It gives them choice, it gives them coverage, and Mr. Speaker, the time has come to pass this legislation. I ask for its approval.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 15 minutes, and the gentleman from Missouri [Mr. CLAY] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I yield myself 4½ minutes.

Mr. Speaker, today this House of the people has a historic opportunity to cast their vote for landmark legislation designed to address the health insurance concerns expressed by the people.

For nearly three decades the American people have looked to Congress to improve private health insurance accessibility, affordability, and accountability. Unfortunately, until this point, efforts to nationalize health care have deprived our people of the added security that would result from the commonsense and bipartisan elements of targeted health insurance reform contained in the measure we are now considering. These elements, such as health insurance portability, renewability, and pooling for small employers, have been long debated and included in various legislative proposals offered by the members of the Economic and Educational Opportunities Committee and many others.

These needed well-targeted reforms did not advance in the last Congress because of the failed efforts by the President to promote his government-run health care plan. The American people were not fooled—the elements of the President's plan proved too costly, too bureaucratic, and would have led to health care rationing. However, our efforts here today give evidence that we are seriously taking President Clinton at his word which was given in his State of the Union address last year, "Let's do it step by step; let's do whatever we have to do to get something done" in regard to incremental health insurance reform.

That is why the legislation before us is deliberately more modest in scope. Rather than trying to create a new health care system, the Health Coverage Availability and Affordability Act seeks to build on those elements of the Nation's employment-based system that work well—namely the fully insured and self-insured group health plans under ERISA—while at the same time making the important changes to the current system which are needed.

The changes called for by the American people, like the people who have spoken at my town meetings in York, PA, include helping end job-lock for employees seeking new employment by limiting preexisting condition restrictions under the new employer's plan and eliminating such restrictions for those who maintain continuous health insurance coverage. This proposal, like the bill reported by our Committee, does that and more.

In addition, an employer would not be able to exclude new workers from their company health plan simply because that worker or a member of his or her family may have a serious health condition. Such individuals would have to be permitted to enroll and be able to choose a benefit package under the plan. If family coverage is offered under a group health plan, spouses who lose other coverage and newborns would have to be allowed to be enrolled.

Smaller businesses have also expressed concern that insurers not be able to drop their coverage because of the health status of their employees. The legislation addresses this concern by prohibiting insurers and multiple employer plans from failing to renew health insurance coverage because of adverse claims experience or other reasons. Smaller employers and their employees would also have an expanded choice of health insurance coverage because of provisions in the bill allowing employers to choose their coverage from among all of the products offered by insurers and HMO's participating in the small group market.

I believe these changes reflect the kind of important reforms the American public expect of us. But we must also help those who have no coverage at all. The problem of the uninsured is primarily one of small businesses that cannot afford to buy insurance for their workers.

The many witnesses who spoke at our committee's hearings stressed that making health insurance more affordable was the key to making it more available to the American worker and his or her family. Therefore, the legislation contains provisions that will help achieve the goal of expanding coverage to the nearly 34 million individuals in working families who now do

not have health insurance coverage. It does this by clarifying the ERISA law to allow employers, especially smaller employers, to form multiple employer plans through the associations that represent the Nation's trades and businesses and by allowing employers and employees to choose and negotiate for the type of coverage they need and can afford.

In 1974, Congress enacted the Employee Retirement Income Security Act or, as it came to be known, ERISA. In doing so, Congress shaped and put into place the cornerstone of our country's employee benefits law. More importantly, it laid the foundation upon which employers and negotiated multiemployer plans have been able to successfully provide benefits to workers and their families, including pensions, health, and other benefits. As Dr. Richard Lesher, president of the U.S. Chamber of Commerce, has testified, "Our membership is convinced that preservation of ERISA is a critical step on the road to significant health care reform. We support H.R. 995 [the bill reported by the Committee] as it builds upon ERISA by including needed insurance market reform."

This is one issue on which employers and unions agree. For example, Mr. Robert Georgine, chairman of the National Coordinating Committee for Multiemployer Plans, stated in testimony that:

Given this reality [that there will be no employer mandate] the next best approach is a policy that encourages an expansion of voluntary, employment-based coverage without imposing additional costs on existing health plans.* * * H.R. 995 [the bill reported by the Committee] takes this approach. We are pleased that the bill uses ERISA as its vehicle.

By utilizing the time-tested features contained in ERISA, the provision under subtitle C, like those under H.R. 995, build upon the successes produced by private sector innovation and market competition.

Under subtitle C of the bill, multiple employer plans could self-insure or fully insure, gaining all of the advantages this entails including economies-of-scale and lower costs. Small employers who now do not have access to coverage, or cannot afford it, would be automatically eligible for more affordable health coverage through the plans sponsored by their business and trade associations. Together with other provisions of the bill, such as the increase in the deduction of health insurance costs for the self-employed, this legislation will unleash small employers into a more competitive health insurance marketplace, thus enabling them to secure more affordable health coverage in the same manner as do larger employers.

Subtitle C also brings more accountability to the health insurance market. The Department of Labor inspector general, Mr. Charles Masten, testified that this is necessary and important legislation to stop health insurance fraud perpetrated by bogus unions and other illegitimate operators. Legitimate plans will be made accountable and fraudulent schemes will be halted when these provisions are enacted.

In sum, subtitle C and the other provisions of the Health Coverage Availabilty and Affordability Act present this Congress with perhaps its best opportunity since the passage of ERISA to expand access to affordable health insurance for many American families.

The measure is superior to other bills in either body in regard to protecting the American worker and his family and offering the opportunity for true portability of health insurance coverage, by increasing the likelihood that the mobile worker's next employer will also be offering a health plan. The fact that small employers strongly support the pooling provisions in the bill is testament to the vast potential multiple employer plans have for expanding coverage and reducing the cost-shifting from the uninsured to the insured worker that currently takes place.

The House bill is also more protective under its portability provisions. The bill would allow a 60-day lapse in coverge before portability protection for preexisting conditions would be interrupted while other bills would allow only a 30-day lapse in coverage to terminate an employee's portability protection. The House bill has also been crafted carefully to be both more protective and administrable with regard to the evidence employees must give to received portability credit for prior coverage. It is anticipated that under the House bill most group health plans would utilize the simpler portability rule which credits employees with period of prior coverage for purposes of reducing a new 12-month preexisting condition period without requiring a demonstration that the prior coverage actually covered the preexisting condition—a potentially lengthy and costly determination.

The House bill has also been carefully drawn to avoid issues that made the Clinton plan so controversial such as provisions requiring group health plans to include particular forms or types of benefit.

In sum, the provisions of the Health Coverage Availability and Affordability Act represent the best opportunity in decades for American workers and their families to gain increased access to more affordable and accountable health insurance coverage. I urge my colleagues to vote for this workable responsible targeted health insurance reform bill. The American people will thank you for the increased security they will have when you make history by passing this landmark health coverage legislation.

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Mr. CLAY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in opposition to H.R. 3103. The Republican leadership is passing up a golden opportunity today to pass a realistic, bipartisan health reform bill. Instead of bringing to the floor the Roukema-Kassebaum-Kennedy bill, the leadership is bringing up for consideration H.R. 3103. This bill is so weighted down with complex, controversial, and special interest provisions that it could doom health reform for 1996.

Members will have a chance, however, to vote for sensible, bipartisan health reform legislation today. The democratic substitute is the Roukema bill, and I urge my colleagues to support it.

The Nation cries out for the reasonable, constructive approach of the Roukema bill. Democrats and Republicans should unite behind this bill. It has broad bipartisan support in both Houses of Congress. The President has said he will sign it.

The House Republican leadership is on the verge of dashing the hopes of millions of people. They are on the verge of blocking the modest legislative objectives of a large, bipartisan group of Members in the House and Senate.

Mr. SPEAKER, included in H.R. 3103 is a proposal to exempt self-funded, multi-employer health plans, or MEWA's, from State law. This proposal is opposed by the National Conference of State Legislatures and the National Association of Insurance Commissioners.

The large, self-funded health plans created by this bill would be financial disasters waiting to happen. There is a reason Congress delegated responsibility for regulating MEWA's to the States in 1983. While many legitimate, successful MEWA's exist, the MEWA business continues to attract unscrupulous operators and to experience an inordinate failure rate.

Considering the fraud and abuse that has long been associated with MEWA's, it is incredible that the bill would grandfather existing MEWA's. The bill would immediately exempt large, existing MEWA's—the good, the bad, and the ugly—from State solvency and insurance laws. Having obtained this instant "Good Housekeeping Seal of Approval," unscrupulous and inadequately financed operators could begin preying on the public—one step ahead of the Labor Department which might still be reviewing their application for a Federal certificate.

The bill's solvency standards are inadequate to the task assigned to the Labor Department to regulate hundreds of multistate, multiemployer health plans enrolling up to as many as 20 million people. Consumers could find very little standing behind a Federal MEWA if it should get into financial trouble.

This bill is an ironic example of legislative forum shopping; it greatly expands Federal authority over the private sector. The Federal Government for the first time would be in the business of chartering and regulating the solvency of privately run, national health plans.

Perhaps nothing the Republicans have passed during the 104th Congress would increase Federal financial exposure more than this bill's MEWA provision. It would only be a matter of time before a large, multistate MEWA would go under, leaving consumers with millions of dollars in unpaid medical bills.

And to whom will these angry, aggrieved consumers turn when this happens? Their State insurance regulator?

No. Consumers will turn to the Labor Department and Members of Congress for relief. And, as with the savings and loans insolvencies of the 1980's, the urge and political pressure to bail out these MEWA's and protect constituents will be irresistible.

Finally, considering the hostility, not to mention the appropriations riders and budget cuts, that has met Labor Department regulatory activity during this Congress, it is almost certain that the Labor Department will be a weak regulator.

Do you want the Federal Government to assume responsibility for regulating large, multistate health plans whose insolvencies could expose the Federal Government to multimillion-dollar bailouts—especially in an era of Federal Government downsizing, anti-regulating zeal, and diminishing budgets?

Mr. Speaker, this bill brings market fragmentation to an even higher plain. It carves up the multiemployer plan market, treating large plans differently than small plans, old plans differently than new plans, single industry plans differently than multiindustry plans, plans in one State differently than plans in another.

Its exemptions, its exceptions to the exemptions, and its loopholes to the exceptions to the exemptions—never mind the bill's grandfathering of scoundrels along with the saints—makes this bill look like swiss cheese and smell like limburger.

Finally, the United States has an extremely fragmented health insurance market. This bill would make it worse. The expansion of self-funded plans would greatly exacerbate market fragmentation.

The bill's expansion of the ERISA preemption to self-funded multiemployer plans, and the cost savings associated with not having to comply with State solvency and insurance rules, will make being a Federal MEWA an extremely attractive option for existing multiemployer plans and trade association plans that currently offer fully insured products to their members. Many of these plans would seek to become federally chartered self-funded MEWA's. And, many employers that now offer an insured product to their employees—through Blue Cross-Blue Shield, for example—will transfer their coverage to these Federal MEWA's.

These Federal, self-funded MEWA's will siphon healthier, younger groups from traditional insurance markets and, as a consequence, will undermine those markets as well as State health reform initiatives. As healthier groups exit the insurance market, premiums will rise, forcing some individuals to drop coverage. In addition, shrinkage in the size of insurance markets means a shrinkage in both a State's insurance premium tax base and high risk pool assessment base; H.R. 3103 would cost States millions and millions of dollars in lost revenues—revenues which States use to finance high risk pools for the uninsured. This bill will make it more difficult for States to maintain and expand their efforts to expand coverage to the uninsured. That would be a travesty.

I urge Members to oppose H.R. 3103 and to support the Democratic substitute.

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS,
Washington, DC, March 28, 1996.

Hon. NEWT GINGRICH,
Speaker of the House, Washington, DC.

DEAR MR. SPEAKER: I am writing to comment upon the "Health Coverage Availability and Affordability Act of 1996", H.R. 3160, adopted by the House Rules Committee yesterday and scheduled for a vote by the full House of Representatives today. As you are aware, over the last few weeks, the National Association of Insurance Commissioners' (NAIC) Special Committee on Health Insurance (the "NAIC Committee"), together with the National Conference of State Legislatures ("NCSL"), has provided comments upon H.R. 995, H.R. 3063 and H.R. 3070.

We appreciate the legislation's extension of portability reforms to self-funded health care plans governed by the Federal Employee Retirement Income Security Act ("ERISA"); the NAIC has long called for these reforms and federal intervention in this area is laudable. We also appreciate certain clarification that were made to provisions in the bills adopted by the committees of jurisdiction relating to state flexibility and the Medicare anti-duplication prohibitions. However, as detailed below, we continue to have serious concerns with the bill's provisions relating to multiple employer welfare arrangements ("MEWAs").

We commend the additional clarifications made within Title 1, Subtitle D, Section 192, relating to "State Flexibility to Provide Greater Protection". The bill contains further limits on the scope of its preemption than were contained in H.R. 3063 and H.R. 3070. The legislative now states that it does not preempt those state laws "that related to matters not specifically addressed" in the bill. The bill also specifically saves several areas of state laws. We appreciate this enhanced state flexibility. We do, however, remain concerned about the absence of a broader construction clause explicitly saving from preemption any state laws that are not inconsistent with the bill and which provide greater beneficiary protection. In the absence of such a clause, the bill might be construed to "preempt the field" of any state law that touches upon any area minimally mentioned in the bill, even if the bill's provisions were not intended to preempt such state law. Since this a new area of federal intervention, we urge caution and care in the final crafting of preemption language.

We also appreciate the significant strides made in refining the range of health insurance policies which are not to be considered duplicative for the purposes of the application of the new Medicare anti-duplication provisions. We would appreciate the opportunity to clarify the states' remaining jurisdiction concerning health insurance policies governed by these provisions (possibly within legislative history) and to provide technical comments. We would like to commend you for tightening the consumer protections in these provisions from the earlier provisions adopted by amendment in committee.

We reiterate the concerns raised in our letter of March 18, 1996 to Chairmen Archer and Bliley concerning the long term care insurance related provisions within the legislation.

Unfortunately, we continue to have grave concerns that Subtitle C of Title 1 of H.R. 3160 would significantly erode existing state-level insurance reforms. The net effect of the final provisions relating to MEWAs is extremely damaging to states' authority to govern their own insurance market. The final language contains many layers of savings for, and exemptions from, state laws. This maze clouds the picture. Upon close examination of the multiple tiers of provisions, the bill preempts state laws governing health insurance, including those governing MEWAs, in all but a small number of states.

In sum, the changes made to Subtitle C do not represent a significant improvement from those contained within H.R. 995. We therefore remain opposed to most of the provisions contained within Subtitle C of Title I of the bill and reiterate the prior concerns expressed by the NAIC Committee on this topic. (See Joint NAIC Committee/NCSL letter dated March 5, 1996 to Representative William Goodling).

In addition, the bill still preempts state rating laws applicable to association plans thereby creating an unlevel playing field between these plans and other insured plans. Market fragmentation will thereby worsen and costs within the insured market could spiral. With respect to association plans, the bill also preempts state mandated benefit laws which have been enacted by the states.

The state budgetary impact of the bill is still likely to be significant. The bill only allows states to apply premium taxes to newly-formed or newly operating arrangements. Any arrangement that can argue they were already "operating" in a state cannot be taxed on a level playing field with state-regulated insurers. This provision thus promotes unfair competition and could significantly diminish state premium tax income.

The bill strips states of their oversight responsibility over a significant class of MEWAs. We question whether states could in good conscience accept responsibility for MEWA activities by asking the U.S. Department of Labor, pursuant to the option in the bill, for the authority to enforce the inadequate federal standards set forth in the bill. While gaps and ambiguities in federal law have led to some enforcement difficulties, this should be addressed by clarifications in federal law, not by the sweeping preemption of state regulatory authority over MEWAs proposed through H.R. 3160.

Thank you for your consideration of our comments. We look forward to continuing to work together on legislation to promote portability and availability of health insurance. Please feel free to call Kevin Cronin, the NAIC's Acting Executive Vice President and Washington Counsel at (202) 624-7790, with any questions you may have.

Sincerely,

BRIAN K. ATCHINSON,
President, NAIC,
Superintendent, Maine Bureau of Insurance.

NATIONAL CONFERENCE OF STATE LEGISLATURES,
Washington, DC, March 27, 1996.

Hon. JOHN JOSEPH MOAKLEY,
Ranking Member, Committee on Rules,
U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE MOAKLEY: On behalf of the National Conference of State Legislatures, I would like to share our thoughts on H.R. 3160, pending health insurance reform legislation. NCSL supports efforts to extend

portability to individuals covered by ERISA plans and to establish minimum federal standards for insured plans. We are pleased that Title I, Subtitles A and B, build on the foundation for reform built by states over the last several years. We have been assured that the intent of Subtitles A and B is to continue to support state regulation and innovation in the small group and individual markets. We are pleased that changes have been made since the mark-up of H.R. 3070 and H.R. 3103, to provide additional clarity with regard to the ability of states to exceed the federal standards, established in the bill. We continue to have some concerns. For example, Section 103(b)(1) that states, ". . . A group health plan, and an insurer or HMO offering health insurance coverage in connection with a group health plan, may not require a participant or beneficiary to pay a premium or contribution which is greater than such premium or contribution for a similarly situated participant or beneficiary *solely* on the basis of the health status of the participant or beneficiary." NCSL is concerned that state rating laws that prohibit or restrict the use of health status in a manner different than prescribed in the bill, may be preempted. For example, in cases where plans that include a rating component in addition to health status, state rating reforms may not apply. We hope to work with you to obtain additional clarity.

While we support the thrust of Subtitles A and B of Title I, NCSL opposes Subtitle C and urges you not to include these provisions in the House health insurance reform bill. Subtitle C fails to recognize the traditional role of states in the regulation of insurance and the important contributions state legislators have made in increasing accessibility and portability of health insurance and addressing fraud and consumer protection issues with regard to Multiple Employer Welfare Associations, by eliminating state authority to oversee Multiple Employer Welfare Associations (MEWAs). Instead, Subtitle C: (1) creates incentives for the establishment of federally regulated MEWAs, moving more individuals out of the reach of state insurance regulators and the protections those regulators provide; (2) permits some MEWAs to operate without receiving full federal approval; and (3) expands the Department of Labor's (DOL) authority over employer solvency and MEWAs, but fails to authorize funds for expanding DOL staff to perform these functions. NCSL opposes this preemption of state authority and the deregulation of MEWAs.

The MEWA provisions of H.R. 3160 would: (1) disrupt the existing health insurance market, undermining existing state efforts to improve access to health care and adversely affecting insurance premiums overall, and (2) make it easier for unscrupulous individuals to commit fraud under the protective umbrella of this proposed federal law which fails to provide adequate protections for plan participants. NCSL supports and encourages the development of public and private purchasing cooperatives and other innovative ventures that permit individuals and groups to negotiate affordable health care coverage on the same basis as large groups. We also believe that these entities should and must be regulated and that consumers must be protected. Work remains to be done at both the state and federal government levels to strike a reasonable balance for MEWAs. NCSL urges you to retain the state role in regulating MEWAs.

States have made tremendous progress in reforming the small group insurance market. Since 1990 at least, 43 states have enacted laws that require carriers to renew coverage guaranteed renewal); 37 states have enacted laws that require carriers to offer coverage to small groups regardless of the health status of their employees or previous claims experience (guaranteed issue); and 45 states limit pre-existing condition waiting periods and require carriers to give individuals credit for previous coverage. In addition, similar efforts are underway in a number of states with respect to the individual insurance market. Since 1991 at least, 16 states have enacted guaranteed renewal; 11 states have enacted guaranteed issue; and 22 states have limited pre-existing condition waiting periods. Twenty-four states have established state high-risk health insurance pools that enrolled over 100,000 individuals last year. Finally, states are continuing to work with MEWAs to strike a balance between reasonable state regulations, plan flexibility and consumer protection.

NCSL joins the many other groups in urging you to move forward without further delay on these incremental, but important steps toward health reform. NCSL looks forward to working with you and your colleagues in the future as we work together toward expanding health care access and affordability.

Sincerely,

WILIAM POUND,
Executive Director.

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

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Speaker, I rise in support of the bill to open access and make health care affordable.

Mr. Speaker, today, with the passage of this bill, H.R. 3103, we will be expanding health care coverage to millions of Americans. After years of discussing how best to bring reform to our health care system, this bill brings meaningful incremental health care reform. H.R. 3103, the Health Care Coverage Availability and Affordability Act, addresses two crucial needs in our health care system—access and affordability.

First, let's review our current situation. Eighty-five percent of the population has health insurance, mostly through their employer. The uninsured, approximately 39 million Americans, today are not poor and are not elderly. The poor are covered by Medicaid; the elderly are covered by Medicare. Of the uninsured, 47 percent were employed full time; 38 percent worked part-time; 16 percent were unemployed. If incentives can be created in the market so more employed individuals can get affordable coverage and those between jobs can get coverage; then, the number of uninsured individuals will go down. Meaning millions of Americans will be covered by medical insurance.

Furthermore, many individuals cannot get coverage due to pre-existing conditions or because it is too expensive. Many businesses cannot get coverage because one of the employees or a dependent of an employee has a pre-existing condition. Employees are discouraged from changing jobs or starting their own businesses because they cannot get coverage due to a pre-existing condition.

H.R. 3103 will help create incentives so more individuals receive affordable insurance. First, it addresses the problems of access and affordability. Under H.R. 3103, group health plans (large employer plans, insurers, health maintenance organizations) are prohibited from imposing a pre-existing condition exclusion that exceeds 12 months for conditions that were diagnosed or treated within the previous 6 months on individuals that move from one group plan to another group plan. Pre-existing conditions would not affect newborns, adopted children, or pregnancy. Health insurance providers must reduce previous condition exclusion periods for an individual who enrolls in another program by the amount of time the individual was covered by a group health plan, health insurance, and HMO or Medicaid. Health insurance providers may not deny coverage to individuals in group health plans because of (1) a medical condition, (2) claims experience, (3) receipt of treatments for a medical condition, (4) medical history, (5) evidence of insurability or (6) disability.

H.R. 3103 also ensures portability of health insurance for those moving from group coverage to individual coverage, such as someone leaving a large employer to start a business. Many States, including Indiana, have addressed this issue. Under H.R. 3103, States are given the flexibility to address this problem such as by risk pools, or conversion policies, open enrollment periods, guaranteed issue, or any means that a State sees fit. However, for those State's that have not acted adequately, an insurer or HMO issuing individual health insurance coverage would have to offer an insurance policy equal to the average acturial value of the plans offered in the individual market by that insurer. The insurer would be prohibited to decline to issue coverage based on health status.

One of the key provisions of the bill allows small employers to voluntarily form groups for the purpose of self-insuring or providing health care coverage. Associations, like the NFIB or the Farm Bureau, would be able to band their members together for health insurance purposes and be treated like large multi-state employers. The regulatory structure that enables General Motors or IBM or AT&T to offer health insurance coverage, will now exist for the local hardware store, the corner grocer, and the farmer to purchase affordable health care coverage.

Voluntary health insurance associations are not new. In northwest Indiana a group of businesses have banded together to gain market clout to buy health care coverage for their employees. Typically, the employers in the alliance enjoy savings of 10 percent to 40 percent and can access 11 different health plans. H.R. 3103 should make their task easier and the bill should encourage other entities to band together to get access to affordable health insurance.

These provisions address the regulatory side of health insurance. By themselves, they make this bill worthy of support, but H.R. 3103 does not stop at insurance reform. It includes noteworthy tax relief as well.

First, H.R. 3103 increases the health insurance deduction for self-employed individuals from 30 percent to 50 percent by the year 2003. In 1995, Congress made this deduction permanent and raised it from 25 percent to 30 percent. We need to take care of the entrepreneurial spirit of America which lies in small

business. This bill will increase the deduction to 50 percent. As large employers get a complete write-off of health insurance expenses, this bill brings an element of tax fairness to the system.

The bill also extends the medical expense tax deduction to include long-term care services that are curing or rehabilitative in nature, or are maintenance and personal care required by the chronically ill. This should give some relief to taxpayers who need long-term care. In additon, benefits paid out under life insurance "accelerated death benefits" contracts would not be treated as taxable income to the terminally or chronically ill beneficiary.

H.R. 3103 also includes Medical Savings Accounts. Individuals covered by a high deductible health insurance plan or their employer could make tax deductible contributions to a medical savings account. Funds could only be used for qualified medical expenses and disbursements for non-medical reasons would be treated as taxable income and subject to an additional 10 percent penalty. MSAs are true portability. The account belongs to the individual and is under the individual's control. This is a creative solution to provide more affordable insurance coverage and greater choice.

Finally, H.R. 3103 addresses fraud. Recent studies estimate that fraud costs consumers 5 to 10 percent of ever health care dollar spent. This is literally billions of dollars and leads to higher costs and higher premiums. It authorizes the Secretary of Health and Human Services and the Attorney General to jointly establish a national program to combat health care fraud. Under Medicare, the Secretary of HHS is required to establish a program to encourage individuals to report suspected fraud and abuse in the Medicare Program. Individuals who have been convicted of felonies relating to health care fraud or controlled substances would be excluded from Medicare and State health care programs for a minimum of 5 years. Criminal penalties would be revised and enhanced.

H.R. 3103 is a good bill with much needed reform. It goes beyond simple portability and addresses access, affordability, and choice. Once enacted, it will mean that someone today without insurance has a better chance of getting it and affording it tomorrow.

Mr. GOODLING. Mr. Speaker, I yield 4½ minutes to the gentleman from Illinois [Mr. FAWELL], who has spent probably hundreds of hours putting this legislation together and guiding us in committee.

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

Mr. Speaker, I rise to enthusiastically support H.R. 3160. The bill includes key small business health insurance reform that was in H.R. 995, reported by the Economic Opportunities Committee: It gives small employers the right to form groups for the purpose of self-insuring or fully insuring and thereby gain access to affordable health care with the economies of scale that large employers and union plans have had for years under ERISA.

The problem of the uninsured is predominately a problem of small business lacking access to affordable insurance. Eighty-five percent of the 40 million uninsured are in families with at least one employed worker, the majority of whom work in a small business. Small businesses face health insurance premiums 30 percent higher than larger companies due to higher administration costs, and an additional 30 percent more due to costly State mandated coverages.

Small business people—through the National Federation of Independent Business—call this reform "A remarkable advancement for small businesses over current law * * * a massive improvement". Here's what NFIB says. I am going to be quoting from a letter from them.

NFIB is seeking to correct a basic unfairness in our health care system. Big business is allowed to buy health insurance under a different set of rules than small business. Because of ERISA, large self-insured businesses are exempted from State law in their health plans while small business is stuck with State insurance coverage mandates . . . and other forms of regulation. This inequity between big business and small business in large part explains why the premiums of corporate America are going down, while small business premiums are going up.

H.R. 3160 would stop this unfairness by allowing small firms to band together across State lines to purchase health insurance with nearly the same exemption from State law that big business has. Small employers will be able to cut their premiums by as much as a third. The legislation give(s) small firms almost every advantage they lack in purchasing health insurance today.

As I have indicated, big business has all of these advantages.

Achieving this is NFIB's highest health reform priority. Any substitute that does not directly address this inequity between big and small business is unacceptable to the more than 600,000 members of NFIB.

Of course, NFIB is but one of dozens of employer groups that support this approach. It is backed by the Chamber of Commerce, National Association of Manufacturers, National Association of Wholesalers, the National Restaurant Association, the National Retail Federation, the church groups, and many others, and I might also add, by labor unions that understand how valuable this type of legislation is.

A recent editorial in the Chicago Tribune entitled "Free the Health Insurance Market" expressed it this way:

"Freed of the need to offer 50 different policies, an organization such as the National Restaurant Association could arrange with an insurer to offer a basic policy to all its members. Without mandating coverage or capping premiums—two odious features of President Clinton's failed reform plan—the (bill) spurs the private insurance market to absorb a good portion of the Nation's 41 million uninsured, the vast majority of whom either have jobs or have a jobholder in he family."

Unless we do something there by the way, what good is portability?

Mr. Speaker, many of the Governors had concerns about the original H.R. 995 as introduced last year. I am pleased to report that we worked very closely with many of them over the past year, and have addressed their concerns. Several changes were made that are acceptable to the Governors and the employer community.

Let me ask this one question, and think about it: Who benefits from this legislation? The people who cut your hair, serve you at restaurants, repair your car, clean your clothes—the millions of people working in small businesses all over America and who produce most of our new jobs.

I urge my colleagues to vote no on the substitute and vote yes on final passage of H.R. 3160. Allow employees of small businesses the same kind of access to affordable health care as that available to employees of large businesses.

SECTION-BY-SECTION ANALYSIS OF PROVISIONS RELATING TO ERISA GROUP HEALTH PLANS CONSIDERED BY THE COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES IN THE HEALTH COVERAGE AVAILABILITY AND AFFORDABILITY ACT OF 1996

TITLE I—INCREASED AVAILABILITY AND PORTABILITY OF HEALTH PLAN INSURANCE COVERAGE

Subtitle A—Coverage Under Group Health Plans

Sec. 101. Portability of coverage for previously covered individuals, and

Sec. 102. Limitation on preexisting condition exclusions; no application to certain newborns, adopted children, and pregnancy.

Group health plans, insurers, and health maintenance organizations would be prohibited from imposing a preexisting condition exclusion that exceeded 12 months for conditions for which medical advice, diagnosis, or treatment was received or recommended within the previous 6 months prior to becoming insured. In the event that the individual was a late enrollee, the preexisting condition exclusion could not exceed 18 months.

Preexisting condition exclusions or limitations could not be applied to newborns and adopted children so long as these individuals become insured within 30 days of birth or placement for adoption. Pregnancy could not be treated as a preexisting condition. In addition, genetic information could not be considered a preexisting condition, so long as treatment of the condition to which the information was applicable had not been sought during the 6 months prior to becoming covered.

Group health plans, insurers, and health maintenance organizations (HMOs) would be required to credit periods of qualified previous coverage toward the fulfillment of a preexisting condition exclusion period when an individual moves from one source of group health coverage to another. Specifically, a preexisting condition limitation period would be reduced by the length of the aggregate period of any qualified prior coverage. Prior coverage would not have to be credited toward a preexisting condition limitation period if the individual experienced a break in qualified group coverage of more than 60 days. (Qualified group coverage means any period of coverage of the individual under a group health plan, health insurance coverage, Medicaid, Medicare, military health care, the Indian Health Service, state

health insurance coverage or state risk pool, and coverage under the Federal Employee Health Benefits Program (FEHBP).) A waiting period for any coverage under a group health plan (or for health insurance coverage offered in connection with a group health plan) would not be considered a break in coverage.

Presentation of a certification of prior coverage would establish an individual's eligibility for credit against a preexisting condition limitation period. Group health plan administrators, insurers, HMOs, and state Medicaid programs would be required to provide such certifications of coverage upon request of the individual.

In determining whether an individual has met qualified coverage periods, a group health plan, insurer, or HMO offering group coverage could elect one of two methods. Under the first, it could include all periods, without regard to the specific benefits offered during the period of prior coverage. Under the second, it could look at periods of prior coverage on a benefit-specific basis and not include as a qualified coverage period a specific benefit unless coverage for that benefit was included at the end of the most recent period of coverage. Entities electing the second method would have to state prominently in any disclosure statements concerning the plan or coverage and to each enrollee at the time of enrollment or sale that the plan or coverage had made such an election and would have to include a description of the effect of this election. Upon the request of the plan, insurer, or HMO, the entity providing the certification would have to promptly disclose information on benefits under its plan. It could charge the reasonable cost for providing this information.

Sec. 103. Prohibiting exclusions based on health status and providing for enrollment periods.

This section provides for availability of coverage. The bill would ensure that employees and their dependents could not, based on health status, be excluded from enrolling in their group health plan and being continually enrolled. Health status is defined to include, with respect to an individual, medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability.

Group health plans would be required to provide for special enrollment periods for eligible individuals who lose other sources of coverage if certain conditions were met. An individual would have to be allowed to enroll under at least one benefit option if: (1) the employee (or dependent) had been covered under another group health plan at the time coverage was previously offered, (2) that this was the reason for declining enrollment, (3) that the individual lost their coverage as a result of certain events (loss of eligibility for coverage, termination or employment, or reduction in the number of hours of employment), and (4) the employee requested such enrollment within 30 days of termination of the coverage.

In the event that a group health plan provided family coverage, the plan could not require, as a condition of coverage of a beneficiary or participant in the plan a waiting period applicable to the coverage of a beneficiary who is a newborn, an adopted child or child placed for adoption, or a spouse, at the time of marriage, if the participant has met any waiting period applicable to that participant. The bill defines timely enrollment as being within 30 days of the birth, adoption, or marriage if family coverage was available as of that date.

Renewability requirements apply to certain arrangements to assure continued access of employers to health coverage to offer their employees. A group health plan which is a multiemployer plan, a multiple employer health plan (as defined in section 704 of ERISA), and a multiple employer welfare arrangement (providing medical care) may not deny an employer whose employees are covered under such a plan or arrangement continued access to the same or other coverage under the terms of such plan or arrangement other than (1) for nonpayment of premiums or contributions, (2) for fraud or other intentional misrepresentation of material fact by the employer, (3) for noncompliance with material plan or arrangement provisions, (4) because the plan or arrangement is ceasing to offer any coverage in a geographic area, (5) for failure to meet the terms of an applicable collective bargaining agreement, to renew a collective bargaining or other agreement requiring or authorizing contributions to the plan, or to employ employees covered by such an agreement, (6) in the case of a plan or arrangement to which subparagraph (C), (D), or (E) of section 3(40) of ERISA applies, to the extent necessary to meet the requirement of such subparagraph, or (7) in the case of a multiple employer health plan (as defined in section 701(4) of such Act), for failure to meet the requirements under part 7 of ERISA for exemption under section 514(b)(6)(B) of such Act. It is not included that anything in this section be construed to preclude any such plan or arrangement from establishing employer contribution requirements or group participation requirements not otherwise prohibited by this Act.

Sec. 104. Enforcement.

The above provisions would be enforced through penalties assessed through the Internal Revenue Code (IRC), Employee Retirement Income Security Act (ERISA), or through civil money penalties assessed by the Secretary of Health and Human Services (HHS). The Secretaries of Treasury, Labor, and HHS would be required to issue regulations that are nonduplicative and in a manner that assures coordination and nonduplication in their activities as provided for under this Act.

Enforcement through ERISA. Sections 101, 102, and 103 of Subtitle A (and the definitions under Subtitle D insofar as they are applicable to such sections) are deemed to be provisions of Title I of the Employee Retirement Income Security Act of 1974 (ERISA) for purposes of applying the enforcement, fiduciary and other provisions of such title. The Secretary of Labor would only apply the sanctions under ERISA to an insurer or HMO that was subject to state law (within the meaning of section 514(b)(2)(A)) in the event that the Secretary determines that the state has not provided for enforcement of the above provisions of the Act. Sanctions would not apply in the event that the Secretary of Labor established that none of the persons against whom the liability would be imposed knew, or exercising reasonable diligence, would have known that a failure existed, or if the noncomplying entity acted within 30 days to correct the failure. In no case would a civil money penalty be imposed under ERISA for a violation for which an excise tax under the COBRA enforcement provisions under the Internal Revenue Code was imposed or for which a civil money penalty was imposed by the Security of HHS.

Enforcement through the IRC. IRC enforcement would be done through the Consolidated Omnibus Budget Reconciliation Act (COBRA) health insurance continuation provisions (section 4980B). In general, a noncomplying plan would be subject to an excise tax of $100 per day per violation. Penalties would not be assessed in the event that the failure was determined to be unintentional or a correction was made within 30 days. For purposes of applying the COBRA enforcement language, special rules would apply: (1) no tax could be imposed by this provision on a noncomplying insurer or HMO subject to state insurance regulation if the Secretary of HHS determined that the state had an effective enforcement mechanism; (2) in the case of a group health plan of a smaller employer that provided coverage solely through a contract with an insurer or HMO, no tax would be imposed upon the employer if the failure was solely because of the product offered by the insurer or HMO; and (3) no tax penalty would be assessed for a failure under this provision if a sanction had been imposed under ERISA or by the Secretary of HHS with respect to such failure.

Enforcement through Civil Money Penalties. A group health plan, insurer, or HMO that failed to meet the above requirements would be subject to a civil money penalty. Rules similar to those imposed under the COBRA penalties would apply. The maximum amount of penalty would be a $100 for each day for each individual with respect to which a failure occurred. In determining the penalty amount, the Secretary would be required to take into account the previous record of compliance of the person being assessed with the applicable requirements of the bill, the gravity of the violation, and the overall limitations for unintentional failures provided under the IRC COBRA provisions. No penalty could be assessed if the failure was not intentional or if the failure was corrected within 30 days. A procedure would be available for administrative and judicial review of a penalty assessment.

The authority for the Secretary of HHS to impose civil money penalties would not apply to enforcement with respect to any entity which offered health insurance coverage and which was an insurer or HMO subject to state regulation (within the meaning of section 514(b)(2)(A) of ERISA) by an applicable state authority if the Secretary of HHS determined that the state had established an enforcement plan. In no case would a civil money penalty be imposed under this provision for a violation for which an excise tax under COBRA or civil money penalty under ERISA was assessed.

Subtitle B—Certain Requirements for Insurers and HMOs in the Group and Individual Markets

Part 1. Availability of Group Health Insurance Coverage

Sec. 131. Guaranteed availability of general coverage in the small group market.

This section provides for guaranteed availability of general coverage in the small group market. Each insurer or HMO that offered general coverage in the small group market in a state would have to: (1) accept every small employer in the state that applied for such coverage; and (2) accept for enrollment every eligible individual who applied for enrollment during the initial enrollment period in which the individual first became eligible for coverage under the group health plan. No restriction based on health status could be placed on the ability of an eligible individual to enroll.

The small group market is generally defined as employer groups with more than 2 and less than 51 employees. An eligible individual is one in relation to the employer as

determined: (1) in accordance with the terms of the plan; (2) as provided by the insurer or HMO under rules which would have to be applied uniformly; and (3) in accordance with applicable state laws. Special rules would apply to network plans and HMOs to ensure that this guaranteed availability provision did not lead to capacity problems. In addition, such entities would not have to enroll a small group whose employees worked or lived outside the entity's service area. Insurers and HMOs could deny enrollment to an eligible small group in the event that the group failed to meet certain minimum participation or contribution requirements that were consistent with state law.

Sec. 132. Guaranteed Renewability of group coverage.

This section provides for guaranteed renewability of group coverage. If an insurer or HMO offered health insurance coverage in the small or large group market, the coverage would have to be renewed or continued in forced at the option of the employer. (An insurer or HMO could modify the coverage offered to a group health plan so long as the modification was effective on a uniform basis among group health plans with that type of coverage.) Exceptions to the guaranteed renewability requirement would apply in the event that the employer failed to pay the premiums, committed fraud, violated the participation rules, or moved outside the service area. In addition, guaranteed renewability would not apply if: (a) the insurer or HMO ceased to offer any such coverage in a state (or in the case of a network plan, in a geographic area); (b) in the event that the insurer or HMO uniformly terminated offering a particular type of coverage and provided adequate notice and the opportunity to elect other health insurance being offered in that market; and (c) in the event that the entity discontinued offering all health insurance coverage in the small or large group market or in both markets in a state, provided for adequate notice. In the last instance, such an entity could not reenter the market it left for at least 5 years.

Subtitle C—Affordable and Available Health Coverage Through Multiple Employer Pooling Arrangements

Sec. 161. Clarification of duty of the Secretary of Labor to implement provisions of current law providing for exemptions from State regulation of multiple employer health plans.

Sec. 161, Subsection (a). Rules governing state regulation of multiple employer health plans.

This subsection adds a new Part 7 (Rules Governing State Regulation of Multiple Employer Health Plans) to Title I of ERISA, as follows:

"Sec. 701. Definitions.

This section defines the following terms: insurer, fully-insured, medical care (as under current law), multiple employer health plan, participating employer, sponsor, and state insurance commissioner.

"Sec. 702. Clarification of duty of the Secretary of Labor to implement provisions of current law providing for exemptions from State regulation of multiple employer health plans.

This section clarifies the conditions under which multiple employer health plans (MEHPs), non-fully-insured multiple employer arrangements providing medical care, may apply for an exemption from certain state laws. The exemption process is contained in current ERISA law, which also contains restrictions on the ability of states to fully regulate such entities. Specifically, existing section 514(b)(6)(A)(ii) of ERISA provides that in the case of such a partly insured or fully self-insured arrangement, any law of any State which regulates insurance may apply only "to the extent not inconsistent with other parts of ERISA." However, under section 514(b)(6)(B), the Department of Labor (DOL) may issue an exemption from state law with respect to such self-insured arrangements.

"Section 702 clarifies that only certain legitimate association health plans and other arrangements (described below) which are not fully insured are eligible for an exemption and thereby treated as ERISA employee welfare benefit plans. This is accomplished by clarifying the duty of the Secretary of Labor to implement the provisions of current law section 514(b)(6)(B) to provide such exemptions for MEHPs. Under section 514(a) of ERISA, States are preempted from regulating employee welfare benefit plans, but an exception is made under section 702 to allow states to enforce the conditions of an exemption granted a MEHP.

"Section 702 further sets forth criteria which a self-insured arrangement must meet to qualify for an exemption and thus become a MEHP. The Secretary shall grant an exemption to an arrangement only if: (1) a complete application has been filed, accompanied by the filing fee of $5,000; (2) the application demonstrates compliance with requirements established in sections 703 and 704 below; (3) the Secretary finds that the exemption is administratively feasible, not adverse to the interests of the individuals covered under it, and protective of the rights and benefits of the individuals covered under the arrangement, and (4) all other terms of the exemption are met (including financial, actuarial, reporting, participation, and such other requirements as may be specified as a condition of the exemption).

"The application must include the following: (1) identifying information about the arrangement and the states in which it will operate; (2) evidence that ERISA's bonding requirements will be met; (3) copies of all plan documents and agreements with service providers; (4) a funding report indicating that the reserve requirements of section 705 will be met, the contribution rates will be adequate to cover obligations, and that a qualified actuary (a member in good standing of the American Academy of Actuaries or an actuary meeting such other standards the Secretary considers adequate) has issued an opinion with respect to the arrangement's assets, liabilities, and projected costs; and (5) any other information prescribed by the Secretary. Exempt arrangements must notify the Secretary of any material changes in this information at any time, must file annual reports with the Secretary, and must engage a qualified actuary.

"Section 702 also provides for a class exemption from section 514(b)(6(A)(ii) of ERISA for large MEHPs that have been in operation for at least five years on the date of enactment. An arrangement qualified for this class exemption if: (1) at the time of application for exemption, the arrangement covers at least 1,000 participants and beneficiaries, or has at least 2,000 employees of eligible participating employers; (2) a complete application has been filed and is pending; and (3) the application meets requirements established by the Secretary with respect to class exemptions. Class exemptions would be treated as having been granted with respect to the arrangement unless the Secretary provides appropriate notice that the exemption has been denied. It is expected that the standards applicable to entities eligible for a class exemption will be no less protective than if an individual exemption were granted to such an entity.

"Sec. 703. Requirements relating to sponsors, board of trustees, and plan operations.

This section establishes eligibility requirements for MEHPs. Applications must comply with requirements established by the Secretary. Applications must demonstrate that the arrangement's sponsor has been in existence for a continuous period of at least 5 years and is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for a least annual meetings, as a trade association, an industry association, a professional association, or a chamber of commerce (or similar business group, including a corporation or similar organization that operates on a cooperative basis within the meaning of section 1381 of the IRC) for purposes other than that of obtaining or providing medical care. Also, the applicant must demonstrate that the sponsor is established as a permanent entity, has the active support of its members, and collects dues from its members without conditioning such on the basis of the health status or claims experience of plan participants or beneficiaries or on the basis of the member's participation in the MEHP.

"Section 703 also requires that the arrangement be operated, pursuant to a trust agreement, by a "board of trustees" which has complete fiscal control and which is responsible for all operations of the arrangement. The board of trustees must develop rules of operation and financial control based on a three-year plan of operation which is adequate to carry out the terms of the arrangement and to meet all applicable requirements of the exemption and Title I of ERISA. The rules also require that all employers who are association members be eligible for participation under the terms of the plan. Eligible individuals of such participating employers cannot be excluded from enrolling in the plan because of health status as required under section 103 of the Act (nor be excluded by purchasing an individual policy of health insurance coverage for a person based on their health status). The rules also stipulate that premium rates established under the plan with respect to any particular participating employer cannot be based on the claims experience of the particular employer.

"In addition to the associations described above, certain other entities are eligible to seek an exemption as MEHPs under section 514(b)(6)(B) of ERISA. These include (1) franchise networks (section 703(b)), (2) certain existing collectively bargained arrangements which fail to meet the statutory exemption criteria (section 703(c)), and (3) certain arrangements not meeting the statutory exemption criteria for single employer plans (section 703(d)). (Section 709 of ERISA, added by Section 166, also makes eligible certain church plans electing to seek an exemption.)"

"Sec. 704. Other Requirements For Exemption.

"Section 704 requires a MEHP to meet the following requirements: (1) its governing instruments must provide that the board of trustees serves as the named fiduciary and plan administrator, that the sponsor serves as plan sponsor, and that the reserve requirements of section 705 are met; (2) the contribution rates must be adequate, and (3) any other requirements set out in regulations by the Secretary must be met."

"Sec. 705. Maintenance of Reserves.

"Section 705 requires MEHPs to establish and maintain reserves sufficient for unearned contributions, benefit liabilities incurred but not yet satisfied and for which risk of loss has not been transferred, expected administrative costs, and any other obligations and margin for error recommended by the qualified actuary. The minimum reserves must be no less than 25% of expected incurred claims and expenses for the year or $400,000. The Secretary may provide additional requirements relating to reserves and excess/stop loss coverage and may provide adjustments to the levels of reserves otherwise required to take into account excess/stop loss coverage or other financial arrangements."

"Sec. 706. Notice Requirements for Voluntary Termination.

"Section 706 provides that, except as permitted in section 707, a MEHP may terminate only if the board of trustees provides 60 days advance written notice to participants and beneficiaries and submits to the Secretary a plan providing for timely payment of all benefit obligations."

"Sec. 707. Corrective Actions and Mandatory Termination.

"Section 707 requires a MEHP to continue to meet the reserve requirements even if its exemption is no longer in effect. The board of trustees must quarterly determine whether the reserve requirements of section 705 are being met and, if they are not, must, in consultation with the qualified actuary, develop a plan to ensure compliance and report such information to the Secretary. In any case where a MEHP notifies the Secretary that it has failed to meet the reserve requirements and corrective action has not restored compliance, and the Secretary determines that the failure will result in a continuing failure to pay benefit obligations, the Secretary may direct the board to terminate the arrangement."

"Sec. 708. Additional Rules Regarding State Authority.

Under section 708(a), a state which certifies to the Secretary that it provides guaranteed access to health coverage may elect to opt out of the MEHP provisions outlined above and deny a MEHP the right to offer coverage in the small group market (or otherwise regulate such MEHP with respect to such coverage), except as described below. A state is considered to provide such guaranteed access, if (1) the state certifies that at least 90% of all state residents are covered by a group health plan or otherwise have health insurance coverage, or (2) the state has, in the small group market, provided for guaranteed issue of at least one standard benefits package and for rating reforms designed to make health insurance coverage more affordable. In states without such guaranteed access, MEHPs could offer coverage in the small group market in the state as long as they meet the standards set forth in Part 7. For purposes of item (2) above and the similar provision under section 162 of the bill, it is intended that states that have achieved very high levels of health insurance coverage through means such as tax-preferred status for entities required to provide guaranteed issue, community-rated coverage be considered to meet the requirement under (2) regardless of how long a state law requiring such has been in effect.

"Section 708(b) provides a limited exception to the above described state opt out for certain large, multi-state arrangements. The state opt out (described in item (2) in the above paragraph) does not apply to new and existing MEHPs that meet the following criteria: (1) the sponsor operates in a majority of the 50 states and in at least 2 of the regions of the country; (2) the arrangement covers or will cover at least 7,500 participants and beneficiaries; and (3) at the time the application to become a MEHP is filed, the arrangement does not have pending against it any enforcement action by the state. In addition, the state opt out (described in items (1) and (2) in the above paragraph) does not apply in a state in which an arrangement meeting the MEHP standards operates on March 6, 1996, to the extent a state enforcement action is not pending against such an entity at the time an application for an exemption is made. The above two exceptions do not apply to any state which, as of January 1, 1996, either (1) has enacted a law providing for guaranteed issue of fully community rated individual health insurance coverage offered by insurers and HMOs, or (2) requires insurers offering group health coverage to reimburse insurers individual coverage for losses resulting from their offering individual coverage on an open enrollment basis. Regulations may also apply certain limitations to single industry plans.

"Under section 708, a state could assess new association-based MEHPs (former after March 6, 1996) nondiscriminatory state premium taxes set at a rate no greater than that applicable to any insurer or health maintenance organization offering health insurance coverage in the state. MEHPs existing as of March 6, 1996 would remain exempt from state premium taxes; however, if they expand into a new state, the state could apply the above rule.

Section 162. Affordable and Available Fully-Insured Health Coverage Through Voluntary Health Insurance Associations.

This section adds a new subsection (d) to section 514 of ERISA which provides for the establishment of Voluntary Health Insurance Associations (VHIAs). Under this section, a VHIA is defined as a multiple employer welfare arrangement, maintained by a qualified association, under which all medical benefits are fully-insured, under which no employer is excluded as a participating employer (subject to minimum participation requirements of an insurer), under which the enrollment requirements of section 103 of the Act apply, under which all health insurance coverage options are aggressively marketed, and under which the health insurance coverage is provided by an insurer or HMO to which the laws of the state in which it operates apply.

The term qualified association means an association in which the sponsor of the association is, and has been (together with its immediate predecessor, if any) for a continuous period of not less than 5 years, organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose, as a trade association, an industry association, a professional association, or a chamber of commerce (or similar business group), for substantial purposes other than that of obtaining or providing medical care (within the meaning of section 607(1) of ERISA), is established as a permanent entity which receives the active support of its members and meets at least annually, and collects dues without conditioning such dues on the basis of the health status or claims experience of plan participants or beneficiaries or on the basis of participation in a VHIA.

Section 162 sets forth the preemption rules applicable to VHIAs. This provision would preempt two types of state laws and leave unaffected any other applicable state law not otherwise preempted under current law (i.e., section 514 of ERISA). The first type of law preempted is a law which might otherwise preclude an insurer or HMO from setting premium rates based on the claims experience of the employers participating in a VHIA (without varying the premium rates of a particular employer on the basis of the employer's own experience). As a result of this provision, a qualified association could form a VHIA and offer health insurance coverage and establish and distribute plan costs in a manner similar to that permitted under current law for self-insured plans. This will empower employees and employers to form groups to more effectively and cost-efficiently purchase fully-insured health insurance coverage.

Section 162 also preempts a second type of State law that requires health insurance coverage in connection with group health plans to cover specific items or services consisting of medical care (but does not preempt laws prohibiting the exclusion of specific diseases). This will enable employers and employees to establish health insurance packages which include benefits which they want and which they can afford.

Under this section, a state which certifies to the Secretary that it provides "guaranteed access"' to health coverage may deny a VHIA the right to offer coverage in the small group market (or otherwise regulate such VHIA with respect to such coverage), except as described below. A state is considered to provide such guaranteed access if (1) the state certifies that at least 90% of all state residents are covered by a group health plan or otherwise have health insurance coverage, or (2) the state has, in the small group market, provided for guaranteed issue of at least one standard benefits package and for rating reforms designed to make health insurance coverage more affordable. In a state without such guaranteed access, VHIAs could offer coverage in the small group market in the state as long as they meet the standards for such entities.

This section also provides a limited exception to the above described state opt out for certain large, multi-state arrangements. The state opt out (described in item (2) in the paragraph above) does not apply to VHIAs that meet the following criteria: (1) the sponsor operates in a majority of the 50 states and in at least 2 of the regions of the country; (2) the arrangement covers or will cover at least 7,500 participants and beneficiaries; and (3) under the terms of the arrangement, either the qualified association does not exclude from membership any small employer in the state, or the arrangement accepts every small employer in the state that applies for coverage.

In addition, the state opt out (described in items (1) and (2) in the paragraph two paragraphs above) does not apply in a state in which an arrangement operates on March 6, 1996 and under the terms of the arrangement, either the qualified association does not exclude from membership any small employer in the state, or the arrangement accepts every small employer in the state that applies for coverage.

The above exceptions for multi-state plans and existing plans do not apply to any state which, as of January 1, 1996, either (1) has enacted a law providing for guaranteed issue of fully community rated individual health insurance coverage offered by insurers and HMOs, or (2) requires insurers offering group health coverage to reimburse insurers offering individual coverage for losses resulting

from their offering individual coverage on an open enrollment basis.

Sec. 163. State authority fully applicable to self-insured multiple employer welfare arrangements providing medical care which are not exempted under new part 7.

This section clarifies the scope of ERISA preemption to make clear the authority of states to fully regulate non-fully-insured MEWAs which are not provided an exemption under new Part 7 of ERISA.

Sec. 164. Clarification of treatment of single employer arrangements

This section modifies the treatment of certain single employer arrangements under the section of ERISA that defines a MEWA (section 3(40)). The treatment of a single employer plan as being excluded from the definition of MEWA (and thus from state law) is clarified by defining the minimum interest required for two or more entities to be in "common control" as a percentage which cannot be required to be greater than 25%. Also a plan would be considered a single employer plan if less than 25% of the covered employees are employed by other participating employers.

Sec. 165. Clarification of treatment of certain collectively bargained arrangements.

This section clarifies the conditions under which multiemployer and other collectively-bargained arrangements are exempted from the MEWA definition, and thus exempt from state law. This is intended to address the problem of "bogus unions" and other illegitimate health insurance operators. The provision amends the definition of MEWA to exclude a plan or arrangement which is established or maintained under or pursuant to a collective bargaining agreement (as described in the National Labor Relations Act, the Railway Labor Act, and similar state public employee relation laws). (Current law requires the Secretary to "find" that a collective bargaining agreement exists, but no such finding has ever been issued). It then specifies additional conditions which must be met for such a plan to be a statutorily excluded collectively bargained arrangement and thus not a MEWA. These include:

(1) The plan cannot utilize the services of any licensed insurance agent or broker to solicit or enroll employers or pay a commission or other form of compensation to certain persons that is related to the volume or number of employers or individuals solicited or enrolled in the plan.

(2) A maximum 15 percent rule applies to the number of covered individuals in the plan who are not employees (or their beneficiaries) within a bargaining unit covered by any of the collective bargaining agreements with a participating employer or who are not present or former employees (or their beneficiaries) of sponsoring employee organizations or employers who are or were a party to any of the collective bargaining agreements.

(3) The employee organization or other entity sponsoring the plan or arrangement must certify annually to the Secretary the plan has met the previous requirements.

(4) If the plan or arrangement is not fully insured, it must be a multiemployer plan meeting specific requirements of the Labor Management Relations Act (i.e., the requirement for joint labor-management trusteeship under section 302(c)(5)(B)).

(5) If the plan or arrangement is not in effect as of the date of enactment, the employee organization or other entity sponsoring the plan or arrangement must have existed for at least 3 years or have been affiliated with another employee organization in existence for at least 3 years, or demonstrate to the Secretary that certain of the above requirements have been met.

Sec. 166. Treatment of church plans.

This section adds a new section 709 to ERISA permitting church plans to voluntarily elect to apply to the Department of Labor for an exemption under section 514(b)(6)(B) and in accordance with new ERISA Part 7. An exempted church plan would, with certain exceptions, have to comply with the provisions of ERISA Title I in order to receive an exception from state law. The election to be covered by ERISA would be irrevocable. A church plan is covered under this section if the plan provides benefits which include medical care and some or all of the benefits are not fully insured.

Sec. 167. Enforcement provisions relating to multiple employer welfare arrangements.

This section amends specific provisions of ERISA to establish enforcement provisions relating to the multiple employer elements of the bill: (1) a civil penalty applies for failure of MEWAs to file registration statements under section 169 of the bill; (2) the section provides for State enforcement through Federal courts with respect to violations by multiple employer health plans, subject to the existence of enforcement agreements described in section 168 below; (3) willful misrepresentation that an entity is an exempted MEWA or collectively-bargained arrangement may result in criminal penalties; (4) the section provides for cease activity orders for arrangements found to be neither licensed, registered, or otherwise approved under State insurance law, or operating in accordance with the terms of an exemption granted by the Secretary under new part 7; and (5) the section provides for the responsibility of the fiduciary or board of trustees of a MEHP to comply with the required claims procedure under ERISA.

Sec. 168. Cooperation between Federal and State authorities.

This section amends section 506 of ERISA (relating to coordination and responsibility of agencies enforcing ERISA and related laws) to specify State responsibility with respect to self-insured Multiple Employer Health Plans and Voluntary Health Insurance Associations. A State may enter into an agreement with the Secretary for delegation to the State of some or all of the Secretary's authority to enforce provisions of ERISA applicable to exempted MEHPs or to VHIAs. The Secretary is required to enter into the agreement if the Secretary determines that delegation to the State would not result in a lower level or quality of enforcement. However, if the Secretary delegates authority to a State, the Secretary can continue to exercise such authority concurrently with the State. The Secretary is required to provide enforcement assistance to the States with respect to MEWAs.

Sec. 169. Filing requirements for multiple employer welfare arrangements offering health benefits.

This section amends the reporting and disclosure requirements of ERISA to require MEWAs offering health benefits to file with the Secretary a registration statement within 60 days before beginning operations (for those starting on or after January 1, 1997) and no later than February 15 of each year. The section also requires MEWAs providing medical care to issue to participating employers certain information including summary plan descriptions, contribution rates, and the status of the arrangement (whether fully-insured or an exempted self-insured plan).

Sec. 170. Single annual filing for all participating employers.

This section amends ERISA's section 110 (relating to alternative methods of compliance with reporting and disclosure requirements) to provide for a single annual filing for all participating employers of fully insured MEWAs.

Sec. 171. Effective date; transitional rule.

This section provides that, in general, the amendments made by this title are effective January 1, 1998. In addition, the Secretary is required to issue all regulations needed to carry out the amendments before January 1, 1998. The section provides for transition rules for self-insured MEWAs in operation as of the effective date so that those applying to the Secretary for an exemption from State regulation are deemed to be excluded for a period not to exceed 18 months unless the Secretary denies the exemption or finds the MEWAs application deficient, provided that the arrangement does not have pending against it an enforcement action by a state. The Secretary can revoke the exemption at any time if it would be detrimental to the interests of individuals covered under the Act.

Subtitle D—Definitions; General Provisions

Sec. 191. Definitions; scope of coverage, and

Sec. 192. State flexibility to provide greater protection.

In addition to providing definitions of terms used in this title of the Act, this subtitle provides that, subject to the ERISA savings clause below, nothing in Subtitle A, B, or D should be construed to preempt state laws: (1) that relate to matters not specifically addressed in such subtitles, (2) that require insurers or HMOs to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition period for a period that is shorter than the applicable period provided under such subtitles; (3) that allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 60-day periods provided for under sections 101 and 102, or (4) that, in defining "preexisting condition" to have a look-back period that is shorter than 6 months. The ERISA savings clause states that, except as provided specifically in subtitle C, nothing in this Act shall be construed to affect or modify the provisions of section 514 of ERISA (relating to federal preemption of state laws relating to employee benefit plans).

Sec. 193. Effective Date.

In general, except as otherwise provided for in this title, the provisions of this title would apply with respect to: (1) group health plans and health insurance coverage offered in connection with group health plans, for plan years beginning on or after January 1, 1998; and (2) individual insurance coverage issued, renewed, in effect, or operated on or after January 1, 1998.

The Secretaries of HHS, Treasury, and Labor would be required to issue regulations on a timely basis as may be required to carry out this title.

Sec. 194. Rule of Construction.

Nothing in this title or any amendment made thereby may be construed to require the coverage of any specific procedure, treatment, or service as part of a group health plan or health insurance coverage under this title or through regulation.

Mr. CLAY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Speaker, I would like to thank my colleague and ranking member from Missouri for yielding me the time.

Mr. Speaker, I rise in opposition to H.R. 3103, and a little background. I was honored to serve 20 years in the Texas legislature, Mr. Speaker, and work for many of those years with the statehouse members to beef up and strengthen our State health insurance regulation laws so that people who buy group insurance would know what they are purchasing. Here today I see this bill would actually abolish that protection, not only in the State of Texas, but State legislatures all over the country have worked for many years to provide and strengthen State oversight of these laws.

Mr. Speaker, yesterday I asked the Committee on Rules to make in order my amendment striking the preemption of these multiple employer welfare arrangements, also known as the MEWA insurance laws, because what happens now is in all of our States, we regulate them. This bill will take away that State regulation and move it to Washington to definitely a universal national standard developed and implemented from Washington and will replace these carefully crafted local State insurance laws that meet the needs of our local States and not necessarily what is from Washington.

Mr. Speaker, that is right. The majority of the Republicans want to move the regulation of these insurance laws from the States to an agency led by what one of my Republican colleagues said in his turn were Communists.

We hear a lot of rhetoric from the other side about giving more power to the States, and yet in this issue the Republicans want to take away the States' authority to regulate these health plans and give it to the Federal Government. While we have heard about local control rhetoric so much, the House Republicans want to expand the authority of the Department of Labor with these regulations.

In his own estimates, Secretary Reich will have to develop 26 new regulations to deal with the federalization of multiple employer welfare arrangements. The Federal Government got out of this business of regulating MEWA's in 1983 because the States were better equipped to deal with the high instances of fraud on the local level. But now we see this bill will preempt those States rights, and what will it mean to the average American family. State statutes requiring that certain benefits covered by health insurance policies may no longer apply.

Again, let me give an example from the State of Texas. In 1973 we changed the law that required insurance policies in Texas have to cover newborn infants. Up until then, a newborn infant had to survive 14 days before the group insurance policy would cover them. That was a mandated benefit, and this bill would possibly take that away unless the Department of Labor somehow says, OK, we are going to have this minimum benefit. This protection would be no longer available, at least on the local level, that the States have decided need to be provided to the purchasers of insurance.

Unlike block grants, States have tested and successfully regulated MEWA's, and there is no compelling reason or need to preempt State authority in this area.

Mr. CLAY. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS. Mr. Speaker, I would like to thank the gentleman from Missouri [Mr. CLAY], the ranking member, for yielding me this time.

Mr. Speaker, there are two sets of ideas before the House tonight. There is a set of ideas on which there is disagreement, whether we should limit the amount people can recover if they are a victim of malpractice; whether or not people should have medical savings accounts; whether or not there should be pooling arrangements for small businesses. There is legitimate disagreement about those things.

Then there is another set of ideas on which there is virtual unanimous agreement, broad consensus that we should make it illegal to say you cannot deny someone an insurance policy because they have been sick, and that people should be able to take their insurance from job to job.

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Mr. Speaker, logical people would say that we put aside the things on which we cannot agree and debate about them and try to refine them and deal with them another day and then we take the things on which we do agree and pass them so we can send them to the President of the United States and make them law.

But we are not going to do that. What we are going to do tonight in the bill that is before us is take a lot of controversial provisions and maybe pass them out of here and send them to a conference that will, in likelihood, I believe they will wither on the vine and die.

Now, this is not just another cynical example of the cynical exercise of how politics is practiced in our country. It is more than that. It has a lot to do with real people in real families and their real lives.

Mr. Speaker, the American people understand this. A woman with breast cancer, a man who has had a triple bypass heart operation, a shipyard worker who has had asbestosis can be denied health insurance coverage now because the have been sick. If the substitute offered by the gentlewoman from New Jersey [Mrs. ROUKEMA] does not pass tonight, they can still be denied that coverage. We need to make it illegal, illegal for an insurance company in this country to say to that woman with breast cancer of that man with asbestosis or that person who has had the triple bypass operation that, we are not going to sell you a policy or that we are going to charge you the Moon and the stars to buy the policy. A unanimous vote in a Senate committee said they agreed with that. Dozens of Republicans and Democrats, if not hundreds around here, have said they agree with that. The President of the United States has said he would sign that. But unless the Roukema substitute passes, we are not going do do that.

Do the right thing tonight. Vote "yes" on the Roukema substitute and "no" on this bill.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank the ranking member for yielding me this time.

Mr. Speaker, this bill ought to be defeated. We should be considering a clean version of the Kennedy-Kassebaum-Roukema health reform bill, and I would say that the reason we are not considering a clean version of the Kennedy-Kassebaum-Roukema health reform bill is because the Republican leadership really does not want to see health care reform come into law.

They really want to see it defeated. But, quite frankly, they do not have the guts to say it. So they are weighing this bill down with all kinds of extraneous things that do not belong in the bill, knowing full well that this will kill the bill.

The Senate is going to pass a clean version. The President has said he will sign a clean version, and yet what we are doing today is a political charade. We are not passing a clean version, we are deliberately not passing the version the Senate is passing, and we know that the President will not agree.

So it is a charade. And, again, the Republican leadership does not have the guts to say the truth. You know, the gentleman from Texas [Mr. DELAY], the Republican whip, had it right before, when he said on the House floor, and I quote the gentleman from Texas from his speech on the House floor, "This is blatant politics and blatant hypocrisy." Except he was wrong in directing it to me and the Democrats. It seems to me the blatant, as the gentleman from Texas [Mr. DELAY] said, "blatant politics and blatant hypocrisy" is on the part of the gentleman from Texas [Mr. DELAY] and the Republican leadership because they do not have the guts to say we are against health care reform; instead, they are just weighing down this bill with a bunch of nonsense.

We believe that portability ought to become law. We believe that preexisting conditions is not a reason to deny

people health care coverage. The Roukema bill does that. The Roukema bill will pass. The Roukema bill has the votes to pass, yet what they are doing is making it impossible for the Roukema bill to pass, and that to me is, quote, as the gentleman from Texas [Mr. DELAY] says, "blatant politics and blatant hypocrisy."

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in strong support of H.R. 3103 because it allows small employers to form Multiple Employer Health Plans [MEHPs] which can cross State lines. Small businesses operate closer to the bottom line than larger businesses, and are often unable to obtain coverage at any price. They pay higher premiums if they do obtain coverage, and cannot count on stable premiums.

MEHPs can self insure, in which case they would be required to register and maintain substantial capital reserves—a minimum of $400,000 or 25 percent of the expected claims—whichever was higher.

MEHPs would allow small employers to band together around the country, thereby avoiding expensive State-mandated benefits. Right now, small businesses pay up to 30 percent more in premiums than big businesses that can make use of ERISA exemptions.

The substitute does not allow small employers to form MEHPs across State lines.

I urge my colleagues to support 3103.

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. BALLENGER].

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

Mr. Speaker, I rise in strong support of H.R. 3103, and want to address the provisions relating to medical savings accounts for MSA's.

During the debate over the President's health care reform package during the 103d Congress, we saw that Americans view choice as fundamental to our health care system. By allowing people the chance to choose a high-deductible health insurance plan and to place the premium savings into a personal savings account, we are providing a way for people to manage their health care expenses. This plan would be used to cover major health costs while the savings account would cover routine and preventive care.

Under this bill, individuals could deposit up to $2,000 per year and could save, in the account, what they didn't use. Any withdrawals from the account for non-medical expenses would be taxable and subject to an early withdrawal penalty of 10 percent. Also, MSAs would allow patients to choose their own doctors and participate in their own care. These accounts belong to the individual and are portable during a job change.

Employers are currently able to offer MSA-like plans. However, unlike other traditional plans, the Government does not allow these plans to be tax deductible. MSAs should receive equal treatment, because recent studies indicate that these plans reduce the health care costs for employers by around 12 percent compared to traditional plans. This cost reduction directly enables employers to maintain quality health benefit plans to their employees at no additional charge. As we look for market-oriented ways to contain the costs of health care, MSAs should be viewed as an attractive option.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, I wish for once Members of Congress would put themselves in the shoes of hard-working Americans, whether those shoes are loafers or construction boots, and then Americans would work together to reform in a simplistic and bipartisan commonsense way our health care system.

Now, we have two choices tonight: We can either support H.R. 3103, a convoluted measure that is highly controversial, with all kinds of special-interest provisions that will never become law, or we can support a bipartisan provision from Senator KENNEDY, Senator KASSEBAUM, and the gentlewoman from New Jersey [Mrs. ROUKEMA].

There is a bipartisan approach, a commonsense approach to provide portability, to provide health care for workers who lose their jobs. Let me give an example of why this is important. IBM has laid off 40,000 people; AT&T 40,000 people. These people are hard workers. They have children that may have diabetes or leukemia. And now health insurance companies can say, "We don't want to cover you anymore." If you vote for the Roukema Bill, the Kennedy-Kassebaum bill, you will allow these hard-working Americans to take their insurance with them and to not let the insurance companies be prejudiced against these people.

Vote for our children. Vote for our hard-working people in America, and vote for commonsense bipartisanship.

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. Mr. Speaker, I rise in strong support of H.R. 3103 and commend my colleague, the gentleman from Illinois [Mr. FAWELL] for his efforts in bringing this legislation, which is badly needed, to the floor.

H.R. 3103 is not about big insurance companies or some Government takeover, as some would suggest. It is about providing coverage for millions of uninsured, and it allows them to get it on an accessible and affordable basis.

H.R. 3103 is about providing insurance to those millions of people that are currently unable to get insurance. For too long this system has stacked the deck against small business. Big businesses, such as GM, IBM, I just heard, have had the luxury of providing employees insurance through self-insuring, while small businesses lack the resources to self-insure. This bill directly addresses the inequality by allowing small businesses to join together to self-insure.

Mr. Speaker, Kassebaum-Kennedy is a Cadillac coverage program, one size fits all, without affordability. I urge my colleagues to vote for H.R. 3103.

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in strong support of this bill for a variety of different reasons, probably chief of which is that it will allow many small employers to pool their resources together and purchase health care benefits in bulk.

This is an advantage the has been held by large corporations for many years and has been denied small businesses, and, as a consequence of that, those small businesses have to pay a much higher premium and they therefore choose not to provide coverage.

I would like to also additionally briefly address the issue of medical savings accounts. We have heard a lot of discussion about how bad these supposedly are, but I would assert that if medical savings accounts were available to the employees that work for Members of the minority, the majority of their employees would select medical savings accounts because medical savings accounts truly give the health care consumer the freedom to choose how to spend their health care dollars. It has been shown repeatedly that they over and over save a considerable amount of money. One of the biggest problems in our health car system is the third-party payer system.

Mr. CLAY. Mr. Speaker, I yield the balance of my time to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Speaker, the Dingell-Kennedy-Kassebaum substitute is a modest but significant step forward for health care. I rise in support of the substitute.

It is good that we are here addressing problems such as portability or increased deductibility for small businesses and preexisting condition discrimination. These small steps forward are important, but the American people should not be misled.

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The noble goal of universal health care, health care for all Americans, is not being discussed tonight. The administration bill in the 103d Congress was striving to help Americans join the other civilized, industrialized nations

and provide health care for the 43 million Americans who are not covered with any health care plan.

This bill moves us no closer to health care for everybody. Looming over all of us in our present health care system is the dangerous threat to the Medicaid entitlement. That is not being discussed, but the Medicaid entitlement is America's beachhead for universal health care. Even if we pass the highly desirable Kennedy-Kassebaum-Dingell substitute, we will be taking a giant step backward if we throw away the Medicaid entitlement within a few weeks.

The American people must not be swindled. Two actions are needed. Tonight we have to pass the substitute, and we also have to make certain that in the future, the next few weeks, we deny the Governors, the majority Republicans in this body, the opportunity to roll back the clock to destroy 30 years of good health care by eliminating the Medicaid entitlement. The Medicaid entitlement is absolutely necessary for the 43 million Americans who are not covered. The hope for those 43 million lies in keeping the Medicaid entitlement and expanding it.

This was the noble goal of the administration's bill in the 103d Congress. It was very difficult because they were looking to close that gap. It was very difficult because the 103d Congress proposal by the administration was attempting to have America join the other civilized industrialized nations for universal health care.

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I am proud to be an original cosponsor of H.R. 3103. Approximately 17 percent of our nonelderly population does not have health care insurance coverage in the United States of America. This very important piece of legislation decreases that rank of the uninsured, that 17 percent, by making health insurance more readily available and affordable. Many things we should have done many years ago: Guaranteeing the portability of health insurance for workers changing or leaving jobs, limiting the ability of insurers to use preexisting conditions to deny health insurance coverage, making health insurance more affordable by reforming malpractice laws and cracking down on fraud and abuse, and several other measures which are here.

This focused reform bill compliments the efforts of States to expand health insurance coverage within their borders rather than superseding them.

I would like to say a word or two about those who argue that this would kill Kassebaum-Kennedy. This bill does not kill what our colleagues in the Senate have accomplished. This bill builds upon the sound principles to expand availability contained in Kassebaum-Kennedy, but also addresses affordability, which is not addressed in that bill.

Mr. Speaker, I encourage all of us to support this excellent piece of legislation.

Mr. GOODLING. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I think all one can say, I would just compliment the leadership on this side of the aisle. I would like to point out, too, that you will notice that no one, no one on this side of the aisle, criticized the legislation that that side is pushing. Yet I think it is fair to say we have had an abundance of criticism from that side.

We are simply asking that small employers have the rights that mid-sized and large employers have had for a long time, and that is to be able to self-insure. They preempt state law. You have heard it say there are 138 million people today under the ERISA law.

Mr. DEFAZIO. Mr. Speaker, I rise in opposition to H.R. 3103, the so-called "Health Coverage Availability and Affordability Act," and in support of the Democratic substitute.

We all agree that the American system of health care is in dire need of an overhaul. Health care costs are skyrocketing out of control. Having doubled in the last decade, they're far beyond the reach of any American who's uninsured and can't afford exorbitant insurance premiums. Four million Americans lost health insurance between 1988 and 1994. Millions more are just a pinkslip away from losing all of their health care coverage.

There are provisions in H.R. 3103 that I support. I agree that it is high time Congress acts to correct some of the more egregious practices of insurance companies. Denying insurance to individuals because of pre-existing conditions, genetic information, or a history of domestic violence is outrageous. It is a good start to ban these practices.

I've supported legislation that would correct these policies. I've authored legislation that would prohibit using domestic violence as a risk factor. I've also co-sponsored the Kennedy-Kassebaum-Roukema health care reform bill, which has the support of Senate Republicans and Democrats as well as the President.

The Democratic substitute would replace H.R. 3103 with language from the Kennedy-Kassebaum-Roukema bill. This bill would expand access to health insurance for Americans by increasing portability and limiting insurance companies' ability to deny coverage because of pre-existing conditions. The political consensus for the Kennedy-Kassebaum-Roukema bill means that it could become law in a matter of weeks.

But H.R. 3103 embraces controversial, divisive policies that doom any chance of insurance reform and minimal health security for the American people.

As a long-time advocate of fiscal responsibility, I must oppose the provisions in this bill establishing generous Medical Savings Accounts [MSAs]. The MSAs would result in a significant loss of taxpayer dollars without a substantial revenue offset. Under this bill, individuals could deposit up to $2,000 annually and families up to $4,000 in tax-free MSAs. The Joint Committee on Taxation has estimated that this provision alone would cost the U.S. taxpayers approximately $2 billion. This flies in the face of the deficit reduction goals to which this Congress purports to aspire.

The Republican leadership counters that the bill contains budgetary savings to offset the revenue loss from MSAs. This assertion is laughable and cynical. The budgetary savings are achieved through "reforms" in the Medicare program—the health plan for America's senior citizens. This is the same Medicare program that the Republicans claim is in such a dire financial crisis.

Any savings achieved through Medicare reforms should be used to shore up the Medicare trust fund. Failing that, these savings should be used to lower deductibles and increase benefits for Medicare beneficiaries. It makes no sense to use this savings to offset a tax break for the limited number of individuals who can afford MSAs.

Individuals who choose to open MSAs will likely be healthier, wealthier and younger than average. Unfortunately, the majority of the Medicare population is among the older and sicker and would not benefit from MSAs. The Republican leadership's bill would, therefore, steal money from Medicare recipients to pay for tax breaks for healthier Americans.

Ironically, H.R. 3103 would also remove state oversight and replace it with Federal regulation to advantage insurance companies. This would be a severe blow to the States' rights movement. For the past year we have heard Republicans disparage the role of the Federal Government. Yet, under this legislation, the Republican leadership conveniently tosses aside this argument in favor of Federal supremacy over insurance coverage. This legislation preempts existing state insurance reforms and State regulation of self-funded multiple employer plans [MEWAs].

In Oregon, local leaders have developed a series of health care initiatives with the active support of insurers, consumers and the business community. H.R. 3103 could seriously jeopardize these reforms, as well as reforms already enacted in other States.

Every American should have lifetime access to quality, affordable health care. All of our major economic competitors have adopted comprehensive health care reforms. Surely the United States of America, the greatest industrial power on Earth, can adopt the minimal protections in the Kennedy-Kassebaum-Roukema bill.

If you truly want to bring some relief to our constituents, I urge my colleagues to support the Democratic substitute which would replace the controversial Republican leadership's proposal with the language in the Kennedy-Kassebaum-Roukema bill.

Mr. CLINGER. Mr. Speaker, I rise in strong support of the "Health Coverage Availability and Affordability Act of 1996." This legislation takes very practical, needed steps to ensure working Americans that they will always have access to health insurance regardless of their health, their family's health, or their employer. H.R. 3103 will ensure Americans portability and renewability of their health coverage while

eliminating the fear of losing coverage because of pre-existing condition limitations when changing or losing a job.

I am particularly pleased to see provisions in the bill that set tough policies to combat health care fraud and abuse. Recent studies estimate that overcharging, double billing, and charging for services not rendered to patients cost consumers up to 10 percent of every health care dollar spent. This results in both higher health care costs and insurance premiums for everyone.

Under H.R. 3103, penalties for defrauding the Government through Federal health care programs, such as Medicare and Medicaid, will be stiffened. Furthermore, the bill will require the Secretary of Health and Human Services and the Attorney General to jointly establish a national health care fraud and abuse control program to coordinate Federal, State and local law enforcement to combat fraud with respect to health plans.

In addition, the "Health Coverage Availability and Affordability Act of 1996" will require the Secretary of Health and Human Services to exclude from Medicare and State health care programs for a minimum of 5 years individuals and entities who have been convicted of felony offenses relating to health care fraud; require the Secretary to provide beneficiaries with an explanation of each item or service for which payment was made under Medicare; and require the Secretary to establish a program to encourage individuals to report suspected fraud and abuse in the Medicare program.

I firmly believe that the fraud and abuse provisions in H.R. 3103 are long overdue and represent a serious effort to reduce fraudulent activity, which drives up the cost of health care for everyone. The Government Reform and Oversight Committee, which I chair, has held several hearings on this very issue, and I feel strongly that we need to act now to crack down on health care fraud and abuse.

Also, as a representative of a largely rural district, I am pleased to see provisions in H.R. 3103 that will allow small businesses to join together to form purchasing cooperatives. This provision exempts small businesses from certain State insurance regulations—an exemption that big business now enjoys. This change will make health insurance affordable for small businesses who cannot afford it at the present time—a problem that is particularly noticeable in rural areas. Some predict that small employers will be able to cut their business premiums by as much as a third, even while paying State premium taxes, which is provided for under the bill. This provision will certainly increase access to quality health care to rural individuals.

Again, I urge my colleagues to support this sensible, responsible approach to health care reform.

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 3103, the Health Coverage Availability and Affordability Act and urge my colleagues to support this well intentioned bill.

As one of the Republican cosponsors of the Roukema/Kassebaum/Kennedy portability measure, I am acutely aware of the need for Congress to approve a health coverage measure which will ensure working people and families that they will always have access to health insurance regardless of their health, their family's health, or their employer. Accordingly, I commend my colleague, Representative ROUKEMA, for her efforts in the House to bring this portability measure before the House today.

Similarly, I am pleased that the House will have an opportunity to make a good bill better. In addition to making health insurance more available to all Americans, H.R. 3103 makes it more affordable and provides more choices.

H.R. 3103 will provide incentives to encourage individuals, and their employers, to make tax deductible contributions—in lieu of health insurance premiums—to a specialized savings account [MSA] to be used at a later date for health expenses; it increases penalties for fraud and abuse of the federally-funded health care system; and allows self employed individuals and small businesses to voluntarily associate to purchase health insurance which would be available to all member organizations.

All of these provisions mentioned above will help our Nation's farmers, self-employed, and small business entrepreneurs to provide health insurance for their families and employees.

Though H.R. 3103 may not be a perfect bill it does provide important health insurance reforms that will ensure broad health coverage for our constituents.

Furthermore, this measure is a step in the right direction. I look forward to working further with my colleagues on health care reform measures which will protect those Americans who currently do not have health insurance coverage.

I urge my colleagues to support H.R. 3103.

Mr. STENHOLM. Mr. Speaker, in an effort to keep health insurance reform moving through the legislative process, I rise with some reservation to support H.R. 3103, the Health Coverage Availability Act of 1996.

My record clearly reflects my strong support of health insurance reform. In addition to efforts on rural health issues and system-wide reform, I have worked for many years to make health insurance both accessible and affordable for millions of underserved Americans, many of whom reside in the 17th District of Texas. In one very recent example, I heard from a constituent who has been employed since 1954, working the last 10 years with her sister in a bookkeeping and secretarial business. At one point, she had hospitalization insurance, but the price of the policy continually increased to the point that she finally had to drop it because she could no longer afford it. She now worries about the health and economic vulnerability of her situation.

While this legislation does not specifically address all of her needs, I believe certain provisions such as portability of health insurance, limitation on pre-existing conditions, increased tax deductibility for the self-employed, and guaranteed availability of insurance for small employers, are definitely steps in the right direction.

Because the Senate has taken the lead on a health insurance reform bill which the President has pledged to sign, I must express my concerns about the political ramifications of loading this bill down with some of the more controversial issues that have been included here today. I recall just a few years ago, during a similar health care debate, when my friends on the other side of the aisle were criticizing Democrats for "overreaching" on health care reform proposals. Now, I fear we are back to square one.

Like many Members of this body, I would like to see additional health care reforms, including reforms to develop rural health networks and preserve rural health services. Facing political reality, however, I realize that this might not be the proper vehicle to achieve these goals.

I am also concerned that rather than promoting the goals of greater health insurance access and affordability, some provisions in this bill may have the reverse impact in the long run because sufficient safeguards were not added to the provisions. For example, I have strongly supported small employer pooling arrangements with effective certification and solvency standards, as well as protections to ensure that the pool is large enough to manage risk. However, I am worried that the pooling section of this legislation fails to meet those concerns.

I am especially concerned that the bill we are considering today includes provisions and changes which were made after the Committees of jurisdiction reported out their components of the bill.

While I am not convinced that this House bill meets many of my concerns, I do believe that these issues can be worked out in conference. Therefore, in the spirit of keeping the process moving forward, I intend to vote yes on final passage. It is my hope that we not let another opportunity to achieve some type of bipartisan health care reform pass us by, simply because we again overreach the boundaries of consensus. That is why I am cautiously supporting H.R. 3103, with the hope that the conference committee will inject bipartisan commonsense into the process and develop a health insurance reform bill that will get a Presidential signature.

After all, without both a congressional majority and a Presidential signature, my constituents in the 17th district, or Americans anywhere else, will receive no benefit from this political exercise. In the final analysis, I would hope that the ultimate goal for us all is weighed not in political, special interest terms, but in terms of caring for the health needs of our un- and under-insured populations.

Mr. HORN. Mr. Speaker, there has been a campaign of misinformation about this legislation. Americans have been told that this bill would deny them continued health insurance coverage for alternative medical treatments. This is untrue.

This bill does not deal with health insurance coverage for alternative medical treatments. This is an issue that must be addressed by the States. H.R. 3103 only requires that each State implement a mechanism to ensure individual coverage.

This bill does increase choices for health care delivery systems by providing for medical savings accounts. With these accounts, Americans can utilize their health care dollars for whatever treatment fits their needs. That is the way to ensure that alternative medical treatments remain available for anyone who wants them.

Mr. FRANKS of Connecticut. Mr. Speaker, H.R. 3103, the Health Care Coverage Availability and Affordability Act will ensure that Americans have access to health care coverage. More importantly, however, the bill will insure that people do not lose their insurance coverage when they switch jobs.

During the March 17th hearing this subcommittee held on insurance reform I stated that I had worked for both small businesses and for Fortune 500 companies. During my tenure in the business world I saw first hand the concern of individuals who have worked hard and suddenly found themselves without employment or insurance coverage. These individuals worry about how they will make their insurance payments to COBRA. COBRA benefits are supposed to cover individuals during periods of unemployment, but without a job how can the individual keep up his or her COBRA payments. They can't, so they simply slip through the cracks in our insurance industry. These are the individuals that we must be most concerned with.

This same scenario can be applied to the self employed. Should a self-employed individual's company fail, what would happen during the period of unemployment. I have recently reintroduced legislation I sponsored during the 103d Congress. My bill would allow us to look at the situation I just described in a similar fashion to the way in which we look at unemployment compensation, with the exception that the employer will not have to contribute. While a person is employed, why not have that person make contributions to an uninsurance trust. The employee would be able to contribute money to the trust and then access it during periods of unemployment. We also need this kind of return.

The bill before us today brings about much-needed reform to the insurance industry in this country. It addresses such important issues as portability and pre-existing conditions. Individuals will no longer have to remain in a job they do not like in order to maintain insurance coverage. Under this bill if an individual changes jobs his or her insurance coverage will follow. Also, according to this bill insurance companies will no longer be able to deny coverage to individuals with pre-existing conditions.

H.R. 3103 addresses the problem of medical malpractice as well. The bill establishes uniform standards for health care liability suits brought in court. Malpractice lawsuit awards are capped at $250,000 for non-economic damages and $250,000 or three times the non-economic damages for punitive damages. This capping of damages will aid in driving down health care costs.

This bill will allow organizations, like trade associations, to voluntarily associate to purchase health care insurance. This insurance would then be available to all member organizations. The voluntary association organizations for the purpose of buying health insurance will allow them to increase their purchasing power, thus allowing them to purchase insurance at a significant savings.

The bill provides relief for self-employed individuals by allowing them to deduct increasing percentages of their health insurance costs from their income taxes. This provision, like many of the others contained in this bill, will make the purchasing of health insurance more affordable. This is especially important for self-employed individuals because all too often they fall through the cracks in our health insurance industry.

Penalties for fraud and abuse of the federally funded health care system are increased under this legislation. Overcharging, double billing, and charging for services not rendered has become too prevalent. These types of fraud cost consumes 5 to 10 percent of ever health care dollar. This results in higher health care costs as well as higher in insurance premiums.

Finally the bill allows for the establishment of medical savings accounts, MSA's. MSA's will bring about changes to health insurance. These accounts will place the consumer in charge of his or her health care. The consumer will have total control over his or her health care. This will allow the consumer to spend his or her health care dollars as he or she wants.

Mr. Speaker, the legislation before us takes important steps toward reforming the health insurance industry in this country. I applaud this legislation and look forward to its passage. Thank you and I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, I rise today in support of the Health Coverage Availability and Affordability Act of 1996. This bill includes provisions I have long supported on paperwork reduction.

I am pleased to see that today, the House will have the opportunity to vote on these and other needed reforms. Legislation aimed at making health insurance more available and affordable while reducing administrative paperwork is long overdue. While President George Bush introduced similar legislation in 1992, the then Democrat-controlled Congress blocked its consideration. It was not until the defeat of President Clinton's nationalized health care system that a consensus coalesced around these market-based reforms.

Currently, excessive paperwork, redtape, and duplicative administrative costs add nearly 10 cents to every health care dollar spent in the United States. In response to this concern I introduced legislation during the 102d Congress, along with our former colleague, Alex McMillan, to reduce these unnecessary costs through the establishment of uniform health claims and electronic billing standards.

Following this first ever free-standing bill on billing simplification, my Ohio colleague, DAVE HOBSON, took up the cause, improving upon our efforts. Congressman HOBSON's work has been integral in the promotion of the benefits of a uniform electronic billing system.

Mr. Speaker, I support the passage of the Health Care Coverage Availability and Affordability Act. American working families need and deserve the flexibility and cost-saving measures this bill provides.

Mr. PARKER. I want to congratulate the many Members who have been instrumental in bringing to the floor this important health care reform legislation.

In the 103d Congress, a number of us worked diligently on a similar, incremental package that would have corrected many identifiable problems in our health care delivery system.

Unfortunately, we never had an opportunity to vote on such a measure.

Today, however, I am pleased that we will finally be able to tell our constituents that help is on the way—changes will be made to address many of their health care concerns.

The passage of this legislation will assure people that they can change jobs and obtain group health insurance coverage through a new employer, without pre-existing condition limitations.

For those individuals who are between jobs and have been unable to obtain coverage due to a pre-existing condition, this bill will make it possible for them to do so.

For small employers, new pooling arrangements and an increased deduction for health insurance premiums will make it easier for them to purchase insurance coverage for their employees.

For individuals and families, medical savings accounts will now be available that allow them to control their own health care decisions and costs.

And for the many States like my own that provide health care coverage for uninsured high-risk individuals, this bill will clarify the tax-exempt status of State-established health insurance risk pools.

Currently, such risk pools are not automatically exempt from Federal income taxes.

This bill provides the necessary legislative fix to assist States in making much-needed medical insurance available to uninsurable residents.

Of course this bill, like the proposal I worked on in the last Congress, also includes provisions addressing such important needs as administrative simplification, fraud and abuse elimination, and medical malpractice reform.

In closing, we are taking the critical first steps toward a health care delivery system that is more accessible and affordable.

H.R. 3103 establishes a strong foundation on which future reforms in our health care delivery system can be based.

We should not let this opportunity to improve the Nation's health care system slip away once again.

Mr. CONYERS. Mr. Speaker, medical malpractice is a widespread and serious problem in our society. Studies have established that it is the third leading cause of preventable death, second only to those deaths associated with cigarette smoking and alcohol abuse. More than 1.3 million hospitalized Americans, or nearly 1 in 25, are estimated to be injured annually by medical treatment, and about 100,000 such patients, or 1 in 400, die each year as a direct result of such injuries.

Unfortunately, in federalizing this state law matter, the Republican proposals would absolutely decimate the protections the states have provided for against medical malpractice and other forms of misconduct. A summary of these provisions follows:

A. Statute of Limitations/§281—Prohibits victims from bringing any state health care liability action more than two years after an injury is discovered or five years after the negligent conduct that caused the injury first occurred. Such a proposed new federal statute of limitations takes no account of the fact that many injuries caused by medical malpractice or faulty drugs often take years to manifest

themselves. Thus under the proposal, a patient who is negligently inflicted with HIV-infected blood and develops AIDs six years later would be forever barred from filing a medical malpractice or product liability claim.

B. $250,000 Cap on Non-economic Damages/§ 282(a)(1)—Caps the award of non-economic damages in medical malpractice actions at $250,000. The bulk of data indicates that dollar caps do not provide significant savings. Using information derived from a 1992 GAO study, the ABA's Special Committee on Medical Professional Liability found that state tort reform proposals "have not had any measurable impact on overall health [care] costs" and that personal health care spending had doubled between 1982 and 1990, regardless of the type of "reforms" adopted. A 1986 GAO study on the impact of specific tort changes on medical malpractice claims revealed that claims and insurance costs continue to rise despite state-adopted limits on victim compensation.

Even the total elimination of malpractice costs would provide only negligible savings to the health care system. According to separate reviews by the U.S. Department of Health and Human Services and CBO, the total amount of *all* liability premiums paid in the United States represents less than 1% of the Nation's health care costs. And factoring in the costs of so-called "defensive medicine" would not result in any significant additional savings to the health care system, according to both the CBO and the Congressional Office of Technology Assessment.

An additional concern with caps on non-economic damages is that they could unfairly penalize those victims who suffer the most severe injury and are most in need of financial security. Although harder to scientifically measure, non-economic damages compensate victims for real losses—such as loss of sight, disfigurement, inability to bear children, incontinence, inability to feed or bathe oneself, or loss of a limb—that are not accounted for in lost wages. And non-economic damage caps have been found to have a disproportionately negative impact on women, minorities, the poor, the young, and the unemployed; since they generally have less wages, a greater proportion of their losses is non-economic.

C. Joint and Several Liability/§ 282(a)(2)—Eliminates the state doctrine of joint and several liability for non-economic damages. This will allow wrongdoers to profit at the expense of innocent victims, rather than forcing tortfeasors to allocate liability among themselves, as has traditionally been the case under state law. And since women, minorities, and the poor generally earn less wages, such limitations on non-economic damages could have a disproportionately negative impact on these groups.

D. Limits on Punitive Damages/§ 282(b)—Caps punitive damage awards at the greater of $250,000 or three times economic damages; limit the state law standard for the award of punitive damages to intentional or "consciously indifferent" conduct; allow a bifurcated proceeding to determine issues relating to punitive damages; and completely ban punitive damages in the case of drugs or other devices that have been approved by the FDA or any other drug "generally recognized as safe and effective" pursuant to FDA-established conditions.

These proposed limitations raise a number of concerns. Arbitrary caps on punitive damages may provide unjustified windfalls to the few tortfeasors responsible for blatant and wanton medical misconduct. (In fact, studies have shown that only 265 medical malpractice punitive awards were awarded in the United States in the 30 years between 1963 and 1993.) By insulating grossly negligent conduct, the proposed new federal standard for establishing punitive damages comes close to criminalizing tort law. Permitting defendants to bifurcate proceedings concerning the award of punitive damages may well lead to far more costly and time-consuming proceedings, again working to the disadvantage of injured victims. And banning punitive damages for FDA-approved products is likely to have a disproportionate impact on women, since they make up the largest class of victims of medical products.

E. Periodic Payments/§ 282(c)—Grants wrongdoers the option of paying damage awards in excess of $50,000 on a periodic basis. This provision would apply not only to future economic damages realized over time, such as lost wages, but to non-economic losses, like the loss of a limb, that are realized all at once. Also, in contrast to many state law periodic payment provisions, the Republican proposal does not seek to protect the victim from the risk of nonpayment resulting from future insolvency by the wrongdoer or to specify that future payments should be increased to account for inflation or to reflect changed circumstances.

F. Collateral Source and Subrogation/§ 282(d)—In most states under the collateral source rule, a victim is able to obtain compensation for the full amount of damages incurred, and his or her health insurance provider is able to seek subrogation in respect of its own payments to the victim. This ensures that the true cost of damages lies with the wrongdoer while eliminating the possibility of double recovery by the victim. The Republican proposal would turn this system on its head by allowing tortfeasors to introduce evidence of potential collateral payments owing from the insurer to the victim. This could have the effect of shifting costs from negligent doctors to the health insurance system in general and taxpayers in particular, resulting in increased health premiums paid by workers and businesses.

Another problematic feature of Republican malpractice proposals has been their one-sided, anti-victim nature. For example, their proposal allows States to enact more restrictive caps and damage limitations, but not permit the states freedom to grant victims any greater legal rights. Their proposals also ignore a number of complex legal issues. For example, in the state law context, various damage caps have been held to violate state constitutional guarantees relating to equal protection, due process, and rights of trial by jury and access to the courts; and these very same concerns are likely to be present at the federal level. And by layering a system of federal rules on top of a two-century-old system of state common law, the Republican proposals will inevitably lead to confusing conflicts, not only within the federal and state courts, but between federal and state courts.

I urge opposition to these proposals which would harm victims and insulate wrongdoers from liability.

Mr. NEAL of Massachusetts. Mr. Speaker, one lesson that both Democrats and Republicans learned from the health care reform debate in the 103d Congress is that retaining access to affordable health insurance is an anxiety that plagues most American families.

We exhausted the health care debate a few years ago in this Congress searching for ways to do it all—to make health care cheaper, better, and more accessible for everyone. And though we didn't pass health care reform legislation at that time, the fact that we are here today talking about limiting pre-existing condition exclusions and making health insurance portable—two consensus issues that Democrats and Republicans both support—is proof that our efforts did not fail.

I'd like to take a moment today to applaud our President for choosing to act upon America's health care concerns, and for having the courage to bring the issue of health care reform to the forefront of our national agenda.

The United States, and Massachusetts in particular, is home to the best quality health care in the world, and it is our job as Members of this House to make quality care available to Americans. The pre-existing condition limits and portability provisions in this bill meet this goal.

We also have a unique opportunity today to make health insurance more affordable to the self-employed by increasing the deductibility of health insurance premiums. Under current law, the self-employed are allowed a 30 percent deduction. The bill before us today gradually increases the deduction to 50 percent and 50 percent is not phased in until 2003.

The Democratic substitute addresses this issue in a more sensible and equitable manner. The Democratic substitute would increase the deduction to 50 percent in 1997 and 80 percent in 2002. Affordability is the greatest barrier to expanding health coverage. Increasing the deduction to 50 percent in 1997 will help make insurance affordable to those who lack coverage. Now, the self-employed may be able to fit into their budget the cost of health insurance.

Equity in the tax code should be one of our primary focuses. Corporations are allowed to deduct 100 percent of the cost of providing health insurance. Narrowing the gap between corporations and the self-employed restores greater tax equity.

Self-employed businesses range in spectrum from family farms to sole practitioners. These businesses are a vital part of our economy. We need to make health care affordable for them.

I urge you to support the Democratic substitute which tackles the issues where there is agreement and will make a difference in the health care of Americans.

Mrs. VUCANOVICH. Mr. Speaker, it took many years of debate, and thousands of town hall meetings, but by George, I think we've got it.

Congress has finally stepped up to the plate to ensure that Americans are able to obtain health insurance. Too many Americans are

shut out of health care insurance because of preexisting conditions, or because they change jobs. With one swing of the bat in the first inning of the game, we have successfully completed a "Triple A"—much better than a triple play. The bill provides "A"-vailability, "A"-ffordability and "A"-ccountability. It helps employees who try to obtain health insurance, employers who try to provide health insurance, and the bill tackles the high cost of health care.

It makes good on promises by raising the health deduction for self-employed to 50 percent by the year 2003, provides citizens the opportunity to contribute to Medical Savings Accounts, and allows individuals to deduct long-term care expenses.

The House Committees' team has made the advancement up to third base, and it's up to the rest of us to take it home. I urge my colleagues and teammates to support this historic bill.

Mr. CUNNINGHAM. Mr. Speaker, today I rise in support of Health Coverage Availability and Affordability Act, H.R. 3103, particularly the provisions which will provide small employers with the ability to reduce health insurance costs through the formation of multiple employer arrangements [MEWAs]. H.R. 3103 will bring affordable health care to millions of Americans who currently are uninsured, and will also provide greater assurance that those who already have health coverage will not lose it when they change jobs.

Without the small employer pooling provisions, any incremental health reform measure only addresses the problem of security for those who currently have health insurance. However, by providing small business with the same tools that are already available to large corporations in obtaining health coverage, we can also help the problem of the uninsured.

Eighty-five percent of the forty million uninsured are persons in families with at least one employed worker, and the majority of these workers are employed in small businesses. As small business becomes a larger portion of the economy, more and more people will find themselves employed by smaller companies. Thus, if we are ever going to make health coverage affordable for the uninsured, it is imperative that we provide small business with the same opportunities that already are available to large corporations for keeping health costs down.

Small employer pooling arrangements must operate uniformly across state lines, just like large employer arrangements do currently. We must provide a market-oriented, 21st century solution to the problem of the uninsured.

I urge you to vote in favor of H.R. 3103 to increase health care security and affordability for American workers.

Mr. LAZIO of New York. Mr. Speaker, I rise today in proud support of H.R. 3103, the Health Coverage & Affordability Act of 1996, of which I am a cosponsor.

This is a day which I have been looking forward to since I first took office over 3 years ago. Today, we are taking a long overdue step to provide real, substantive change to our health care system which will help working class families across America, and in my home district of Long Island.

For far too long, many Americans have worried that losing a job or having a preexisting condition would jeopardize the portability of their health insurance.

Because of this bill, workers will continue to have coverage if they change or lose their job—even with preexisting conditions. General Accounting Office [GAO] statistics show that 12 million workers with employer-based insurance leave their jobs every year, and millions more lose their jobs. H.R. 3103 would benefit up to 25 million Americans per year, including those who face job-lock, by eliminating the preexisting condition exclusions for persons with prior health insurance coverage.

An important feature of H.R. 3103 will eliminate discrimination based on genetic information. This would allow thousands of men and women to undergo genetic testing needed to preserve their health without fear of losing their health insurance or not being able to acquire it. This protection is essential for the women of Long Island, where instances of breast cancer are among the highest in the country. With H.R. 3103 in place, these women can be tested for BRCA–1, a gene linked to the disease, without fear of losing the insurance needed to meet their medical needs.

As a result of our efforts today, health care will become more affordable. H.R. 3103 tackles the problem created by rampant fraud and lawsuit abuse that drives up the cost, and will increase penalties for those who commit fraud and abuse. Importantly, this bill also increases the health insurance deduction for self-employed individuals from 30 percent to 50 percent by 2003, and allows taxpayers to make tax-deductible contributions to a medical savings account.

I urge my colleagues to support this bill and these reforms which will ease some of those worries of families who are already being squeezed by high taxes and falling wages by ensuring availability, affordability, and accountability to those who receive health care through their jobs. The American people deserve this and we owe it to them to pass it by a wide bi-partisan margin.

Mr. KLECZKA. Mr. Speaker, Americans will today witness firsthand an overt effort by the Republican leadership to sink a much-needed piece of legislation for the sake of preserving their cozy relationship with special-interests. A perfectly good insurance reform bill introduced by Senators KENNEDY and KASSEBAUM and Representative ROUKEMA in the House has been loaded with extra, controversial provisions that will make it difficult, if not impossible, to pass into law.

While modest, the original bill could help 21 million Americans by waiving the pre-existing condition exclusions for individuals who have had continuous health coverage. As many as 4 million people who are currently "locked" into their jobs for fear of losing needed health coverage for themselves or their family would benefit from the bill's national portability standards.

Yet, despite the fact that this bill will benefit 25 million Americans, Republicans in the House do not support it. In the Ways and Means Committee, the Kennedy-Kassebaum-Roukema bill did not receive one Republican vote. Apparently, 25 million hard-working Americans are not enough to convince the GOP that we need this legislation. Evidently, unless it has the blessing of the Health Insurance Association of America it is not worth voting for.

Why else would these Members condition their support for insurance reform on adding "sweeteners" like medical liability provisions that limit the legal rights of malpractice victims? Why do we need to permit insurance companies to sell Medicare beneficiaries unnecessary and costly policies that duplicate benefits they already have?

The Republican bill (H.R. 3103) includes other items that will likely meet strong opposition in the Senate, namely, controversial provisions that effectively limit the ability of States to enact health care reforms by pre-empting existing state regulations on multi-employer health plans. Already, a large percentage of employers are exempt from state reforms under the ERISA. With this provision, Congress takes even more health plans out of states' reach.

This add-on is especially puzzling since it flies in the face of the States' rights argument we have been hearing over and over from the Republicans. They want to block grant Medicaid, welfare, public housing, senior employment programs and other Federal initiatives and let the states administer and regulate them. Why not health care reform? Their own argument that the states can do things better and more efficiently than the Federal Government is contradicts this new policy.

As one of only four Democrats that cast their vote in favor of the Ways and Means insurance reform legislation, I strongly support providing my constituents with health coverage they can take from job to job. But, I differ from my Republican colleagues in one important respect. Not only do I support it—I also want it to pass. This final version of the bill bends over backwards so far to please so many special interests that it severs the spine that holds it together and paralyzes the legislative process.

Mr. Speaker, I support the clean Democratic substitute, which is identical to the original Kennedy-Kassebaum-Roukema bill and I urge my colleagues to do likewise.

Mr. COSTELLO. Mr. Speaker, I rise today in support of the Kennedy-Kassebaum substitute to be offered by the Democratic leader, and in opposition to the bill as a whole. Unfortunately, radical members of the majority conference have hijacked this bill and turned it into a special-interest Christmas tree, which could very well jeopardize its passage in the Congress.

Health insurance reform is long past due. Millions of Americans are still routinely denied health care coverage because of preexisting conditions. Some are forced to remain in stagnant jobs and turn down promotions or other job opportunities in order to insure the continuation of their employer-sponsored health care benefits.

The Senate has introduced legislation with wide bipartisan support to address the issue of portability of insurance. That legislation, the Kassebaum-Kennedy bill, ensures health insurance portability when individuals move from one employer to another. President Clinton voiced his support for this legislation during his State of the Union Address. In the House

of Representatives, my colleague, Representative ROUKEMA has introduced similar legislation, and 192 of my colleagues have joined me in cosponsoring Representative ROUKEMA's legislation.

With the broad bipartisan support of this health insurance reform, it is a disgrace that the Republican leadership has sabotaged the enactment of this legislation by adding controversial provisions to the bill. Some Members in the Senate have suggested these provisions may end the chances of passage of this legislation, which is why I will vote for the Kennedy-Kassebaum-Roukema substitute and against final passage. This issue is too important to let partisan politics jeopardize the health care of the American people. We have waited for too long. The time is now to pass and enact a clean health insurance reform bill that will assure the portability of health insurance when individuals change jobs.

Ms. DUNN of Washington. Mr. Speaker, I rise today in strong support of the Health Coverage Availability and Affordability Act of 1996. This legislation solves the health insurance problems most common among my constituents in Washington State—eliminating job lock and preexisting conditions while keeping the costs of premiums down.

A critical component of our efforts to keep the cost of health insurance down is the set of provisions to reduce fraud and abuse in our Nation's health care system.

According to the General Accounting Office, each year as much as 10 percent of our Nation's total health care expenditures are lost to fraud and abuse. With annual health care costs in the United States approaching $1 trillion, fraud and abuse is robbing taxpayers and policyholders of about $100 billion each year.

Let me repeat that because it is an important fact: fraud and abuse is costing our constituents about $100 billion each year.

Despite the enormity of the problem, the GAO concluded that "only a small fraction of the fraud and abuse committed against the health care system is identified."

The Department of Health and Human Services has estimated that Medicare and Medicaid programs alone lose as much as $31 billion annually to fraud and abuse.

And who pays? Patients, that is who. And in the case of Medicare and Medicaid, taxpayers pay for health care fraud and abuse in the form of higher health care costs and higher premiums.

For all these reasons attacking fraud and abuse is an essential component of the measure before us today.

For instance, we get tough on fraudulent and unscrupulous suppliers and providers who game the system in order to reap billions of dollars.

Through the establishment of the Medicare Integrity Program, we greatly increase Medicare's ability to prevent payments for fraudulent, or erroneous claims, and to identify illegal billing schemes early to avoid large losses.

We provide incentives for individual beneficiaries to report fraudulent, abusive, or wasteful claims practices.

Under the bill, a Health Care Fraud and Abuse Account with the Federal hospital trust fund is created. Moneys derived from the newly coordinated health care antifraud and abuse programs will be transferred into the trust for the expressed purposes of fighting fraud and abuse.

This new funding is vital because there has been a 45-percent drop in per claim spending on Medicare fraud and abuse prevention activities since 1989, despite historic savings rates in excess of $10 for every $1 invested in prevention. Our plan devotes more resources to the fight against fraud and abuse.

We also toughen criminal laws and enforcement tools for intentional fraud and abuse. The lack of a specific Federal health care fraud criminal statute, coupled with weak sanctions, has significantly hampered law enforcement's efforts to combat health care fraud. That is why it is so necessary to create this new criminal offense for activities such as theft, embezzlement, false statements, and money laundering. We then provide for mandatory forfeiture of property in such cases. In addition, civil monetary penalties will be substantially increased from $2,000 to $10,000 for each item or service involved. All of these efforts will serve to deter future abuses.

Strengthening prevention, increased funding for the battle against fraud and abuse, better coordination and enforcement, new criminal fraud statutes—all of these are included in this bill. I urge my colleagues to support our effort to end this annual $100 billion rip-off of taxpayers by supporting the bill.

Mr. MANZULLO. Mr. Speaker, the legislation we are considering here today, H.R. 3103, will enable millions of Americans to purchase affordable health insurance. H.R. 3103 will extend to Americans of all incomes, health status, and employment status the ability to enter into the health care market.

One of the biggest problems facing workers in job transition is that health insurance is not portable. Although the average person will change jobs eight times during his working life, employees are limited in their ability to keep their health insurance during job changes and periods of unemployment. One consequence is that many employees experience job lock, remaining in jobs just to keep their health insurance.

H.R. 3103 addresses this problem in several ways. This bill allows individuals to purchase tax-free medical savings accounts [MSA's], which allow people to contribute to their own health care savings fund. Under MSA's, people could confine health insurance to catastrophic coverage, reduce their monthly insurance premiums and make deposits to a MSA instead. Insurance would be used to pay for expensive and infrequent treatments, while MSA funds would be used to pay small bills covering routine medical services. Moreover, these accounts would be portable so that if one person moves to another job or loses their job, health coverage would not end. MSA's would make it easier for employees to pay premiums during unemployment or job transition. Since workers are spending their own money, MSA's also would restrain health care spending by empowering consumers to make cost-conscious purchasing decisions.

This legislation also provides portability for persons moving from one employer group health plan to another. Under this bill, when a person is covered by an employer health plan, the plan cannot refuse to cover a preexisting condition for more than 12 months. However, individuals changing jobs would receive credit for periods of continuous health care coverage under their previous employer's group health plan. So if a person has employer-sponsored health coverage for at least 12 months and switches to another employer who provides health benefits, no preexisting condition exclusion will be allowed.

The Health Coverage Availability and Affordability Act also allows small employers to band together in associations to form multiple employer groups that could fully-insure or self-insure. Under current law, large businesses are allowed to buy health insurance under a different set of rules than small business. Large, self-insured businesses are exempted from State law in their health plans while small businesses are stuck with State mandates, premium taxes, and other forms of regulation. This inequity between big business and small business in large part explains why the premiums of corporate America are going down while small business premiums are going up.

In addition, this legislation seeks to provide a greater incentive for the self-employed of this country to purchase health insurance by raising the amount they can deduct for health care costs from 30 percent to 50 percent by the year 2003. One of the major problems facing small business is the high cost of health insurance. There are nearly 3 million self-employed Americans without health insurance. If this group of business owners were given a greater deduction, many of these uninsured would purchase insurance, substantially reducing the number of uninsured Americans.

Mr. Chairman, H.R. 3103 encompasses measures that will enhance the current market system and make health insurance accessible and affordable for millions of Americans, and I strongly support its passage.

Mr. KOLBE. Mr. Speaker, I have heard from a number of my constituents from Tucson, some healthy, some with diabetes, multiple sclerosis, or asthma, and many who have a child that has health problems. It is for these people that we will vote on reform of the health insurance market.

Our current health insurance market provides too little protection for individuals and families with significant health problems and makes it to difficult for employers—particularly small employers—to obtain adequate health coverage for their employees.

Mr. Speaker we need to ask ourselves what will the health Care Availability and Affordability Act do for the American people:

The bill will allow workers to move from job to job.

The bill will allow workers who lose their job to maintain their health care insurance, and

The bill will allow workers to maintain their health care insurance if they move to a company that does not offer health care services.

What will the Health Care Availability and Affordability Act do for business community:

The bill will allow small business to join together under the auspices of ERISA to purchase insurance coverage or to cover their employees under self-insured multiple employer health plans.

Mr. Speaker, it is obvious how this will help the American people. Smaller companies will have the opportunities to pool together to purchase health care insurance, therefore, increasing the access of health care services to

small business employees while reducing the cost of insurance premiums. It put small and large business in the same playing field.

Mr. Speaker, the Health Care Availability and Affordability Act, in addition to making health insurance more available and portable, addresses a even more pressing issue the affordability of health care services.

The bill will raise the health insurance deductible percent age from 30 to 50 percent for the self-employed.

The bill will allow individuals to include long-term care services as part of their health care expenditures Federal income tax deduction, and most importantly the bill will allow individuals covered by a high deductible health insurance plan or their employer to make a tax deductible contribution to a medicare savings account.

Mr. Speaker, the working families of this country have demanded changes to the health insurance market, and we have provided the mechanism, in the Health Care Availability and Affordability Act, that will give the American people what they need.

Mr. Speaker I urge my colleagues to join me in voting "aye" on the Health Care Availability and Affordability Act.

The SPEAKER pro tempore (Mr. COMBEST). All time for debate has expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, as the designee of the minority leader, under the rule, and on behalf of myself and my two colleagues, the gentleman from South Carolina [Mr. SPRATT] and the gentleman from Texas [Mr. BENTSEN], I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. DINGELL:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Insurance Reform Act of 1996".

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

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SUBTITLE A—GROUP MARKET RULES

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Sec. 110. Individual health plan portability.
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SUBTITLE C—COBRA CLARIFICATIONS

Sec. 121. Cobra clarification.

SUBTITLE D—PRIVATE HEALTH PLAN PURCHASING COOPERATIVES

Sec. 131. Private health plan purchasing cooperatives.

SUBTITLE E—APPLICATION AND ENFORCEMENT OF STANDARDS

Sec. 141. Applicability.
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SUBTITLE F—MISCELLANEOUS PROVISIONS

Sec. 191. Health coverage availability study.
Sec. 192. Effective date.
Sec. 193. Severability.

SEC. 100. DEFINITIONS.

As used in this title:

(1) BENEFICIARY.—The term "beneficiary" has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(8)).

(2) EMPLOYEE.—The term "employee" has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)).

(3) EMPLOYER.—The term "employer" has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of two or more employees.

(4) EMPLOYEE HEALTH BENEFIT PLAN.—

(A) IN GENERAL.—The term "employee health benefit plan" means any employee welfare benefit plan, governmental plan, or church plan (as defined under paragraphs (1), (32), and (33) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1), (32), and (33))) that provides or pays for health benefits (such as provider and hospital benefits) for participants and beneficiaries whether—

(i) directly;

(ii) through a group health plan offered by a health plan issuer as defined in paragraph (8); or

(iii) otherwise.

(B) RULE OF CONSTRUCTION.—An employee health benefit plan shall not be construed to be a group health plan, an individual health plan, or a health plan issuer.

(C) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(5) FAMILY.—

(A) IN GENERAL.—The term "family" means an individual, the individual's spouse, and the child of the individual (if any).

(B) CHILD.—For purposes of subparagraph (A), the term "child" means any individual who is a child within the meaning of section 151(c)(3) of the Internal Revenue Code of 1986.

(6) GROUP HEALTH PLAN.—

(A) IN GENERAL.—The term "group health plan" means any contract, policy, certificate or other arrangement offered by a health plan issuer to a group purchaser that provides or pays for health benefits (such as provider and hospital benefits) in connection with an employee health benefit plan.

(B) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof;

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(7) GROUP PURCHASER.—The term "group purchaser" means any person (as defined under paragraph (9) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(9)) or entity that purchases or pays for health benefits (such as provider or hospital benefits) on behalf of two or more participants or beneficiaries in connection with an employee health benefit plan. A health plan purchasing cooperative established under section 131 shall not be considered to be a group purchaser.

(8) HEALTH PLAN ISSUER.—The term "health plan issuer" means any entity that is licensed (prior to or after the date of enactment of this Act) by a State to offer a group health plan or an individual health plan.

(9) HEALTH STATUS.—The term "health status" includes, with respect to an individual, medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability.

(10) PARTICIPANT.—The term "participant" has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(7)).

(11) PLAN SPONSOR.—The term "plan sponsor" has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(16)(B)).

(12) SECRETARY.—The term "Secretary", unless specifically provided otherwise, means the Secretary of Labor.

(13) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Subtitle A—Group Market Rules

SECTION 101. GUARANTEED AVAILABILITY OF HEALTH COVERAGE.

In General.—

(1) NONDISCRIMINATION.—Except as provided in subsection (b), section 102 and section 103—

(A) a health plan issuer offering a group health plan may not decline to offer whole group coverage to a group purchaser desiring to purchase such coverage; and

(B) an employee health benefit plan or a health plan issuer offering a group health plan may establish eligibility, continuation of eligibility, enrollment, or premium; contribution requirements under the terms of such plan, except that such requirements shall not be based on health status (as defined in section 100(9)).

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall prevent an employee health benefit plan or a health plan issuer from establishing premiums; discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(b) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering a group health plan may cease offering coverage to group purchasers under the plan if—

(A) the health plan issuer ceases to offer coverage to any additional group purchasers; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered participants and beneficiaries (and additional participants and beneficiaries who will be expected to enroll because of their affiliation with a group purchaser or such previously covered participants or beneficiaries) will be impaired if the health plan issuer is required to offer coverage to additional group purchasers.

Such health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering a group health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer offers coverage to group purchasers under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(e) CONSTRUCTION.—

(1) MARKETING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering group health plans to actively market such plans.

(2) INVOLUNTARY OFFERING OF GROUP HEALTH PLANS.—Nothing is this section shall be construed to require a health plan issuer to involuntarily offer group health plans in a particular market. For the purposes of this paragraph, the term "market" means either the large employer market or the small employer market (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees).

SEC. 102. GUARANTEED RENEWABILITY OF HEALTH COVERAGE.

(A) IN GENERAL.—

(1) GROUP PURCHASER.—Subject to subsections (b) and (c), a group health plan shall be renewed or continued in force by a health plan issuer at the option of the group purchaser, except that the requirement of this subparagraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the group purchaser in accordance with the terms of the group health plan or where the health plan issuer has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the group purchaser;

(C) the termination of the group health plan in accordance with subsection (b); or

(D) the failure of the group purchaser to meet contribution or participation requirements in accordance with paragraph (3).

(2) PARTICIPANT.—Subject to subsections (b) and (c), coverage under an employee health benefit plan or group health plan shall be renewed or continued in force, if the group purchaser elects to continue to provide coverage under such plan, at the option of the participant (or beneficiary where such right exists under the terms of the plan or under applicable law), except that the requirement of this paragraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the participant or beneficiary in accordance with the terms of the employee health benefit plan or group health plan or where such plan has not received timely premium payments.

(B) fraud or misrepresentation of material fact on the part of the participant or beneficiary relating to an application for coverage or claim for benefits;

(C) the termination of the employee health benefit plan or group health plan;

(D) loss of eligibility for continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.); or

(E) failure of a participant or beneficiary to meet requirements for eligibility for coverage under an employee health benefit plan or group health plan that are not prohibited by this title.

(3) RULES OF CONSTRUCTION.—Nothing in this subsection, nor in section 101(a), shall be construed to—

(A) preclude a health plan issuer from establishing employer contribution rules or group participation rules for group health plans as allowed under applicable State law;

(B) preclude a plan defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102(37)) from establishing employer contribution rules or group participation rules; or

(C) permit individuals to decline coverage under an employee health benefit plan if such right is not otherwise available under such plan.

(b) TERMINATION OF GROUP HEALTH PLANS.—

(1) PARTICULAR TYPE OF GROUP HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of group health plan. A group health plan of such type may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each group purchaser covered under a group health plan of this type (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 90 days prior to the date of the discontinuation of such plan;

(B) the health plan issuer offers to each group purchaser covered under a group health plan of this type, the option to purchase any other group health plan currently being offered by the health plan issuer; and

(C) in exercising the option to discontinue a group health plan of this type and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of participants or beneficiaries covered under the group health plan, or new participants or beneficiaries who may become eligible for coverage under the group health plan.

(2) DISCONTINUANCE OF ALL GROUP HEALTH PLANS.—

(A) IN GENERAL.—In any case in which a health plan issuer elects to discontinue offering all group health plans in a State, a group health plan may be discontinued by the health plan issuer only if—

(i) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each group purchaser (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 180 days prior to the date of the expiration of such plan, and

(ii) all group health plans issued or delivered for issuance in the State or discontinued and coverage under such plans is not renewed.

(B) APPLICATION OF PROVISIONS.—The provisions of this paragraph and paragraph (3) may be applied separately by a health plan issuer—

(i) to all group health plans offered to small employers (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees); or

(ii) to all other group health plans offered by the health plan issuer in the State.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any group health plan in the market sector (as described in paragraph (2)(B)) in which issuance of such group health plan was discontinued in the State involved during the 5-year period beginning on the date of the discontinuation of the last group health plan not so renewed.

TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A network plan (as defined in paragraph (2)) may deny continued participation under such plan to participants or beneficiaries who neither live, reside, nor work in an area in which such network plan is offered, but only if such denial is applied uniformly, without regard to health status of particular participants or beneficiaries.

(2) NETWORK PLAN.—As used in paragraph (1), the term "network plan" means an employee health benefit plan or a group health plan that arranges for the financing and delivery of health care services to participants or beneficiaries covered under such plan, in whole or in part, through arrangements with providers.

(d) COBRA COVERAGE.—Nothing in subsection (a)(2)(E) or subsection (c) shall be construed to affect any right to COBRA continuation coverage as described in part 6 of subtitle B of title I of the employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.).

SEC. 103. PORTABILITY OF HEALTH COVERAGE AND LIMITATION ON PREEXISTING CONDITION EXCLUSIONS.

(a) IN GENERAL.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to treatment of a preexisting condition based on the fact that the condition existed prior to the coverage of the participant or beneficiary under the plan only if—

(1) the limitation or exclusion extends for a period of not more than 12 months after the date of enrollment in the plan;

(2) the limitation or exclusion does not apply to an individual who, within 30 days of the date of birth or placement for adoption (as determined under section 609(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(c)(3)(B)), was covered under the plan; and

(3) the limitation or exclusion does not apply to a pregnancy.

(b) CREDITING OF PREVIOUS QUALIFYING COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (4), an employee health benefit plan or a health plan issuer offering a group health plan shall provide that if a participant or beneficiary is in a period of previous qualifying coverage as of the date of enrollment under such plan, any period of exclusion or limitation of coverage with respect to a preexisting condition shall be reduced by 1 month for each month in which the participant or beneficiary was in the period of previous qualifying coverage. With respect to an individual described in subsection (a)(2) who maintains continuous coverage, no limitation or exclusion of benefits relating to treatment of a preexisting condition may be applied to a child within the child's first 12 months of life or within 12 months after the placement of a child for adoption.

(2) DISCHARGE OF DUTY.—An employee health benefit plan shall provide documentation of coverage to participants and beneficiaries who coverage is terminated under the plan. Pursuant to regulations promulgated by the Secretary, the duty of an employee health benefit plan to verify previous qualifying coverage with respect to a participant or beneficiary is effectively discharged when such employee health benefit plan provides documentation to a participant or beneficiary that includes the following information:

(A) the dates that the participant or beneficiary was covered under the plan; and

(B) the benefits and cost-sharing arrangement available to the participant or beneficiary under such plan.

An employee health benefit plan shall retain the documentation provided to a participant or beneficiary under subparagraphs (A) and (B) for at least the 12-month period following the date on which the participant or beneficiary ceases to be covered under the plan. Upon request, an employee health benefit plan shall provide a second copy of such documentation or such participant or beneficiary within the 12-month period following the date of such ineligibility.

(3) DEFINITIONS.—As used in this section:

(A) PREVIOUS QUALIFYING COVERAGE.—The term "previous qualifying coverage" means the period beginning on the date—

(i) a participant or beneficiary is enrolled under an employee health benefit plan or a group health plan, and ending on the date the participant or beneficiary is not so enrolled; or

(ii) an individual is enrolled under an individual health plan (as defined in section 113) or under a public or private health plan established under Federal or State law, and ending on the date the individual is not so enrolled;

for a continuous period of more than 30 days (without regard to any waiting period).

(B) LIMITATION OR EXCLUSION OF BENEFITS RELATING TO TREATMENT OF A PREEXISTING CONDITION.—The term "limitation or exclusion of benefits relating to treatment of a preexisting condition" means a limitation or exclusion of benefits imposed on an individual based on a preexisting condition of such individual.

(4) EFFECT OF PREVIOUS COVERAGE.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition, subject to the limits in subsection (a)(1), only to the extent that such service or benefit was not previously covered under the group health plan, employee health benefit plan, or individual health plan in which the participant or beneficiary was enrolled immediately prior to enrollment in the plan involved.

(c) LATE ENROLLEES.—Except as provided in section 104, with respect to a participant or beneficiary enrolling in an employee health benefit plan or group health plan during a time that is other than the first opportunity to enroll during an enrollment period of at least 30 days, coverage with respect to benefits or services relating to the treatment of a preexisting condition in accordance with subsection (a) and (b) may be excluded except the period of such exclusion may not exceed 18 months beginning on the date of coverage under the plan.

(d) AFFILIATION PERIODS.—With respect to a participant or beneficiary who would otherwise be eligible to receive benefits under an employee health benefit plan or a group health plan but for the operation of a preexisting condition limitation or exclusion, if such plan does not utilize a limitation or exclusion of benefits relating to the treatment of a preexisting condition, such plan may impose an affiliation period on such participant or beneficiary not to exceed 60 days (or in the case of a late participant or beneficiary described in subsection (c), 90 days) from the date on which the participant or beneficiary would otherwise be eligible to receive benefits under the plan. An employee health benefit plan or a health plan issuer offering a group health plan may also use alternative methods to address adverse section as approved by the applicable certifying authority (as defined in section 142(d)). During such an affiliation period, the plan may not be required to provide health care services or benefits and no premium shall be charged to the participant or beneficiary.

(e) PREEXISTING CONDITIONS.—For purposes of this section, the term "preexisting condition" means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before the effective date of the coverage (without regard to any waiting period).

(f) STATE FLEXIBILITY.—Nothing in this section shall be construed to preempt State laws that—

(1) require health plan issuers to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition for periods that are shorter than those provided for under this section; or

(2) allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 30-day period provided for under subsection (b)(3);

unless such laws are preempted by section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 104. SPECIAL ENROLLMENT PERIODS.

In the case of a participant, beneficiary or family member who—

(1) through marriage, separation, divorce, death, birth or placement of a child for adoption, experiences a change in family composition affecting eligibility under a group health plan, individual health plan, or employee health benefit plan;

(2) experiences a change in employment status, as described in section 603(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163(2)), that causes the loss of eligibility for coverage, other than COBRA continuation coverage under a group health plan, individual health plan, or employee health benefit plan; or

(3) experiences a loss of eligibility under a group health plan, individual health plan, or employee health benefit plan because of a change in the employment status of a family member;

each employee health benefit plan and each group health plan shall provide for a special enrollment period extending for a reasonable time after such event that would permit the participant to change the individual or family basis of coverage or to enroll in the plan if coverage would have been available to such individual, participant, or beneficiary but for failure to enroll during a previous enrollment period. Such a special enrollment period shall ensure that a child born or placed for adoption shall be deemed to be covered under the plan as of the date of such birth or placement for adoption if such child is enrolled within 30 days of the date of such birth or placement for adoption.

SEC. 105. DISCLOSURE OF INFORMATION.

(a) DISCLOSURE OF INFORMATION BY HEALTH PLAN ISSUER.—

(1) IN GENERAL.—In connection with the offering of any group health plan to a small employer (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees), a health plan issuer shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of—

(A) the provisions of such group health plan concerning the health plan issuer's right to change premium rates and the factors that may affect changes in premium rates.

(B) the provisions of such group health plan relating to renewability of coverage;

(C) the provisions of such group health plan relating to any preexisting condition provision; and

(D) descriptive information about the benefits and premiums available under all group health plans for which the employer is qualified.

Information shall be provided to small employers under this paragraph in a manner determined to be understandable by the average small employer, and shall be sufficiently accurate and comprehensive to reasonably inform small employers, participants and beneficiaries of their rights and obligations under the group health plan.

(2) EXCEPTION.—With respect to the requirement of paragraph (1), any information that is proprietary and trade secret information under applicable law shall not be subject to the disclosure requirements of such paragraph.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to preempt State reporting and disclosure requirements to the extent that such requirements are not preempted under section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(b) DISCLOSURE OF INFORMATION TO PARTICIPANTS AND BENEFICIARIES.—

(1) IN GENERAL.—Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended in the matter following subparagraph (B)—

(A) by striking "102(a)(1)," and inserting "102(a)(1) that is not a material reduction in covered services or benefits provided,"; and

(B) by adding at the end thereof the following new sentences: "If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided, a summary description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1996, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.".

(2) PLAN DESCRIPTION AND SUMMARY.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(A) by inserting "including the office or title of the individual who is responsible for approving or denying claims for coverage of benefits" after "type of administration of the plan";

(B) by inserting "including the name of the organization responsible for financing claims" after "source of financing of the plan"; and

(C) by inserting "including the office, contact, or title of the individual at the Department of Labor through which participants may seek assistance or information regarding their rights under this Act and title I of the Health Insurance Reform Act of 1996 with respect to health benefits that are not offered through a group health plan." after "benefits under the plan".

Subtitle B—Individual Market Rules

SEC. 110. INDIVIDUAL HEALTH PLAN PORTABILITY.

(a) LIMITATION ON REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsections (b) and (c), a health plan issuer described in paragraph (3) may not, with respect to an eligible individual (as defined in subsection (b)) desiring to enroll in an individual health plan—

(A) decline to offer coverage to such individual, or deny enrollment to such individual based on the health status of the individual; or

(B) impose a limitation or exclusion of benefits otherwise covered under the plan for the individual based on a preexisting condition unless such limitation or exclusion could have been imposed if the individual remained covered under a group health plan or employee health benefit plan (including providing credit for previous coverage in the manner provided under subtitle A).

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall be construed to prevent a health plan issuer offering an individual health plan from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion or disease prevention.

(3) HEALTH PLAN ISSUER.—A health plan issuer described in this paragraph in a health plan issuer that issues or renews individual health plans.

(4) PREMIUMS.—Nothing in this subsection shall be construed to affect the determination of a health plan issuer as to the amount of the premium payable under an individual health plan under applicable State law.

(b) DEFINITION OF ELIGIBLE INDIVIDUAL.—As used in subsection (a)(1), the term "eligible individual" means an individual who—

(1) was a participant or beneficiary enrolled under one or more group health plans, employee health benefit plans, or public plans established under Federal or State law, for not less than 18 months (without a lapse in coverage of more than 30 consecutive days) immediately prior to the date on which the individual desired to enroll in the individual health plan.

(2) is not eligible for coverage under a group health plan or an employee health benefit plan;

(3) has not had coverage terminated under a group health plan or employee health benefit plan for failure to make required premium payments or contributions, or for fraud or misrepresentation of material fact; and

(4) has, if applicable, accepted and exhausted the maximum required period of continuous coverage as described in section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) or under an equivalent State program.

(c) APPLICABLE OF CAPACITY LIMIT.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering coverage to individuals under an individual health plan may cease enrolling individuals under the plan if—

(A) the health plan issuer ceases to enroll any new individuals; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered individuals will be impaired if the health plan issuer is required to enroll additional individuals.

Such a health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering coverage to individuals under an individual health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer provides for enrollment of individuals under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(d) MARKET REQUIREMENT.—

(1) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that a health plan issuer offering group health plans to group purchasers offer individual health plans to individuals.

(2) CONVERSION POLICIES.—A health plan issuer offering group health plans to group purchasers under this title shall not be deemed to be a health plan issuer offering an individual health plan solely because such health plan issuer offers a conversion policy.

(3) MARKETING OF PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

SEC. 111. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH COVERAGE.

(a) IN GENERAL.—Subject to subsections (b) and (c), coverage for individuals under an individual health plan shall be renewed or continued in force by a health plan issuer at the option of the individual, except that the requirement of this subsection shall not apply in the case of—

(1) the nonpayment of premiums or contributions by the individual in accordance with the terms of the individual health plan or where the health plan issuer has not received timely premium payments;

(2) fraud or misrepresentation of material fact on the part of the individual; or

(3) the termination of the individual health plan in accordance with subsection (b).

(b) TERMINATION OF INDIVIDUAL HEALTH PLANS.—

(1) PARTICULAR TYPE OF INDIVIDUAL HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of individual health plan to individuals, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each individual covered under the plan of such discontinuation at least 90 days prior to the date of the expiration of the plan.

(B) the health plan issuer offers to each individual covered under the plan the option to purchase any other individual health plan currently being offered by the health plan issuer to individuals; and

(C) in exercising the option to discontinue the individual health plan and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of particular individuals.

(21) DISCONTINUANCE OF ALL INDIVIDUAL HEALTH PLANS.—In any case in which a health plan issuer elects to discontinue all individual health plans in a State, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each individual covered under the plan of such discontinuation at least 180 days prior to the date of the discontinuation of the plan; and

(B) all individual health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any individual health plan in the State involved during the 5-year period beginning on the date of the discontinuation of the last plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A health plan issuer which offers a network plan (as defined in paragraph (2)) may deny continued participation under the plan to individuals who neither live, reside, nor work in an area in which the individual health plan is offered, but only if such denial is applied uniformly, without regard to health status of particular individuals.

(2) NETWORK PLAN.—As used in paragraph (1), the term "network plan" means an individual health plan that arranges for the financing and delivery of health care services to individuals covered under such health plan, in whole or in part, through arrangements with providers.

SEC. 112. STATE FLEXIBILITY IN INDIVIDUAL MARKET REFORMS.

(a) IN GENERAL.—With respect to any State law with respect to which the Governor of the State notifies the Secretary of Health and Human Services that such State law will achieve the goals of sections 110 and 111, and that is in effect on, or enacted after, the date of enactment of this Act (such as laws providing for guaranteed issue, open enrollment

by one or more health plan issuers, high-risk pools, or mandatory conversion policies), such State law shall apply in lieu of the standards described in sections 110 and 111 unless the Secretary of Health and Human Services determines, after considering the criteria described in subsection (b)(1), in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, that such State law does not achieve the goals of providing access to affordable health care coverage for those individuals described in sections 110 and 111.

(b) DETERMINATION.—

(1) IN GENERAL.—In making a determination under subsection (a), the Secretary of Health and Human Services shall only—

(A) evaluate whether the State law or program provides guaranteed access to affordable coverage to individuals described in sections 110 and 111;

(B) evaluate whether the State law or program provides coverage for preexisting conditions (as defined in section 103(e)) that were covered under the individuals' previous group health plan or employee health benefit plan for individuals described in sections 110 and 111.

(C) evaluate whether the State law or program provides individuals_described in sections 110 and 111 with a choice of health plans or a health plan providing comprehensive coverage, and

(D) evaluate whether the application of the standards described in sections 110 and 111 will have an adverse impact on the number of individuals in such State having access to affordable coverage.

(2) NOTICE OF INTENT.—If, within 6 months after the date of enactment of this Act, the Governor of a State notifies the Secretary of Health and Human Services that the State intends to enact a law, or modify an existing law, described in subsection (a), the Secretary of Health and Human Services may not make a determination under such subsection until the expiration of the 12-month period beginning on the date on which such notification is made, or until January 1, 1998, whichever is later. With respect to a State that provides notice under this paragraph and that has a legislature that does not meet within the 12-month period beginning on the date of enactment of this Act, the Secretary shall not make a determination under subsection (a) prior to January 1, 1998.

(3) NOTICE TO STATE.—If the Secretary of Health and Human Services determines that a State law or program does not achieve the goals described in subsection (a), the Secretary of Health and Human Services shall provide the State with adequate notice and reasonable opportunity to modify such law or program to achieve such goals prior to making a final determination under subsection (a).

(c) ADOPTION OF NAIC MODEL.—If, not later than 9 months after the date of enactment of this Act—

(1) the National Association of Insurance Commissioners (hereafter referred to as the "NAIC"), through a process which the Secretary of Health and Human Services determines has included consultation with representatives of the insurance industry and consumer groups, adopts a model standard or standards for reform of the individual health insurance market, and

(2) the Secretary of Health and Human Services determines, within 30 days of the adoption of such NAIC standard or standards, that such standards comply with the goals of sections 110 and 111:

a State that elects to adopt such model standards or substantially adopt such model standards shall be deemed to have met the requirements of sections 110 and 111 and shall be subject to a determination under subsection (a).

SEC. 113. DEFINITION.

(a) IN GENERAL.—As used this title, the term "individual health plan" means any contract, policy, certificate or other arrangement offered to individuals by a health plan issuer that provides or pays for health benefits (such as provider and hospital benefits) and that is not a group health plan under section 2(6).

(b) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(1) Coverage only for accident, or disability income insurance, or any combination thereof.

(2) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(3) Coverage issued as a supplement to liability insurance.

(4) Liability insurance, including general liability insurance and automobile liability insurance.

(5) Workers' compensation or similar insurance.

(6) Automobile medical payment insurance.

(7) Coverage for a specified disease or illness.

(8) Hospital of fixed indemnity insurance.

(9) Short-term limited duration insurance.

(10) Credit-only, dental-only, or vision-only insurance.

(11) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

Subtitle C—COBRA Clarifications

SEC. 121. COBRA CLARIFICATIONS.

(a) PUBLIC HEALTH SERVICE ACT.—

(1) PERIOD OF COVERAGE.—Section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb–2(2)) is amended—

(A) in subparagraph (A)—

(i) by transferring the sentence immediately preceding clause (iv) so as to appear immediately following such clause (iv); and

(ii) in the last sentence (as so transferred)—

(I) by inserting ", or a beneficiary-family member of the individual," after "an individual"; and

(II) by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title";

(B) in subparagraph (D)(i), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996", and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title",

(2) ELECTION.—Section 2205(1)(C) of the Public Health Service Act (42 U.S.C. 300bb–5(1)(C)) is amended—

(A) in clause (i), by striking "or" at the end thereof.

(B) in clause (ii), by striking the period and inserting ", or", and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of an individual described in the last sentence of section 2202(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 2206(3) of the Public Health Service Act (42 U.S.C. 300bb–6(3)) is amended by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 2208(3)(A) of the Public Health Service Act (42 U.S.C. 300bb–8(3)(A)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this title.".

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) PERIOD OF COVERAGE.—Section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended—

(A) in the last sentence of subparagraph (A)—

(i) by inserting ", or a beneficiary-family member of the individual." after "an individual"; and

(ii) by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part",

(B) in subparagraph (D)(i), by inserting before, ", or" the following ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(2) ELECTION.—Section 605(1)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165(1)(C)) is amended—

(A) in clause (i), by striking "or" at the end thereof;

(B) in clause (ii), by striking the period and inserting ", or"; and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of an individual described in the last sentence of section 602(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 606(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(3)) is amended by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 607(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this part.".

(c) INTERNAL REVENUE CODE OF 1986.—

(1) PERIOD OF COVERAGE.—Section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended—

(A) in the last sentence of clause (i) by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(B) in clause (iv)(I), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this subclause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this subsection because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in clause (v), by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(2) ELECTION.—Section 4980B(f)(5)(A)(ii) of the Internal Revenue Code of 1986 is amended—

(A) in subclause (I), by striking "or" at the end thereof;

(B) in subclause (II), by striking the period and inserting ", or", and

(C) by adding at the end thereof the following new subclause:

"(III) in the case of an qualified beneficiary described in the last sentence of paragraph (2)(B)(i), the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 4980B(f)(6)(C) of the Internal Revenue Code of 1986 is amended by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this section.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualifying events occurring on or after the date of enactment of this Act for plan years beginning after December 31, 1997.

(e) NOTIFICATION OF CHANGES.—Not later than 60 days prior to the date on which this section becomes effective, each group health plan (covered under title XXII of the Public Health Service Act, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and section 4980B(f) of the Internal Revenue Code of 1986) shall notify each qualified beneficiary who has elected continuation coverage under such title, part or section of the amendments made by this section.

Subtitle D—Private Health Plan Purchasing Cooperatives

SEC. 131. PRIVATE HEALTH PLAN PURCHASING COOPERATIVES.

(a) DEFINITION.—As used in this title, the term "health plan purchasing cooperative" means a group of individuals or employers that, on a voluntary basis and in accordance with this section, form a cooperative for the purpose of purchasing individual health plans or group health plans offered by health plan issuers. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of insurance may not underwrite a cooperative.

(b) CERTIFICATION.—

(1) IN GENERAL.—If a group described in subsection (a) desires to form a health plan purchasing cooperative in accordance with this section and such group appropriately notifies the State and the Secretary of such desire, the State, upon a determination that such group meets the requirements of this section, shall certify the group as a health plan purchasing cooperative. The State shall make a determination of whether such group meets the requirements of this section in a timely fashion. Each such cooperative shall also be registered with the Secretary.

(2) STATE REFUSAL TO CERTIFY.—If a State fails to implement a program for certifying health plan purchasing cooperatives in accordance with the standards under this title, the Secretary shall certify and oversee the operations of such cooperative in such State.

(3) INTERSTATE COOPERATIVES.—For purposes of this section a health plan purchasing cooperative operating in more than one State shall be certified by the State in which the cooperative is domiciled. States may enter into cooperative agreements for the purpose of certifying and overseeing the operation of such cooperatives. For purposes of this subsection, a cooperative shall be considered to be domiciled in the State in which most of the members of the cooperative reside.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—Each health plan purchasing cooperative shall be governed by a Board of Directors that shall be responsible for ensuring the performance of the duties of the cooperative under this section. The Board shall be composed of a board cross-section of representatives of employers, employees, and individuals participating in the cooperative. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of individual health plans or group health plans may not hold or control any right to vote with respect to a cooperative.

(2) LIMITATION ON COMPENSATION.—A health plan purchasing cooperative may not provide compensation to members of the Board of Directors. The cooperative may provide reimbursements to such members for the reasonable and necessary expenses incurred by the members in the performance of their duties as members of the Board.

(3) CONFLICT OF INTEREST.—No member of the Board of Directors (or family members of such members) nor any management personnel of the cooperative may be employed by, be a consultant of, be a member of the board of directors or, be affiliated with an agent of, or otherwise be a representative of any health plan issuer, health care provider, or agent or broker. Nothing in the preceding sentence shall limit a member of the Board from purchasing coverage offered through the cooperative.

(d) MEMBERSHIP AND MARKETING AREA.—

(1) MEMBERSHIP.—A health plan purchasing cooperative may establish limits on the maximum size of employers who may become members of the cooperative, and may determine whether to permit individuals to become members. Upon the establishment of such membership requirements, the cooperative shall, except as provided in subparagraph (B), accept all employers (or individuals) residing within the area served by the cooperative who meet such requirements as members on a first-come, first-served basis, or on another basis established by the State to ensure equitable access to the cooperative.

(2) MARKETING AREA.—A State may establish rules regarding the geographic area that must be served by a health plan purchasing cooperative. With respect to a State that has not established such rules, a health plan purchasing cooperative operating in the State shall define the boundaries of the area to be served by the cooperative, except that such boundaries may not be established on the basis of health status of the populations that reside in the area.

(e) DUTIES AND RESPONSIBILITIES.—

(1) IN GENERAL.—A health plan purchasing cooperative shall—

(A) enter into agreements with multiple, unaffiliated health plan issuers, except that the requirement of this subparagraph shall not apply in regions (such as remote or frontier areas) in which compliance with such requirement is not possible.

(B) enter into agreements with employers and individuals who become members of the cooperative;

(C) participate in any program of risk-adjustment or reinsurance, or any similar program, that is established by the State.

(D) prepare and disseminate comparative health plan materials (including information about cost, quality, benefits, and other information concerning group health plans and individual health plans offered through the cooperative);

(E) actively market to all eligible employers and individuals residing within the service area; and

(F) act as an ombudsman for group health plan or individual health plan enrollees.

(2) PERMISSIBLE ACTIVITIES.—A health plan purchasing cooperative may perform such other functions as necessary to further the purposes of this title, including—

(A) collecting and distributing premiums and performing other administrative functions;

(B) collecting and analyzing surveys of enrollee satisfaction;

(C) charging membership fee to enrollees (such fees may not be based on health status) and charging participation fees to health plan issuers;

(D) cooperating with (or accepting as members) employers who provide health benefits directly to participants and beneficiaries only for the purpose of negotiating with providers, and

(E) negotiating with health care providers and health plan issuers.

(f) LIMITATIONS ON COOPERATIVE ACTIVITIES.—A health plan purchasing cooperative shall not—

(1) perform any activity relating to the licensing of health plan issuers.

(2) assume financial risk directly or indirectly on behalf of members of a health plan purchasing cooperative relating to any group health plan or individual health plan;

(3) establish eligibility, continuation of eligibility, enrollment, or premium contribution requirements for participants, beneficiaries, or individuals based on health status;

(4) operate on a for-profit or other basis where the legal structure of the cooperative permits profits to be made and not returned to the members of the cooperative, except that a for-profit health plan purchasing cooperative may be formed by a nonprofit organization—

(A) in which membership in such organization is not based on health status; and

(B) that accepts as members all employers or individuals on a first-come, first-served basis, subject to any established limit on the maximum size of and employer that may become a member; or

(5) perform any other activities that conflict or are inconsistent with the performance of its duties under this title.

(g) LIMITED PREEMPTIONS OF CERTAIN STATE LAWS.—

(1) IN GENERAL.—With respect to a health plan purchasing cooperative that meets the requirements of this section, State fictitious group laws shall be preempted.

(2) HEALTH PLAN ISSUERS.—

(A) RATING.—With respect to a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative that meets the requirements of this section. State premium rating requirement laws, except to the extent provided under subparagraph (B), shall be preempted unless such laws permit premium rates negotiated by the cooperative to be less than rates that would otherwise be permitted under State law, if such rating differential is not based on differences in health status or demographic factors.

(B) EXCEPTION.—State laws referred to in subparagraph (A) shall not be preempted if such laws—

(i) prohibit the variance of premium rates among employers, plan sponsors, or individuals that are members of health plan purchasing cooperative in excess of the amount of such variations that would be permitted under such State rating laws among employers, plan sponsors, and individuals that are not members of the cooperative; and

(ii) prohibit a percentage increase in premium rates for a new rating period that is in excess of that which would be permitted under State rating laws.

(C) BENEFITS.—Except as provided in subparagraph (D), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative shall comply with all State mandated benefit laws that require the offering of any services, category or care, or services of any class or type of provider.

(D) EXCEPTION.—In those states that have enacted laws authorizing the issuance of alternative benefit plans to small employers, health plan issuers may offer such alternative benefit plans through a health plan purchasing cooperative that meets the requirements of this section.

(h) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) require that a State organize, operate, or otherwise create health plan purchasing cooperatives;

(2) otherwise require the establishment of health plan purchasing cooperatives.

(3) require individuals, plan sponsors, or employers to purchase group health plans or individual health plans through a health plan purchasing cooperative;

(4) require that a health plan purchasing cooperative be the only type of purchasing arrangement permitted to operate in a State.

(5) confer authority upon a State that the State would not otherwise have to regulate health plan issuers or employee health benefits plans, or

(6) confer authority up a State (or the Federal Government) that the State (or Federal Government) would not otherwise have to regulate group purchasing arrangements, coalitions, or other similar entities that do not desire to become a health plan purchasing cooperative in accordance with this section.

(i) APPLICATION OF ERISA.—For purposes of enforcement only, the requirements of parts 4 and 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) shall apply to a health pan purchasing cooperative as if such plan were an employee welfare benefit plan.

Subtitle E—Application and Enforcement of Standards

SEC. 141. APPLICABILITY.

(A) CONSTRUCTION.—

(1) ENFORCEMENT.—

(A) IN GENERAL.—A requirement or standard imposed under this title on a group health plan or individual health plan offered by a health plan issuer shall be deemed to be a requirement or standard imposed on the health plan issuer. Such requirements or standards shall be enforced by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this title. In the case of a group health plan offered by a health plan issuer in connection with an employee health benefit plan, the requirements of standards imposed under the title shall be enforced with respect to the health plan issuer by the State insurance commissioner for the State involved or the official of officials designated by the State to enforce the requirements of this title.

(B) LIMITATION.—Except as provided in subsection (c), the Secretary shall not enforce the requirements or standards of this title as they relate to health plan issuers, group health plans, or individual health plans. In no case shall a Sate enforce the requirements or standards of this title as they relate to employee health benefit plans.

(2) PREEMPTION OF STATE LAW.—Nothing in this title shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements—

(A) not prescribed in this title; or

(B) related to the issuance, renewal, or portability of health insurance or the establishment or operation of group purchasing arrangements, that are consistent with, and are not in direct conflict with, this title and provide greater protection or benefit to participants, beneficiaries or individuals.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(c) CONTINUATION.—Nothing in this title shall be construed as requiring a group health plan or an employee health benefit plan to provide benefits to a particular participant or beneficiary in excess of those provided under the terms of such plan.

SEC. 202. ENFORCEMENT OF STANDARDS.

(a) HEALTH PLAN ISSUERS.—Each State shall require that each group health plan and individual health plan issued, sold, renewed, offered for sale or operated in such State by a health plan issuer meet the standards established under this title pursuant to an enforcement plan filed by the State with the Secretary. A State shall submit such information as required by the Secretary demonstrating effective implementation of the State enforcement law.

(b) EMPLOYEE HEALTH BENEFIT PLANS.—With respect to employee health benefit plans, the Secretary shall enforce the reform standards established under this title in the same manner as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(c) FAILURE TO IMPLEMENT PLAN.—In the case of the failure of a State to substantially enforce the standards and requirements set forth in this title with respect to group health plans and individual health plans as provided for under the State enforcement plan filed under subsection (a), the Secretary, in consultation with the Secretary of Health and Human Services, shall implement an enforcement plan meeting the standards of this title in such State. In the case of a State that fails to substantially enforce the standards and requirements set forth in this title, each health plan issuer operating in such State shall be subject to civil enforcement as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(d) APPLICABLE CERTIFYING AUTHORITY.—As used in this title, the term "applicable certifying authority"means, with respect to—

(1) health plan issuers, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State involved; and

(2) an employee health benefit, plan, the Secretary.

(e) REGULATIONS.—The Secretary may promulgate such regulations as may be necessary or appropriate to carry out this title.

(f) TECHNICAL AMENDMENT.—Section 508 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1138) is amended by inserting "and under the Health Insurance Reform Act of 1996" before the period.

Subtitle F—Miscellaneous Provisions

SEC. 191. HEALTH COVERAGE AVAILABILITY STUDY.

(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Secretary, representatives of State officials, consumers, and other representatives of individuals and entities that have expertise in health insurance and employee benefits, shall conclude a two-part study, and prepare and submit reports, in accordance with this section.

(b) EVALUATION OF AVAILABILITY.—Not later than January 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning—

(1) an evaluation, based on the experience of States, expert opinions, and such additional data as may be available, of the various mechanisms used to ensure the availability of reasonably priced health coverage to employers purchasing group coverage and to individuals purchasing coverage on a nongroup basis; and

(2) whether standards that limit the variation in premiums will further the purposes of this Act.

(c) EVALUATION OF EFFECTIVENESS.—Not later than January 1, 1999, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning the effectiveness of the provisions of this Act and the various State laws, in ensuring the availability of reasonably priced health coverage to employers purchasing group coverage and individuals purchasing coverage on a nongroup basis.

SEC. 192. EFFECTIVE DATE.

Except as otherwise provided for in this title, the provisions of this title shall apply as follows:

(1) With respect to group health plans and individual health plans, such provisions shall

apply to plans offered, sold, issued, renewed, in effect, or operated on or after January 1, 1997, and

(2) With respect to employee health benefit plans, on the first day of the first plan year beginning on or after January 1, 1997.

SEC. 193. SEVERABILITY.

If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE II—INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

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Sec. 231. Repeal of bad debt reserve method for thrift savings associations.

SEC. 200. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Increase in Deduction For Health Insurance Costs of Self-Employed Individuals

SEC. 201. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(1) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—

"(A) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined under the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
After 1996 and before 2002	50 percent.
2002 or thereafter	80 percent."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle B—Revenue Offsets

CHAPTER 1—TREATMENT OF INDIVIDUALS WHO EXPATRIATE

SEC. 211. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) MARK TO MARKET.—Except as provided in subsection (f), all property of a covered expatriate to which this section applies shall be treated as sold on the expatriation date for its fair market value.

"(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

"(3) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this paragraph) be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

"(A) IN GENERAL.—If an expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph) shall not apply to the expatriate, but

"(ii) the expatriate shall be subject to tax under this title, with respect to property to which this section would apply but for such election, in the same manner as if the individual were a United States citizen.

"(B) LIMITATION ON AMOUNT OF ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of paragraph (2)).

"(c) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(D) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) ELECTION TO DEFER TAX.—

"(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property—

"(A) no amount shall be required to be included in gross income under subsection (a)(1) with respect to the gain for such property for the taxable year of the sale, but

"(B) the taxpayer's tax for the taxable year in which such property is disposed of shall be increased by the deferred tax amount with respect to the property.

Except to the extent provided in regulations, subparagraph (B) shall apply to a disposition whether or not gain or loss is recognized in whole or in part on the disposition.

"(2) DEFERRED TAX AMOUNT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'deferred tax amount' means, with respect to any property, an amount equal to the sum of—

"(i) the difference between the amount of tax paid for the taxable year described in paragraph (1)(A) and the amount which would have been paid for such taxable year if the election under paragraph (1) had not applied to such property, plus

"(ii) an amount of interest on the amount described in clause (i) determined for the period—

"(I) beginning on the 91st day after the expatriation date, and

"(II) ending on the due date for the taxable year described in paragraph (1)(B),

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

For purposes of clause (ii), the due date is the date prescribed by law (determined without regard to extension) for filing the return of the tax imposed by this chapter for the taxable year.

"(B) ALLOCATION OF LOSSES.—For purposes of subparagraph (A), any losses described in subsection (a)(2)(B) shall be allocated ratably among the gains described in subsection (a)(2)(A).

"(3) SECURITY.—

"(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided with respect to such property.

"(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2)(A) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(4) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(5) DISPOSITIONS.—For purposes of this subsection, a taxpayer making an election under this subsection with respect to any

property shall be treated as having disposed of such property—

"(A) immediately before death if such property is held at such time, and

"(B) at any time the security provided with respect to the property fails to meet the requirements of paragraph (3) and the taxpayer does not correct such failure within the time specified by the Secretary.

"(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(c) COVERED EXPATRIATE.—For purposes of this section—

"(1) IN GENERAL.—The term 'covered expatriate' means an expatriate—

"(A) whose average annual net income tax (as defined in section 38(c)(1)) for the period of 5 taxable years ending before the expatriation date is greater than $100,000, or

"(B) whose net worth as of such date is $500,000 or more.

If the expatriation date is after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1995' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.

"(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has been a resident of the United Stats (as defined in section 7701(b)(1)(A)(ii)) for not more than 8 taxable years during the 15-taxable year period ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) PROPERTY TO WHICH SECTION APPLIES.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided by the Secretary, this section shall apply to—

"(A) any interest in property held by a covered expatriate on the expatriation date the gain from which would be included in the gross income of the expatriate if such interest had been sold for its fair market value on such data in a transaction in which gain is recognized in whole or in part, and

"(B) any other interest in a trust to which subsection (f) applies.

"(2) EXCEPTIONS.—This section shall not apply to the following property:

"(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).

"(B) INTEREST IN CERTAIN RETIREMENT PLANS.—

"(i) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

"(ii) FOREIGN PENSION PLANS.—

"(I) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

"(II) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

"(e) DEFINITIONS.—For purposes of this section—

"(1) EXPATRIATE.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes his citizenship, or

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

"(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)).

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)).

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) LONG-TERM RESIDENT.—

"(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the expatriation date occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

"(ii) any taxable year prior to the taxable year referred to in clause (i).

"(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

"(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

"(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year in which the expatriation date occurs, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

"(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest in an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods.

"(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust in the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) TAX DEDUCTED AND WITHHELD.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) DEFINITIONS AND SPECIAL RULE.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

"(I) which is organized under, and governed by, the laws of the United States or a State, and

"(II) with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the expatriation date, is vested in the beneficiary.

"(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

"(A) DETERMINATIONS UNDER PARAGRAPH (1)—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

"(B) OTHER DETERMINATIONS.—For purposes of this section—

"(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate, and

"(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.—

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) COORDINATION WITH ESTATE AND GIFT TAXES.—If subsection (a) applies to property held by an individual for any taxable year and—

"(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

"(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3).

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) to prevent double taxation by ensuring that—

"(A) appropriate adjustments are made to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (a)(3), and

"(B) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(3)(B)(i), and

"(2) which provide for the proper allocation of the exclusion under subsection (a)(3) to property to which this section applies.

"(k) CROSS REFERENCE.—

"For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47).".

(b) INCLUSION IN INCOME OF GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatristion date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.".

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).".

(d) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(f) APPLICATION.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(3)) United States citizenship on or after February 6, 1995.".

(2) Section 2107(c) is amended by adding at the end the following new paragraph:

"(3) CROSS REFERENCE.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i).".

(3) Section 2501(a)(3) is amended by adding at the end the following new flush sentence: "For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i).".

(4) Paragraph (10) of section 7701(b) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1)).".

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 6, 1995.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added

by subsection (b)) shall apply to amounts received from expatriates (as so defined) whose expatriation date (as so defined) occurs on and after February 6, 1995.

(3) SPECIAL RULES RELATING TO CERTAIN ACTS OCCURRING BEFORE FEBRUARY 6, 1995.—In the case of an individual who took an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (1)-(4)) before February 6, 1995, but whose expatriation date (as so defined) occurs after February 6, 1995—

(A) the amendment made by subsection (c) shall not apply,

(B) the amendment made by subsection (d)(1) shall not apply for any period prior to the expatriation date, and

(C) the other amendments made by this section shall apply as of the expatriation date.

(4) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 212. INFORMATION ON INDIVIDUALS EXPATRIATING.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. INFORMATION ON INDIVIDUALS EXPATRIATING.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, any expatriate (within the meaning of section 877A(e)(1)) shall provide a statement which includes the information described in subsection (b).

"(2) TIMING.—

"(A) CITIZENS.—In the case of an expatriate described in section 877(e)(1)(A), such statement shall be—

"(i) provided not later than the expatriation date (within the meaning of section 877A(e)(2)), and

"(ii) provided to the person or court referred to in section 877A(e)(3).

"(B) NONCITIZENS.—In the case of an expatriate described in section 877A(e)(1)(B), such statement shall be provided to the Secretary with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

"(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN,

"(2) the mailing address of such individual's principal foreign residence,

"(3) the foreign country in which such individual is residing,

"(4) the foreign country of which such individual is a citizen,

"(5) in the case of an individual having a net worth of at lease the dollar amount applicable under section 877A(c)(1)(B), information detailing the assets and liabilities of such individual, and

"(6) such other information as the Secretary may prescribe.

"(c) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year during any portion of which such failure continues in an amount equal to the greater of—

"(1) 5 percent of the additional tax required to be paid under section 877A for such year, or

"(2) $1,000, unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(d) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

"(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

"(A) a copy of any such statement, and

"(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

"(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

"(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual relinquishing United States citizenship (within the meaning of section 877A(e)(3)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

"(e) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if the Secretary determines that applying this section to such individuals is not necessary to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Information on individuals expatriating.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals to whom section 877A of the Internal Revenue Code of 1986 applies and whose expatriation date (as defined in section 877A(e)(2)) occurs on or after February 6, 1995, except that no statement shall be required by such amendments before the 90th day after the date of the enactment of this Act.

CHAPTER 2—FOREIGN TRUST TAX COMPLIANCE

SEC. 221. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) NOTICE OF CERTAIN EVENTS.—

"(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

"(B) the identify of the trust and of each trustee and beneficiary or class of beneficiaries) of the trust.

"(3) REPORTABLE EVENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'reportable event' means—

"(i) the creation of any foreign trust by a United States person,

"(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

"(iii) the death of a citizen or resident of the United States if—

"(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

"(II) any portion of a foreign trust was included in the gross estate of the decedent.

"(B) EXCEPTIONS.—

"(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

"(ii) DEFERRED COMPENSATION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

"(I) described in section 402(b), 404(a)(4), or 404A, or

"(II) determined by the Secretary to be described in section 501(c)(3).

"(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of the creation of an inter vivos trust.

"(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

"(C) the executor of the decedent's estate in any other case.

"(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

"(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that

"(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

"(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

"(A) IN GENERAL.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.

"(B) UNITED STATES AGENT REQUIRED.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

"(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to

be taken into account under the rules referred to in subparagraph (A), or

"(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

"(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

"(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

"(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

"(A) the name of such trust,

"(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

"(C) such other information as the Secretary may prescribe.

"(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—

"(A) IN GENERAL.—If applicable records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includable in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceeding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

"(B) APPLICATION OF ACCUMULATION DISTRIBUTION RULES.—For purposes of applying section 668 in a case to which subparagraph (A) applies, the applicable number of years for purposes of section 668(a) shall be ½ of the number of years the trust has been in existence.

"(d) SPECIAL RULES.—

"(1) DETERMINATION OF WHETHER UNITED STATES PERSON RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

"(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

"(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.".

(b) INCREASED PENALTIES.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

"(1) is not filed on or before the time provided in such section, or

"(2) does not include all the information required pursuant to such section or includes incorrect information.

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

"(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—

"(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

"(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

"(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term 'gross reportable amount' means—

"(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

"(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

"(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

"(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

"(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d), as amended by sections 11004 and 11045, is amended by striking "or" at the end of subparagraph (U), by striking the period at the end of subparagraph (V) and inserting ",or", and by inserting after subparagraph (V) the following new subparagraph:

"(W) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).".

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 604 Information with respect to certain foreign trusts.".

(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts"

(d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 222. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

(1) Paragraph (2) of section 679(a) is amended by striking subparagraph (B) and inserting the following:

"(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.".

(2) Subsection (a) of section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

"(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTIONS.—

"(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

"(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and

"(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

"(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

"(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

"(i) the trust,

"(ii) any grantor or beneficiary of the trust, and

"(iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor or beneficiary of the trust.".

(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 is amended by striking "section 404(a)(4) or 404A" and inserting "section 6048(a)*(3)(B)(ii)".

(c) OTHER MODIFICATIONS.—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:

"(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

"(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

"(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

"(5) OUTBOUND TRUST MIGRATIONS.—If—

"(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

"(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.".

(d) MODIFICATION RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—Subsection (c) of section 679 is amended by adding at the end the following new paragraph:

"(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.".

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),".

(f) REGULATIONS.—Section 679 is amended by adding at the end the following new subsection:

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 233. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended to read as follows:

"(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

"(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

"(2) EXCEPTIONS.—

"(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—Paragraph (1) shall not apply to any trust if—

"(i) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

"(ii) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

"(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

"(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

"(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

"(B) paragraph (1) shall not apply for purposes of applying section 1296.

"(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

"(5) SPECIAL RULE WHERE GRANTOR IS FOREIGN PERSON.—If—

"(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

"(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

"(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.".

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting "subsection (f) and" before "sections 674".

(b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income.".

(c) DISTRIBUTION BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 is amended by adding at the end the following new subsection:

"(h) DISTRIBUTION BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.".

(2) Section 665 is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effort on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 224. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039F the following new section:

"SEC. 6039G. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

"(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

"(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

"(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

"(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount

equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning after December 31, 1996, the $10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'.

"(e) 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 such subpart is amended by inserting after the item relating to section 6039F the following new item:

"Sec. 6039G. Notice of large gifts received from foreign persons.".

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 225. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

"(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

"(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

"(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

"(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

"(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

"(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

"(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

"(A) by using an interest rate of 6 percent, and

"(B) without compounding until January 1, 1996.".

(b) ABUSIVE TRANSACTIONS.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.".

(c) TREATMENT OF LOANS FROM TRUSTS.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(i) LOANS FROM FOREIGN TRUSTS.—For purposes of subparts B, C, and D—

"(1) GENERAL RULE.—Except as provided in regulations, if a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

"(A) any grantor or beneficiary of such trust who is a United States person, or

"(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) RELATED PERSON.—

"(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

"(ii) ALLOCATION.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

"(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(3) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title."

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) is amended by inserting ", 643(i)." before "or 1274" each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) LOANS FROM TRUSTS.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities after September 19, 1995.

SEC. 226. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

"(D) any estate or trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

"(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust.".

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) is amended to read as follows:

"(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMETIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

"If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.".

(2) PENALTY.—Section 1494 is amended by adding at the end the following new subsection:

"(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491 with respect to a trust, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

CHAPTER 3—REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS

SEC. 231. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is amended by

adding at the end the following new subsections:

"(f) TERMINATION OF RESERVE METHOD.—Subsections (a), (b), (c), and (d) shall not apply to any taxable year beginning after December 31, 1995.

"(g) 6-YEAR SPREAD OF ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of any taxpayer who is required by reason of subsection (f) to change its method of computing reserves for bad debts—

"(A) such change shall be treated as a change in a method of accounting,

"(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

"(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

"(i) shall be determined by taking into account only applicable excess reserves, and

"(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

"(2) APPLICABLE EXCESS RESERVES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

"(i) the balance of the reserves described in subsection (c)(1) (other than the supplemental reserve) as of the close of the taxpayer's last taxable year beginning before December 31, 1995, over

"(ii) the lesser of—

"(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

"(II) the balance of the reserves described in subclause (I), reduced in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

"(B) SPECIAL RULE FOR THRIFTS WHICH BECOME SMALL BANKS.—In the case of a bank (as defined in section 581) which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995—

"(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before such date if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A), and

"(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5) and (6) or subsection (e)(1).

"(3) RECAPTURE OF PRE-1988 RESERVES WHERE TAXPAYER CEASES TO BE BANK.—If, during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in paragraph (2)(A)(ii) and the supplemental reserve: except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

"(4) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT MET.—

"(A) IN GENERAL.— In the case of a bank which meets the residential loan requirement of subparagraph (B) for the first taxable year beginning after December 31, 1995, or for the following taxable year—

"(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

"(ii) such taxable year shall be disregarded in determining—

"(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

"(II) the amount of such adjustment.

"(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

"(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term 'residential loan' means any loan described in clause (v) of section 7701(a)(19)(C) but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

"(D) BASE AMOUNT.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning on or before December 31, 1995. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after such date, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary.

"(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1), subparagraph (B) shall be applied with respect to such group.

"(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995.

"(A) IN GENERAL.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii), there shall be taken into account only the excess (if any) of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

"(B) TREATMENT UNDER ELECTIVE CUTOFF METHOD.—For purposes of applying section 585(c)(4)—

"(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

"(ii) no amount shall be includable in gross income by reason of such reduction.

"(6) SUSPENDED RESERVE INCLUDED AS SECTION 381(C) ITEMS.—The balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection and the supplemental reserve shall be treated as items described in section 381(c).

"(7) CONVERSIONS TO CREDIT UNIONS.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c) and exempt from taxation under section 501(a)—

"(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

"(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection and subsection (e), including regulations providing for the application of such subsections in the case of acquisitions, mergers, spinoffs, and other reorganizations."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence:

"Paragraphs (1)(A), (2)(A), and (4) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995."

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraph (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking "or to which section 593 applies".

(6) Subparagraph (A) of section 585(a)(2) is amended by striking "other than an organization to which section 593 applies".

(7)(A) The material preceding subparagraph (A) of section 593(e)(1) is amended by striking "by a domestic building and loan association or an institution that is treated as a mutual savings bank under section 591(b)" and inserting "by a taxpayer having a balance described in subsection (g)(2)(A)(ii)".

(B) Subparagraph (B) of section 593(e)(1) is amended to read as follows:

(B) then out of the balance taken into account under subsection (g)(2)(A)(ii) (properly adjusted for amounts charged against such reserves for taxable years beginning after December 31, 1987).".

(C) Paragraph (1) of section 593(e) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any distribution of all of the stock of a bank (as defined in section 581 to another corporation if, immediately after the distribution, such bank and such other corporation are members of the same affiliated group (as defined in section 1504) and the provisions of section 5(e) of the Federal Deposit Insurance Act (as in effect on December 31, 1995) or similar provisions are in effect.".

(8) Section 595 is hereby repealed.

(9) Section 596 is hereby repealed.

(10) Subsection (a) of section 860E is amended—

(A) by striking "Except as provided in paragraph (2), the" in paragraph (1) and inserting "The".

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(C) by striking in paragraph (2) (as so redesignated) all that follows "subsection" and inserting a period.

(11) Paragraph (3) of section 992(d) is amended by striking "or 593".

(12) Section 1038 is amended by striking subsection (f).

(13) Clause (ii) of section 1042(c)(4)(B) is amended by striking "or 593".

(14) Subsection (c) of section 1277 is amended by striking "or to which section 593 applies".

(15) Subparagraph (B) of section 1361(b)(2) is amended by striking "or to which section 593 applies".

(16) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 595 and 596.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SUBSECTION (b)(7).—The amendments made by subsection (b)(7) shall not apply to any distribution with respect to preferred stock if—

(A) such stock is outstanding at all times after October 31, 1995, and before the distribution, and

(B) such distribution is made before the date which is 1 year after the date of the enactment of this Act (or, in the case of stock which may be redeemed, if later, the date which is 30 days after the earliest date that such stock may be redeemed).

(3) SUBSECTION (b)(8).—The amendment made by subsection (b)(8) shall apply to property acquired in taxable years beginning after December 31, 1995.

(4) SUBSECTION (b)(10).—The amendments made by subsection (b)(10) shall not apply to any residual interest held by a taxpayer if such interest has been held by such taxpayer at all times after October 31, 1995.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. DINGELL] and a Member opposed will each control 30 minutes.

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

PARLIAMENTARY INQUIRY

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

The SPEAKER pro tempore. The gentleman will state it.

Mr. DINGELL. Mr. Speaker, I believe I will have the right to close under this as the author of the amendment?

The SPEAKER pro tempore. Who seeks control in opposition?

Mr. THOMAS. Mr. Speaker, I seek to control the time in opposition.

The SPEAKER pro tempore. The Chair would state that because the gentleman from California [Mr. THOMAS] is a member of the Committee on Ways and Means, the gentleman from California would have the right to close.

Mr. DINGELL. Mr. Speaker, further parliamentary inquiry. Is it not the rule that the author of the amendment has the right to close?

The SPEAKER pro tempore. The manager of the bill has the right to close, and the Committee on Ways and Means is the reporting committee on the pending bill.

Mr. DINGELL. That is a rather extraordinary ruling.

PARLIAMENTARY INQUIRY

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

The SPEAKER pro tempore. The gentleman will state it.

Mr. THOMAS. Mr. Speaker, is it rather unusual for the committee that offers the bill on which a Member offers a substitute to the committee bill not to close? Is that a rather unusual ruling, or is that the ordinary rule around this place and has been for years?

The SPEAKER pro tempore. The Chair indicated that the representative of the managing committee would have the right to close.

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

Mr. DINGELL. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Texas [Mr. BENTSEN], a coauthor of the amendment.

Mr. BENTSEN. Mr. Speaker, I thank the gentleman from Michigan for yielding me time.

Mr. Speaker, I am pleased to join with my distinguished colleagues, Mr. DINGELL and Mr. SPRATT, in offering this substitute.

Mr. Speaker, earlier today, my wife called to tell me that our 2-year-old daughter Meredith had gotten hold of her sister's cough medicine. The doctor ordered her to the hospital and my wife rushed her to the emergency room. As I drove to meet her, I was concerned about my daughter, but I didn't worry about the bill. We in Congress have health insurance. Fortunately, Meredith is OK, and we need not worry about how we pay.

That's not the case for the young woman I recently met in my district who could not purchase health insurance because her daughter had a heart condition. Her husband earns too much to be on Medicaid, nor does she want to receive such assistance. She only wants the right to buy health insurance, but her daughter's preexisting heart condition precludes that. The Bentsen-Spratt-Dingell substitute would prohibit discrimination based on such preexisting conditions and ensure that this family could finally provide health care for their child without falling into poverty.

Today, this House has the opportunity to pass simple, straightforward steps that will help millions of Americans like this Channelview, TX, family. If we focus on reforms that have broad, bipartisan support, and put aside for now those proposals that divide us, as this substitute does, we can begin to address the health care fears that weigh ever heavier on the minds of families across this country.

I urge my colleagues to keep in mind the people we are trying to help. Let us remember the 40 million Americans who are without health insurance today, including 4.6 million people in my home State of Texas. That is 1 million more Americans without insurance than when Congress last debated health care 2 years ago. Millions more face becoming uninsured if they lose or change jobs, and others are locked in jobs they do not want because they or a family member have a preexisting condition.

These are the people we must remember as we debate this issue today. That young mother in Channelview needs our help now. She and millions of other Americans do not have the luxury of waiting as we spend months, even years, debating the controversial, untested provisions, such as Medical Savings Accounts, that are in the bill before us. These provisions may even have merit. But they should not be allowed to hold up or kill the commonsense, bipartisan, noncontroversial reforms in our substitute. The American people deserve what we in Congress have, and our substitute provides that.

This substitute tracks the bipartisan Health Insurance Reform Act of 1996 as introduced in the other body by Senators NANCY KASSEBAUM and EDWARD KENNEDY and as filed in the House by our Republican colleague, MARGE ROUKEMA. I want to congratulate my colleague from New Jersey for her leadership on this issue and urge her and others on her side of the aisle to join us in supporting this substitute.

This substitute ends insurance discrimination against people with preexisting health conditions. It guarantees people access to group or individual coverage if they change jobs, lose jobs, or get sick. It helps small businesses to join together and purchase more affordable coverage.

Our substitute makes one major addition to the Roukema bill. It phases in an increase from 30 to 80 percent the amount that self-employed individuals can deduct from their taxes for the cost of health insurance, affording the same treatment to the self-employed as we do to corporations.

Altogether, these reforms will help 28 million Americans to buy and keep health insurance.

Mr. Speaker, I want to underscore the broad consensus for these reforms. Most of us in this body from both sides of the aisle support them. The President supports them. More than 135 organizations representing business, workers, and health care providers support them. These include the American Medical Association, the American Hospital Association, the AFL–CIO, the Independent Insurance Agents, and the National Association of Manufacturers.

We need to remember the lessons learned from Congresses past regarding health care reform. A comprehensive, complicated reform bill is too controversial and cannot be enacted in whole. Instead we should pass this consensus bill of incremental reforms that will bring immediate help to millions of Americans.

But the addition of controversial provisions isn't the only reason we should pass this substitute. The Republican bill also has weaker portability provisions than the substitute and weakens important consumer protections.

The Republican bill weakens the portability provision by limiting group to individual transfer to a single plan. This will ensure that high risk individuals are pooled together and forced to pay exorbitant premiums.

The Republican plan also would limit the number of businesses that could

benefit from this plan. The Republican plan only guarantees first-time issuance of insurance for businesses employing between 2 and 50 people. All businesses with more than 51 employees would not be protected.

This bill also would create a new class of insurance with lower capital and solvency requirements, thus increasing risk to the small businesses that purchase from these new plans. It would contradict the McCarran-Ferguson Act, creating federally regulated insurance using lower standards. And it provides a huge loophole for New York and New Jersey, but not the other 48 States.

Finally, the Republican plan would weaken consumer protection laws by eliminating regulations that prohibit the sale of duplicative health insurance policies to senior citizens. Under the bill, insurance companies would be permitted to sell policies that duplicate Medicare benefits and then collect premiums from seniors who already are covered under Medicare. They would pay twice. These plans are currently prohibited and I am concerned that many seniors will not be aware of the risks associated with purchasing such plans.

Mr. Speaker, this is a fairly easy vote. We can vote to increase the economic security of hundreds of millions of Americans who are currently covered by private insurance by passing this amendment and end once and for all insurance discrimination against: people with a preexisting medical condition; people who lose their job but still need health insurance; and small businesses of any size that want to buy safe, sound, and affordable health insurance for their employees.

It is a market-based plan that the American people support, that addresses their real concerns, and that can become a reality tomorrow. The Republican bill fails this test and will take years to even come close to becoming law. My colleagues, tonight let's forget we are Democrats and Republicans for one shining moment of compromise. Let us put victory for the American people and their health security ahead of political victory. Let's do right by the American people and pass the Bentsen-Spratt-Dingell substitute.

Mr. THOMAS. Mr. Speaker, I yield 15 minutes to the gentleman from Virginia [Mr. BLILEY], the chairman of the Committee on Commerce, and ask unanimous consent that he be allowed to allocate said time.

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

There was no objection.

Mr. THOMAS. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, the special rule for coordination of long-term care policies has been misinterpreted by some in the administration. I want to clarify that this rule applies to policies that provide health care benefits only for long-term care and similar benefits, such as community-based care, and would not apply to a policy that covers other health care benefits.

Mr. Speaker, we have been hearing for some time that all the Democrats want is Kassebaum. The gentleman from New York said "Let's have 'pure' Kassebaum."

Let me tell you, what you have in front of you is not pure Kassebaum. As you might expect, the Democrats have changed the bill. They have told you they have only added things to it. They said, "We just wanted to help the self-employed more than the Republicans."

You left the self-employed stranded for a whole year in 1994 when you were in the majority. Nice to have you come around and have you helping the self-employed.

If this is supposed to be pure Kassebaum, why don't you include the items on page 105? Title III, miscellaneous provisions. "HMO's allowed to offer plans with deductibles to individuals with medical savings accounts."

Kassebaum includes medical savings accounts and the ability to apply to an HMO to receive benefits while you have a medical savings account. You conveniently left that out. If you want pure Kassebaum, you would have MSA's in the bill.

On page 106, Sense of the Senate. "It is the sense of the Senate that the Congress should take measures to further the purposes of this act, including any necessary changes to the Internal Revenue Code of 1986 to encourage groups and individuals to obtain health coverage and to promote access, equity, portability, affordability, and security of health benefits." That is exactly what the Committee on Ways and Means has done.

The Senate committee cried out in the Kassebaum bill, "We don't have jurisdiction over the Tax Code, but if we did, these are the kinds of things that we would do." And what they asked for, we have included in our bill.

Only one committee has looked at the Kassebaum bill in the Senate. It is not on the floor of the Senate. They did not have jurisdiction over the revenue code. Four committees in the House looked at our bill, and given our distinct and unique jurisdictions, we contributed to and improved this bill. We did exactly what Senator KASSEBAUM asked us to do. We added items that provided and promoted access, equity, portability, affordability and security of health benefits.

Guess what you left in the bill? Notwithstanding all of the protestations on the floor about the Democrats in terms of States rights, and, after all, the Republicans are going to usurp the States rights, take a look at page 91 in the Kassebaum bill.

It says under subtitle D(b), certification, number 2, State refusal to certify. It says, "If a state fails to implement a program for a certifying health plan purchasing cooperative in accordance with the standards under this act, the secretary shall certify and oversee operations of such cooperative's Federal preemption."

Notwithstanding all of your crocodile tears, about "pure" Kassebaum, the Feds have a role in play to your substitution.

I would tell my Republican colleagues, beware: This is not Kansas. This bill is not from Dorothy. It isn't even from Toto. It has been written and comes from the Land of Oz.

□ 2100

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

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I thank the gentleman from Michigan [Mr. DINGELL] for yielding me time to express my strong support for his substitute to H.R. 3103, an omnibus package of health reform proposals.

The Dingell amendment is comprised, essentially, of two items: the so-called Kassebaum-Kennedy-Roukema health insurance reform package and a proposal to allow self-employed individuals to deduct 80 percent of their health insurance premiums, rather than the 30 percent current law allows for.

The difference between this package and H.R. 3103 is this simple: If the House approves the Dingell plan it can be quickly passed by the Senate and signed into law by President Clinton immediately. This will immediately deliver insurance portability; eliminate job lock and give guaranteed insurance to 30 million Americans who presently do not qualify.

H.R. 3103, as brought to the House floor today, cannot.

The Republican leadership's package, which contains several very controversial elements, faces a guaranteed Senate filibuster, or, if it were to ever get that far, a certain veto at the White House.

If you want to vote in support of health insurance reform legislation that will make a real difference in the daily lives of millions of Americans this year, support the Dingell alternative.

Anything else won't survive the legislative process, and is simply a political exercise rather than an attempt to enact commonsense, bipartisan health reforms.

I am very proud to be the House author of the companion bill to the Kassebaum-Kennedy measure, H.R. 2893—which currently has 193 cosponsors—17 Republicans and 176 Democrats—which encompasses precisely the kind of incremental health reforms that the Republicans so strongly advocated in 1993-94 when the 103d Congress was debating President Clinton's massive health care reform plan.

This modest package of insurance reforms would simply make health insurance plans portable for workers leaving one job for another; restrict the ability of insurance carriers to impose pre-existing condition limitations in their

policies; and allow small employers to pool together to purchase health benefits for their workers.

A very strong and broad coalition has endorsed the Kassebaum-Roukema legislation including: The National Governors Association; the American Medical Association; the American Hospital Association; the National Association of Manufacturers; the Business Roundtable, and the AFL-CIO—on the Senate side, the U.S. Chamber of Commerce has endorsed the Kassebaum-Kennedy package, too; the Healthcare Leadership Council, and the Independent Insurance Agents Association; and the ERISA Industry Committee [ERIC], and the American Association of Retired Persons [AARP] are just a few of the more prominent supporters of the Kassebaum-Kennedy-Roukema legislation.

I might add that, during his State of the Union speech 2 months ago, President Clinton endorsed this bill, and has repeatedly stated that he is prepared to sign this legislation if we can just move it through the Congress this year.

Some of the reforms in H.R. 3103—such as medical malpractice reforms—I have supported in the past, and will continue to support in the future as freestanding measures.

However, we must acknowledge that these issues raise significant policy questions.

Reforms such as medical malpractice and medical savings accounts should be debated by the Congress on an individual, case-by-case basis, particularly given the level of controversy that these proposals raise in both parties of the House and Senate.

In addition, it is highly unlikely that, given the limited number of legislative days in our session this year, that the Senate would ever be able to pass such a controversial and omnibus package of health reforms.

In fact, prominent Republican Senators have repeatedly and publicly stated their opposition to such an omnibus bill, as recently as a day or 2 ago.

It's time for the Congress to stop playing these games—the American people are sick and tired of bickering and political gamesmanship.

We must immediately enact common-sense, incremental health insurance reforms.

The General Accounting Office [GAO] has estimated that up to 30 million American citizens would benefit from the health insurance reforms incorporated in the Kassebaum-Roukema plan.

Let's not permit such a golden opportunity to help so many people slip through our collective fingers because of partisan politics.

In closing, Mr. Speaker, I urge my colleagues to join me in support of the Dingell substitute to H.R. 3103, because it's the right thing to do for the American people now.

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

Mr. Speaker, first of all, with all due respect to my good friend and colleague from new Jersey [Mrs. ROUKEMA], we had a bipartisan plan in the last Congress authored by my good friend from Florida, the chairman now of our Subcommittee on Health and Environment of the Committee on Commerce, and the gentleman from Georgia who is no longer with us, Dr. Roy Rowland. I sat right over there on this night 2 years ago with then the chairman of my committee, and I said, you cannot move this massive socialized medicine bill of the President's. We have a good bipartisan bill and we ought to take it up. It was not enough for him.

Mr. Speaker, but now all of a sudden, this bill, which is more modest than the Bilirakis-Rowland bill, is too much. I find that rather ironic.

Mr. Speaker, I rise in strong opposition to the substitute. While it is a well-intentioned proposal, it simply falls short of the mark of ensuring that health insurance is both available and affordable.

Our bill is focused on the real problems people encounter in obtaining health insurance in the small business market. Small employers who are trying to provide their employees and their families with adequate coverage will not be helped by this substitute. They will not be able to purchase affordable health insurance coverage.

In addition, a recent letter from the National Association of Independent Businesses points out that big business is in the position of purchasing health insurance under a different set of rules than small business. Their letter points out that the Health Coverage Availability and Affordability Act would stop the unfairness by allowing small firms to band together across State lines to purchase health insurance with nearly the same exemption from State law that big business has. Achieving this is NFIB's highest health reform priority. And I quote from their letter: "Any substitute amendment that does not directly address this inequity between big and small business is unacceptable to the more than 600,000 members of NFIB."

Mr. Speaker, the Democratic substitute does not address this inequity. It is all form and no substance. Its pooling provisions simply allow the formation of purchasing cooperatives, which can be formed under current law. Thus, it falls short of the mark in addressing the key concerns of small business in reforming the small employer health insurance market.

Mr. Speaker, I would also like to point out to my colleagues that National Right to Life has raised a serious concern about the nondiscrimination language in the substitute. The nondiscrimination language could be read to apply to the content of a benefits package. Thus, the language could be used to require the inclusion of elective abortions in all health insurance plans. This problem has not been addressed in the substitute and remains an issue for pro-life Members.

In addition, the Democrat substitute fails to allow for medical savings accounts, an option that provides true portability for individuals, including the self-employed. It does not encourage the purchasing of long-term health insurance coverage, because it does not allow expenses for long-term care and long-term care insurance premiums to be tax deductible.

Mr. Speaker, it also fails to address the question of affordability because it does nothing to address the increased costs our current malpractice laws bring to the health care system.

Perhaps the substitute's most glaring omission is its failure to address the issue of fraud and abuse, which has also contributed to the high cost of health insurance coverage. According to the General Accounting Office, each year as much as 10 percent of total health care costs are lost to fraud and abuse. Given that annual health care costs in the United States are now approaching $1 trillion, fraud and abuse are costing taxpayers and policyholders large sums of money. Despite the enormity of the problem, GAO has concluded that only a small fraction of this fraud and abuse is detected. The failure of a health reform bill to address this issue is unfortunate.

The HHS Inspector General in a letter to the ranking member of the Committee on Commerce points out that the provisions in the Republican bill will help to reduce fraud and abuse. It states:

> Generally speaking, these provisions are excellent . . . The bill contains many improvements to the laws intended to address health care fraud. In our judgment, enactment of the provisions . . . would be very effective in reducing the amount of fraud and abuse in the health care system . . .

Finally, I feel I must address the constant refrain we have heard that somehow Senators KASSEBAUM and KENNEDY's bill, is the gold standard and cannot be amended. It is absolutely absurd for us to say that a bill cannot be improved. It is also rather naive for us to say that a bill that comes out of Committee in the Senate will not be amended on the floor of that body where there are no germaneness rules and anything can be attached to anything.

Mr. Speaker, do not expect a clean Kassebaum-Kennedy bill to come out of the Senate. I assure my colleagues that whatever we do tonight, we will be in conference.

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

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of Bentsen-Spratt-Dingell. There is a lot on our agenda about which the American people are undecided or divided, but clearly they want us to change the way that health insurance in this country is written. They want the law to say that if they lose their jobs or leave it, they can take their health insurance with them; if they have an illness or an injury, they can keep their insurance and not be ostracized by carriers as having preexisting conditions.

Mr. Speaker, there is something else the American people want. They want an end to partisan bickering. Our substitute goes to both goals. It is not just a chance to change health insurance. It is a chance to do something bipartisan. We make health insurance portable. We take care of people with preexisting conditions, and we do it in a bipartisan bill, a clean bill that is unencumbered by pet provisions.

Mr. Speaker, the differences between the base bill, H.R. 3103, and our substitute, which is essentially Kennedy-Kassebaum-Roukema, are seemingly small but the differences are potentially insidious.

First of all, let me just cover a couple. The base bill in our substitute says that if you lose your job, you can convert from group to individual coverage once your extension under COBRA has expired. But in the substitute, we say that when you convert, you have the right to pick among the policies that an insurance company offers.

In the base bill, people lose this flexibility. They have got a Hobson's choice. That is because the base bill has been amended to let the States restrict individuals to a single policy, and that one policy is bound to become the high-risk pool for all the rejects and bad risks. That will make the premium cost excessive, probably beyond the reach of most people who need it, and we are not giving health insurance availability unless we give health insurance affordability.

There is another provision very deep in this base bill which differs from the substitute. Both of us permit small employers to band together to purchase insurance, and, banded together, they can broaden their risk pool and get better rates. So far, so good. But the base bill goes on to exempt multiemployer health plans from State regulations that govern other multiemployer health plans and places these under the Department of Labor. You got it. The Republicans want to give the Federal Government the power to regulate these insurance, self-insurance plans, and take it away from the State government.

Here, do not take it from me, listen to what Mr. Gradison, a very respected member of this body from the other side of the aisle, now head of the Health Insurance Association of America, says about that particular provision of the main bill before us. He says,

> We strongly oppose the provision contained in the House leadership bill which we believe will undermine the progress States have made in reforming their small employer insurance markets and leave an unstable health care market in its wake.

Mr. Speaker, we have a chance to pass a bipartisan bill, to keep this bill on track and I urge support for the bill.

Mr. Speaker, there is much of our agenda about which the people are undecided or divided. But clearly they want us to change the way health insurance is written. They want the law to say that if they lose their job or leave it, they don't have to lose their health insurance—they can take it with them. And if they have an illness or injury, they can keep their insurance, and not be ostracized by carriers for a "preexisting condition."

There's something else people want: They want an end to partisan bickering.

Our substitute goes to both goals. It is not just a chance to change health insurance, it's a chance to do something bipartisan. We make health insurance portable; we take care of people with preexisting conditions; and we do it in a bipartisan bill, a clean bill, unencumbered by pet provisions and special concessions.

The differences between the base bill, H.R. 3103, and our substitute, which is the Kennedy-Kassebaum-Roukema bill, are seemingly small but potentially insidious.

First of all, both the base bill and our substitute say that if you lose your job, you can convert from group to individual coverage once your 18-month extension under COBRA has expired. But in the substitute, we say that when you convert, you can pick among the policies a company offers. In the base bill, you lose this flexibility. That's because the base bill was amended to let the States restrict individuals to a single policy; and that one policy is bound to become the high-risk pool for all the rejects and bad risks. This will make the premium cost excessive, probably beyond the reach of most who need it. Our substitute guarantees individual coverage, but it does not limit that guarantee to one insurance policy. The person who converts may still have his premium rated, adjusted upward for a preexisting condition; but he can also buy into an insurance pool with lots of other people who are ordinary, unrated risks. And while this bill gives that no one protection against higher premiums, our substitute leaves the States the power to regulate premiums, as many already have. And if you are in an insurance pool with ordinary risks, the States can limit the rated premium you have to pay for your policy, say, to 50 percent of the standard premium. But if you end up in a risk pool with all bad risks, there is no way to spread the cost and mitigate the premiums.

Next, the base bill, as well as our substitute, permits small employers to band together to purchase insurance. In banding together, they can broaden their risk pool and get better rates. But the base bill exempts multiemployer health plans from the State regulations that govern other multiemployer plans, and places these under the Department of Labor. In bypassing State laws, particularly on what constitutes an adequately capitalized plan, the base bill, in the words of the Health Insurance Association of America, sets up "a very flimsy safety net for employees with self-insured, federally regulated coverage." It puts the insured in peril of being in an unsound plan and not having coverage when it is needed. Our bill respects the competency of the States in this field, and leaves multiemployer insurance plans subject to State law.

Next, the base bill includes Medicare fraud and abuse provisions, and claims savings back into Medicare to boost the solvency of the Part A trust fund. Instead these Medicare funds are used to offset the tax revenues lost by allowing MSA's. This comes from the group that for the past year has told seniors that deep cuts in Medicare were needed to keep the trust fund solvent.

Next, the base bill raises the tax deduction allowed the self-employed to 50 percent of the premiums they pay, but reaches that level only in year 2003. On this subject, our substitute departs from Kennedy-Kassebaum-Roukema; it too increases the tax deduction for the self-employed, but we go to 80 percent by the year 2002. I am not altogether opposed to MSA's, but I would much rather use the tax offsets to cover the revenue losses to pay for a higher rate of deductibility. More small business people, more self-employed Americans, will benefit from being able to deduct 80 percent of their health insurance premiums than will benefit from medical savings accounts.

Finally, the base bill repeals current laws that we put in place to regulate the sale of policies that duplicate Medicare coverage. These protections were enacted to protect unsuspecting seniors from purchasing coverage that they already have under Medicare. The base bill opens a loophole that would allow insurers to sell Medicare beneficiaries a policy that is not identical to Medicare coverage, say offering additional homecare visits, but include a rider in the policy that denies payment for any service covered by Medicare.

Mrs. ROUKEMA tonight, and Senator KASSEBAUM several days ago, have all warned against overloading this bill with extraneous stuff, like medical savings accounts and malpractice reform. I am not opposed to all those add-ons; I've voted for malpractice reform; but what I favor most is moving this bill. It is a shame to bog it down with controversial provisions, and a shame to blow this opportunity to do something bipartisan for a change.

Let's keep this bill on track; let's keep it clean and make it bipartisan. Vote for the Bentsen-Spratt-Dingell substitute.

Mr. THOMAS of California. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], an extremely important member of the Committee on Ways and Means and the chairman of the Subcommittee on Oversight.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the chairman.

Mr. Speaker, I rise in strong opposition to the substitute, not because it is not an admirable bill. In fact, Senators KASSEBAUM and KENNEDY deserve enormous credit for bringing this issue of

insurance reform to the top of the agenda of both Houses, but our bill is literally better. My amendment conformed this bill in many of its details to the Kassebaum-Kennedy bill, working with my chairman. Our bill actually adds protection, not in the Kassebaum-Kennedy bill, to assure that genetic information about an individual cannot be used to exclude that person from health coverage. Our bill is far better on portability. It is far more generous in its determination of what is continuous coverage and what is a break in service because it counts, that is gives credit for coverage, time on Medicare, Medicaid, DOD's Tricare, the Indian Health Service, the Federal Employees Health Benefits programs and State risk pools. Furthermore, our bill gives protection that the Kennedy-Kassebaum bill does not give to people covered under individual policies to assure that they can get into a new policy without discrimination if they move outside the service area or if the insurer goes out of business.

In many of its details, our bill is simply an improved version, a stronger bill than the Kennedy-Kassebaum bill. In its breadth it is also superior. This Chamber has had before it for 5 years, proposals to allow people to deduct the premiums of long-term-care insurance so that we can get employers providing long-term-care insurance and we can encourage seniors to buy long-term-care insurance so that in the future, seniors will not have to spend down to poverty, spend every cent they worked for and were able to save, to cover the costs of nursing home care.

□ 2115

That kind of public-private partnership is imperative to providing security and dignity to our seniors in their retirement years. This is the only bill that has ever brought those long-term-care provisions to the floor of the House in a form in which the President would sign the bill.

Furthermore, this bill will allow deduction of long-term home care costs. Think for how many seniors that is terribly important. For many, it will probably wipe out their entire tax liability.

So this bill is a thoughtful broadening, an inclusion of a number of terribly important health policy solutions that this House at other times has supported, that are not that controversial, that the President will clearly sign, and ought to be part of a health care reform—and part of this Congress' accomplishments.

So do not yield to the siren song of all we can pass is Kennedy-Kassebaum. It is simply far too little. It is too narrow a vision. It does not answer the needs of the American people.

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

Mr. BENTSEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, today employees who have insurance coverage where they work fear that if they lose their job or change jobs they will not be able to get insurance. If they have a medical problem, they worry they will be excluded from coverage permanently or that they will have a long waiting period before they can be covered. They face the so-called "job lock" where they cannot move on to other or better jobs because they cannot risk the loss of their health insurance coverage, and if they lose their job, their situation is made worse by facing the loss of that insurance.

The substitute before us would change that. It would guarantee them access to health insurance coverage. It would assure them that an existing health problem would not be a reason to exclude them from coverage.

Now this base bill that we are seeking to amend has provisions that are similar to Kennedy-Kassebaum, the Dingell bill, the Roukema bill. There really is not a lot of difference between all these provisions. There are some differences, but they are minor, and they are differences that can be worked out if people sat down and talked them through. In fact, I voted for the Kennedy-Kassebaum-Roukema version of this legislation when it was in the Committee on Commerce. Everybody did. It was a unanimous vote.

But the Republican proposal before us adds some things that I think will make this legislation fail ultimately to become law. They take medical savings accounts, which may or may not be a good idea; the small employer pooling, which may or may not work. A lot of people fear that it will lead to cherry-picking of the least risky people by insurance companies. They make medical malpractice changes, which are very controversial because some people fear that this will deprive injured parties of their full redress. They take savings from the Medicare Program because of an antifraud provision, and they use those savings to fund the tax breaks for medical savings accounts.

Those are controversial issues. They should not be in a bill that can be passed on a bipartisan basis and turned into law.

There are things I would like us to do, because let us realize what we are not addressing is the problem of the 40 million uninsured in this country. I do not care what version of the bills we pass today, they are not going to be covered after all is said and done.

I think there are important changes we need in our health care system, but if we do not have a consensus to accomplish them, let us do what we can and pass the bill that would prevent this job lock and assure that people will get insurance if they leave their jobs and take another job or want to buy a private insurance policy.

I would urge support for the substitute. I will not go through the denigration of what the other people have to say. What I do say is let us pass what we can into law. Let us not lose this chance.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. BILIRAKIS], the chairman of the Health and Environment Subcommittee, a pioneer in health care reform, the man who led the bipartisan effort in the 103d Congress.

Mr. BILIRAKIS. I thank the gentleman for yielding the time to me.

Mr. Speaker, I rise in opposition to this substitute, and yet without question I certainly support the goals of the substitute. Both bills address insurance portability, eliminate preexisting condition prohibitions, end job lock, and both bills address medical savings accounts.

The Kassebaum bill amends the HMO act to allow the offering of high deductible MSA's, and it also provides a sense of committee resolution to encourage MSA's. But that is where the common elements end. The substitute simply falls far short of the mark on true practical health care reform.

Our bill offers more options to the American people. My constituents are always asking me, I am sure my colleagues' are, what Congress is doing to address fraud and abuse. What is Congress doing to eliminate unnecessary paperwork? When will our medical malpractice laws be changed? Our bill addresses these important areas.

In addition, it also extends the medical expenses deduction to long-term care services which is important to our seniors. A Band-Aid solution like the substitute proposes would not address more systematic problems which drive up costs and limit access to our health care system.

On health care reform, the American people deserve more than a Band-Aid. They deserve our best efforts to fix what we can in a system which everyone agrees is broken.

Mr. BENTSEN. Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Speaker, I just wanted to talk a little bit about the matter that is before us. One of the previous speakers talked about a bipartisan effort called Roland-Bilirakis. Mr. Speaker, While I respect both of the people greatly who came out with that effort, it did not pass this House, it did not have the necessary support, and so we are here today trying to figure out what steps we can take to make an improvement upon the trillion dollar industry that is health care in this Nation.

Mr. Speaker, I would suggest that Roukema-Kassebaum-Kennedy is that modest step. It is that first step that is going to help tens of millions of Americans keep their health insurance when they switch their jobs, regardless of preexisting health conditions.

The Republicans, though, in this House are proposing a health insurance reform that is not as strong as Roukema-Kassebaum-Kennedy. They are adding on what I believe to be special interest amendments and paybacks that are going to sabotage the first real attempt we had to be able to do a bipartisan step in the right direction for the working people of this country.

Now, we are talking about two editions, that in one instance the CBO is saying that the bill's profraud loopholes are going to cost $400 million. Less revenue coming in, and enforcement of fraud is going to suffer. Why should we want to do this?

The MSA proposal is not going to fly in the Senate, it is not going to fly with the President. Why would the Republicans want to doom this package by adding these two things to it?

Mr. THOMAS. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. SHAW].

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

Mr. Speaker, tonight I rise to deliver to my congressional colleagues a message from the 180,000 Medicare beneficiaries who reside in my south Florida district, and that message is simply:

Stop the fraudulent and abusive practices against the Medicare Program, and do it now.

This substitute ignores the issue of fraud and abuse.

Mr. Speaker, this body has already voted for the Medicare fraud and abuse provisions that are included in this bill when it passed the Medicare Preservation Act, and, as we all remember, the Medicare Preservation Act was vetoed by President Clinton. Now we have another chance to move a step closer to saving the Medicare Program from bankruptcy.

This bill is the toughest and most serious attempt that this Congress has made to stop fraud and abuse in the Medicare Program and health care generally with the new strong criminal penalties for offenses against the American people. I am proud to have contributed to this effort, and I know that when my constituents learn of their new rights under the Medicare Program, they will be proud of this Congress, too.

Let us pass this bill and save Medicare millions of dollars and save all the American taxpayers billions of dollars in reducing fraud and abuse.

Mr. BENTSEN. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. ROYBAL-ALLARD].

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in support of the Democratic substitute. By correcting the most obvious deficiencies in the health insurance market, this legislation is a much-needed, albeit small step toward reforming our health care system, because it frees the American worker from job lock which prevents millions from taking better jobs for fear of losing their health care coverage.

It protects people with preexisting conditions by limiting the exclusion period and prohibiting employers and insurers from denying coverage to these individuals. It expands availability and access by prohibiting insurers from denying coverage to specific employee groups, and it increases the deduction for the self-employed to 80 percent in support of America's small business.

The Democratic substitute brings a measure of fairness and justice to our health insurance system without the special interest provisions in the House Republican bill. I urge all Members to vote in favor of the Democratic substitute.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut [Mr. SHAYS], a distinguished member of the Committee on the Budget.

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, a number of years ago the President came in with major reform of health care. It was wide reaching, it was well beyond what anyone in this House wanted to do, and now we have a bill that in my judgment is very sensible. It is very logical. The Roland-Bilirakis bill never passed 2 years ago because it never had a vote. It never had a vote because unfortunately the other party was jealously guarding the jurisdictions of each committee.

This bill here has the input of the Committee on the Judiciary, the Committee on Commerce, the Committee on Ways and Means, and the Committee on Economic and Educational Opportunities, and in it there is a very significant portion of this bill dealing with fraud, title II, preventing health care fraud and abuse; it goes for about 70 pages. I have a hard time understanding what is meant by a clean bill.

□ 2130

What is a clean bill that does not deal with waste, fraud, and abuse? We have been having hearings for decades about the waste, fraud, and abuse. That so-called clean substitute ignores it completely. This bill here deals with waste, fraud, and abuse, and for the first time makes health care fraud a Federal offense, an all-payer system, not just for Medicare and Medicaid and Champus, but for all health care fraud. We are determined that this House is going to do something responsible.

I will just conclude by saying I am totally convinced that this House is going to pass a health care bill. It may not be exactly like this one when we deal with our conference with the Senate, but it will be a meaningful bill, and it will be far better than the substitute bill presented. I urge my colleagues to take part in what we are doing. We are going after waste, fraud, and abuse for the first time in a serious way. It is happening under our watch. Be proud of it.

Mr. BENTSEN. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Once again, Mr. Speaker, the Gingrich Republicans are standing in the way of meaningful health care reform and it's American families who are going to wind up paying the price. While Speaker GINGRICH says his plan may make health insurance more available, it does nothing whatsoever to make it affordable.

Thankfully, for the American people, we have another choice before us today. We have the Democratic substitute. The one bill that will extend coverage to 25 million Americans. The one bill that has bipartisan support in the Senate. And the one bill that will be signed into law by the President.

To my colleagues on the other side of the aisle: Don't use your vote to scuttle significant health care reform this year. Instead, stand up for working families, and support the Democratic substitute.

Mr. BENTSEN. Mr. Speaker, I yield 1½ minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, several years ago I introduced legislation which allowed a full 100 percent deductibility of health insurance premiums for self-employed people. I represent a rural district. I represent a lot of farm families. It is very difficult for them to buy health insurance, and when they do, it is expensive, and they find that they can only deduct now 30 percent of the cost of the premiums.

The real unfairness is the fact that corporations can deduct 100 percent of the cost of health insurance premiums. Self-employed people cannot. What we do with the Democratic substitute is to address this in an honest way. I hope some of my Republican colleagues will consider breaking ranks tonight and joining in this bipartisan approach to health care reform.

Let me tell the Members what we know now. The fastest growing sector in the American economy are self-employed people, people who are starting their own businesses. If you ask them their No. 1 headache, you are going to find, to your surprise, it is health insurance; how to pay for it, how to cover your family and a few employees.

What we do in the Democratic substitute is to allow up to 80 percent deductibility over a period of several years. If Members take a look at the alternative on the Republican side, they will find they only reach 50 percent. This is a big difference for a small business.

I hope that some of my colleagues will think twice and join us. I think it is far better for us to come together, Democrats and Republicans, pass real

health care reform, instead of trying to score some political victory for the Golden Rule Life Insurance Company. Let us do something for the real self-employed people who need a helping hand.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from Illinois [Mr. WELLER], who knows full well that in the calendar year 1994 it was the Democrats who left the self-employed with no deductibility whatsoever.

Mr. WELLER. Mr. Speaker, I rise to oppose the substitute and support H.R. 3103, which deserves the votes of Democrats as well as Republicans. Mr. Speaker, H.R. 3103 addresses a real problem faced by almost 40 million Americans, 85 percent of whom are small business people, the self-employed, farmers, and their families and workers.

I have listened over the last several years to many families unable to afford health insurance. They say the prices of health insurance are too high if they are self-employed or work for small business. H.R. 3103 helps the little guy, the self-employed, and small business; frankly, people like my mother and father, fifth generation family farmers who, because their rates are based on two, face very high rates.

Mr. Speaker, H.R. 3103 helps make health insurance more affordable, the risk pools allowing small employers, perhaps through the Farm Bureau or the local Chamber of Commerce, to purchase in a cooperative fashion a bigger group policy, getting more affordable rates, also giving 100 percent tax deduction for long-term care, and raising the 50 percent self-employed taxes.

Mr. BENTSEN. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, for 8 years I had the privilege of representing North Dakota as its State insurance commissioner. During that time I evaluated the health insurance crises experienced by families all across the State. While undoubtedly there were many facets to the problems I encountered, far and away the largest problem was affordability.

I am astounded that the previous speaker could talk about affordability as a health issue addressed by the majority plan and deride the substitute, when in fact, deductibility of health insurance premium geared specifically at enhancing the affordability of coverage is the feature best exemplified in the substitute, as opposed to the majority plan. Look at the facts: Fifty percent deductibility immediately under the substitute, and only 30 percent under the majority plan, phasing up to 80 percent deductibility under the substitute plan, and only 50 percent in the majority plan.

The difference between 80 percent and 50 percent deductibility is the difference between affordability and unaffordability of health insurance for farm families, for self-employed families in North Dakota and all across the country. The No. 1 problem for so many families with health insurance tonight, Mr. Speaker, is affordability. Let us make it more affordable by increasing the deductibility. Only the substitute, in my opinion, goes the limits it needs to increasing the deductibility for purposes of making this coverage more affordable.

Mr. BLILEY. Mr. Speaker, I yield 3 minutes to the deputy whip, the gentleman from Illinois [Mr. HASTERT], a gentleman who has put more work into this bill than anyone on the Committee on Commerce.

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

I guess we just need to straighten out some things. To my friend who just talked over here about the deductibility, I guess plagiarism is one of the best compliments there is. To my friend, the gentleman from Illinois, who talked about the deductibility issue, it is interesting, it is the same folks who for years just let the deductibility for small businesses go to zero and left it there until we moved it to 30 percent. We are going to move it to 50 percent. They are talking about something in 2002. It is a promise, folks. I would not count on that promise.

Mr. Speaker, also I would say to my good friend from New Jersey, who says that the Senate leadership wants this Kassebaum bill, it is interesting, she did not read her papers, because the Senate leadership endorses our bill. They are going to move an add-on to the Senate to exactly what we have passed in this House tonight, so she might be apprised of that.

Mr. Speaker, we have heard a lot of outrageous claims on the other side of the aisle. I think now is the time of reckoning. This substitute is just a whisper in the dark. It does not do anything to help health care. We cover group-to-group, we cover group-to-individual, and we also make health care affordable for the American people.

If Members want real change in health care, if we really want to help Americans from the shoestore and the barber shop and the truck drivers and the real people that work out there in America, defeat this substitute, the farce out here that they are putting out as the substitute, and support the Republican bill.

Mr. BENTSEN. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. CARDIN].

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

Mr. Speaker, I urge my colleagues to support this substitute, this alternative. It does two things, and it does them better than the original bill. First, it provides for portability. It does it better than the underlying bill, because if you lose your job and you lose your insurance and you try to find an individual plan, the substitute allows you to have some options and lets you be able to buy an affordable individual plan.

The second thing this bill does is deal with the self-employed by allowing them to be able to deduct 80 percent of their premium, whereas the underlying bill is at 50 percent. It makes it better for the self-employed. Both of these issues enjoy strong bipartisan support. This bill, the alternate, if it is passed, will be signed quickly by the President, will be approved by the Senate. It can be a reality. It is stronger than the underlying bill, and it can be passed and enacted into law.

Mr. Speaker, I urge my colleagues to support the substitute.

Mr. THOMAS. Mr. Speaker, it is my privilege to yield 1 minute to the gentleman from Oregon [Mr. BUNN], who came here to make a difference, and he does.

Mr. BUNN of Oregon. Mr. Speaker, I am pleased tonight to say that the substitute is a good bill, but the Republican version is a better bill. We have a win-win tonight. I think we ought to be pleased with that.

Mr. Speaker, I am also delighted that we had the opportunity to address some concerns in the Committee on Rules, and the Committee on Rules was willing to make the necessary changes to assure that this bill is a floor, not a ceiling, so that reforms like Oregon passed just last year will be maintained. I think we are on track to assuring that Americans will have good, affordable health care, and State reforms which will stay on track.

Again, we have a win-win. Theirs is good, ours is great. I support maintaining the Republican version, which means saying no to a good substitute.

Mr. Speaker, let me start by saying that I am glad that we were able to protect State health insurance reform efforts within this bill. As many people brought to my attention, including my State insurance commissioner, State insurance reform efforts may have been jeopardized by specific language not exempting them within this bill. I am proud to say that the language currently in this bill is very similar to that of the Democratic substitute, and while I support many of the reform efforts contained in that bill, I believe the Republican bill goes even further and ensures even broader coverage than that alternative. I am supporting the base bill and opposing the substitute. I look forward to reforming our national health insurance laws as soon as possible.

Mr. BENTSEN. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I am pleased to join with my colleagues in supporting the substitute. It is time to stop just talk about health care reform, and accomplish some real health care reform. This substitute represents a sensible approach to health care reform, and it may be the only chance we

have to enact affordable health care for the American people. This bill would prohibit many of the current unfair insurance practices which deny and exclude individuals and families with significant health problems. Insurers often deny health coverage for preexisting conditions, the very illnesses most likely to require quality medical care.

Approximately 81 million Americans have medical conditions which could result in the denial of coverage. We know from recent studies that African-American women are dying at a faster rate from heart disease and stroke. Minority children are dying and experiencing more complications from asthma and other preventable respiratory diseases. We are seeing an increase in the infection rate for HIV and AIDS among young African-American males.

We know that low-income persons are dying because they simply cannot purchase the ability to live. Many of those who are fortunate enough to have insurance give up opportunities for new jobs because they are afraid of losing what little coverage they have. We must have portability. This substitute, while it does not address all health care concerns, does move in the right direction.

Mr. BLILEY. Mr. Speaker, it gives me great pleasure to yield 2 minutes to the distinguished gentleman from Louisiana [Mr. MCCRERY], a member of the Committee on Ways and Means.

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

Mr. Speaker, I want to congratulate the gentlewoman from New Jersey, the gentleman from Michigan, the gentleman from South Carolina, the gentleman from Texas, for I think putting forth a well-intentioned effort to improve the lot of people in this country vis-a-vis the health insurance system. It is a good effort. However, in the face of what we should be doing in health care reform in this country, it is weak. It is watered down. It is half-hearted.

Mr. Speaker, we should not be so timid in this House to bend to the threats of the President of the United States, who is up for reelection this year. We should do what we think is right for the American people in our health care system. If you go to a town meeting and listen to the people, what do they talk about? They talk about portability. That is a problem. We solved that in our bill. But what is the main thing they talk about? Cost. "Mr. Congressman, do something about the escalating cost in our health care system."

The substitute, regrettably, does nothing for cost containment. Our bill, on the other hand, has medical malpractice reform, which goes to the heart of the escalation of costs in the health care system. We attack fraud and abuse, waste in the system, which goes to the heart of cost escalation. We introduce a new concept, make it tax-advantaged, medical savings accounts, which will allow a lot of little people in this country to get health care coverage for the first time.

□ 2145

These are all things that we should be doing if we were not so timid. We need to vote against the substitute and vote for the underlying bill.

Mr. BENTSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. GIBBONS], the ranking member of the Committee on Ways and Means.

Mr. GIBBONS. Mr. Speaker, I want to take just a couple of minutes to explain why the medical savings account is not popular on our side of the aisle, and why it probably is pretty popular with our colleagues over here, our Republicans friends.

If we look at the average family in America, it has an average family income of $34,000 a year, $34,000 a year. That is what half of the taxpayers have as family income. Now, if we look very closely at that family, they are paying about an 18- or 20-percent tax level, but only 3 or 4 percent of that tax is income tax. All the rest of it is FICA tax. They are only getting a medical savings account deduction out of income tax, not out of FICA tax.

So half of the people in the United States that we claim as constituents and part of our party get absolutely nothing out of these medical savings accounts. But what do we do for our very well-off friends?

Mr. Speaker, first of all, they can afford it. They get a large deduction percentage-wise in all of this as opposed to 2 or 3 percent for our folks. Second, do not even make them pay FICA tax on that cash that they get as income. So that is another tax reduction they get, and we have not even talked about it here.

Third, and this is the insult of all, this allows them to exclude it from their estate tax. Now, how many of our constituents over here even have to worry about an estate tax? Obviously, many of my colleagues' do. My colleagues exempt them from the estate tax.

Now, what do we have to have in the estate tax? Well, between husband and wife, they can have millions of dollars and not pay any estate tax. But when the last of the family dies, they have an estate tax. They have to have $600,000 before they pay a penny's worth of estate tax. This thing is just designed for very wealthy people.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, I rise in opposition to the substitute. I think the substitute is a laudable effort, but there are a lot of other things that we can do that are important to this issue. There is a bipartisan bill, it is called Hobson-Sawyer, and it is called Bond-Lieberman in the Senate, and it is in our bill, it is not in this bill. It is the administrative simplification bill.

It gets rid of a lot of forms that have to be transferred around, a multiplicity of forms. It makes it simple. Everyone agrees that that is good. It also gets at fraud. Everyone agrees we ought to do that, but it is not in my colleagues' bill, and it should be in their bill. Everybody agrees that it is a good bill. There is no opposition. This part of the bill passed out of the committee 30 to zip. It is a good piece of legislation, it ought to be passed. That is why I support our bill and do not support the substitute.

Mr. BLILEY. Mr. Speaker, I have no further requests for time. I yield my remaining 1 minute back to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I have 5 minutes and I have one speaker left. Under the rules we have the right to close.

Mr. BENTSEN. Mr. Speaker, I yield the balance of my time to the chief sponsor of the amendment, the gentleman from Michigan [Mr. DINGELL], the ranking member of the Committee on Commerce.

Mr. DINGELL. My colleagues, this has been a good debate. I think we owe a great debt of gratitude to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA] for the leadership which she has shown in this matter which has brought us to where we are tonight, and I would urge my colleague to appreciate her great effort in this matter.

Having said that, it is very important to us to look at the situation we confront here. As an old friend of mine once observed, the perfect good is the enemy of the good. That means that, if we load this bill down with a vast plethora of amendments, we are liable to get no bill at all.

I yield to no man in my devotion to the concept that we must change the medical practice in this country to afford greater opportunity in this country to afford greater opportunity in this country and greater security to all the people.

The fact is that we had that opportunity before us in the last Congress and it was rejected. My Republican colleagues have made a great talk about what it was that we did in those days and what we are doing tonight. The hard fact of the matter is that neither of these bills solves the problem.

But the real fact is that the bill and the substitute which is offered by the Democratic Members has the ability to solve the problems in large part of some 25 million Americans who need portability and who need protection against prohibitions on preexisting conditions in insurance policies. It also does something else. It ups the amount

of deductibility to 80 percent for individuals and small business. That is extremely important in terms of making health insurance available to large numbers of people who would otherwise be denied that benefit.

So I urge my colleagues to support the simpler and the cleaner bill, and I would urge them to recognize that the special interest amendments which are inserted in the Republican bill accomplish nothing but benefiting special interests and denying people the real opportunity to access to meaningful health insurance.

Mr. Speaker, let us look a little bit at what is in the Republican bill. First of all, it is loaded down like a Christmas tree, and I am satisfied that it will wind up with the same fate of a Christmas tree, dumped on the lawn at the conclusion of the discussion. It affords no chance for workers who lose their jobs to have a choice of plans. It makes no guarantees of businesses with more than 50 workers. It preempts State laws that protect consumers. It limits the deductibility of insurance premiums only to 50 percent. It has the controversial medical savings plans which do only one thing, and that is to benefit the insurance companies that have spent millions of dollars lobbying for this particular benefit for themselves, to benefit those who are healthy and those who have money, not those who are ill and who have need.

It has controversial medical malpractice law changes. Now I happen to think we need some changes in medical malpractice, but I did not think that we need the changes that are here. It also makes it harder to catch and to punish wrongdoers. Perhaps one of the worst things that it does is that it repeals protections that we invested in seniors some years ago to prevent them from being ripped off by useless, duplicative health insurance policies under which they pay for the same benefits which they are getting from Medicare, but in which they are prohibited from collecting benefits because of clauses in the legislation and because the prior liability goes to the Medicare policies.

There are also controversial provisions in here which override State insurance laws.

Mr. Speaker, the hard fact is that tonight we should be working to make it simple. We should be working to make this a proposal which will go to the President, which will pass quickly through the House and Senate, which will move easily through conference, and which will go to the President for quick and easy signature. To risk veto or to arrive at a situation where we do not help the some 25 million people who are dependent on the question of portability and who are afflicted with the problems of not being able to have preexisting conditions treated under their health insurance plans or under health insurance plans which would be made available under this legislation is both unwise and unnecessary and inconsistent with our responsibilities to the people.

I would hope that soon we will be able to address a really meaningful proposal for health insurance for all the people, to see to it that we provide that last element of security for the American people, which every American finds to be troublesome in the extreme, because it is an essential and important part of the security net which Americans think that every American should have. Regrettably, that choice is not before us. Regrettably, the Republican Members of this body have chosen not to move forward on that.

President Clinton tried to do that 2 years ago and it was rejected overwhelmingly on this side of the aisle. I would urge my colleagues to recognize that a little that we can get quickly which will really help people is a lot better than an illusory lot which will help no one and not become law and not help anybody.

I would urge my colleagues to therefore vote for the substitute which the Democratic Members will be offering tonight and to do something which is going to benefit all of the people and which will be of significant benefit to some 25 million who will derive benefits under the portability and under the preexisting provisions.

I urge my colleagues to vote in the interests of the country. I urge them to vote for the substitute. I urge them to vote for a proposal which will give us significant progress, rather than the assurance of further confusion, further controversy, and possible veto and loss of this legislation in the Senate or in a conference between the House and Senate.

Mr. Speaker, I yield myself 3 minutes, and ask unanimous consent to revise and extend my remarks.

Mr. Speaker, we are faced today with a simple choice:

Will the House give the American people what they want—a straightforward, simple, and uncontroversial bill to reform health insurance, a bill that can go to conference with the Senate quickly and be enacted into law?

Or will the House doom the chances for enacting such a bill by erecting a Christmas tree, decorated with all manner of controversial ornaments?

I want to commend my colleague from New Jersey, Mrs. ROUKEMA, for recognizing the simplicity of this equation early on, and for introducing in the House the companion to Senator KASSEBAUM's bill in the Senate. The Kassebaum-Roukema bill has enjoyed widespread and bipartisan support. It has been endorsed by 135 organizations, including the AMA, the American Hospital Association, the Independent Insurance Agents, the National Association of Manufacturers, and the Healthcare Leadership Council.

Many of us have tried, on a bipartisan basis, to persuade the leadership to keep this health insurance bill limited only to the Roukema-Kassebaum bill and to tax deductibility of health insurance for the self-employed, another uncontroversial provision with broad support. But in spite of the very public pleas from our side of the aisle, as well as from Representative ROUKEMA, Senator KASSEBAUM, and Senator BENNETT on the Republican side, we have ended up instead with a Christmas tree.

The Dingell-Spratt-Bentsen substitute incorporates the Roukema bill as title I. The amendment is very simple. It ends discrimination against people with preexisting conditions so they can get health insurance. It guarantees that Americans who lose or change their jobs can get health insurance. It requires health insurance companies to renew people's policies. And in title II, it increases the health insurance tax deduction for self-employed individuals from 30 percent to 80 percent, a major priority for small businesses and family farmers.

By voting for the substitute, my friends, you will be telling your constituents that you want the House to pass a bill that can be signed and become law. By voting against it, you will be telling them that they will have wait longer for health insurance reform—and how long? Perhaps years?—because you can't say no to the special interests who want to load this bill up with controversial add-ons and thereby kill its chances for passage.

Now I know that many of my colleagues, on both sides of the aisle, don't happen to think that each and every one of these provisions added by the Republican leadership is bad. Medical savings accounts, antitrust relief, malpractice reform—there are strongly held views on both sides of these issues. But regardless of our personal views on any of them, one thing is clear: they are all controversial; they all weigh this bill down; and they all significantly reduce the chances of enacting the kind of simple health insurance reform the American people are demanding.

Mr. Speaker, I urge my colleagues:

Don't kill this chance for health insurance reform by passing a Christmas tree instead of a clean bill. Support a clean bill by supporting the substitute. Vote "yes" on Dingell-Spratt-Bentsen.

Mr. THOMAS. Mr. Speaker, it is my privilege and honor to yield the remainder of the majority's time on this substitute to the Speaker of the House, the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I thank my friend from California for yielding me the time to close, and I say I always rise with some slight trepidation after my dear friend from Michigan, who has been a leader in the House and is a very effective articulator of his side.

Mr. Speaker, I would say to him, however, that to describe as a Christmas tree a series of things the American people want is different than describing as a Christmas tree things only politicians want. And I do plead guilty to the charge that on a bipartisan basis we tried to reach out and actually listen to the American people,

and that some people are very grateful to us for that.

Let me start, for example, with the Alzheimer's Association. The Alzheimer's Association wrote us and said:

The Alzheimer's Association is writing in general support of the provisions in H.R. 3160 to clarify the Tax Code so that taxpayers may deduct their long-term care expenses as medical expenses. We are particularly pleased to note the committee's addition of specific language to assure that this deduction is available to taxpayers who are incurring expenses for care for persons who are cognitively impaired.

They go on to say:

This change in the Tax Code has had strong bipartisan support for a number of years and has appeared in virtually every version of health reform legislation seriously considered over the last two Congresses.

Now, maybe to some of our friends that is a Christmas tree. But if one has a parent with Alzheimer's, if one has a loved one with Alzheimer's, or if one has a child with a chronic disease, or a child born with a genetic defect that requires permanent long-term care, this provision is a good step in the right direction, and we should be proud that we listened to the American people.

The American Health Care Association, largely representing folks who are involved in nursing homes, an area where we have a growing population and as more Americans live beyond 80 years of age there will be even more Americans, they said: "We applaud and support your efforts to enact health insurance reform legislation that also addresses long-term care."

Now, that is very important. And yes, it is true we added it to the bill because we listened. We think that, while the start in the Senate was a useful start and we respect the work of the other body, we do not think the House is bound automatically to simply say, oh, please send us something that we can rubber stamp.

□ 2200

The American Farm Bureau Federation wrote, and they said:

A provision of the Health Coverage Availability and Affordability Act of 1996, one which deals with cooperative insurance purchasing arrangements, is particularly important to the 4.5-million-member families of the American Farm Bureau Federation. Farmers are, by and large, self-employed, and as such must purchase health insurance for themselves and their families. Many join together in cooperative purchasing arrangements in order to obtain quality health insurance plans at affordable rates. The Farm Bureau applauds and supports your effort on this issue and the section of the legislation that would facilitate voluntary insurance purchasing cooperatives so that individuals and small companies can negotiate and receive the same price advantage that many larger businesses presently receive.

So, yes, it is true we listened to the Farm Bureau, and we listened to the rural families of America and to the small family farmers.

The National Federation of Independent Businesses, and I am particularly surprised that so many of my friends who normally rail against the rich and declare class warfare and worry about the giant corporations, that they could get a letter like this from the National Federation of Independent Businesses and ignore it.

Here is what the National Federation of Independent Businesses said:

As the House prepares to take up health care reform, I am writing to let you know how important the small employer pooling provisions of the Health Coverage Availability and Affordability Act are to the members of the National Federation of Independent Businesses. NFIB is seeking to correct a basic unfairness in our current health system, the fact that big business is allowed to buy health insurance under a different set of rules than small business. Because of the Employment Retirement Income Security Act, large self-insured businesses are exempted from State law, in their health plans, while small business is stuck with State insurance coverage mandates, premium taxes, and other forms of regulation. This inequity between big business and small business in large part explains why the premiums of corporate America are going down while small business premiums are going up. State mandates alone can increase premiums for small business by 30 percent. The Health Coverage Availability and Affordability Act would stop this unfairness by allowing small firms to band together across State lines to purchase health insurance with nearly the same exemption from State law that big business has. Achieving this is NFIB's highest health reform priority. Any substitute amendment that does not directly address this inequity between big and small businesses is unacceptable to the more than 600,000 members of the National Federation of Independent Businesses. I hope you will stand up for small business and oppose efforts to remove the small employer pooling provisions of the Health Coverage Availability and Affordability Act. Passage of these pooling provisions will drive coverage up and premiums down for small business.

I particularly congratulate the gentleman from Illinois [Mr. FAWELL], who has done such yeoman work in that area.

The Chamber of Commerce said here were the returns of their poll: 97.8 percent said they needed small employer pooling; 97.1 percent said they needed to allow self-employed individuals to fully deduct the cost of their health coverage; 96 percent said they needed administrative simplification; 92 percent said they wanted medical malpractice reform.

Let me say to my good friends on the left, yes, it is true, we listened to the American people. We heard the American people say that access was a start but access was not enough, you also have to have affordability because the truth is if you do not keep the price down, you do not have access if you are too poor to pay the premium.

So just passing some Washington law with a Washington rule for a Washington bureaucrat, that does not mean that a small business or a family farm can actually pay for it, does not get the job done. So we went to part 2, which was affordability. We guaranteed accessibility, and we added affordability.

And there is a third part. We had strong provisions on fraud, and I particularly want to congratulate the gentleman from Oklahoma [Mr. COBURN], who is a medical doctor, who is infuriated at the level of fraud that we have in the system today, and Dr. COBURN is a Representative from Oklahoma who has worked tirelessly in his first term to make sure that we have strong steps and strong penalties against fraud.

When the General Accounting Office reports that fraud may account for 10 percent of health care costs, that is $100 billion a year. We have anecdote after anecdote on this floor from Members who have had members of their family involved in situations of clear-cut fraud, when you watch on NBC as a woman reports that she called in to complain because they had charged her for her autopsy and, since she was still alive, she does not think she had one, and their answer was that must have been an EKG. She said, "Honey, I did not have that either."

We had one of our colleagues who walked up to me one day and said, you know, his mother had called him, she heard us talking about fraud, and she said she got billed for two mammograms. She called the doctor's office. She said, "You did not have two mammograms." They said, "Oh, yes. We must have done two mammograms." She said, "I had a mastectomy 7 years ago. I know you did not do two mammograms." Their next comment was, "What do you care?" The Government will pay the bill."

What this bill establishes is it directs the Secretary of Health and Human Services to establish a system for senior citizens to turn in fraud and to give senior citizens the power to help us police the system so people engaged in ripping off you, the taxpayer, and rip off the consumer of Medicare is better protected and has a better incentive to turn in fraud.

I would say if you want accountability, we have it. If you want access, we have better access. We give twice as long a period as Kennedy-Kassebaum between insurance without losing coverage, twice as long. We have a better system of access, and it is far more affordable under our bill than it is under the substitute.

So I would simply say to my friends, do not be partisan about this. Here is an occasion where we started with a bill that was bipartisan in the Senate. We have improved the bill. Medical savings accounts is, in fact, an issue of great concern to some people. It is a brand-new idea. We believe it will help things.

I want the House to know that if the President sends up a veto signal, we

are not going to risk vetoing coverage for all Americans in medical savings accounts, but we want to make the case. We want to try to convince him that he ought to be willing to sign it.

There are other items in here. Malpractice reform, my good friend admitted we need to do something, too, on malpractice reform. The trial lawyers should not be ripping America off.

I talked about a week ago to the American dental association. It occurred to me, if dentists acted like the Bar, they would be urging every child to get cavities. There would be commercials to eat sugar and not brush your teeth. Just think about it. It is terrible. A patient walks into a doctor's office. They should both be on the same team, fighting the disease, and there is a lawyer running an ad that says, "Why don't you walk in there as a potential plaintiff and see if you can't find a good excuse to sue?" It is culturally sick to have this kind of litigation, conflict-ridden system. We take the first step down the road.

If the President sends up a veto signal, maybe we would have to back down. But we want a chance to convince him this is wrong to favor the trial lawyers over the patients and the doctors.

But all I would say to my friends is, the substitute is well-meaning, but it is inadequate. It is too little, it is too narrow, it is too small. We can do better.

We have listened, and we are doing better. This is a better bill than Kennedy-Kassebaum. This is a more complete bill. This offers better access. It is more affordable, and it guarantees greater accountability, and it is worthy of your consideration.

I will just close with this point: Five major leaders in the Senate yesterday announced their endorsement of this bill. And this bill will almost certainly be offered in the Senate as the substitute for the earlier well-meaning, but weaker, bill that Kennedy-Kassebaum introduced, and, with our help, we can send a signal to the Senate. Let us get the job done a lot better, and let us do it for a lot more people. That is why we should vote "no" on the substitute and "yes" on final passage.

Mrs. MINK of Hawaii. Mr. Speaker, I rise to speak in favor of the Democratic substitute to H.R. 3103.

Why are we considering H.R. 3103? H.R. 3103 was reported with only nine cosponsors. The Roukema bill, which the Democratic substitute is based on, has 193 cosponsors. Seldom do we have legislation with such widespread support. Instead of hearing the Roukema bill, we are spending time on legislation loaded with controversy and doomed to fail.

We now have before us an opportunity to provide relief for hardworking Americans enslaved to their health care policies.

The core of the Democratic substitute is twofold. First it will guarantee individuals leaving a job, where they are covered by group insurance, to be able to obtain group or individual insurance at their next job; and second, it will forbid insurance companies from denying coverage because of preexisting conditions. These are two very simple concepts with little opposition and if implemented would result in enormous social benefits.

In addition, both the Republican bill and the Democratic substitute increase the permitted health insurance tax deduction for self-employed individuals. The levels allotted in the Democratic substitute, however, are significantly higher. Health insurance costs for the self-employed are often a heavy burden. Tax deductions at the levels proposed in the Democratic substitute would ease this burden.

H.R. 1303 on the other hand contains many provisions which are not well thought out and will be harmful to the overall health care objectives.

One of these proposals relates to medical malpractice. Congress should not set maximum monetary amounts that can be awarded for pain and suffering, and for punitive damages. I cannot support this anti-consumer provisions.

With respect to Medical Savings Accounts, I took a hard look at this proposal. It seemed like a good idea to give individuals the option to contribute to a tax deductible savings account which must be used for medical purposes and also require them to enroll in a catastrophic health care plan with relatively lower premiums and a high yearly deductible.

Two questions came to mind: First, will this reform help the uninsured; and second, will this reform divide the pool of insured resulting in the systematic breakdown of the insurance system.

Medical Savings Accounts would not be attractive for the high risk and the poor, those who need health care the most, because they would be unable to afford the high yearly deductible over a extended period of time. If the poor did enroll in this plan they would be unlikely to obtain preventive care because it would have to be paid for from their account or from their own pocket.

Meanwhile, the healthy and wealthy, who do not have a problem obtaining health insurance, would be more likely to choose a Medical Savings Account because they can afford the high deductible. The different choices of these demographic groups will result in the healthy vacating the traditional insurance pool leaving only high-risk individuals remaining. The pool will be concentrated with high-risk individuals and costs will rise causing insurance to be unaffordable for many. Fewer people who need coverage will be insured. The Republican proposal for Medical Savings Accounts will divide the insurance pool leading to an insurance system breakdown.

Moreover, I feel compelled to speak out against the multiple employer welfare arrangement [MEWA] provisions contained in this bill. I am concerned that the federal regulation provided will not be adequate and that by preempting established State systems, programs will be harmed.

As a result of these new MEWA provisions, I am concerned that Hawaii may no longer be granted an ERISA exemption for the Hawaii Prepaid Health Care Act. Majority committee staff indicated that Hawaii's ERISA exemption was included in the bill reported out of the Committee on Economic and Education Opportunities. However, due to the extreme handicap of having to evaluate, debate, and vote on a bill mere hours after it is printed and made public, I have been unable to confirm whether or not Hawaii's exemption was preserved. The Federal Government will not be able to take on this new responsibility, liability, and expense. The retention of State authority is critical. Not to do so is a fatal flaw.

Mr. Speaker, the Democratic substitute focuses solely on insurance portability and prohibiting denial of coverage due to preexisting conditions. We must not load up this bill with controversial provisions that will incite opposition and thwart the enactment of valuable and the noncontroversial provisions in this bill.

This substitute will not overhaul the health care system but will provide greater health security and make a positive difference in the lives of millions of Americans. We must not allow this opportunity to slip through our fingers.

I urge a yes vote for the Democratic substitute.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today as a member of the health profession to encourage my colleagues to support a comprehensive health care reform measure that would make appropriate health care accessible for all Americans. As we consider H.R. 3103, the Health Coverage Affordability and Availability Act, it is important that we realize that there is no clear consensus on the best means to attain universal coverage. Limitations on exclusions for preexisting conditions and guarantees for portability will help millions of Americans move away from job-lock and the terrifying prospect of losing health care coverage that comes with job loss or change brought about by corporate downsizing and other market forces.

As a nurse, it is my opinion that this Congress needs to continue to foster high standards in the health care industry and promote the economic and general welfare of Americans in the workplace. All year we have heard that the Medicare hospital trust fund is about to go bankrupt and therefore we have to make massive cuts in Medicare to save it. Now they propose taking the easiest money in Medicare—the money gained from fighting fraud—and spending it to give medical savings account tax breaks to younger people who are likely to be in the highest tax brackets and the healthiest members of our society.

Mr. Chairman, while considering health care legislation today, we as a Congress must keep the process simple. There is no place for adding on special interest amendments and pay backs that will sabotage the passage of good reforms. We must also remember the working poor of this Nation that are effectively priced-our of the health insurance market.

Mr. Chairman, I encourage my colleagues to support the Democratic substitute to H.R. 3103 because the substitute does not contain any of the bill's highly controversial provisions—such as medical savings accounts—that would jeopardize any possibility of enacting health insurance reform this year. The Kassebaum-Kennedy-Roukema bill, which assures health insurance portability, enjoys broad bipartisan support in both Chambers,

and the President has endorsed it. We should not let this opportunity for enacting meaningful health reform slip away by loading down this bill with a number of controversial provisions. The only way to enact health reform is to support the Kassebaum-Kennedy-Roukema alternative which the substitute embodies.

I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I rise today to oppose the bill and support the Democratic substitute on this important issue of health insurance reform.

It is clear that there are serious problems with our current health care system. In 1994, Congress was working to address these problems and implement broad health care reforms, expanding access to health care coverage and reining in escalating health care costs. Those efforts were stymied, and during the past year and a half Republicans have mostly concentrated on cutting back on health care, by attempting to slash Medicare and Medicaid. In fact half the specified savings in the GOP reconciliation plan were from health care, that is, Medicare and Medicaid cuts.

In the absence of broader health care reforms, Americans are relying on us to at least enact some limited but important insurance reforms. There is some bipartisan support for many of the provisions before us today, but unfortunately, the Republican leadership is polarizing and threatening the enactment of these modest reforms. The GOP House leadership is seriously jeopardizing the bill by loading it up like a Christmas tree with controversial ornaments, like medical savings accounts and medical malpractice reform. These ornaments are a distraction from the issues and while they may be pretty to look at, we should certainly examine and consider these provisos separately, not as part of the basic agreed upon reforms.

In our dysfunctional health care system, insurance companies have too often taken steps to shift costs and deny health care coverage to people in order to lower their risk and increase their profit margin and competitiveness. The Democratic substitute is the best alternative today. It prohibits insurers and employers from limiting or denying coverage because of a preexisting condition. It would prohibit insurers from denying coverage to employers and prevent health plans from excluding any employee on the basis of health status. Health plans would be required to renew coverage for groups and individuals as long as premiums are paid. The Democratic substitute would also guarantee that individuals who leave group coverage will be able to purchase individual health insurance policies.

Millions of Americans would benefit from such legislation. It would allow people who want to change their jobs to take their health insurance with them, ending the phenomenon of job lock. It would end the unfair insurance practice of employing preexisting conditions clauses to avoid coverage of categories of persons. These changes proposed in the Democratic substitute are needed to increase health care security for working American families.

However, the Republican proposal is disingenous and demonstrates today their policy path; solve health care problems by changing the topic. They have included a provision in their bill to establish medical savings accounts which will in essence drive health care costs up for most and balloon the deficit. This proposal will weaken the overall health system as healthier and wealthier people leave the traditional insurance risk pool. First of all most Americans cannot afford to put aside $2,000 a year into a tax-free account. People with existing health problems and without savings income would be left in the traditional insurance pool and will find it more difficult to afford escalating health care costs. I do not believe that this is the kind of change in the health care system that the American people want. This will further polarize and divide the concept of community rating. In fact, the main beneficiaries of this proposal will be the insurance companies.

For months, Republicans have delayed consideration of this bill until they were embarrassed into bringing it to the floor by the President's State of the Union statement. Now the Republicans are going to burden the bill by overloading the vehicle so that it will sink. The Republican political agenda apparently takes precedent over good people policy. The special interests wish list that the Republican leadership tries to satisfy threatens the passage of the core insurance reforms necessary to secure health care coverage for millions of Americans. This is wrong and should be rejected.

Congress must respond to the needs of the American people and enact responsible health insurance reform, not sidetrack the issue and leave the American people in the lurch. I urge my colleagues to oppose the controversial provisions of the bill and support the Democratic substitute.

Mr. RICHARDSON. Mr. Speaker, voting for this substitute means that you are serious about allowing your constituents to have access to health insurance.

This substitute is simple policy. If you want to tell insurance companies they cannot deny Americans who have beat a life-threatening disease or condition insurance coverage, vote for this substitute.

If you want to allow hard working families in your district to keep their health care when they change jobs, vote for this substitute.

If you want to help small businesses and entrepreneurs afford health care, vote for this substitute.

This substitute is a bipartisan effort. Republicans and Democrats in the Senate agree on it.

A Republican Member introduced this bill in the House and over 170 Democrats have cosponsored it.

Mr. Speaker, this is not about partisan politics. It is about doing what is right for the American people. About giving working American families access to insurance coverage for themselves and their families.

The SPEAKER pro tempore (Mr. COMBEST). Pursuant to House Resolution 392, the previous question is ordered on the bill as amended.

The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan [Mr. DINGELL].

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

Mr. BENTSEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make a point of order a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 192, nays 226, not voting 14, as follows:

[Roll No. 104]

YEAS—192

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Duncan
Durbin
Edwards
Engel
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Quinn
Rahall
Rangel
Reed
Richardson
Rivers
Roberts
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Walsh
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wynn
Yates

NAYS—226

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady

Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Radanovich
Ramstad
Regula
Riggs
Rogers
Rohrabacher
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—14

Bryant (TX)
Coleman
Collins (IL)
Dooley
Eshoo
Fields (LA)
Fowler
McNulty
Neal
Ros-Lehtinen
Smith (TX)
Smith (WA)
Stokes
Weldon (PA)

□ 2225

Messrs. HILLEARY, NUSSLE, and STOCKMAN changed their vote from "yea" to "nay."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. COMBEST). 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.

□ 2230

MOTION TO RECOMMIT OFFERED BY MR. PALLONE

Mr. PALLONE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. COMBEST). Is the gentleman opposed to the bill?

Mr. PALLONE. Yes, Mr. Speaker, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. PALLONE moves to recommit the bill, H.R. 3103, to the Committee on Ways and Means with instructions that the Committee report the bill back to the House forthwith with the following amendment:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Insurance Reform Act of 1996".

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

TABLE OF CONTENTS OF TITLE

Sec. 100. Definitions.

SUBTITLE A—GROUP MARKET RULES

Sec. 101. Guaranteed availability of health coverage.
Sec. 102. Guaranteed renewability of health coverage.
Sec. 103. Portability of health coverage and limitation on preexisting condition exclusions.
Sec. 104. Special enrollment periods.
Sec. 105. Disclosure of information.

SUBTITLE B—INDIVIDUAL MARKET RULES

Sec. 110. Individual health plan portability.
Sec. 111. Guaranteed renewability of individual health coverage.
Sec. 112. State flexibility in individual market reforms.
Sec. 113. Definition.

SUBTITLE C—COBRA CLARIFICATIONS

Sec. 121. Cobra clarification.

SUBTITLE D—PRIVATE HEALTH PLAN PURCHASING COOPERATIVES

Sec. 131. Private health plan purchasing cooperatives.

SUBTITLE E—APPLICATION AND ENFORCEMENT OF STANDARDS

Sec. 141. Applicability.
Sec. 142. Enforcement of standards.

SUBTITLE F—MISCELLANEOUS PROVISIONS

Sec. 191. Health coverage availability study.
Sec. 192. Effective date.
Sec. 193. Severability.

SEC. 100. DEFINITIONS.

As used in this title:

(1) BENEFICIARY.—The term "beneficiary" has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(8)).

(2) EMPLOYEE.—The term "employee" has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)).

(3) EMPLOYER.—The term "employer" has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of two or more employees.

(4) EMPLOYEE HEALTH BENEFIT PLAN.—

(A) IN GENERAL.—The term "employee health benefit plan" means any employee welfare benefit plan, governmental plan, or church plan (as defined under paragraphs (1), (32), and (33) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1), (32), and (33))) that provides or pays for health benefits (such as provider and hospital benefits) for participants and beneficiaries whether—

(i) directly;

(ii) through a group health plan offered by a health plan issuer as defined in paragraph (8); or

(iii) otherwise.

(B) RULE OF CONSTRUCTION.—An employee health benefit plan shall not be construed to be a group health plan, an individual health plan, or a health plan issuer.

(C) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(5) FAMILY.—

(A) IN GENERAL.—The term "family" means an individual, the individual's spouse, and the child of the individual (if any).

(B) CHILD.—For purposes of subparagraph (A), the term "child" means any individual who is a child within the meaning of section 151(c)(3) of the Internal Revenue Code of 1986.

(6) GROUP HEALTH PLAN.—

(A) IN GENERAL.—The term "group health plan" means any contract, policy, certificate or other arrangement offered by a health plan issuer to a group purchaser that provides or pays for health benefits (such as provider and hospital benefits) in connection with an employee health benefit plan.

(B) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof;

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(7) GROUP PURCHASER.—The term "group purchaser" means any person (as defined under paragraph (9) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(9)) or entity that purchases or pays for health benefits (such as provider or hospital benefits) on behalf of two or more participants or beneficiaries in connection with an employee health benefit plan. A health plan purchasing cooperative established under section 131 shall not be considered to be a group purchaser.

(8) HEALTH PLAN ISSUER.—The term "health plan issuer" means any entity that is licensed (prior to or after the date of enactment of this Act) by a State to offer a group health plan or an individual health plan.

(9) HEALTH STATUS.—The term "health status" includes. with respect to an individual, medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability.

(10) PARTICIPANT.—The term "participant" has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(7)).

(11) PLAN SPONSOR.—The term "plan sponsor" has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(16)(B)).

(12) SECRETARY.—The term "Secretary", unless specifically provided otherwise, means the Secretary of Labor.

(13) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Subtitle A—Group Market Rules

SECTION 101. GUARANTEED AVAILABILITY OF HEALTH COVERAGE.

(a) IN GENERAL.—

(1) NONDISCRIMINATION.—Except as provided in subsection (b), section 102 and section 103—

(A) a health plan issuer offering a group health plan may not decline to offer whole group coverage to a group purchaser desiring to purchase such coverage; and

(B) an employee health benefit plan or a health plan issuer offering a group health plan may establish eligibility, continuation of eligibility, enrollment, or premium; contribution requirements under the terms of such plan, except that such requirements shall not be based on health status (as defined in section 100(9)).

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall prevent an employee health benefit plan or a health plan issuer from establishing premium; discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(b) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering a group health plan may cease offering coverage to group purchasers under the plan if—

(A) the health plan issuer ceases to offer coverage to any additional group purchasers; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered participants and beneficiaries (and additional participants and beneficiaries who will be expected to enroll because of their affiliation with a group purchaser or such previously covered participants or beneficiaries) will be impaired if the health plan issuer is required to offer coverage to additional group purchasers.

Such health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering a group health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer offers coverage to group purchasers under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(c) CONSTRUCTION.—

(1) MARKETING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering group health plans to actively market such plans.

(2) INVOLUNTARY OFFERING OF GROUP HEALTH PLANS.—Nothing is this section shall be construed to require a health plan issuer to involuntarily offer group health plans in a particular market. For the purposes of this paragraph, the term "market" means either the large employer market or the small employer market (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees).

SEC. 102. GUARANTEED RENEWABILITY OF HEALTH COVERAGE.

(a) IN GENERAL.—

(1) GROUP PURCHASER.—Subject to subsections (b) and (c), a group health plan shall be renewed or continued in force by a health plan issuer at the option of the group purchaser, except that the requirement of this subparagraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the group purchaser in accordance with the terms of the group health plan or where the health plan issuer has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the group purchaser;

(C) the termination of the group health plan in accordance with subsection (b); or

(D) the failure of the group purchaser to meet contribution or participation requirements in accordance with paragraph (3).

(2) PARTICIPANT.—Subject to subsections (b) and (c), coverage under an employee health benefit plan or group health plan shall be renewed or continued in force, if the group purchaser elects to continue to provide coverage under such plan, at the option of the participant (or beneficiary where such right exists under the terms of the plan or under applicable law), except that the requirement of this paragraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the participant or beneficiary in accordance with the terms of the employee health benefit plan or group health plan or where such plan has not received timely premium payments.

(B) fraud or misrepresentation of material fact on the part of the participant or beneficiary relating to an application for coverage or claim for benefits;

(C) the termination of the employee health benefit plan or group health plan;

(D) loss of eligibility for continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.); or

(E) failure of a participant or beneficiary to meet requirements for eligibility for coverage under an employee health benefit plan or group health plan that are not prohibited by this title.

(3) RULES OF CONSTRUCTION.—Nothing in this subsection, nor in section 101(a), shall be construed to—

(A) preclude a health plan issuer from establishing employer contribution rules or group participation rules for group health plans as allowed under applicable State law;

(B) preclude a plan defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102(37)) from establishing employer contribution rules or group participation rules; or

(C) permit individuals to decline coverage under an employee health benefit plan if such right is not otherwise available under such plan.

(b) TERMINATION OF GROUP HEALTH PLANS.—

(1) PARTICULAR TYPE OF GROUP HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of group health plan. A group health plan of such type may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each group purchaser covered under a group health plan of this type (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 90 days prior to the date of the discontinuation of such plan;

(B) the health plan issuer offers to each group purchaser covered under a group health plan of this type, the option to purchase any other group health plan currently being offered by the health plan issuer; and

(C) in exercising the option to discontinue a group health plan of this type and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of participants or beneficiaries covered under the group health plan, or new participants or beneficiaries who may become eligible for coverage under the group health plan.

(2) DISCONTINUANCE OF ALL GROUP HEALTH PLANS.—

(A) IN GENERAL.—In any case in which a health plan issuer elects to discontinue offering all group health plans in a State, a group health plan may be discontinued by the health plan issuer only if—

(i) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each group purchaser (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 180 days prior to the date of the expiration of such plan, and

(ii) all group health plans issued or delivered for issuance in the State or discontinued and coverage under such plans is not renewed.

(B) APPLICATION OF PROVISIONS.—The provisions of this paragraph and paragraph (3) may be applied separately by a health plan issuer—

(i) to all group health plans offered to small employers (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees); or

(ii) to all other group health plans offered by the health plan issuer in the State.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any group health plan in the market sector (as described in paragraph (2)(B)) in which issuance of such group health plan was discontinued in the State involved during the 5-year period beginning on the date of the discontinuation of the last group health plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A network plan (as defined in paragraph (2)) may deny continued participation under such plan to participants or beneficiaries who neither live, reside, nor work in an area in which such network plan is offered, but only if such denial is applied uniformly, without regard to health status of particular participants or beneficiaries.

(2) NETWORK PLAN.—As used in paragraph (1), the term "network plan" means an employee health benefit plan or a group health plan that arranges for the financing and delivery of health care services to participants or beneficiaries covered under such plan, in whole or in part, through arrangements with providers.

(d) COBRA COVERAGE.—Nothing in subsection (a)(2)(E) or subsection (c) shall be construed to affect any right to COBRA continuation coverage as described in part 6 of subtitle B of title I of the employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.).

SEC. 103. PORTABILITY OF HEALTH COVERAGE AND LIMITATION ON PREEXISTING CONDITION EXCLUSIONS.

(a) IN GENERAL.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to treatment of a preexisting condition based on the fact that the condition existed prior to the coverage of the participant or beneficiary under the plan only if—

(1) the limitation or exclusion extends for a period of not more than 12 months after the date of enrollment in the plan;

(2) the limitation or exclusion does not apply to an individual who, within 30 days of the date of birth or placement for adoption (as determined under section 609(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(c)(3)(B)), was covered under the plan; and

(3) the limitation or exclusion does not apply to a pregnancy.

(b) CREDITING OF PREVIOUS QUALIFYING COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (4), an employee health benefit plan or a health plan issuer offering a group health plan shall provide that if a participant or beneficiary is in a period of previous qualifying coverage as of the date of enrollment under such plan, any period of exclusion or limitation of coverage with respect to a preexisting condition shall be reduced by 1 month for each month in which the participant or beneficiary was in the period of previous qualifying coverage. With respect to an individual described in subsection (a)(2) who maintains continuous coverage, no limitation or exclusion of benefits relating to treatment of a preexisting condition may be applied to a child within the child's first 12 months of life or within 12 months after the placement of a child for adoption.

(2) DISCHARGE OF DUTY.—An employee health benefit plan shall provide documentation of coverage to participants and beneficiaries who coverage is terminated under the plan. Pursuant to regulations promulgated by the Secretary, the duty of an employee health benefit plan to verify previous qualifying coverage with respect to a participant or beneficiary is effectively discharged when such employee health benefit plan provides documentation to a participant or beneficiary that includes the following information:

(A) the dates that the participant or beneficiary was covered under the plan; and

(B) the benefits and cost-sharing arrangement available to the participant or beneficiary under such plan.

An employee health benefit plan shall retain the documentation provided to a participant or beneficiary under subparagraphs (A) and (B) for at least the 12-month period following the date on which the participant or beneficiary ceases to be covered under the plan. Upon request, an employee health benefit plan shall provide a second copy of such documentation or such participant or beneficiary within the 12-month period following the date of such ineligibility.

(3) DEFINITIONS.—As used in this section:

(A) PREVIOUS QUALIFYING COVERAGE.—The term "previous qualifying coverage" means the period beginning on the date—

(i) a participant or beneficiary is enrolled under an employee health benefit plan or a group health plan, and ending on the date the participant or beneficiary is not so enrolled; or

(ii) an individual is enrolled under an individual health plan (as defined in section 113) or under a public or private health plan established under Federal or State law, and ending on the date the individual is not so enrolled;

for a continuous period of more than 30 days (without regard to any waiting period).

(B) LIMITATION OR EXCLUSION OF BENEFITS RELATING TO TREATMENT OF A PREEXISTING CONDITION.—The term "limitation or exclusion of benefits relating to treatment of a preexisting condition" means a limitation or exclusion of benefits imposed on an individual based on a preexisting condition of such individual.

(4) EFFECT OF PREVIOUS COVERAGE.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition, subject to the limits in subsection (a)(1), only to the extent that such service or benefit was not previously covered under the group health plan, employee health benefit plan, or individual health plan in which the participant or beneficiary was enrolled immediately prior to enrollment in the plan involved.

(c) LATE ENROLLEES.—Except as provided in section 104, with respect to a participant or beneficiary enrolling in an employee health benefit plan or group health plan during a time that is other than the first opportunity to enroll during an enrollment period of at least 30 days, coverage with respect to benefits or services relating to the treatment of a preexisting condition in accordance with subsection (a) and (b) may be excluded except the period of such exclusion may not exceed 18 months beginning on the date of coverage under the plan.

(d) AFFILIATION PERIODS.—With respect to a participant or beneficiary who would otherwise be eligible to receive benefits under an employee health benefit plan or a group health plan but for the operation of a preexisting condition limitation or exclusion, if such plan does not utilize a limitation or exclusion of benefits relating to the treatment of a preexisting condition, such plan may impose an affiliation period on such participant or beneficiary not to exceed 60 days (or in the case of a late participant or beneficiary described in subsection (c), 90 days) from the date on which the participant or beneficiary would otherwise be eligible to receive benefits under the plan. An employee health benefit plan or a health plan issuer offering a group health plan may also use alternative methods to address adverse section as approved by the applicable certifying authority (as defined in section 142(d)). During such an affiliation period, the plan may not be required to provide health care services or benefits and no premium shall be charged to the participant or beneficiary.

(e) PREEXISTING CONDITIONS.—For purposes of this section, the term "preexisting condition" means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before the effective date of the coverage (without regard to any waiting period).

(f) STATE FLEXIBILITY.—Nothing in this section shall be construed to preempt State laws that—

(1) require health plan issuers to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition for periods that are shorter than those provided for under this section; or

(2) allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 30-day period provided for under subsection (b)(3);

unless such laws are preempted by section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 104. SPECIAL ENROLLMENT PERIODS.

In the case of a participant, beneficiary or family member who—

(1) through marriage, separation, divorce, death, birth or placement of a child for adoption, experiences a change in family composition affecting eligibility under a group health plan, individual health plan, or employee health benefit plan;

(2) experiences a change in employment status, as described in section 603(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163(2)), that causes the loss of eligibility for coverage, other than COBRA continuation coverage under a group health plan, individual health plan, or employee health benefit plan; or

(3) experiences a loss of eligibility under a group health plan, individual health plan, or employee health benefit plan because of a change in the employment status of a family member;

each employee health benefit plan and each group health plan shall provide for a special enrollment period extending for a reasonable time after such event that would permit the participant to change the individual or family basis of coverage or to enroll in the plan if coverage would have been available to such individual, participant, or beneficiary but for failure to enroll during a previous enrollment period. Such a special enrollment period shall ensure that a child born or placed for adoption shall be deemed to be covered under the plan as of the date of such birth or placement for adoption if such child is enrolled within 30 days of the date of such birth or placement for adoption.

SEC. 105. DISCLOSURE OF INFORMATION.

(a) DISCLOSURE OF INFORMATION BY HEALTH PLAN ISSUER.—

(1) IN GENERAL.—In connection with the offering of any group health plan to a small employer (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees), a health plan issuer shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of—

(A) the provisions of such group health plan concerning the health plan issuer's right to change premium rates and the factors that may affect changes in premium rates.

(B) the provisions of such group health plan relating to renewability of coverage;

(C) the provisions of such group health plan relating to any preexisting condition provision; and

(D) descriptive information about the benefits and premiums available under all group health plans for which the employer is qualified.

Information shall be provided to small employers under this paragraph in a manner determined to be understandable by the average small employer, and shall be sufficiently accurate and comprehensive to reasonably inform small employers, participants and beneficiaries of their rights and obligations under the group health plan.

(2) EXCEPTION.—With respect to the requirement of paragraph (1), any information that is proprietary and trade secret information under applicable law shall not be subject to the disclosure requirements of such paragraph.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to preempt State reporting and disclosure requirements to the extent that such requirements are not preempted under section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(b) DISCLOSURE OF INFORMATION TO PARTICIPANTS AND BENEFICIARIES.—

(1) IN GENERAL.—Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended in the matter following subparagraph (B)—

(A) by striking "102(a)(1)," and inserting "102(a)(1) that is not a material reduction in covered services or benefits provided,"; and

(B) by adding at the end thereof the following new sentences: "If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided, a summary description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1996, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.".

(2) PLAN DESCRIPTION AND SUMMARY.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(A) by inserting "including the office or title of the individual who is responsible for approving or denying claims for coverage of benefits" after "type of administration of the plan";

(B) by inserting "including the name of the organization responsible for financing claims" after "source of financing of the plan"; and

(C) by inserting "including the office, contact, or title of the individual at the Department of Labor through which participants may seek assistance or information regarding their rights under this Act and title I of the Health Insurance Reform Act of 1996 with respect to health benefits that are not offered through a group health plan." after "benefits under the plan".

Subtitle B—Individual Market Rules

SEC. 110. INDIVIDUAL HEALTH PLAN PORTABILITY.

(a) LIMITATION ON REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsections (b) and (c), a health plan issuer described in paragraph (3) may not, with respect to an eligible individual (as defined in subsection (b)) desiring to enroll in an individual health plan—

(A) decline to offer coverage to such individual, or deny enrollment to such individual based on the health status of the individual; or

(B) impose a limitation or exclusion of benefits otherwise covered under the plan for the individual based on a preexisting condition unless such limitation or exclusion could have been imposed if the individual remained covered under a group health plan or employee health benefit plan (including providing credit for previous coverage in the manner provided under subtitle A).

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall be construed to prevent a health plan issuer offering an individual health plan from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion or disease prevention.

(3) HEALTH PLAN ISSUER.—A health plan issuer described in this paragraph in a health plan issuer that issues or renews individual health plans.

(4) PREMIUMS.—Nothing in this subsection shall be construed to affect the determination of a health plan issuer as to the amount of the premium payable under an individual health plan under applicable State law.

(b) DEFINITION OF ELIGIBLE INDIVIDUAL.—As used in subsection (a)(1), the term "eligible individual" means an individual who—

(1) was a participant or beneficiary enrolled under one or more group health plans, employee health benefit plans, or public plans established under Federal or State law, for not less than 18 months (without a lapse in coverage of more than 30 consecutive days) immediately prior to the date on which the individual desired to enroll in the individual health plan.

(2) is not eligible for coverage under a group health plan or an employee health benefit plan;

(3) has not had coverage terminated under a group health plan or employee health benefit plan for failure to make required premium payments or contributions, or for fraud or misrepresentation of material fact; and

(4) has, if applicable, accepted and exhausted the maximum required period of continuous coverage as described in section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) or under an equivalent State program.

(c) APPLICABLE OF CAPACITY LIMIT.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering coverage to individuals under an individual health plan may cease enrolling individuals under the plan if—

(A) the health plan issuer ceases to enroll any new individuals; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered individuals will be impaired if the health plan issuer is required to enroll additional individuals.

Such a health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering coverage to individuals under an individual health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer provides for enrollment of individuals under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(d) MARKET REQUIREMENT.—

(1) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that a health plan issuer offering group health plans to group purchasers offer individual health plans to individuals.

(2) CONVERSION POLICIES.—A health plan issuer offering group health plans to group purchasers under this title shall not be deemed to be a health plan issuer offering an individual health plan solely because such health plan issuer offers a conversion policy.

(3) MARKETING OF PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

SEC. 111. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH COVERAGE.

(a) IN GENERAL.—Subject to subsections (b) and (c), coverage for individuals under an individual health plan shall be renewed or continued in force by a health plan issuer at the option of the individual, except that the requirement of this subsection shall not apply in the case of—

(1) the nonpayment of premiums or contributions by the individual in accordance with the terms of the individual health plan or where the health plan issuer has not received timely premium payments;

(2) fraud or misrepresentation of material fact on the part of the individual; or

(3) the termination of the individual health plan in accordance with subsection (b).

(b) TERMINATION OF INDIVIDUAL HEALTH PLANS.—

(1) PARTICULAR TYPE OF INDIVIDUAL HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of individual health plan to individuals, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each individual covered under the plan of such discontinuation at least 90 days prior to the date of the expiration of the plan.

(B) the health plan issuer offers to each individual covered under the plan the option to purchase any other individual health plan currently being offered by the health plan issuer to individuals; and

(C) in exercising the option to discontinue the individual health plan and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of particular individuals.

(21) DISCONTINUANCE OF ALL INDIVIDUAL HEALTH PLANS.—In any case in which a

health plan issuer elects to discontinue all individual health plans in a State, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each individual covered under the plan of such discontinuation at least 180 days prior to the date of the discontinuation of the plan; and

(B) all individual health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any individual health plan in the State involved during the 5-year period beginning on the date of the discontinuation of the last plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A health plan issuer which offers a network plan (as defined in paragraph (2)) may deny continued participation under the plan to individuals who neither live, reside, nor work in an area in which the individual health plan is offered, but only if such denial is applied uniformly, without regard to health status of particular individuals.

(2) NETWORK PLAY.—As used in paragraph (1), the term "network plan" means an individual health plan that arranges for the financing and delivery of health care services to individuals covered under such health plan, in whole or in part, through arrangements with providers.

SEC. 112. STATE FLEXIBILITY IN INDIVIDUAL MARKET REFORMS.

(a) IN GENERAL.—With respect to any State law with respect to which the Governor of the State notifies the Secretary of Health and Human Services that such State law will achieve the goals of sections 110 and 111, and that is in effect on, or enacted after, the date of enactment of this Act (such as laws providing for guaranteed issue, open enrollment by one or more health plan issuers, high-risk pools, or mandatory conversion policies), such State law shall apply in lieu of the standards described in sections 110 and 111 unless the Secretary of Health and Human Services determines, after considering the criteria described in subsection (b)(1), in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, that such State law does not achieve the goals of providing access to affordable health care coverage for those individuals described in sections 110 and 111.

(b) DETERMINATION.—

(1) IN GENERAL.—In making a determination under subsection (a), the Secretary of Health and Human Services shall only—

(A) evaluate whether the State law or program provides guaranteed access to affordable coverage to individuals described in sections 110 and 111;

(B) evaluate whether the State law or program provides coverage for preexisting conditions (as defined in section 103(e)) that were covered under the individuals' previous group health plan or employee health benefit plan for individuals described in sections 110 and 111.

(C) evaluate whether the State law or program provides individuals described in sections 110 and 111 with a choice of health plans or a health plan providing comprehensive coverage, and

(D) evaluate whether the application of the standards described in sections 110 and 111 will have an adverse impact on the number of individuals in such State having access to affordable coverage.

(2) NOTICE OF INTENT.—If, within 6 months after the date of enactment of this Act, the Governor of a State notifies the Secretary of Health and Human Services that the State intends to enact a law, or modify an existing law, described in subsection (a), the Secretary of Health and Human Services may not make a determination under such subsection until the expiration of the 12-month period beginning on the date on which such notification is made, or until January 1, 1998, whichever is later. With respect to a State that provides notice under this paragraph and that has a legislature that does not meet within the 12-month period beginning on the date of enactment of this Act, the Secretary shall not make a determination under subsection (a) prior to January 1, 1998.

(3) NOTICE TO STATE.—If the Secretary of Health and Human Services determines that a State law or program does not achieve the goals described in subsection (a), the Secretary of Health and Human Services shall provide the State with adequate notice and reasonable opportunity to modify such law or program to achieve such goals prior to making a final determination under subsection (a).

(c) ADOPTION OF NAIC MODEL.—If, not later than 9 months after the date of enactment of this Act—

(1) the National Association of Insurance Commissioners (hereafter referred to as the "NAIC"), through a process which the Secretary of Health and Human Services determines has included consultation with representatives of the insurance industry and consumer groups, adopts a model standard or standards for reform of the individual health insurance market, and

(2) the Secretary of Health and Human Services determines, within 30 days of the adoption of such NAIC standard or standards, that such standards comply with the goals of sections 110 and 111:

a State that elects to adopt such model standards or substantially adopt such model standards shall be deemed to have met the requirements of sections 110 and 111 and shall be subject to a determination under subsection (a).

SEC. 113. DEFINITION.

(a) IN GENERAL.—As used this title, the term "individual health plan" means any contract, policy, certificate or other arrangement offered to individuals by a health plan issuer that provides or pays for health benefits (such as provider and hospital benefits) and that is not a group health plan under section 2(6).

(b) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(1) Coverage only for accident, or disability income insurance, or any combination thereof.

(2) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(3) Coverage issued as a supplement to liability insurance.

(4) Liability insurance, including general liability insurance and automobile liability insurance.

(5) Workers' compensation or similar insurance.

(6) Automobile medical payment insurance.

(7) Coverage for a specified disease or illness.

(8) Hospital of fixed indemnity insurance.

(9) Short-term limited duration insurance.

(10) Credit-only, dental-only, or vision-only insurance.

(11) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

Subtitle C—COBRA Clarifications

SEC. 121. COBRA CLARIFICATIONS.

(a) PUBLIC HEALTH SERVICE ACT.—

(1) PERIOD OF COVERAGE.—Section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb-2(2)) is amended—

(A) in subparagraph (A)—

(i) by transferring the sentence immediately preceding clause (iv) so as to appear immediately following such clause (iv); and

(ii) in the last sentence (as so transferred)—

(I) by inserting ", or a beneficiary-family member of the individual," after "an individual"; and

(II) by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title";

(B) in subparagraph (D)(i), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996", and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title",

(2) ELECTION.—Section 2205(1)(C) of the Public Health Service Act (42 U.S.C. 300bb-5(1)(C)) is amended—

(A) in clause (i), by striking "or" at the end thereof.

(B) in clause (ii), by striking the period and inserting ", or", and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of an individual described in the last sentence of section 2202(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 2206(3) of the Public Health Service Act (42 U.S.C. 300bb-6(3)) is amended by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 2208(3)(A) of the Public Health Service Act (42 U.S.C. 300bb-8(3)(A)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this title.".

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) PERIOD OF COVERAGE.—Section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended—

(A) in the last sentence of subparagraph (A)—

(i) by inserting ", or a beneficiary-family member of the individual." after "an individual"; and

(ii) by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month

period of continuing coverage under this part",

(B) in subparagraph (D)(i), by inserting before, ", or" the following ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(2) ELECTION.—Section 605(1)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165(1)(C)) is amended—

(A) in clause (i), by striking "or" at the end thereof;

(B) in clause (ii), by striking the period and inserting ", or"; and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of an individual described in the last sentence of section 602(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 606(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(3)) is amended by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 607(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this part.".

(c) INTERNAL REVENUE CODE OF 1986.—

(1) PERIOD OF COVERAGE.—Section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended—

(A) in the last sentence of clause (i) by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(B) in clause (iv)(I), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this subclause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this subsection because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in clause (v), by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(2) ELECTION.—Section 4980B(f)(5)(A)(ii) of the Internal Revenue Code of 1986 is amended—

(A) in subclause (I), by striking "or" at the end thereof;

(B) in subclause (II), by striking the period and inserting ", or", and

(C) by adding at the end thereof the following new subclause:

"(III) in the case of an qualified beneficiary described in the last sentence of paragraph (2)(B)(i), the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 4980B(f)(6)(C) of the Internal Revenue Code of 1986 is amended by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this section.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualifying events occurring on or after the date of enactment of this Act for plan years beginning after December 31, 1997.

(e) NOTIFICATION OF CHANGES.—Not later than 60 days prior to the date on which this section becomes effective, each group health plan (covered under title XXII of the Public Health Service Act, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and section 4980B(f) of the Internal Revenue Code of 1986) shall notify each qualified beneficiary who has elected continuation coverage under such title, part or section of the amendments made by this section.

Subtitle D—Private Health Plan Purchasing Cooperatives

SEC. 131. PRIVATE HEALTH PLAN PURCHASING COOPERATIVES.

(a) DEFINITION.—As used in this title, the term "health plan purchasing cooperative" means a group of individuals or employers that, on a voluntary basis and in accordance with this section, form a cooperative for the purpose of purchasing individual health plans or group health plans offered by health plan issuers. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of insurance may not underwrite a cooperative.

(b) CERTIFICATION.—

(1) IN GENERAL.—If a group described in subsection (a) desires to form a health plan purchasing cooperative in accordance with this section and such group appropriately notifies the State and the Secretary of such desire, the State, upon a determination that such group meets the requirements of this section, shall certify the group as a health plan purchasing cooperative. The State shall make a determination of whether such group meets the requirements of this section in a timely fashion. Each such cooperative shall also be registered with the Secretary.

(2) STATE REFUSAL TO CERTIFY.—If a State fails to implement a program for certifying health plan purchasing cooperatives in accordance with the standards under this title, the Secretary shall certify and oversee the operations of such cooperative in such State.

(3) INTERSTATE COOPERATIVES.—For purposes of this section a health plan purchasing cooperative operating in more than one State shall be certified by the State in which the cooperative is domiciled. States may enter into cooperative agreements for the purpose of certifying and overseeing the operation of such cooperatives. For purposes of this subsection, a cooperative shall be considered to be domiciled in the State in which most of the members of the cooperative reside.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—Each health plan purchasing cooperative shall be governed by a Board of Directors that shall be responsible for ensuring the performance of the duties of the cooperative under this section. The Board shall be composed of a board cross-section of representatives of employers, employees, and individuals participating in the cooperative. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of individual health plans or group health plans may not hold or control any right to vote with respect to a cooperative.

(2) LIMITATION ON COMPENSATION.—A health plan purchasing cooperative may not provide compensation to members of the Board of Directors. The cooperative may provide reimbursements to such members for the reasonable and necessary expenses incurred by the members in the performance of their duties as members of the Board.

(3) CONFLICT OF INTEREST.—No member of the Board of Directors (or family members of such members) nor any management personnel of the cooperative may be employed by, be a consultant of, be a member of the board of directors or, be affiliated with an agent of, or otherwise be a representative of any health plan issuer, health care provider, or agent or broker. Nothing in the preceding sentence shall limit a member of the Board from purchasing coverage offered through the cooperative.

(d) MEMBERSHIP AND MARKETING AREA.—

(1) MEMBERSHIP.—A health plan purchasing cooperative may establish limits on the maximum size of employers who may become members of the cooperative, and may determine whether to permit individuals to become members. Upon the establishment of such membership requirements, the cooperative shall, except as provided in subparagraph (B), accept all employers (or individuals) residing within the area served by the cooperative who meet such requirements as members on a first-come, first-served basis, or on another basis established by the State to ensure equitable access to the cooperative.

(2) MARKETING AREA.—A State may establish rules regarding the geographic area that must be served by a health plan purchasing cooperative. With respect to a State that has not established such rules, a health plan purchasing cooperative operating in the State shall define the boundaries of the area to be served by the cooperative, except that such boundaries may not be established on the basis of health status of the populations that reside in the area.

(e) DUTIES AND RESPONSIBILITIES.—

(1) IN GENERAL.—A health plan purchasing cooperative shall—

(A) enter into agreements with multiple, unaffiliated health plan issuers, except that the requirement of this subparagraph shall not apply in regions (such as remote or frontier areas) in which compliance with such requirement is not possible.

(B) enter into agreements with employers and individuals who become members of the cooperative;

(C) participate in any program of risk-adjustment or reinsurance, or any similar program, that is established by the State.

(D) prepare and disseminate comparative health plan materials (including information about cost, quality, benefits, and other information concerning group health plans and individual health plans offered through the cooperative);

(E) actively market to all eligible employers and individuals residing within the service area; and

(F) act as an ombudsman for group health plan or individual health plan enrollees.

(2) PERMISSIBLE ACTIVITIES.—A health plan purchasing cooperative may perform such

other functions as necessary to further the purposes of this title, including—

(A) collecting and distributing premiums and performing other administrative functions;

(B) collecting and analyzing surveys of enrollee satisfaction;

(C) charging membership fee to enrollees (such fees may not be based on health status) and charging participation fees to health plan issuers;

(D) cooperating with (or accepting as members) employers who provide health benefits directly to participants and beneficiaries only for the purpose of negotiating with providers, and

(E) negotiating with health care providers and health plan issuers.

(f) LIMITATIONS ON COOPERATIVE ACTIVITIES.—A health plan purchasing cooperative shall not—

(1) perform any activity relating to the licensing of health plan issuers.

(2) assume financial risk directly or indirectly on behalf of members of a health plan purchasing cooperative relating to any group health plan or individual health plan;

(3) establish eligibility, continuation of eligibility, enrollment, or premium contribution requirements for participants, beneficiaries, or individuals based on health status;

(4) operate on a for-profit or other basis where the legal structure of the cooperative permits profits to be made and not returned to the members of the cooperative, except that a for-profit health plan purchasing cooperative may be formed by a nonprofit organization—

(A) in which membership in such organization is not based on health status; and

(B) that accepts as members all employers or individuals on a first-come, first-served basis, subject to any established limit on the maximum size of and employer that may become a member; or

(5) perform any other activities that conflict or are inconsistent with the performance of its duties under this title.

(g) LIMITED PREEMPTIONS OF CERTAIN STATE LAWS.—

(1) IN GENERAL.—With respect to a health plan purchasing cooperative that meets the requirements of this section, State fictitious group laws shall be preempted.

(2) HEALTH PLAN ISSUERS.—

(A) RATING.—With respect to a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative that meets the requirements of this section. State premium rating requirement laws, except to the extent provided under subparagraph (B), shall be preempted unless such laws permit premium rates negotiated by the cooperative to be less than rates that would otherwise be permitted under State law, if such rating differential is not based on differences in health status or demographic factors.

(B) EXCEPTION.—State laws referred to in subparagraph (A) shall not be preempted if such laws—

(i) prohibit the variance of premium rates among employers, plan sponsors, or individuals that are members of health plan purchasing cooperative in excess of the amount of such variations that would be permitted under such State rating laws among employers, plan sponsors, and individuals that are not members of the cooperative; and

(ii) prohibit a percentage increase in premium rates for a new rating period that is in excess of that which would be permitted under State rating laws.

(C) BENEFITS.—Except as provided in subparagraph (D), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative shall comply with all State mandated benefit laws that require the offering of any services, category or care, or services of any class or type of provider.

(D) EXCEPTION.—In those states that have enacted laws authorizing the issuance of alternative benefit plans to small employers, health plan issuers may offer such alternative benefit plans through a health plan purchasing cooperative that meets the requirements of this section.

(h) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) require that a State organize, operate, or otherwise create health plan purchasing cooperatives;

(2) otherwise require the establishment of health plan purchasing cooperatives.

(3) require individuals, plan sponsors, or employers to purchase group health plans or individual health plans through a health plan purchasing cooperative;

(4) require that a health plan purchasing cooperative be the only type of purchasing arrangement permitted to operate in a State.

(5) confer authority upon a State that the State would not otherwise have to regulate health plan issuers or employee health benefits plans, or

(6) confer authority up a State (or the Federal Government) that the State (or Federal Government) would not otherwise have to regulate group purchasing arrangements, coalitions, or other similar entities that do not desire to become a health plan purchasing cooperative in accordance with this section.

(i) APPLICATION OF ERISA.—For purposes of enforcement only, the requirements of parts 4 and 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) shall apply to a health pan purchasing cooperative as if such plan were an employee welfare benefit plan.

SUBTITLE E—APPLICATION AND ENFORCEMENT OF STANDARDS

SEC. 141. APPLICABILITY.

(a) CONSTRUCTION.—

(1) ENFORCEMENT.—

(A) IN GENERAL.—A requirement or standard imposed under this title on a group health plan or individual health plan offered by a health plan issuer shall be deemed to be a requirement or standard imposed on the health plan issuer. Such requirements or standards shall be enforced by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this title. In the case of a group health plan offered by a health plan issuer in connection with an employee health benefit plan, the requirements of standards imposed under the title shall be enforced with respect to the health plan issuer by the State insurance commissioner for the State involved or the official of officials designated by the State to enforce the requirements of this title.

(B) LIMITATION.—Except as provided in subsection (c), the Secretary shall not enforce the requirements or standards of this title as they relate to health plan issuers, group health plans, or individual health plans. In no case shall a Sate enforce the requirements or standards of this title as they relate to employee health benefit plans.

(2) PREEMPTION OF STATE LAW.—Nothing in this title shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements—

(A) not prescribed in this title; or

(B) related to the issuance, renewal, or portability of health insurance or the establishment or operation of group purchasing arrangements, that are consistent with, and are not in direct conflict with, this title and provide greater protection or benefit to participants, beneficiaries or individuals.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(c) CONTINUATION.—Nothing in this title shall be construed as requiring a group health plan or an employee health benefit plan to provide benefits to a particular participant or beneficiary in excess of those provided under the terms of such plan.

SEC. 202. ENFORCEMENT OF STANDARDS.

(a) HEALTH PLAN ISSUERS.—Each State shall require that each group health plan and individual health plan issued, sold, renewed, offered for sale or operated in such State by a health plan issuer meet the standards established under this title pursuant to an enforcement plan filed by the State with the Secretary. A State shall submit such information as required by the Secretary demonstrating effective implementation of the State enforcement law.

(b) EMPLOYEE HEALTH BENEFIT PLANS.—With respect to employee health benefit plans, the Secretary shall enforce the reform standards established under this title in the same manner as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(c) FAILURE TO IMPLEMENT PLAN.—In the case of the failure of a State to substantially enforce the standards and requirements set forth in this title with respect to group health plans and individual health plans as provided for under the State enforcement plan filed under subsection (a), the Secretary, in consultation with the Secretary of Health and Human Services, shall implement an enforcement plan meeting the standards of this title in such State. In the case of a State that fails to substantially enforce the standards and requirements set forth in this title, each health plan issuer operating in such State shall be subject to civil enforcement as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(d) APPLICABLE CERTIFYING AUTHORITY.—As used in this title, the term "applicable certifying authority"means, with respect to—

(1) health plan issuers, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State involved; and

(2) an employee health benefit, plan, the Secretary.

(e) REGULATIONS.—The Secretary may promulgate such regulations as may be necessary or appropriate to carry out this title.

(f) TECHNICAL AMENDMENT.—Section 508 of the Employee Retirement Income Security

Act of 1974 (29 U.S.C. 1138) is amended by inserting "and under the Health Insurance Reform Act of 1996" before the period.

Subtitle F—Miscellaneous Provisions

SEC. 191. HEALTH COVERAGE AVAILABILITY STUDY.

(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Secretary, representatives of State officials, consumers, and other representatives of individuals and entities that have expertise in health insurance and employee benefits, shall conclude a two-part study, and prepare and submit reports, in accordance with this section.

(b) EVALUATION OF AVAILABILITY.—Not later than January 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning—

(1) an evaluation, based on the experience of States, expert opinions, and such additional data as may be available, of the various mechanisms used to ensure the availability of reasonably priced health coverage to employers purchasing group coverage and to individuals purchasing coverage on a nongroup basis; and

(2) whether standards that limit the variation in premiums will further the purposes of this Act.

(c) EVALUATION OF EFFECTIVENESS.—Not later than January 1, 1999, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning the effectiveness of the provisions of this Act and the various State laws, in ensuring the availability of reasonably priced health coverage to employers purchasing group coverage and individuals purchasing coverage on a nongroup basis.

SEC. 192. EFFECTIVE DATE.

Except as otherwise provided for in this title, the provisions of this title shall apply as follows:

(1) With respect to group health plans and individual health plans, such provisions shall apply to plans offered, sold, issued, renewed, in effect, or operated on or after January 1, 1997, and

(2) With respect to employee health benefit plans, on the first day of the first plan year beginning on or after January 1, 1997.

SEC. 193. SEVERABILITY.

If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Mr. ARCHER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

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

There was no objection.

Mr. PALLONE. Mr. Speaker, I have offered this motion to recommit with instructions with my colleague from Missouri [Ms. MCCARTHY] because I am concerned that we are about to go down a perilous path of ending any chances of health insurance reform. Our motion to recommit incorporates the Kennedy-Kassebaum-Roukema provisions without any additons. It would make it easier for workers who lose or change jobs to buy health coverage. It would limit the length of time that insurers could refuse to cover an applicant's preexisting medical problems.

Mr. Speaker, there are two distinct choices that we can make with this next vote. This House can make the decision to support this motion and do the right thing for the American people, or the House can vote against this motion and tell the American people that it is more important to keep promises with various special interests.

The Kennedy-Kassebaum-Roukema bill is crafted to keep premiums affordable, because it would not impact the insurance risk pool by encouraging healthy individuals to drop their coverage. It has bipartisan support in both the Senate and the House of Representatives. The President has indicated that he will support the Roukema bill. The motion to recommit will ensure that this legislation is enacted into law.

Mr. Speaker, why does the Republican leadership insist on messing up this legislation with controversial poison pill amendments? One of the provisions that the Republican leadership insists on including is the medical savings accounts, which will favor the wealthy and healthy. MSA's will be just another tax shelter for the rich. Americans who do not choose to join the MSA's because of the high risks involved will see their health insurance premiums increase. The MSA's, among other extraneous provisions, will guarantee the failure of any health insurance reform in this Congress. We all know this, Mr. Speaker. The gentlewoman from New Jersey [Mrs. ROUKEMA], who courageously took this floor tonight, has said as much. So has her counterpart in the other body, Senator KASSEBAUM. These women should not be vilified tonight. Instead, they should be thanked for doing the right thing for the American people.

Mr. Speaker, let us all do the right thing tonight. I urge a "yes" vote on the motion to recommit if Members want health insurance reform this year.

Mr. Speaker, I yield to the gentlewoman from Missouri [Ms. MCCARTHY].

Ms. MCCARTHY. Mr. Speaker, I join with the gentleman from New Jersey in moving to recommit this bill to committee with instruction to report the Roukema bill, H.R. 2893, for final passage. Kennedy-Kassebaum-Roukema has supported from the White House, from the American public, from the health care industry, and bipartisan support in the Senate. It is legislation which can be signed into law tonight.

To recommit puts sound public policy above special interests. To recommit assures American families of security by providing genuine health care reform. In a Congress that touts fiscal responsibility, to vote against this motion is fiscally irresponsible. I urge my colleagues to vote "yes" on this motion, to stand for true reform, to stand against special interests, to stand for the American people. Vote "yes" to recommit.

Mr. ARCHER. Mr. Speaker, I rise in opposition to the motion to recommit.

I yield to the gentleman from California [Mr. THOMAS], chairman of the Subcommittee on Health of the Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, I really do not know who to direct my remarks to, because apparently this motion to recommit is Dingell minus the increase for the self-employed. Two of our colleagues on the other side, the gentleman from North Dakota and the gentleman from Illinois [Mr. DURBIN], took the well and talked about how much better the Democrat substitute was because it did better for the self-employed. Now what we have here is Dingell lite.

Mr. Speaker, is it not interesting and, by the way how, cynical they were more for the self-employed if it was honey to attract people to the Democratic substitute, and so I guess I am addressing my remarks to the 10 Republicans who went for the improvement of Kassebaum because of the self-employed provision. That is out. It lasted 5 minutes. Show your commitment, it did not draw enough, so it is gone. It is not there because they believe in the self-employed and want to increase the deductibility, it was there to attract people. Since it did not get anybody, they pulled it out.

If you did not like Dingell, they will not like Dingell lite. Vote "no" on the motion to recommit.

Mr. ARCHER. Mr. Speaker, as I listen to this debate, I must say that I am puzzled by the reluctance of some Democrats to support a bill that will provide millions of Americans with increased access to health care insurance at a more affordable price. What a strange turnaround from 2 years ago when my friends across the aisle stood up and fought for a big government takeover of our nation's health care system. Here is a description of that plan that they offered and that they supported 2 years ago.

But tonight, they claim ours is too far-reaching, it should be shaved back. The same people who presented this to us in 1994. It is broken, they said. Health care is in crisis. We must fix it. The President and Hillary Clinton know just how to get that done. Well, the big government Democrat prescription for our Nation's health care ills was rejected by the American people and properly so.

Mr. Speaker, America has the best health care system in the world, no thanks to government, but thanks to our Nation's great private sector. The answer does not lie in a big-government takeover of health care. Rather,

the way to provide the American people with health care that is more available and affordable is through a targeted measure that relies on the strength of the private sector, not the government, and that is what this bill does.

It is a strong bill, a solid bill, a bill that will bring help to millions of needy Americans, and it does it by relying on the private sector, not the Government. It is exactly the right dose of medicine to cure our health care ills. So why do some, thankfully not all, but some Democrats oppose it?

Mr. Speaker, I conclude the reason the Democrat leadership opposes this bill is because their big-government version of health care reform failed and they do not want to see the Republicans move forward with one that will succeed. They know that the American people support each and every one of the targeted reforms that we have proposed, but the Democrat leadership and their trial lawyer friends have rejected a bipartisan approach to health care reform and instead offer only obstruction and opposition.

The Democrat opposition stems from sour grapes and special interests. Mr. Speaker, sour grapes and special interests. The bill we have today before us is a landmark. It is a bill that brings me great pride and satisfaction, and this is a very proud day for the House and for the Nation. Health care reform is moving forward, and I predict it will be signed into law. We look forward to working with the President and the Senate on this bill. It will be our only chance to improve America's health care system. We must be careful not to let it slip away, without making as many changes as we can reasonably on behalf of the American people.

Too much medicine is bad for the patient, but too little will not help the patient get better. This bill is the right does of medicine. Vote "no" on the motion to recommit and "aye" on the bill.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

RECORDED VOTE

Mr. PALLONE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the question of final passage.

The vote was taken by electronic device, and there were—ayes 182, noes 236, not voting 13, as follows:

[Roll No. 105]

AYES—182

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Quinn
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Walsh
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wynn
Yates

NOES—236

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

NOT VOTING—13

Bryant (TX)
Collins (IL)
Eshoo
Fields (LA)
Fowler
Martinez
McNulty
Neal
Ros-Lehtinen
Smith (TX)
Smith (WA)
Stokes
Weldon (PA)

□ 2257

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. COMBEST). The question is on the passage of the bill.

Pursuant to House Resolution 392, the yeas and nays are ordered.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 267, nays 151, not voting 14, as follows:

[Roll No. 106]

YEAS—267

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle

Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
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
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
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Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
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Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Rose
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Studds
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—151

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Miller (CA)
Mink
Moakley
Mollohan
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stupak
Tejeda
Thompson
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—14

Bryant (TX)
Collins (IL)
Dornan
Eshoo
Fields (LA)
Fowler
McNulty
Neal
Ros-Lehtinen
Skelton
Smith (TX)
Smith (WA)
Stokes
Weldon (PA)

□ 2305

Mr. KENNEDY of Massachusetts and Mr. FOGLIETTA changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DORNAN. Mr. Speaker, on rollcall No. 106, Passage of the Health Coverage Availability and Affordability Act, I was just outside the main door discussing a compromise with appropriators. Unfortunately, I missed the vote. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. SKELTON. Mr. Speaker, on Thursday, March 28, I was unavoidably detained and missed rollcall vote No. 106. I would have voted "no" on rollcall No. 106, final passage of H.R. 3103, the Health Coverage Availability Act.

RESIGNATION AS CONFEREE AND APPOINTMENT OF REPLACEMENT CONFEREE ON H.R. 3019, BALANCED BUDGET DOWNPAYMENT ACT, II

The SPEAKER pro tempore laid before the House the following resignation as a conferee:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 28, 1996.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, H232, The Capitol, Washington, DC.

DEAR MR. SPEAKER: Effective immediately, I hereby resign from the conference of H.R. 3019, the Omnibus Appropriations Act for Fiscal Year 1996, Conference Report.

Sincerely,

LOUIS STOKES,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted and without objection, the Chair appoints the gentleman from Maryland [Mr. HOYER] to fill the resulting vacancy among the primary panel of conferees.

There was no objection.

The SPEAKER pro tempore. The clerk will notify the Senate of the change in conferees.

PARLIAMENTARY INQUIRIES

Mr. FAZIO of California. Mr. Speaker, I have a parliamentary inquiry. I have a question about the rule that is about to be brought before us on the farm bill.

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

Mr. FAZIO of California. Mr. Speaker, I would ask, is there a waiver in this rule of the unfunded mandate provision?

The SPEAKER pro tempore. When the rule is read, the gentleman will under stand it. There is a waiver of all points of order in the resolution.

Mr. FAZIO of California. Among all those points of order that were waived, is one of them the unfunded mandate provision, Mr. Speaker?

Mr. SPEAKER pro tempore. The gentleman will understand when the resolution is read.

Mr. FAZIO of California. Further parliamentary inquiry, Mr.Speaker. Is there an analysis available to the Members from the Congressional Budget Office that would inform us as to whether this was in fact an unfunded mandate that would require——

Mr. SOLOMON. Mr. Speaker, yes there is.

The SPEAKER pro tempore. The gentleman should address that question to the Committee on Rules.

Mr. SOLOMON. Yes, there is.

CONFERENCE REPORT ON H.R. 2854, FEDERAL AGRICULTURE IMPROVEMENT AND REFORM ACT OF 1996

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on rules, I call up House Resolution 393 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 393

Resolved, That upon adoption of this resolution it shall be in order to consider the

conference report to accompany the bill (H.R. 2854) to modify the operation of certain agricultural programs. All points of order against the conference report and against its consideration are waived.

SEC. 2. Senate Concurrent Resolution 49 is hereby agreed to.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman form Ohio [Mr. HALL], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, I would say to the Members, if I could just have their attention, we will dispose of this rule in 10 minutes, at the most, with no vote necessary, since it is not controversial. So let us get on with it.

Mr. Speaker, the rule before the House today is necessary to permit the House to consider the conference report on the Federal Agriculture Improvement and Reform Act, or FAIR Act.

The rule waives all points of order against the conference report and against its consideration. The waivers are necessary in large part because the Senate passed a much broader bill than the House.

For example, the Senate bill and the conference report contain an extension of the Food Stamp Program, while there was no such provision in the original House bill.

The rule also provides for the adoption of a Senate concurrent Resolution which directs the enrolling clerk to correct an error in the conference report as filed.

Mr. Speaker, this conference report represents the culmination of a long effort to change the way farming is done in America.

Instead of having farmers produce to meet the requirements of Government programs, this bill is designed to move the Government out of the farming business, and let farmers start producing to meet the needs of consumers.

In the long run this will result in lower cost to the taxpayers, and more efficient production of food for the market.

Were it not for the dogged determination and strong leadership of the chairman of the Agriculture Committee, the gentleman from Kansas [Mr. ROBERTS], this bill might never have materialized in its present form.

Because this bill represents a change in 60 years of Federal farming policy, it has been one of the toughest farm bills ever in the history of this House to manage.

The distinguished gentleman from Kansas, who used to serve in the U.S. Marines, I will note, has demonstrated the guts to get it through. We are all in your debt, Mr. Chairman.

I would also like to commend the ranking minority member of the Agriculture Committee, the gentleman from Texas [Mr. DE LA GARZA], and the other members of the committee for the long hours of work they have put into working out this final product.

We have ended up with a bill that the President has said he is going to sign, and this is an indication of the degree to which concerns on both sides of the aisle have been taken into consideration.

Putting this all together required not only bipartisan cooperation, but also a willingness to work out differences between the House and the Senate.

Senator LUGAR, the chairman of the Senate Agriculture Committee, proved an able Representative of the other body during long negotiations.

Finally I would like to thank the staff members on both sides of the hill who worked on this conference agreement. Much of their work is not seen on the outside, but we who know how hard they work appreciate their efforts.

Mr. Speaker, as many of you know the dairy provisions in this conference agreement have been of particular concern to me, since I represent one of the largest milk producing districts in the Nation. We have ended up with a fair and workable dairy program, one that ends Government subsidies to processors of milk products, like butter, powder, and cheese, but continues a non-taxpaying funded liquid milk price stabilization program that will guarantee small dairy farmers a fair and reasonable price for their milk.

Finally, Mr. Speaker, we need to remember that the planting season is about to begin in some parts of the country, and that means that farmers need to know what the Government's farm policy is going to be. This bill provides the answer to that question. And in order to consider this conference report, it is necessary to adopt this rule. Therefore, I ask for a "yes" vote on the rule and a "yes" vote on the conference report.

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

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution, House Resolution 393, makes in order to consider the conference report on H.R. 2854, the Federal Agriculture Improvement and Reform Act, and it waives all points of order against the conference report.

The conference report on H.R. 2854 reauthorizes farm programs for 7 years. It replaces the current Federal programs for major crops with a new system of fixed annual cash payments that would eventually be phased out. The measure is a dramatic overhaul of our Nation's farm laws, and if successful, it will cut Federal spending on agriculture, at the same time giving farmers greater flexibility in choosing which crops to plant.

The conference report also reauthorizes various overseas food assistance and export programs of the Department of Agriculture. This includes a 7-year reauthorization of the Food for Peace Program, which is known as Public Law 480.

□ 2315

This is a very important program that feeds millions of people around the world. I have seen the food being delivered, I have seen it being used, and I have seen it save lives.

During House consideration of the bill, I worked to include an amendment to make useful changes in the Public Law 480 program, and most of those changes were adopted by the conferees.

Mr. Speaker, I do regret that the technical change in the conference report made by the rule might reduce the ability to implement the program in the period near the end of the fiscal year, and I hope that Congress will monitor-the effect of this change and be prepared to make any additional changes to ensure the smooth operation of the program.

The conference report sets payments for farmers for the next 7 years, but I also regret that it only reauthorizes the food stamp program for 2 years. The food stamp program is a lifeline to the hungry in America and one of our most successful antipoverty programs. I believe that they should be given the same kind of long-term assurance that the farmers receive.

Mr. Speaker, it is essential that Congress approve a farm bill quickly before the spring planting season begins, and I urge the adoption of the rule.

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

Mr. SOLOMON. Mr. Speaker, with all due respect to the Members on this side, we are going to ask them not to speak. We are going to have one unanimous consent statement and 1 minute to the distinguished Chairman of the Committee on the Budget, and that is going to be it. We are going to roll this thing.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS], of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I rise in strong support of this brilliant, fair rule.

I thank the gentleman from Glens Falls for yielding me this time, and I rise in support of the rule for the farm bill conference report. This is a fair rule, and it follows standard House procedure for the consideration of conference reports while fixing an important technical mistake. However, Mr. Speaker, I do have some concerns with the underlying bill. It is clearly a mixed bag for southwest Florida. On the one hand, we have seen a real breakthrough in Federal efforts to restore the Everglades—the $200 million in this conference report, in conjunction with the additional land

swap authority added in conference, provides a jump start to the joint efforts by the State, the Federal Government, and the south Florida water management district to restore the everglades. This is a serious commitment, and a necessary one. We have not been good stewards of the Everglades and Florida Bay—a series of actions by the State, the federal government, agricultural interests and others has transformed a unique 50-mile wide freshwater river and its surrounding ecosystem—and not for the better. The periodic sheetflow of fresh water has been reduced, rechannelled and regulated for the convenience of agricultural interests and residential developments—causing a rapid loss of habitat necessary to sustain fisheries, waterfowl, and other wildlife. The nutrient pollution of this water has further degraded what habitat is left. Downstream, Florida Bay is dying. These situations have damaged resources that are vital to the economy and quality of life in Florida. We now understand that the once prevalent view that the Everglades is just a swamp is somewhat akin to looking at the grand canyon as just a big pothole.

There has been a renewed interest in the Everglades system over the past few years, and we've seen several smaller-scale efforts toward restoration, but it is time to get the ball rolling on a comprehensive, coordinated plan to save what remains of this national treasure. And $200 million is a responsible sum to allocate. I do wish that we were more specific in identifying a funding source or sources for this money. Some of my Florida colleagues have suggested an assessment on agricultural interests that have benefited from the changes in the Everglades, and I think this idea should be given serious consideration. The taxpayers in southwest Florida are already paying more than their fair share in State taxes and extra water fees. The State has agreed to match Federal funds 50–50. Still, while I think we have some work to do in finding an offset, I strongly support the Everglades provision in this bill and I congratulate the conferees for their hard work.

Unfortunately, Mr. Speaker, I cannot support other aspects of this bill. For instance, the continuation of many large subsidy and price support programs concerns me. I recognize the difficulty involved in making significant changes in these programs. And there are some victories here—for instance, under this bill the dairy subsidy will be phased out over a 5 year period. But, the minor reforms in most of the price support and subsidy programs just aren't enough. I am disappointed that Congress has missed this opportunity to remove the heavy hand of Government from the agricultural marketplace. I do not believe it makes much sense to lock in place these special benefit programs over the next 7 years when we are committed to phasing out unnecessary Government spending and involvement in private enterprise.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio [Mr. KASICH], chairman of the Committee on the Budget, to give some accolades to somebody we know.

Mr. KASICH. Mr. Speaker, I want to thank the gentleman, and I think the Members here tonight should realize that, even though the hour is late, we are about to do something that is truly historic. That is to have the most sweeping change in the farm bill in over 40 years.

Basically, when people across this country say they could never understand why we pay people not to do anything, not to plant anything, this will make such a major reform of the crops that they will not ever have to ask that question again at the end of the day.

I think that the move towards the free market is where we ought to go; I think we could have saved a few more dollars; I think we could have reformed a few more crops, but I want to recommend that the freedom to farm act is a very positive step. The New York Times just the other day commended the committee for the most sweeping reform based on the free market that we have seen. I think it is an appropriate bill as we head into the 21st century. I want to congratulate the distinguished Chairman of the Committee on Agriculture [Mr. ROBERTS] who has done a yeoman's job and walked over an awful lot of hot coals in order to see this day actually happen. So I want to congratulate him, congratulate Members on both sides of the aisle and to say I think the American people, when they understand what is in this bill, are going to give accolades to this Congress for having the courage to move the farm bill into the 21st century.

Mr. SOLOMON. Mr. Speaker, the majority is prepared to yield back all of its time and ask for a nonrecorded vote as soon as the minority yields back their time.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Speaker, I know that the hour is late, and I do not oppose this bill. My point in speaking at this late hour is simple. Earlier today when the gentleman from Michigan [Mr. BONIOR] made a motion which would address the issue of a minimum wage for the American worker, the majority decided to invoke a rule that would strike that motion on the premise that it somehow was an unfunded mandate.

CBO has now ruled of course that that motion did not constitute an unfunded mandate. But in this bill, there is an unfunded mandate, and of course the rule waives that. Now, that is not the first time. I am sure the majority will use its power whenever it so wishes to deem something an unfunded mandate and then ignore another unfunded mandate and present the Members with a fait accompli.

This was also typical of the three-fifths rule on tax increases. I cannot remember how many times we have waived that rule which we so proudly adopted on the opening day of this session.

My reason for speaking is not to the substance of this bill but a constant attention to the majority's propensity to constitute whatever rules it wishes in violation of whatever standards it has adopted, even in this Congress where it took so much credit for changing the way we do our business here. Many Members on both sides of the aisle, the gentleman from California [Mr. CONDIT], certainly the leader, decided that the unfunded mandate issue needed to be addressed.

Well, here, once again, we get the headline, and then when it comes down to implementation, we reject taking any action on this unfunded mandate. Yet we use it as an excuse when we do not want to deal with an issue that is unpopular for the majority but overwhelmingly popular in the country.

So, Mr. Speaker, I simply have to rise in protest over the continuing misuse of the rules by the majority.

Mr. Speaker, I rise in reluctant support of the conference report to the bill H.R. 2854, the Federal Agricultural Improvement and Reform Act, better known as the 1996 farm bill.

In considering this legislation today, it is important to put it in some perspective, because as we all know, this was supposed to have been the 1995 farm bill.

Since 1965, we have passed multiyear farm bills to reauthorize a wide variety of commodity, trade, research, conservation, rural development and nutrition programs.

We passed farm bills in 1965, 1970, 1973, 1977, 1981, 1985, and 1990. The most recent two farm bills were passed with overwhelming bipartisan majorities.

But when 1995 came and the Republicans took over control of the House and Senate, they decided to adopt a different tact. They abandoned what in past years was a broad-based, bipartisan bill based on open debate about our national agriculture policies and priorities.

You might say that in their first year behind the plow, the GOP leadership used a new kind of fertilizer: partisan politics—to cultivate their favorite crop—political points.

Instead of debating this legislation in a systematic fashion throughout the year, the Republicans waited until late in the year when appropriations bills, continuing resolutions, and debt ceilings held center stage. Then and only then, in a budget-driven exercise, GOP leaders decided to tie the farm bill's fate to controversial budget reconciliation legislation about which Democrats and President Clinton had expressed severe reservations.

The chairman of the Agriculture Committee could not even muster a majority of votes within his committee and was forced to use special procedures to have the Budget Committee report the so-called farm bill as part of the reconciliation bill.

Once the reconciliation bill was vetoed and the GOP strategy was shown to be flawed, farmers and consumers across the country watched the important authorizations for these programs expire. Farm fill consideration was forced to start from ground zero.

This is not the way to make national agriculture policy.

This is not the way to treat our largest industry, the United States' biggest employer, and our biggest export earner.

In short, this is not the way to treat American farmers and the millions of Americans who depend upon them.

These legislative tactics caused needless anxiety across the country, and to what end?

The end is the conference report we consider today—a bill in better balance—similar to those we have always brought forward in the past—that will move agriculture production forward in the years to come. But it is a bill we should have considered and passed into law many months ago.

The conference report contains all the traditional titles included in the farm bill in the farm bill in addition to the commodity titles—rural development, export promotion, foreign food assistance, domestic nutrition programs, and conservation.

I think the GOP leadership needs to ask itself what might have happened last year if they had approached this crucial legislation in the same spirit as reflected by the conference report today. My sense is you would have a very similar product but you would have avoided the specter of partisanship. Better yet, you would have saved our farmers months of needless anxiety.

Perhaps the GOP leadership considered the freedom to farm concept to be too controversial for any but heavy-handed and partisan tactics.

But farmers in California understand that we must move to a market-based farm economy. In fact, agriculture producers across the country have been positioning themselves, as we have in California, to take advantage of increased trade opportunities from NAFTA and GATT. Agribusiness has been making the investments necessary to respond to a growing, yet demanding and sophisticated world market.

However, for my part, I believe there are two flaws in this bill that require attention, even if they are not sufficient to require a "no" vote today.

First, the Senate voted down and the conference turned its back on a simple requirement that farmers plant a crop in order to qualify for a freedom to farm payment. Certainly, most farmers will continue their historic pattern of farming while using the expanded flexibility in this bill to boost production and pursue new marketing opportunities. But there will be many marginal farmers who will view payments not linked to planting as a one-time opportunity to take the money and run. The horror stories of farm welfare in the years to come are easy to anticipate, and they will represent a black eye for American agriculture, which is already not well understood by many Americans. It is a black eye that easily could have been avoided.

Second, in moving to a market-oriented economy, we effectively have eliminated a safety net program for our program crop farmers that is linked to prices. Prices are high now, and trade is booming. But not every future year will turn out that way, and there are always special problems that arise affecting individual commodities. I am concerned that trade wars or other unpredictable events in future years will wash away farmers who otherwise might have weathered the storm if a safety net program were in place.

The conference has wisely included various conservation, export, research, credit, and promotion programs. These agriculture programs often receive less attention than commodity programs, but they are at the heart of American agriculture's success. Leaving them out of the House bill was a major mistake—one of the reasons I opposed the House version of this bill—and I'm pleased the conference has put them back in.

In the final analysis, this bill is not perfect, and lacking perfection, it is a bill we could have arrived at many months ago. Ultimately, the GOP leadership must ask themselves if their partisan tactics have produced an improved product—I think the answer is a resounding no.

Has the GOP leadership positioned Congress well to weather the charges of welfare for farmers that are likely to arise?

Could the GOP's quest for budget savings have been accomplished much more easily by providing price-based safety net programs and being far more generous to research and trade promotion programs?

Only time will answer these questions as we watch the effects of the bill we consider today in the years to come.

While I cast a reserved "yes" vote for the farm bill conference report today, I unreservedly reaffirm my commitment to a strengthened American agriculture in the years to come. Congress must monitor the effects of this legislation carefully and be prepared to act again if necessary to ensure that American agriculture retains its preeminent position in the world.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I want to begin by not apologizing at all for speaking on a major piece of legislation in the House of Representatives. The majority's manipulation of the schedule is outrageous enough, but now to say that this major piece of legislation, which the House majority leader a few years ago described I think aptly, he predicted welfare for farmers as he said in his Heritage Foundation piece. And I would not necessarily mind welfare for farmers, but they get 7 years of welfare, the AFDC recipients get 5, and of course there is no work requirements.

But for the House to spend so much time doing so little for so long, and then take up a major piece of legislation, and the leadership decides it will come up late at night and then to say oh, well, it is late at night, you cannot debate it. That is like the kid who kills his parents and say, have mercy, I am an orphan.

As the gentleman from California pointed out, before we were told that something is not an unfunded mandate, could not even be debated, the minimum wage, but this bill, according to CBO, has five unfunded mandates. And when it came before us as a bill, the Committee on Rules waived it. They would not even vote on that. So we get a bill with a lot of unfunded mandates.

The first test of the new rule on unfunded mandates, they do not pay any attention to. They now are trying to browbeat the House into ignoring all of these important substantive issues, give the farmers welfare, spend billions of dollars, let us have some unfunded mandates, but it is 11:30, let us go home. Well, if my colleagues do not want to debate things at 11:30, they control the House, schedule them at a reasonable hour. But to take a major piece of legislation like this and then so manipulate the schedule that they want to sneak it through without adequate debate is unworthy of the House.

Mr. Speaker, we ought to debate these unfunded mandates. We ought to debate the fact that farmers get billions of dollars for years for doing absolutely nothing whatsoever. I hope that the House will in fact repudiate these tactics.

Let us debate this. My colleagues have waited a very long time. We could pick an- appropriate time of the day and debate it honestly and fairly, and do not come here, deliberately work the schedule this way and then say, oh, but we want to be nice to everybody, let us go home. If Members want to go home, let them go home and let the rest of us stay here and do the business that we are paid to do.

Mr. HALL of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I just want to tell the gentleman from Boston that this bill guarantees the people of Boston are going to have fresh milk for the next 7 years.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The text of Senate Concurrent Resolution concurred in pursuant to House Resolution 393 is as follows:

S. CON. RES. 49

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 2854) to modify the operation of certain agricultural programs, shall make the following corrections:

In section 215—

(1) in paragraph (1), insert "and" at the end;

(2) in paragraph (2), strike "; and" at the end and insert a period; and

(3) strike paragraph (3).

Mr. ROBERTS. Mr. Speaker, pursuant to House Resolution 393, I call up the conference report on the bill (H.R. 2854) to modify the operation of certain agricultural programs.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. OXLEY). Pursuant to House Resolution 393, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of March 25, 1996, at page 6121.)

The SPEAKER pro tempore. The gentleman from Kansas [Mr. ROBERTS] and the gentleman from Texas [Mr. DE LA GARZA] each will control 30 minutes.

Mr. VOLKMER. Mr. Speaker, I rise in opposition to the conference report. It is my understanding that the gentleman from Kansas [Mr. ROBERTS] and the gentleman from Texas [Mr. DE LA GARZA] are both proponents of it, and I would like to claim time in opposition.

The SPEAKER pro tempore. Is the gentleman from Texas opposed?

Mr. DE LA GARZA. I am not opposed.

The SPEAKER pro tempore. The gentleman is not opposed. If the gentleman from Texas is not opposed, the gentlemen from Kansas and Texas and Missouri will each be recognized for 20 minutes. The gentleman from Kansas [Mr. ROBERTS] will be recognized for 20 minutes, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. VOLKMER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kansas [Mr. ROBERTS].

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

The House has before it today a historic conference report, H.R. 2854, the Federal Agriculture Improvement and Reform Act of 1996. I call it historic because the Committees on Agriculture have produced a farm bill that represent a major departure from the past and a bold plan in regard to the future.

Mr. Speaker, I have some 16 pages of very pertinent comments in regard to the Freedom to Farm concept that we have passed, but I am going to revise and extend my remarks and we are going to hope to try to conclude this.

The Senate has passed the similar conference report 74 to 26, and the reason that we are trying to expedite this bill is to get it to the President as fast as possible. We have assurance from the Secretary of Agriculture that the President will sign it, and farmers have been waiting and waiting and waiting. And so as soon as we conclude this debate, we will try to make it just as short as possible to accommodate not only every farmer and rancher of America, but my colleagues here who I know wish to go home.

Mr. Speaker, the House has before it today an historic conference report—H.R. 2854—the Federal Agriculture Improvement and Reform Act of 1996. I call it historic because the Agriculture Committees have produced a farm bill that represents a major departure from the past and a bold plan for the future.

Embodied in the Conference Report before us today is what is commonly referred to as the Freedom to Farm concept that I, along with Congressman Barrett of Nebraska, introduced last August. Freedom to Farm was developed after the Committee conducted 19 field hearings and traveled over 60,000 miles last spring listening to over 10,000 farmers, ranchers, and the agribusiness community.

The original New Deal farm programs, over 60 years, ago were based on the principal of supply management. Control supply and raise prices. Over the last 20 years the principal justification for the programs has been that farmers receive federal assistance in return for setting aside a portion of their acreage. That assistance was largely in the form of deficiency payments to compensate farmers for prices below a government-set target price for their production.

Today that system has collapsed as an effective way to deliver assistance to farmers. Worldwide agricultural competition usurps markets when we reduce production. World demand (along with the Conservation Reserve Program) has tightened supplies so that there have been no set-asides in wheat for five years—and none are projected in the foreseeable future, eliminating that justification for the programs. In short, the supply management rationale not only fails under close scrutiny by the many critics of agriculture policy, it has enabled our competitors to simply increase their production by more than we "set aside," thereby causing significant impact on American farmers through lost market shares.

The budget cuts of the last ten years have produced greater and greater bureaucratic controls on farmers. In fact, decoupling of the payments from production actually occurred ten years ago when Congress froze payment yields to save money. In 1990 the concept of "unpaid flex acres" was introduced to further weaken and devalue the programs in a budget-cutting move. For the last ten years, in effect, Congressional farm policy has been driven almost completely by budget reduction, and the 1995 debate reaffirmed the budget as the driving force for program policy.

Most in the agricultural community have come to the realization that annual set-asides are counter-productive and only encourage our competitors to plant more and steal market share. However, to eliminate the Secretary of Agriculture's reliance on set-asides would cost either the taxpayers or the farmers $6.6 billion under the present farm program according to the Congressional Budget Office (CBO).

The Freedom to Farm Act [FFA] was born of an effort to create a new farm policy from an entirely new perspective. Acknowledging that budget cuts were inevitable, FFA sets up a new set of goals and criteria for farm policy; Get the government out of the farmers' fields; return to farmers the ability to produce for the markets, not government programs; provide a predictable and guaranteed phasing down of federal financial assistance.

By removing government controls on land use, FFA effectively eliminates the No. 1 complaint of farmers about the programs: Bureaucratic redtape and government interference. Complaints about endless waits at the county office would end. Hassles over field sizes and whether the right crop was planted to the correct amount of acres would be a thing of the past. Environmentalists should be pleased that the government will no longer force planting of surplus crops and monoculture agriculture. Producers who want to introduce a rotation on their farm for agronomic reasons will be free of current restrictions. Allowing farmers to rotate their crops will allow them to reduce the use of pesticides, herbicides and fertilizer. This sample fact makes this bill the most "green" or environmentally friendly farm bill in my memory.

Under FFA, farmers can plant or idle all of their acres at their discretion. The restrictions on what they can plant are greatly reduced. Response to the market would assume a larger role in farmer planning. Divorcing payments from production (a process already begun when yields were frozen in 1985) will end any pressure from the government in choosing crops to pursue. All production incentives in the future should come from the marketplace.

The guarantee of a fixed (albeit declining) payment for seven years will provide the predictability that farmers have wanted and provide certainty to creditors as a basis for lending. The current situation in wheat, corn and cotton under which prices are very high, but large numbers of producers have lost their crops to weather or pests would be corrected by FFA. Those producers last year could not access the high prices without crops, and instead of getting help when they need it most, the old system cuts off their deficiency payments and even demands that they repay advance deficiency payments. FFA insures that whatever government financial assistance is available will be delivered, regardless of the circumstances, because the producer signs a binding contract with the Federal government for the next seven years.

Some of my colleagues have expressed reservations about making high payments during period of high prices. First, the payments will not be high. You can't cut the amount of money we have cut out of agriculture spending over the last 20 years and still have "high" payments. No farmer is likely to take his market transition payment and retire. Farmers will continue to farm.

Second, under FFA, the payments made to producers must be looked at from a new perspective. It is a transition to full farmer responsibility for

his economic life. Just as farmers will need to look to the market for production and marketing signals, the FFA will require that farmers manage their finances to meet price swings. It is true that when prices are high, farmers will receive a full market transition payment. It is equally true that if prices decline, farmers will receive no more than the fixed market transition payment. That means the farmer must manage all his income, both market and government, to account for weather and price fluctuations.

In short, the FFP authorizes Transition Payments to farmers—as opposed to the current program's deficiency payments—to serve as a form of compensation as we move U.S. agriculture from an economy heavily influenced by the federal government to one in which the government's role is substantially reduced and the primary influence is the market place.

The old program provided market insulation for each bushel of production, but that system is collapsing under the weight of budget cuts. The FFA enhances the farmer's total economic situation—in fact, FFA results in the highest net farm income over the next 7 years of any of the proposals before Congress. This allows the farmer to become accustomed to saving when times are good and using those savings when times are tough. With government assistance declining, it is imperative that producers assume total responsibility for their economic futures. In the years that prices are strong and the farmer receives a payment, it will be his personal responsibility to save that money for the bad year or pay off debt so he can weather the bad years.

The severest critics of farm programs at the New York Times, the Washington Post, the Economist, and a host of regional newspapers have hailed FFA as the most significant reform in ag policy since the 30's. Many congressional critics have also decided that FFA represents the kind of reform they can support. If the "welfare" charge was to be leveled, it should have come from this corner. Instead, they believe FFA is the kind of reform that is needed. Nearly every agricultural economist who has commented on FFA has supported it structure and its probable effect on farmers and the agricultural sector.

The only people who are worried about it being classed as "welfare" are those populists who want to keep the status quo, some farm groups and others who are supportive of the old farm programs. Agriculture is now at a crossroads. It can either sink deeper into government controls and rapidly sagging government support, or it can strike out in a new direction that at least holds out the prospect of an assisted transition to the private marketplace. H.R. 2854 and the Freedom to Farm Act is that new direction and Congress needs to seize it.

Never before has a farm program proposal enjoyed such broad and diverse support as this one. From the Ivory Towers of academia and the think tanks to the editorial board rooms of our nation's newspapers to a broad spectrum of farm, commodity and agribusiness groups, support for this proposal is strong. Most importantly, Freedom to Farm enjoys widespread support among individual farmers across the country who are fed up with convoluted government programs, and exploding government debt.

The following groups or individuals have endorsed either the Freedom to Farm Act or that concept as contained in H.R. 2854. I ask unanimous consent to insert in the record at this point a list of groups, organizations, and newspapers who have endorsed the Freedom to Farm concept:

FARM AND TRADE ORGANIZATIONS

American Farm Bureau Federation, National Corn Growers Association, National Grain Trade Council, National Grain & Feed Association, American Cotton Shippers, Iowa Farm Bureau Federation, Iowa Corn Growers Association, Iowa Cattleman's Association, Kansas Farm Bureau, Kansas Association of Wheat Growers, Kansas Bankers Association, Kansas Grain & Feed Association, Kansas Fertilizer & Chemical Association, North Dakota Grain Growers Association, the Minnesota Association of Wheat Growers, the National Turkey Federation, the National Sunflower Association, National Food Processors' Association, Agricultural Retailers Association, American Feed Industry Association, American Frozen Food Institute, Biscuit & Cracker Manufacturers' Association, National Oilseed Processors Association, Millers' National Federation, and the Coalition for a Competitive Food and Agricultural System (representing 126 members).

PUBLIC INTEREST ORGANIZATIONS AND REPRESENTATIVES

U.S. Chamber of Commerce, Citizens Against Government Waste; John Frydenlund—The Heritage Foundation; Paul Beckner—Citizens for a Sound Economy; David Keating—National Taxpayers Union; Grover Norquist—Americans for Tax Reform; Fran Smith—Consumer Alert; Ed Hudgins—The Cato Institute; Jonathan Tolman—Competitive Enterprise Institute.

A SAMPLING OF NEWSPAPER ENDORSEMENTS

Wall Street Journal, New York Times, Washington Post, Des Moines Register, USA Today, Dallas Morning News, Chicago Tribune, Minneapolis Star Tribune, Denver Post, Kansas City Star, Wisconsin State Journal, The Daily Oklahoman, The Wichita Eagle, The Indianapolis News, The Hartford Courant, The Louisville Courier Journal, Washington Times, The Garden City Telegram, The Manhattan (KS) Mercury. Also, Feedstuffs, Farm Journal, New England Farmer.

ECONOMISTS

Prof. Willard W. Cochrane, University of Minnesota, Director Agricultural Economics, USDA, Kennedy Administration; Dr. Lynn Daft, Abel, Daft, Earley & Ward International, Agricultural Counselor, White House, Carter Administration; Dr. Bruce Gardner, University of Maryland, Assistant Secretary for Economics, USDA, Bush Administration; Dr. Dale Hathaway, National Center for Food & Agricultural Policy, Under Secretary for Economics, USDA, Carter Administration; Dr. Robert Innes, University of Arizona, Council of Economic Advisors, Clinton Administration; Dr. D. Gale Johnson, University of Chicago; Dr. William Lesher, Russell and Lesher, Assistant Secretary for Economics, USDA, Reagan Administration; Dr. Lawrence W. Libby, University of Florida; Dr. Don Paarlburg, Purdue University, Special Assistant, President Eisenhower, Director of Agriculture Economics, Assistant Secretary of Agriculture, USDA, Nixon-Ford Administrations; Dr. Robert Paarlburg, Wellesley College and Harvard University; Dr. C. Ford Runge, University of Minnesota; Dr. John Schnittker, Schnittker Associates, Under Secretary of Agriculture, USDA, Johnson Administration; Mr. Daniel A. Sumner, University of California—Davis, Assistant Secretary for Economics, USDA, Council of Economic Advisers, Bush Administration; Dr. Robert L. Thompson, Winrock International, Assistant Secretary for Economics, USDA—Reagan Administration; Dr. Luther Tweeten, The Ohio State University; and Dr. Barry Flinchbaugh, Kansas State University.

Clearly the support for the concept of Freedom to Farm is widespread. But this bill is more than just Freedom To Farm. There are other major reforms contained in this package. This bill reforms the dairy industry. It instructs the Secretary to reduce the number of milk marketing orders in the nation. It phases out the price support. This bill provides regulatory relief for farmers in terms of conservation compliance and wetlands by injecting a little common sense into the process.

This bill has a very strong trade title. It has strong embargo protection language that reminds the President we can't have a market-oriented farm policy and allow the State Department to destroy those markets through foreign policy embargoes. The American farmer remembers the Soviet Grain Embargo of 1980—that nearly wiped out a generation of farmers. We can't go down that road again and this bill makes it more difficult for a President to choose that path.

This bill also contains the Commission on 21st Century Agriculture. As I have alluded to, this is a transition bill. But many farmers have raised the question of a transition of what? This bill charges the Commission to look at where we have been and where we should head and report to Congress on the appropriate role of the Federal government in production agriculture after 2002.

This bill also authorizes existing research programs for two years while Congress can undertake an extensive review of the $1.7 billion we spend on agricultural research. The House Agriculture Committee has sent out 57 questions to the research community stakeholders asking them for their guidance and input. On Wednesday, we began the hearing process that will hopefully lead to reform legislation that moves agricultural research in the

direction of helping our farmers compete in a global marketplace against very tough competitors.

This bill takes a small stab at reforming the way USDA goes about buying its computers. In the past, the USDA through the Commodity Credit Corporation has spent hundreds of millions of dollars on computers and information systems, often without very much Congressional oversight. The result has been the various agencies of the USDA all have different computer systems with little ability to communicate. Several years ago the USDA embarked upon Infoshare supposedly to better manage its computer and information systems. The Clinton administration abandoned that and is proposing to spend $175 million next year on yet another computer purchasing extravaganza. This bill attempts to get a Congressional grip on those purchases and make them subject to greater Congressional review and accountability.

This bill reforms and streamlines the current rural development system by establishing the Rural Community Advancement Program [RCAP], which authorizes the Secretary to provide grants, direct and guaranteed loans and other assistance to meet rural development needs across the country. The new program provides greater flexibility, state and local decision making and a simplified, uniform application process.

In summary, this bill is truly reform. It moves agricultural program policy into the 21st Century. I urge my colleagues to support it.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I rise in support of this conference agreement.

Mr. Speaker, I say to my colleagues that we bring them the most difficult title of this conference report, the dairy title. It has been the most acrimonious, but I think we bring a consensus package today which represents the most comprehensive reform of dairy policy in the last 50 years.

What it does is first and foremost prepares us to deal with the inequities of dairy pricing across this country over the next 3-year period; and secondly, it allows us over the next 4 years to prepare for the American dairy farmer to successfully participate in the post-GATT world dairy economy.

This is significant legislation, and I would encourage everyone to support it.

Mr. Speaker, I would now like to take just a few moments go through the dairy chapter of the conference report section by section to describe the improvements the conference report has made in the House-passed bill.

Section 141 retains the dairy price support program for 4 years, but eliminates the budget assessment on producers immediately. The support price will be set at $10.35/cwt in 1996, $10.20/cwt in 1997, $10.05/cwt in 1998, and $9.90/cwt in 1999. This level of support is higher than that provided by the Solomon-Dooley language in the House-passed bill, thereby assuring producers a higher income in those years.

During this period, the Secretary is authorized to alter how the support price is allocated between butter and nonfat dry milk in an effort to minimize price support program purchases and maximize exports of those commodities.

This section also terminates the dairy price support program on December 31, 1999, rather than on December 31, 2000, as the House-passed bill would have done. This will allow the U.S. dairy industry to become competitive in the world market a full year before Solomon-Dooley would have. This is absolutely critical to the future of the industry because the Uruguay Round will free up about 25 percent of the world market for butter, nonfat dry milk, and cheese from subsidies by the end of the century.

Section 142 replaces the dairy price support program with a recourse loan program for processors of cheddar cheese, butter, and nonfat dry milk at a rate of $9.90/cwt of milk equivalent on a 3.67 butterfat basis. This marketing tool will be an important stabilizing tool as it enters the world market. It also serves a secondary purpose of maintaining a budget baseline for dairy commodity program outlays in the last 3 years of our 7 year budget cycle.

Section 143 provides for milk marketing order consolidation and pricing reform to be completed by USDA during the 3 years that follow the enactment of the bill. This is 2 years faster than the 5-year period proposed by the Solomon-Dooley language in the House-passed bill.

In completing the consolidation of the current 33 Federal milk marketing orders into not less than 10 nor more than 14 orders, the Secretary will have to redesign the entire price surface for milk in this country from the basic formula price for manufacturing milk to any differential for fluid (beverage) milk. Uniform component pricing for milk is specifically mentioned.

The bill language also specifically prohibits the Secretary from using the current fluid milk differentials in any way to achieve that new price surface. Rather, it suggests that he review utilization rates and multiple basing points, among other issues, when designing that new fluid milk pricing system. This will undoubtedly result in a flatter price surface for fluid milk and a more level playing field nationally.

All of the issues related to consolidation and pricing reform will be addressed through the information rulemaking process, assuring their completion within 3 years of the enactment of the legislation. There is a further safeguard to assure the timely completion of this reform in that, if the Secretary fails to complete these tasks within the allotted period of time, he will lose his authority to assess producers and handlers for marketing order services and administrative costs until those reforms are, indeed, completed.

Section 144 is offered in an attempt to exempt California from existing Federal standards for the solids not fact content in Class I (fluid) milk. Regrettably, this section is drafted in such a way that the State standards would become a barrier to interstate commerce in fluid milk and, as a result, will likely spawn years of additional lawsuits on this issue.

Section 145 resolves the so-called "section 102"—(California make allowance—issue which has, similarly, been the subject matter of frequent, contentious litigation. Specifically, section 102 of the 1990 farm bill is repealed and replaced, for a 4-year period, with a ceiling on State manufacturing allowances of $1.65/cwt for butter/nonfat dry milk and $1.80/cwt for cheese.

The section further clarifies that these ceilings are the numbers which result from a State's yield and product price formulas, not the numbers which are plugged into and, then, adjusted by these formulas. If a manufacturing allowance resulting from the yield and pricing formulas of a State milk marketing order exceed these ceilings, processors in that State are precluded from selling surplus commodities to the Commodity Credit Corporation under the dairy price support program.

Section 146 extends the fluid milk promotion program through the year 2002. The House reluctantly accepted this provision even though we have not had hearings on this reauthorization to date. We will, in fact, have those hearings later this spring.

Section 147 relates to the Northeast Interstate Dairy compact. While this interstate agreement has little support on the House side, we were confronted with a situation in conference that threatened the entire farm bill process if the Northeast compact were not among the provisions of the conference report. Given the delay that the Reconciliation process already imposed on a new farm bill and the prospect of farmers beginning their planting season without a farm bill, the House conferees reluctantly agreed to include the Northeast compact among the other farm bill provisions only after its proponents had agreed to the following limitations.

First of all, consent is granted to the compact only if the Secretary of Agriculture finds that there is a compelling public interest for the compact in the region. Second, any consent will be terminated when the Secretary implements the consolidation and pricing reforms required by section 143.

Further, the compact over-order price would be applicable only to fluid milk, and the CCC would have to be reimbursed for any additional purchases of milk and the products of milk resulting from any increased milk production in the compact region in excess of the increase in milk production nationally.

Most importantly, the compact and its over-order price are not allowed to create a domestic trade barrier to milk and milk products coming into the compact region from other production areas around the country. While the mere establishment of an over-order price by the Compact Commission for use within the region itself will not be considered a prohibition or limitation on interstate commerce or the imposition of a compensatory payment, the Commission cannot require handlers bringing fluid milk into the region, either in bulk, packaged, or producer form, to add a compensatory payment or other up-charge to that milk.

In this regard, the language in condition number seven is clear and unambiguous—the

Compact Commission cannot prohibit or otherwise limit milk or milk products from other regions of the country from entering the region, it must abide by the rules and regulations that Federal orders have set up with respect to the classification of milk and the allocation of the proceeds from inter-order sales of milk, and it cannot use compensatory payments under section 10(6) of the compact.

In short, Mr. Speaker, the legislation prevents the Northeast to use its compact in any way that could lead to the economic disadvantage or detriment of producers and processors in other regions of the country.

Section 148 requires the full funding of the Dairy Export Incentive Program [DEIP] to Uruguay Round limits and gives the Secretary of Agriculture the sole discretion over the program to eliminate interagency disputes over the use of this program in the future.

Sections 149 and 150 authorize the Secretary to assist the American dairy industry in establishing one or more export trading companies autonomous of the U.S. government and to find sources of funding for their activities. These entities would, then, assist U.S. companies in entering and remaining competitive in the world market.

Section 151 requires the Secretary to study and report to the Congress on the impact that the new access cheese that our negotiators agreed to during the Uruguay Round proceedings will have on producer income and government purchases of cheese under the price support program.

Finally, section 152 re-emphasizes the authority the National Dairy Board already has to use a portion of its annual budget to promote American dairy products internationally.

As you can see, Mr. Speaker, this is a good dairy bill. Not only does it get us into the world market for dairy faster and provide greater marketing tools for the dairy industry than the Solomon-Dooley provisions, but is also kinder to producer income and gets us order reform and a more level domestic playing field faster than those Solomon-Dooley provisions. Accordingly, I recommend its adoption by my colleagues.

Mr. ROBERTS. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I would like to engage in a colloquy with the gentleman from Kansas regarding Section 892 of H.R. 2854, currently entitled "Use of Remote Sensing Data and Other Data to Anticipate Potential Food, Feed, and Fiber Shortages or Excesses and to Provide Timely Information to Assist Farmers with Planting Decisions." The gentleman from Michigan, Mr. Smith, and I worked out some language on how we can encourage the use of remote sensing data to aid farmers across this country, but the language contained in Section 892 of H.R. 2854 differs from what we agreed on and might be interpreted differently than is intended.

First of all, the title of the section conveys a different meaning than intended. It should indicate that the federal government's role in this area is to assist farmers in using remote sensing data, not to provide the data directly. Subparagraph (b) of Section 892 directs the NASA Administrator and Secretary of Agriculture to work with the private sector to provide information, through remote sensing, on crop conditions, fertilization and irrigation needs, pest infiltration, soil conditions, projected food, feed, and fiber production, and any other information available through remote sensing. Some might interpret that to mean that NASA should provide data directly to farmers, even if private remote sensing firms can already meet those needs. That is not what is intended by this paragraph.

Mr. ROBERTS. You are correct. That is not the intention of this language. There are excellent capabilities within NASA and the private sector to use remote sensing data for crop forecasting, precision agriculture, and projecting food yield. We do want to find innovative ways of bringing these capabilities to the benefit of the American farmer. Under Subparagraph (b), NASA and the Secretary of Agriculture should work with the private sector to teach farmers how to obtain and use remote sensing data from commercial data providers for the purposes you mentioned. The NASA Administrator or the Secretary of Agriculture should not interpret this to mean that they are to provide farmers with remote sensing data that the private sector is making available on the market.

Mr. WALKER. The NASA Administrator and the Secretary of Agriculture, then will not be allowed to compete with the private sector in providing earth remote sensing data, interpretation services, or tools to the agricultural community. It is also intended that NASA's efforts under this provision be managed by the Earth Observation for Commercial Application Program [EOCAP], based the Stennis Space Center in Mississippi.

Mr. ROBERTS. Well, the gentleman is absolutely correct. The intention of this subparagraph is for the NASA Administrator and the Secretary of Agriculture to help the commercial remote sensing industry better meet the needs of the agricultural community through development of new pre-commercial remote sensing technologies and interpretive tools. That way, we will ensure a steady steam of services and products that benefit American agriculture without adding to government expenditures or making American farmers dependent on the provision of government services. The EOCAP (E–OH–CAP) program has the most expertise in bringing these diverse requirements and capabilities together.

Mr. WALKER. Subparagraph (c) also calls on the Secretary of Agriculture and the NADA Administrator to jointly develop a proposal to provide farmers and other prospective users with supply and demand information about food and fibers. We do not intend that this section shall require or direct the NASA Administrator to conduct a program within NASA that does crop forecasting.

Mr. ROBERTS. The gentleman has hit the nail on the head again. This subparagraph is intended to urge the NASA Administrator to provide to the Secretary of Agriculture remote sensing data or interpretative tools that it develops under its normal activities, if and when such data and tools may be helpful in understanding the supply and demand for food and fibers. This is not intended to place any requirements for programs or research efforts on the NASA Administrator that add to NASA's current responsibilities.

□ 2330

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

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

Before I yield to the gentleman, I would just like to observe that the little Mutt and Jeff or whatever kind of show that went on was quite a joke, and this bill is quite a joke.

Mr. Speaker, I yield 5 minutes to the gentleman from North Dakota [Mr. POMEROY].

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

I would observe I have never heard my colleagues more eloquent.

I want to tell you at the outset that I feel badly all of you have to remain tonight for the debate preceding the vote. We asked the chairman to roll the vote. We are going to be here tomorrow. We might have had an extended debate, not inconveniencing you, but a full debate before the vote tomorrow.

The chairman refused the request to roll the vote, and that is why you will participate in the debate. We will not be rushed in our effort to get on the record our reservations about this bill. And I do not care what tactics they use to put us in an awkward situation debating the bill at 11:30 at night.

You are going to hear tonight a lot of thumping of the chests, a lot of patting on the back. We are passing a farm bill. You know, it is as though they did not realize the last farm bill expired at the end of 1995. We have had farmers all across the country considering very difficult decisions in terms of what to plant, what financing to get in place, not just the farmers but lenders, agribusiness men, all wondering about the actions of this Congress. As far as I am concerned, the House Ag Committee had one thing and one thing only to do in 1995, and that is get a farm bill passed. And the House Committee on Agriculture failed to do it.

Come 1996 January came and went, come February, against a vote that all of us opposed on this side of the aisle.

The House voted to adjourn and went home, leaving several opportune weeks to get a farm bill in place wasted, as Members went back to their districts. Come March, the weeks start to toll, and now here, on March 28, and the chairman says we have to remain in session until sometime near midnight so we get a farm program in place for farmers.

I think it has been an absolutely shameful debacle of a process that has brought this bill that left the last farm bill expiring before we had a new program in place for our farmers, and that is just the start of my reservations about this particular farm bill before us.

I do not deny for a minute that the guaranteed payments, especially in the early going under the so-called freedom to farm bill we will be passing tonight, will be helpful to the farmers of North Dakota and across the country. It is what the farmers have been asked to give up for these early upfront payments that give me the most heartburn about this bill.

For decades we have preserved the safety net for family farmers, recognizing that they expose enormous amounts of capital, but have their fate turning largely upon market prices over which they have no control whatsoever.

We have provided a backstop when prices collapsed. We have given farmers a floor so that we do not drive them off their land, and this bill eliminates that hallmark of traditional family farm programs maintained by past Congresses.

What makes this bill even more troubling is that American farmers were assured in exchange for giving up this long-term safety net they would have regulatory relief. Well, there is a good deal in there about planting flexibility, and I think those are positive components of this bill. But if falls far short of regulatory relief. In conference committee the conference adopted an amendment proposed by the gentleman from South Dakota [Mr. JOHNSON] and myself to reform the swampbuster legislation. I think more reform was needed here. And yet, without question, farmers will find the increased flexibility somewhat helpful. More should have been done. The promise of regulatory relief really, I think falls short in delivery than what was promised. In many other ways, this bill is still superior to the freedom to the farm package that was before the House at the end of February. It contains an oilseed marketing loan and a fund for rural America, both provisions that we offered in the House agriculture committee, but they were defeated by the Republican majority Members. Now they are in the final report. It makes it a better bill. It does not make it a bill worthy of passage.

The debate on this bill has been long and contentious. It is unfortunate we did not have more of an opportunity for honest give-and-take in the terms of trying to resolve our differences. I think once the farmers of our Nation get a good look at this program, they will see that at the end of 7 years, they are left without a safety net, they are left without the freedom to farm payments, and they will realize that this deal has been a bad deal for rural America.

My sincere hope is that the Congress will have the chance to review and correct the grievous mistakes it is making in passing this legislation before the last family farmers in America are finally run out of business.

Mr. ROBERTS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Nebraska [Mr. BARRETT], the coauthor of the Freedom to Farm Act.

Mr. BARRETT of Nebraska. Mr. Speaker, I thank my chairman for yielding me this time.

Mr. Speaker, I do rise tonight in support of the conference report on H.R. 2854. I want to thank the chairman of the full ag committee for yielding to me and for his leadership in bringing this historic piece of legislation to this point.

I am pleased that Congress will pass the conference report tonight. It will unleash agriculture, the Nation's single largest industry, from antiquated programs, and excessive Federal control.

As the largest newspaper in Nebraska said on yesterday, it will allow farmers to, and here I quote, "throw away the crutch of government subsidies and break free from the unending flow of dictates from Washington."

Mr. Speaker, in the interest of time and because of the lateness of the hour, I will conclude my remarks at this time and insert a longer statement in the RECORD.

Mr. Speaker, I rise today in support of the conference agreement on the Federal Agricultural Improvement Act.

As chairman of the General Farm Commodities Subcommittee, I traveled across the country last spring to receive testimony on our Nation's farm policy. I chaired a total of eight different hearings. The full committee held many more. Farmers, bankers, producer groups, and agribusinesses all had a chance to be heard.

Mr. Speaker, there was a common theme running through that testimony the theme was give farmers the freedom to plant what they need to plant for the market, and give them the tools to do it. I'm pleased and even excited, that the 1996 farm bill does just that.

As I travelled my district this past weekend, listening to the excitement in farmer's voices as they discussed their planting options, I couldn't help but think of all the changes that have occurred in agriculture in America over the past few decades, and wonder why it ever took so long to reform farm policy.

Today, on farms across the country, computers and cellular phones are almost as common as tractors. Satellites, once used only at the Department of Defense, are now used to forecast weather, and track crop conditions. On the other hand, federal farm programs have not changed. They have not adapted to changing markets and advances in technology.

Since the Great Depression, the federal government has attempted to maintain a federally determined income standard for farmers. The government offered loans, price supports, cash payments, and even placed restrictions on the use of agricultural land.

Our economy is based on risk taking and competition—with few restrictions. These programs have made American agriculture run counter to most other sectors of our economy. Unfortunately, agriculture in America has not been market oriented.

I'm pleased that the House has before it today, a Farm Bill conference report that would allow producers to plant for the market, to make choices, to weigh risk, and to be in charge of their future. The FAIR Act reforms agriculture the American way, and I urge my colleagues to support the conference report.

Mr. VOLKMER. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I rise in opposition to this conference report. Proponents of H.R. 2854 say that it represents reform of our antiquated federal agriculture policy. But I say it is business as usual.

Proponents of the bill say it reforms the peanut program—one of the most glaring examples of misguided agriculture policy. But that is simply not true. The cosmetic reforms included in this bill do not sufficiently address my concerns with this program.

The peanut program supports peanut quota holders at the expense of 250 million American consumers and taxpayers. The GAO has estimated that this program passes on $500 million per year in higher peanut prices to consumers.

The bill also lacks real reform of the sugar program. Like the peanut subsidy, the sugar program artificially inflates the price of sugar in America for the benefit of a handful of sugar growers. American consumers pay $1.4 billion more each year for products with sugar in them as a result of this program. That is a total consumer price tag of almost $2 billion for these two programs.

This conference report also includes a provision that was placed in the bill during conference without having been debated or amended on the floor. The bill creates the mis-named Safe Meat and Poultry Inspection Panel to review and evaluate food safety procedures, adding another hurdle to the Food Safety and Inspection Service's efforts to protect the U.S. food supply.

Mr. Speaker, this is an outrage. There are 4,000 deaths and 5 million illnesses annually in the U.S. as a result of food-borne pathogens. FSIS is trying to cut down this number, but they have been facing opposition every step of the

way. This provision is another in a series of attempts to hinder their efforts. It was not in the House or Senate versions of the Farm Bill. It was not debated. It was not amended. Yet here it is in the conference report. This is no way to legislate.

Just last week Mike Taylor, the Undersecretary of Agriculture for Food Safety, came before the Agriculture Appropriations Subcommittee and told us how difficult it is for his agency to accomplish its goals of protecting our food supply with the limited budget it has been given. Now we are going to shoulder them with the fiscal burden of this panel. Unacceptable!

Mr. Speaker, this conference report is filled with provisions that send our agriculture policy in the wrong direction. We can do much, much better. I urge my colleagues to defeat this bill.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. POSHARD], our distinguished colleague.

Mr. POSHARD. Mr. Speaker, I rise today in strong support of the Federal Agricultural Improvement and Reform Act conference report, because I believe this legislation is good for our farmers, environment, and rural communities. The bill also moves us closer toward our goal of balancing the Nation's budget while allowing our farmers to provide consumers with high quality and low-cost food products.

This conference agreement provides our farmers with the flexibility they need to meet growing and changing market demands. Under the bill, farmers can plant most any crop on acreage subject to a production flexibility contract. In addition, these new production contracts will greatly lessen the amount of paperwork and time required of farmers who enrolled in farm programs of years past.

The conference report provides for continued marketing assistance loans to producers of program crops, as well as soybeans. In fact, the agreement includes an increase in the loan rate for soybeans that I am proud to say was added to the Senate bill by my Illinois colleague, Senator CAROL MOSELEY-BRAUN. The bill also reauthorizes the farm lending program, which has assisted many farmers and their families in my congressional district.

The conference agreement reauthorizes two very important programs that assist our Nation's farmers in continuing to be good stewards of our environment and lands, the Conservation and Wetlands Reserve Programs. These two programs have been very successful in making it cost-effective for farmers to set aside environmentally sensitive lands. While the conference report caps enrollment in the programs, it allows new acreage to be enrolled as idle land is taken out of the programs. The bill also provides $200 million annually for a new Environmental Quality Incentives Program which will provide technical and financial assistance to livestock producers and farmers to improve water quality.

The bill authorizes a new USDA Rural Community Advancement Program to provide grants, loans and loan guarantees to meet the rural development needs of our local communities. The agreement provides $300 million over 3 years for a fund for rural America which will be available for rural development and competitive research activities. In addition, the conference report reauthorizes USDA's rural water programs.

I am pleased the agreement reauthorizes various Federal agricultural research, extension, and education programs. These programs are essential to the future of our Nation's agricultural community and its future in the global marketplace. In Illinois, research and extension programs have played a major role in the Illinois agricultural community's success as a domestic producer and exporter of farm commodities.

I thank the conferees for working swiftly on the conference report so that our farmers can begin planning and planting this year's crops. This bill provides our farmers with flexibility, our environment with effective and reasonable protections, and rural communities with new and expanded ways to invest in needed infrastructure and economic development. I truly believe this legislation is a step in the right direction for our agricultural and rural communities, and I urge my colleagues to join me in supporting this agreement.

Mr. VOLKMER. Mr. Speaker, I yield 4 minutes to the gentleman from Mississippi [Mr. TAYLOR], who is an outstanding legislator and knows a little bit about agriculture, quite a bit.

Mr. TAYLOR of Mississippi. Mr. Speaker, gentlemen and ladies, last year, during the welfare debate, I heard speaker after speaker come to this floor and say that we had to end the practice of paying people to do nothing, that we should no longer pay people not to work.

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Something remarkable happened that day. Every single Member of this body voted to no longer pay people for not working. Many of us supported the coalition plan, the rest of the folks supported the Republican plan, but everyone supported at least one plan that would stop paying people for doing nothing. And it was remarkable, and it was a good thing.

Unfortunately, in this bill there is a plan to pay people up to $80,000 a year per individual for 7 years to do nothing. You do not have to plant a crop, you do not have to work a field, you do not have to work fences, you do not have to start the tractor, you do not have to do anything. You do not even have to try to farm, and you get $80,000 a year.

Earlier today this body by a majority voted to raise the debt limit up to $5.5 trillion. We are spending $2 million every 4 minutes on interest on the national debt. Where do we stop?

I am not going to criticize the whole bill, but I can tell you, freedom to farm is a bad idea, because you can never wean people off Government dependence by paying them to do nothing, whether they are a welfare mother or whether they are a father who happens to be a farmer. It does not work. It does not work with welfare, and it will not work with farming.

Please vote against this bill.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

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

Mr. VOLKMER. Mr. Speaker, I would like to point out to the House it is not just $80,000 to big investors that do not even live on the farm, they are in New York and Chicago and other places, they are getting the $80,000. They have not even been to the farm, and they are going to get the $80,000. But it is $36 billion, $36 billion over 7 years, to people that do not want to farm. That is right. Not $80,000; $36 billion. That is how much you are talking about, folks. Let us get the real numbers, Yes, $36 billion.

Mr. TAYLOR of Mississippi. Mr. Speaker, reclaiming my time, the new majority came to town promising to balance the budget, and yet this year's budget according to the Congressional Budget Office, will spend $270 billion more than we collect in taxes. If we can cut out anything, let us start with a program that pays people up to $80,000 a year not to go to work. Please vote against this bill.

Mr. VOLKMER. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I was sorry the gentleman from New York would not yield to me. He said there was a glass of milk here from Massachusetts. Yes, there is a dairy compact from New England, which I opposed, which I think will hurt the consumers which was not in the House bill or the Senate bill. As I understand it, it shows up in the conference report. Typical. If people want to know what contempt of Congress means, it is the way the House has been treated recently on major issues, with the minimum debate the rules of the House allow. And now I can understand why they do not want to debate this.

The gentleman from Mississippi talked about this program. This is the biggest welfare program we have left. It will be bigger than AFDC from the

Federal dollar standpoint. What we are saying is, farmers will get welfare payments. There is a difference, however.

By the way, I am not the only one who first thought of this. I must give credit where credit was due. In 1990, RICHARD ARMEY, writing in the Heritage Foundation, said "If the goal of our farm programs is to help needy farmers, we should do so directly with welfare payments rather than with the complex and costly system of price supports. That would only cost $4 billion a year, rather than $12 billion."

Mr. ARMEY was a prophet, and that is what we are doing. We are giving to welfare to farmers because they are in need, rather than costly price supports. But the majority leader Mr. ARMEY is a little more expansive than the critic Mr. ARMEY, because we are going to do $35 billion over 7 years, so it is $5 billion a year rather than $4 billion.

Note it is 7 years. If you are a 3-year-old whose mother has not done everything she should have done, you get cut off after 2 years, as I understand it, in the bill. So the farmer's welfare lasts for 7 years.

Also if you are a 3-year-old, your parent has a work requirement. There is no work requirement in here for the farmers. There is not even, as I understand, it is a life requirement. If I am correct, under this bill a farmer who dies may pass on his share of these billions of dollars to his or her heirs.

So at the same time we talk about how tough we are going to be on the dependent children, we are going to cut them off after 2 years. We are going to have a work requirement. Very late at night, in the hopes there will be no debate, we are going to give $35 billion to able-bodied working people. As the majority leader said, "let's give them welfare instead of requirements," and they will simply get that $35 billion.

The inconsistency between the toughness that is meted out to the poor and the lavish and gentle treatment that goes to the favored political few is outrageous. What right do people have morally to condemn the poorest people in this country, to not even allow them to debate the minimum wage, to cut welfare, to cut Medicaid, to cut everything else. But the farmers, apparently free enterprise has no real meaning here.

Let us take $35 billion of deficit spending and simply give it to farmers because they happen to be farmers over the next 7 years. That is what is in the majority's bill, and that is why they are trying to burp this discussion and have it late at night and hit and run, and not have it talked about.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

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

Mr. VOLKMER. Mr. Speaker, I would like to point out to the House that to get this money, all you have to do was be in the program 1 year out of the last 5 years. If anybody would come to this House and say that I have been on welfare, I have been on AFDC, or on food stamps once in the last 5 years, and therefore I am entitled to 7 more years of it, we would say they are crazy, they are lunatic, that is crazy. But that is what this is. That is identical to what this is.

Mr. FRANK of Massachusetts. Mr. Speaker, reclaiming my time, let me just say, of course there is no foolishness in here about States rights. This is a pure, 100 percent unadulterated Federal entitlement. So we have fiscal discipline and toughness and harshness and work requirements and strict time limits for the very poor, but for those who can vote and those whose support politically is important to the majority, all of these hifalutin principles go out the window, and they are treated with a degree of consideration and care that the poor never get.

Mr. DE LA GARZA. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, we spend over $26 billion a year for food stamps, we provide additional monies for school lunch, for school breakfast, for temporary emergency food assistance, and for other assistance programs for migrants. No one can say that we are not attempting to care for the poor. Yet even as we try to provide assistance to the poor, we have managed to reduce expenditures in Agriculture programs in order to balance the budget.

Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I rise in support of H.R. 2854

Mr. Speaker, it is with some considerable reservation that I stand here tonight encouraging my colleagues to vote "yes" for the 1996 [FAIR] Federal Agricultural Improvement and Reform Act. However, I suggest to you all that we must put philosophical differences aside and think clearly and with conscientious conviction about who, not what we are supporting. Today's vote is for American farmers and the communities with families who sustain them. If this were March 1995 and we were debating future farm policy, but had functional farm laws in place, I would be adamant in my opposition to this legislation because it removes the safety net from under these peoples' lives. Unfortunately, we don't have that luxury today. At this stage in the game, with planting and credit decisions still in limbo, we must believe that any further delay only imperils the livelihoods of millions of people. Even with all it's potential shortcomings and pitfalls, I have to accept this legislation as the best we can provide at this time. I would not have authored it, but the majority's views prevailed. Although I believe many of the aspects of this bill will come back and haunt us, our debate, limited as it was, is over for now. We must move forward and provide some degree of predictability and assurance to our agricultural producers.

If we force ourselves to stand back, remove emotion, and objectively view farm programs and their overall effects on society, it's apparent to me that the level of stability offered to markets by our support has allowed the American farmer to become the envy of the world. No farm programs that exist today are perfect; they never will be. From a long view though, they have been successful. It may be the time to embark on new social experiments but we cannot ignore or forget what has worked in the past.

The current leadership believes in a textbook free market, but this completely ignores the role of other governments that don't practice free trade. The recent GATT accord has not changed this. The European Union, for example, over the past 5 years outspent the United States 6 to 1 in terms of export subsidies, $10.6 billion versus less than $2 billion by the United States, and will be able to maintain its historical advantage under the GATT Agreement. American farmers cannot unilaterally disarm in an international marketplace. I don't know of a single farmer who wouldn't rather receive his income from the marketplace, but the real world is subsidized agriculture. This is one of the areas where our Government must stand shoulder to shoulder with us. We must use all our tools to boost commodity export: first, programs to help U.S. exporters compete in terms of price; second, programs to help importers obtain credit needed to purchase U.S. commodities; and third, programs to provide U.S. farm products as food aid.

All our efforts will be wasted however, if we neglect the infrastructure of rural America. We must continue to provide critical resources for rural communities as they work to address unmet needs at the local level. Water and sewer requirements alone cannot be met with the money that have been authorized. Research, education, extension, and seed money to develop value added programs are essential too, for rural economies to diversify and position themselves to compete in a rapidly changing global economy. Without public investment in stabilizing agriculture, you will witness further declines in rural America's security and strength.

The provisions of the FAIR Act will result in dramatic adjustments in U.S. policy and continues cuts in spending. Overall, numerous challenges confront U.S. agriculture—challenges of first, responding to competition in the global marketplace; second, ensuring a profitable, sustainable food and agriculture sector; third, safeguarding natural resources and the environment; fourth, ensuring balanced nutrition and a high-quality food supply; and revitalizing rural America. The stakes are high, but the opportunities and rewards are unlimited. Whether the agriculture industry continues its move forward or falls behind is largely dependent upon the vision and imagination of its participants. More importantly, we cannot be afraid to re-examine any policy as it relates to the vitality and stability of the sector it is meant to serve. With that in mind, I urge you to vote "yes" and put our farmers back to work.

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

Mr. Speaker, I would like to comment to the ones yelling "vote," I am the one that tried to get the chairman to roll the vote so you would not have to be here.

Mr. Speaker, I first would like to point out to the House, as the gentleman who started this debate on our side from North Dakota pointed out, that we are here tonight in a hurry to do something that should have been done last year in regular time, but it was not done, and it is not the fault of those of us on this side. It is the fault, no question about it, of those that are in the majority that did not do their job.

Now, the next thing, the decoupling that has taken place between asking farmers to do things to help provide a food supply for this country is gone. It is no longer in this bill. The farmer does not have to plan at all, and in some parts of this country this year you are going to see less planting, you are going to see less rice, I will guarantee you, than we have ever had for years, and you are going to see other things happen.

I talked to some agricultural economists about this problem. Mr. Speaker, what you are going to see in the future, right now we have shortages, so you have good prices, so you are going to see production. You are going to see all-out production. In about 2 years, with good crops, we are going to have overproduction, we are going to have oversupply. The price is going to drop, and the loan rate is capped in this bill, which means a lot of farmers out there are not going to make money.

All farmers do not get this payment. Let me remind you of that. In my district, 60 percent of the farmers get nothing from this bill. The gentleman from Kansas, the chairman of the committee, in his district 85 percent of the farmers get $30,000 a year, on average. My farmers, even those 40 percent, only get $3,500. Down in parts of Texas, cotton country, you get up to $80,000. In parts of rice country, you get around $60,000 to $70,000.

There is no longer going to be a Federal crop program. It is gone, as good as gone. So when you look at that adequate food supply, you are going to see fewer farmers, you are going to see shortages, you are going to go back to the time, it is all history, you are going to go back to the time when there were no Government programs basically, and the big cycle starts, not only in prices, but in food supply. Yes, in food supply. You are going to have ups and downs. And when you have the down, you understand, then you are going to have problems with people having food.

That is what you are getting out of this program. In the meantime, yes, big investors, bit people, 22 percent of that $36 billion is going to go to 2 percent of the farmers, and most of those people have never been on a farm. They are investors, most of them. Investors own farmers. They are going to get the big bucks.

I do not know why we cannot learn from history. I do not know why we have to go back to the days of old and go through the same problems with agriculture, but that is basically where this program leads you. In 7 years, they say we are going to wean them off after 7 years. I do not believe so. But there is going to be no incentives in this program for farmers to produce, as we do in our regular programs when we had the safety net.

We also have mechanisms to get people to produce certain crops so we can have additional crops if we need those crops. That is no longer here. That is gone. We have completely decoupled the programs of even what we call supply management from this bill completely. That is gone, folks. It is not in here anymore.

And this all is not new, this whole program is not brand new. But what is really interesting to me is to find that when this freedom to farm, they call it, I call it freedom not to farm, first surfaced last summer, overwhelmingly rejected by most people, especially on this side.

Well, I will say this to you, the gentleman from Kansas, Mr. Chairman, you have been persistent. You have wore them down. You have not worn me down. I said then and I will say now it is the wrong way for agriculture, it is a disaster for this country, and I say vote against H.R. 2854.

Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Speaker, I thank the chairman for yielding me time. I rise in strong support for this conference report, the most comprehensive reform of agriculture in my lifetime, the Federal Agricultural Improvement and Reform Act.

Mr. Speaker, I rise in strong support of this conference report and would like to congratulate my full committee chairman, Mr. ROBERTS and subcommittee chairman Mr. GUNDERSON for all their time and hard work.

For the first time Washington has seen fit to give producers the flexibility they have been demanding for years. The Federal Agricultural Improvement and Reform [FAIR] Act finally allows our farmers and ranchers to produce for the market instead of the Government.

The FAIR Act accomplishes the three goals that were set for this legislation: it transitions our agriculture sector towards the 21st century global economy; it saves the taxpayers billions of dollars; and it protects the environment.

The FAIR Act represents the most sweeping reform in agriculture policy in 60 years. It puts farmers, not the Government in charge of planting decisions. Farmers are no longer required to plant the same crops year after year to receive assistance, allowing greater crop rotation and less dependence on synthetic fertilizers and pesticides.

In addition to this the FAIR Act targets $1.2 billion over 7 years to assist crop and livestock producers with environmental and conservation improvements on the farm. Assistance can be used for animal waste management facilities, terraces, waterways, filterstrips, or other structural and management practices to protect water, soil, and related resources.

Producers, the first and best stewards of the land, are given enhanced flexibility to modify conservation practices if they can demonstrate that the new practices achieve equal or greater erosion control. It also takes measures to ensure the protection of the Florida Everglades, a national treasure.

This is the most environmentally friendly farm bill in history. We enhance the protection of the environment without new mandates, regulations, requirements and redtape. It makes the Federal Government a partner with producers in addressing environmental challenges, rather than an adversary. It is voluntary and incentive-based. Most importantly, it works.

Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, I give strong compliments to the chairman, Mr. ROBERTS, and Senator DOLE for their leadership on this excellent farm bill we are about to pass. I rise today in strong support of the conference report to accompany H.R. 2854, the Federal Agricultural Improvement and Reform Act, historic legislation to completely overhaul this Nation's farm policy. Yet, as we move toward a more market-oriented agricultural policy in this Nation, one fact is easily overlooked in this entire farm bill debate—and that is Congress is about to pass the most environmentally sensitive farm bill ever. All of this is done without any new mandates, regulations, requirements or bureaucratic redtape. It makes the Federal Government a partner with agricultural producers in addressing agricultural changes, rather than an adversary.

In particular, I am especially pleased that this conference report contains $200 million for funding of land acquisition and environmental restoration activities in one of our true national treasures—the Florida Everglades. Additionally, the bill does something that we should be all proud to support. It allows the Federal Government to dispose of surplus lands, up to $100 million, within the State of Florida for the purpose of acquiring additional environmentally sensitive lands in the Everglades.

As the author of this provision in the House, I would like to take this time to thank those Members of Congress who worked so hard on finalizing this issue. First of all, I would like to thank Representative RICHARD POMBO from California, who was thrust into the role of attempting to reshape the legislation in conference and did an outstanding job in that role. Second, many thanks go to the House and Senate majority leadership—in particular Speaker NEWT GINGRICH who was especially instrumental in the role of discussing the idea of surplus land disposal for the purpose of environmental restoration.

Senator BOB DOLE played a vital role in inserting this language in the Senate bill when it was originally considered earlier this year. Special thanks go to my colleagues from Florida, especially the State's two outstanding Senators, MACK and GRAHAM—both who worked in a bipartisan fashion to craft an acceptable provision to work on behalf of the Florida Everglades. Finally, thanks to my 299 Members of Congress who originally gave their stamp of approval to my amendment on February 29, 1996.

Since there is no report language accompanying the Everglades provisions, I would like to further take this opportunity as the author of the House provision to explain in greater detail some of the background behind this measure.

The Everglades ecosystem is a unique national treasure that includes the Kissimmee River, the Everglades, and Florida Bay. Its long-term viability is critical to tourism, fishing, recreational activities, and agricultural industries as well as to the water supply, economy and quality of life for south Florida's population of more than six million people. Additionally, the restoration of the Everglades will have direct benefits to the Federal Government in that the Everglades ecosystem includes the Loxahatchee Wildlife Refuge, and two National Parks, Everglades National Park and Biscayne Bay National Park.

The State of Florida, in particular the State legislature has a long standing commitment to address the complex problems of the region and to restore this precious resource. Additionally, the agricultural industry south of Lake Okechobbee has committed up to $320 million for Everglades restoration as part of the 1993 Everglades Forever Act. While many would seek to find a single scapegoat for problems in the Everglades, I find this to be lacking in commitment to acting to preserve this precious resource. Therefore, today, it is important to remember that because south Florida is home to 7 of the 10 fastest-growing metropolitan areas in the country, restoration is clearly on a critical path.

It is clearly understood by all who are involved in the efforts to restore the Everglades that there is a significant gap in or scientific knowledge about ultimate ecological and water management needs of south Florida, and this necessitates continued detailed study. Yet, the framework for restoration and the design of major projects for land acquisition, water storage and restored hydrology is clear.

Restoration of one of the largest functioning ecosystems in the world is a massive undertaking, and success will depend upon the Federal Government, the State of Florida, and all local, regional, and tribal interests working in tandem. As the author of this language in the House, it is not my intent that these funds supplant any previous funds committed to south Florida for the purpose of Everglades restoration. However, it is my intent that the purchasing agents give the absolute highest priority to those lands owned by willing sellers but taxpayer dollars should not be wasted by paying more than fair market value for lands purchased with these funds. This underscores importance of the annual report to Congress by the Secretary of Interior describing all activities associated with the expenditure of these funds.

Mr. Speaker, this is a historic day for the Hose of Representatives, and a historic day for the Everglades. I'm proud to be the sponsor of this original language, and I now would encourage my colleague to support the final passage of this bill and urge the President to quickly sign this bill into law.

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Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. BOEHLERT], who has been such a help to us on the environmental section of the bill.

Mr. BOEHLERT. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I rise in strong support of this farm bill—a bill that is good for farmers, good for consumers, good for taxpayers, and good for environmentalists—categories that, I hasten to add, are hardly mutually exclusive.

I want to focus on two aspects of the bill, in particular—first, the dairy provisions. This bill eliminates the assessments farmers pay, phases out price supports, funds export promotion, and consolidates milk marketing orders. The bill, in short, saves farmers and taxpayers money without imposing new burdens on consumers or creating chaos for Northeast dairy farmers. I want to thank the farmers in my district and throughout our region for their patience, their time, and most of all their critical guidance during this protracted debate. They worked closely with my colleagues and me in the Northeast ag caucus, which I am privileged to cochair, and together we fashioned responsible legislation.

Now, let me turn to the conservation title of this bill, which is another cause for celebration.

This week the Washington Post has run a series of spirited editorials critical of Republican environmental initiatives. I hope the Post and others take notice of the revolutionary conservation measures included in the 1996 farm bill.

The 1996 farm bill is not only the greenest farm bill in the history of the Republic, it is the most significant environmental legislation passed in this Congress or the previous Congress, which by the way was Democrat controlled.

The over $3 billion provided in the farm bill for the Wetlands Reserve Program, the Conservation Reserve Program, the Environmental Quality Improvement Program, and the restoration of the Everglades will do more to improve water quality and wildlife habitat in this country than any bill proposed by the Clinton administration in the past 4 years. Millions of acres of environmentally sensitive lands across the nation will be protected.

Two weeks ago a conservation amendment to the farm bill, an amendment I authored, was adopted on the House floor by a vote of 372 to 37. A Republican amendment on the environment involving millions of acres of land and billions of dollars was approved with resounding bipartisan support.

Republicans have gotten the message on the environment, and unlike many in this town, we are responding with sensible, proenvironment, legislation like the 1996 farm bill.

The Republican Party is returning to its roots, as the party of conservation and sensible environmental protection. Teddy Roosevelt would be proud of the conservation initiatives being advanced in the 1996 farm bill.

I urge all my colleagues to support this proenvironment, profarmer legislation.

Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado [Mr. ALLARD], a valued member of the committee.

Mr. ALLARD. Mr. Speaker, I rise in support of H.R. 2854. This is the most market-oriented environmental farmer friendly bill we have ever passed.

It balances the needs of producers and the needs of the environment, while providing significant regulatory relief to producers.

We reauthorize the Conservation Reserve Program which provides incentives to producers to idle environmentally sensitive land. The new CRP takes into account water quality needs important to midwestern states and soil erosion and wildlife habitat concerns of the Great Plains. The conference committee did a remarkable job of balancing the needs of different regions so we can all claim to be winners.

The conference report also provides money for the restoration of the Everglades. The provisions that we included will protect the Everglades and hopefully provide a model for restoration of other environmentally sensitive areas.

The conference report also establishes a new account that will provide mandatory money for cost share practices to reduce soil erosion and protect water quality. This program incorporates provisions from the legislation I introduced earlier this year, but expands it to include more money and more practices. It is an important program that will provide tremendous environmental benefits in rural and urban areas.

Also, the conference committee included language that will place a moratorium on actions by the Forest Service that have the effect of denying owners of water the use of that water through regulatory action. During the time this moratorium is in effect experts in the fields of public land law and Western water law will study this issue and issue a report on how to avoid the illegal taking of water from agricultural and municipal users. I am happy to have this provision in law, but want to make clear that it in no way recognizes the legality of recent Forest Service actions. The language in the conference report is an attempt

to stop the Forest Service from taking actions that run counter to law and allow them to find alternatives to imposing by-pass flows and avoid law suites they would surely lose.

Finally, this legislation incorporates other important reforms that we can be proud of, such as; making the USDA loan process more responsible and allowing the Department to more quickly release inventory property. Reform of Conservation Compliance that will allow the Department and the producer to work in a more cooperative manner while reducing regulatory burdens on the producer.

This is groundbreaking legislation that I hope all of my colleagues can support.

Mr. ROBERTS. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. EWING], chairman of the Subcommittee on Risk Management and Specialty Crops.

Mr. EWING. Mr. Speaker, I thank the chairman for a job well done.

I would just like to say a couple things about the peanut and sugar program, which were under my subcommittee. First, these programs will not cost the taxpayer one dollar. Yes, without these programs, you might have a lot more cost to the consumers in this country. I would remind the gentlewoman from New York, who was so critical of these programs, that these programs were so bureaucratic after decades of being controlled on that side of the aisle in farm programs that it would have truly been unfair to the people who farm and grow peanuts and sugar in America, a lot of little people, had we cut their legs off at the knees and expected them to go out of these programs immediately. These are a good transition to the marketplace.

Mr. ROBERTS. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, all over this country, family farms have been disappearing in great numbers as a result of the failure of our current agricultural policy. In Vermont, in 1977, we had 3,300 farms. Today we have less than 2,000. All over the country this is happening. This is an American tragedy.

In 1989, some people in New England got together to figure out how we could save the family farm in our region, and they came up with a concept called the Northeast Dairy Compact. This compact could provide dairy farmers in New England finally with a fair price for their product, a fair price which they are not getting today. It is an opportunity to save the family farm. All six legislatures in New England overwhelmingly approved the compact; all six Governors, liberal and conservatives, approved the compact.

Mr. Speaker, originally when we voted on the bill, the compact was not in the farm bill, but today it is in the farm bill as a result of the work the conferees did. Mr. Speaker, the Northeast Dairy Compact could become a model for farms all over this country for regions all over this country. It is good for New England. It is good for America.

There is a lot in this bill that I do not support, but I certainly fervently support the Northeast Dairy Compact section.

Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Speaker, I rise in support of this bill, the origins of which are partly in the Iowa plan.

Whether we call it the Fair Agriculture Improvement and Reform Act, the Agricultural Market Transition Act, or my favorite, the freedom to farm act, this is truly an evolutionary piece of legislation.

For the first time since the 1930's when Federal farm policy took shape, we will begin to remove the inside-the-beltway, Washington bureaucrat from the backs of the American farmer.

Although we had to wait until 1996, nearly an entire lifetime, I am pleased that this body has come to the realization that farmers, out in the fields, actually know more about farming than the bureaucrats in Washington do. In no small part do we owe our thanks to Chairman ROBERTS for bringing us to this enlightened state.

This is a good bill. It saves taxpayers money. It provides long needed flexibility. It makes good free-market sense. It is proenvironment. And it stops paying farmers not to plant.

Under the freedom to farm approach in this bill, we provide flexibility and develop a true safety net for our farmers. That is why the Iowa Farm Bureau Federation, the Iowa Corn Growers Association, the Iowa Soybean Association, the Iowa Pork Producers, the Iowa Cattlemen Association, and the Iowa Agribusiness Association all support this bill.

Those in opposition to this legislation will say that it either ends the safety net for our farmers or its is a free handout just like welfare. This is simply not true.

Opponents of this bill have a vested interest in maintaining the status quo. They want to continue to force the agricultural community to come to Washington, hat in hand. They want to continue the micromanagement of the farm. They want to continue to hamper development of robust export markets with top-down we-know-best policies.

A vote for this bill is a reflection of those failed policies of the past. A vote for this bill is a vote for reform. A vote for this bill shows the farmers of this country that this Congress truly cares about bringing agriculture policy into the 21st century. I commend Chairman ROBERTS for his efforts and I strongly urge my colleagues to support this bill.

Mr. ROBERTS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. ROTH].

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

Mr. Speaker, taken as a whole, this is a good bill. There are a number of essential programs. For example, one-fifth of all the $210 billion global trade in agriculture belongs to the United States, and we have to protect ourselves. But our leadership in this area is under assault from all our competitors, whether it is Asia, Europe, wherever it might be. We must fight these unfair trade practices in agriculture and this bill does that.

This bill makes the first real reform in dairy policy in over a decade. This legislation is long overdue, and the reforms in here are long overdue, especially in the milk marketing order. The current milk marketing order is totally out of date. It is a relic of a bygone era when raw milk had to be transported great distances for processing. Today our dairy industry is highly efficient.

Mr. Speaker, while I support the overall bill, I must register my serious concerns about the provisions which establish a special dairy system for the New England region. In essence, this is Government-mandated protectionism for one segment of our Nation's dairy industry. When this bill is going toward a free market system, this particular provision takes us in the totally different direction.

Nevertheless, this is a good bill. Overall, it is a good bill. It makes major reforms that will help our farmers and our exporters. It will contribute to a stronger, more competitive and expanding agricultural sector, and it will help the United States remain the world's leader in agriculture in the 1990's and the 21st century. Remember, of the $210 billion export market in agriculture, one-fifth belongs to the United States, and we want to make sure we continue in that direction and this bill does that.

Mr. Speaker, taken as a whole, this farm bill is good legislation and should be passed. Let me address three provisions of the bill which I have worked on. Title 2 reflects the amendment which I offered along with Mr. BEREUTER, Mr. HAMILTON and Mr. HALL on February 29. This title reauthorizes and strengthens our agricultural trade programs.

These programs are essential to the competitive position of American agriculture in world markets.

Currently the United States has one-fifth of the $210 billion global trade in agricultural goods.

But our leadership is under assault, by our competitors in Europe, and Asia and Latin America.

In my Subcommittee on International Economic Policy and Trade, we carefully examined the competition in world agriculture.

The reality is, every major trading nation has programs to help their exporters take sales away from Americans.

We have to meet this competition. The amendment I offered, which is now part of this final bill, reflects the recommendations of every major farm group in the country.

This title extends our export credit programs for farm goods.

These programs support $3 billion in farm exports.

This title also improves our programs to combat unfair trading practices in agriculture.

Without these programs, we would have no defenses against the predatory financial inducements that other countries use to undercut American farmers and exporters.

This title also reauthorizes and reforms our food assistance programs, which are vital to the relief of starvation and suffering around the globe.

In our domestic farm programs, this bill makes the first real reforms in U.S. dairy policy for more than a decade. In particular, this bill requires long-overdue reforms in the milk marketing order system.

The bill incorporates the approach I recommended in legislation which I have sponsored for a number of years. The current milk marketing order system is an out-of-date artifact of a bye-gone era when raw milk had to be transported great distances for processing.

Today, our dairy industry is highly efficient, but the old pricing system remains. Efficient dairy farmers in Wisconsin and other Great Lakes States are penalized under this unfair system.

This legislation is a major step toward reform.

While I support this bill overall, I must register my serious concern about the provisions which establish a special dairy system for New England regions.

In essence, this is Government-mandated protectionism for one segment of the Nation's dairy industry.

It goes against the rest of the bill, which moves American agriculture toward a more market-oriented system.

Nevertheless, this is a good bill overall.

It makes major reforms that will help our farmers and our exporters.

It will contribute to a stronger, more competitive and expanding agriculture sector.

And it will help the United States remain the world's leader in agriculture into the 21st century.

Therefore, I urge my colleagues to join me in voting for this landmark legislation.

Mr. DE LA GARZA. Mr. Speaker I yield 1 minute to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, I voted against this bill the first time it came before the House of Representatives and voted against it in committee. I had serious reservations then and still I have some reservations now. But, I will take comfort in the fact that this conference report is the best legislation for our farmers and ranchers that we can achieve at this point in time. I am certain though that we will revisit this topic in the near future.

It is obvious that this legislation is greatly improved from when it left the House. Cognizant of that fact, I will reluctantly support this bill. The conference report now includes funds for nutrition programs that were not present in the House version, funds for environmental improvement programs, and conservation programs and funds for rural development; however, I do not believe that the rural development funds are sufficient to meet the existing needs in our communities.

I believe so strongly in funding rural development properly that I introduced an amendment in the Agriculture Committee that asked for $3.5 billion for the Fund for Rural America. However, the amendment was defeated in committee by a party-line vote. It was then reintroduced as an en bloc amendment by the ranking minority member KIKA DE LA GARZA during floor consideration. Even though the amendment was again defeated in a roll call vote, the Senate version of the bill included the $3.5 billion for Rural Economic Development. Ultimately, the final figure was wheedled down to $300 million during the conference deliberations—only a drop in the bucket. But, I do think that these limited funds are a step in the right direction and will be well spent on the infrastructure and research needs of rural America.

I realize that small family farmers still need help while many of the traditional safety nets are being removed. After lengthy deliberation I have decided that farmers must have some protection and ability to farm their land.

We are fast approaching the planting season and need to begin to identify ways in which we can help our farmers put their crops in the ground.

I was also heartened that the conference report retains permanent agricultural authorization law, thereby reducing the chances that farmer programs would end altogether after the year 2002, when the authorization for the production flexibility contracts expires.

In addition, I was pleased to see that the peanut program was not abolished outright, but instead reformed substantially.

The conference report was also stengthened as it retained the Senate language for the new Environmental Quality Program [EQIP], which would provide payments to livestock producers and farmers for nutrient and manure management to improve water quality.

I urge my colleagues to join me in supporting this conference report.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Speaker, I rise this evening in support of this farm bill. It is not perfect. Freedom to farm certainly deserves a lot of debate. But this bill is better than no bill. California farmers in my district are the most productive specialty crop growers in the world. They produce $2.5 billion worth of fresh vegetables a year without any Federal price supports or even Federal water. But even market-driven agriculture needs a national farm policy and a vision toward the future. Conservation, research, rural development and market promotion are areas that need a Federal partner.

Mr. Speaker, I am happy that this farm bill is a major step in building this new national agriculture policy. This bill begins to draw the line, the green line, to stop urban sprawl from paving over prime ag lands, and I am particularly happy that this bill makes the Federal Government a partner with the States in efforts to protect prime farm land from urban sprawl.

I am also glad that this bill allows the Secretary to provide seed money grants to private food programs that bring fresh, healthy food to low-income communities. I urge the support of this bill.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is not perfect legislation, but I feel that we should approve it because it addresses all of the areas of concern to rural America; from feeding the poor to making affordable improvements out in the rural areas.

Mr. Speaker, let me say that in 1981, I managed my first farm bill. This is the fourth time that I rise to support a farm bill and it will be my last time that I do so. I stated then that it was a long, long way from the banks of the Rio Grande to Washington, DC. A poor boy shining shoes in the streets of Mission, TX, to managing a farm bill. It is with great pride now that I do so. This will be the fourth time I have managed a farm bill, this is the greatest number of anyone who has served in this House.

I ask you to support this legislation, not because of myself or what I have done, but because it is the art of the possible. Legislating is the art of the possible. What is possible now may not be possible 1 hour from now. It addresses human needs. It addresses the issues of the poor.

We are the best fed people in the world, in the history of the world, for the best amount of disposable income per family. We have the best quality food in the world. A lot of the costs that people complain about are for the many other areas in agriculture such as meat inspection and poultry inspection. That is not to say that agriculture programs are perfect. Now and then you have a fault, but the intent is to help farmers provide reasonable, safe, and affordable food. We have gone, I think, Mr. Speaker, a long, long way in helping ensure that we are the best fed people in the world in the history of the world.

Mr. Speaker, I would like to thank the chairman for his kindness to me; his working with me. This is not perfect legislation. I have never said that any bill that I brought to the floor was perfect legislation. If there are flaws in this bill, they may yet be corrected in the future. We have reduced the budget deficit. Agriculture has reduced the deficit over $60 billion in the past 10 years. If every committee in the House had done that, we would not be worried about a balanced budget. We have reduced that, but we have done it quietly. We have done it with a scalpel, not with a meat ax. You should be proud of what agriculture has done and what we have worked for and what we will continue to work for. But for me today, this is my last hurrah.

Mr. Speaker, I yield to the gentleman from Kansas [Mr. ROBERTS], my chairman.

Mr. ROBERTS. Mr. Speaker, I thank the chairman emeritus of the Committee on Agriculture for yielding to me.

Note for my colleagues in the House, I know the hour is late, but note that I said the chairman emeritus of the House Committee on Agriculture. The gentleman from Texas, Mr. KIKA DE LA GARZA, is not the ranking member. He has been our leader, and in words that I cannot describe, the real chairman emeritus of the committee.

The fourth farm bill. He has seen us through the despair and the farm crisis days of the 1980's. He has seen us during unprecedented good times in the modern miracle of agriculture. He is without question the international secretary of state of agriculture. He has led the committee with comity, with leadership, with decency and always with a revering institutional memory of our committee. I think it is time that the House of Representatives rise and a thank you and a tribute to KIKA DE LA GARZA.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman very much.

Mr. Speaker, I accept your ovation on behalf of all of those who were the wind beneath my wings when we flew.

Mr. Speaker, let me say that I thank all of my colleagues, and one final time, let me say that a long time ago I went on a submarine. I asked the commander how long he could keep that submarine underwater. We knew that the other side knew where our troops were, where our ships were, where our planes were. The only thing the other side did not know was where that submarine was under the ice cap. Because of this deterrent peace and democracy came out the winner throughout the world.

When I asked the commander how long, he said, "As long as I have food for my crew."

Mr. Speaker, it was farmers and ranchers of America for whom we worked tonight that brought the peace, that brought democracy, that made us the leader in the world we are today, and I dedicate this, my last words, to them who have kept us fed—the best fed people in the world.

Mr. Speaker, I support the conference report on H.R. 2854. I do this with the recognition that this conference report is not perfect. Most legislation that we pass in Congress is not perfect.

As I have said before, legislation is the art of the possible, and what is possible at this moment may not be possible 1 hour from now. However, as with any legislation, we as elected representatives must evaluate and decide whether or not, in its entirety, a specific piece of legislation addresses the concerns of our constituents. I have decided that this bill does just that.

When the Agriculture Committee started the legislative process on H.R. 2854 we were very much divided, not only along regional lines, as most farm legislation is, but also along partisan lines. I am glad to report that the partisan differences have disappeared and we were able to come together as a body to do what is best for American agriculture.

When we started this process, I had three major areas of concern. First was the lack of recognition that agriculture has contributed more to deficit reduction than any other major entitlement program—and continues to do so. Yet, we were being asked to cut more than any other sector. This bill saves over $2 billion from the December baseline, and we are proud of the fact that agriculture is the only entitlement program to enact real budget deficit reduction this Congress.

Clearly, agriculture has more than met its responsibility to budget deficit reduction. Indeed, with this bill, agriculture—once again—continues to contribute more than its fair share to budget deficit reduction. Once again, agriculture leads the way to a balanced budget.

My second concern was centered on the lack of a safety net for farmers and therefore for consumers. Let everyone understand, to the extent that there is volatility in commodity prices, consumers will pay. We tried to design agricultural programs in the past that would ameliorate wide fluctuations. Were the programs perfect? No. Is this program perfect. No. However, this bill does go a long way in addressing flexibility and commodity distortions. Still, I am concerned that the loan rates may be too rigid in times of low prices.

We are able to maintain the 1949 Act as permanent law. Although most would not advocate implementing the 1949 Act, it is important in that it reaffirms our future commitment to farmers and it will give us the impetus needed in 7 years to actively address agricultural programs.

Frankly, I am concerned about the political ability to maintain these guaranteed contracts in times of high prices or record farm income. However, I must trust that future Congresses will have the wisdom to do what is best for agriculture.

My third concern was that the House bill failed to address the totality of circumstances in rural America. Gone is the time when we as policymakers could rely on farm programs alone to provide rural development. The country is much more complex than that today. People need telecommunications and business and industrial development in addition to the very basic infrastructure development of water and waste water facilities.

The Fund for Rural America goes a long way in addressing these rural development needs. By providing additional money for research it provides resources for the future of agriculture. It is through research that we will maintain our status as the premier food production system in the world.

In addition, by reauthorizing the nutrition programs we ensure that our less fortunate neighbors are not left out. To those who want welfare reform, reauthorizing the programs for 2 years still allows us to do what we need to do to get people to self-sufficiency while at the same time providing certainty to the beneficiaries of the continuation of the programs.

Once again, I support this bill. On the whole, it addresses my concerns regarding rural America, and I am hopeful that it will meet the needs of American agriculture and our Nation as we move into the 21st century. To the extent that problems arise during the next 7 years, I am confident that corrective action can be taken to address any such problems.

Mr. Speaker, I yield back the balance of my time.

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

I would like to entertain a colloquy with the distinguished chairman of the Committee on the Judiciary, the gentleman from Illinois [Mr. HYDE]. I would ask the sponsor of the just-passed Congressional Review Act of 1996, the gentleman from Illinois and chairman of the Committee on the Judiciary [Mr. HYDE], whether the bill, if signed by the President this week will apply to the Department of Agriculture's rules that will be promulgated under the Federal Agricultural Improvement and Reform Act.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, yes, I will inform my colleagues that all Federal agency rules will be subject to congressional review upon enactment of the Congress Review Act.

Mr. ROBERTS. Mr. Speaker, obviously the rules implementing the Federal Agriculture Improvement and Reform Act will have a large economic impact on the agricultural community and farmers. I ask the distinguished chairman of the Committee on the Judiciary, if the Department of Agriculture were to issue major rules under the Federal Agriculture Improvement and Reform Act, will they be held up for 60 calendar days by the Congressional Review Act?

Mr. HYDE. Mr. Speaker, if the gentleman will continue to yield, yes, my colleague is correct. If any Federal agency issues what the Congressional Review Act defines as major rules, those rules would not be allowed to go into effect for at least 60 calendar days. However, I advise my colleague that the President, by executive order, may declare a health, safety or other emergency, and that particular major rule would be exempt from the 60-day delay. I would add that the President's determination of whether there is an emergency is not subject to judicial review.

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Mr. ROBERTS. As the chairman of the Committee on the Judiciary may know, we in the conference on H.R. 2854 did not contemplate such prompt enactment of the congressional review bill. I would inform the chairman that H.R. 2854 requires that the Secretary of Agriculture, within 45 days of enactment, offer market transition contracts available to eligible producers. These contracts must not be further

delayed, or they will not be effective for the 1996 planting season. Moreover, these contracts are worth billions of dollars, and they are certainly going to qualify as major rules under the Congressional Review Act.

Would the chairman agree that these major rules are the type that are contemplated by his committee as qualifying for the emergency exemption available to the President?

Mr. HYDE. Yes, I agree with the chairman of the committee that the other emergency exception from the 60-day delay of major rules was included for this kind of circumstance. Certainly, it would be totally appropriate for the President to determine by Executive order that the market transition contract rules promulgated this spring under the Federal Agriculture Improvement and Reform Act are emergency rules that would not be subject to the automatic 60-day delay.

Mr. ROBERTS. Mr. Speaker, I thank the gentleman from Illinois [Mr. HYDE].

Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Ohio [Mr. BOEHNER], a valued member of the committee.

Mr. BOEHNER. Mr. Speaker, we are here, and over the last year I think all my colleagues know that none of us at any time thought we would ever get here, but I want to congratulate the chairman of the committee, Mr. ROBERTS, for the work that he has done to guide this bill throughout the last year. He has done a marvelous job, along with the members of our committee.

Let me also say to the gentleman from Texas [Mr. DE LA GARZA] and to the gentleman from Texas [Mr. STENHOLM], who were great partners along the way, sometimes difficult moments, but they were a great help to us in the conference. This is an effort that was a team effort, and all of us are to be congratulated for the job we have done on behalf of American agriculture.

Mr. ROBERTS. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I thank the distinguished chairman of the committee for yielding this time to me, and I first want to commend him for the outstanding job of leadership that he has provided us during this most difficult year as we have undertaken agricultural restructuring in a legislative sense. He is to be highly commended for his patience and his many enduring qualities including his patience with me.

I finally want to say hail and farewell in just this momentary sense to our dear friend, the gentleman from Texas [Mr. DE LA GARZA]. I would like to associate myself with his remarks here this evening. Our chairman emeritus has always spoken with the most deeply felt passion about America's No. 1 industry, agriculture, and his voice will continue to be heard, I am sure, even though after this year he will no longer be speaking from this Chamber.

So, I say to the gentleman, "KIKA, God bless you, and thank you for all the great efforts that you have made over the years. You have been truly an inspiration."

Finally, Mr. Speaker, I rise in support of the measure before the House.

Mr. SPEAKER, I rise in support of H.R. 2854, the Federal Agriculture Improvement and Reform Act of 1996. This conference agreement will provide American farm producers with a definitive farm program plan as they begin planting the 1996 crop and prepare for a new crop marketing year. This bill gives farmers the direction they need while also delivering the U.S. taxpayer a program that represents budgetary savings over the next 7 years.

For many years now, the American consumer has enjoyed the most abundant and affordable supply of food and fiber in the world. Our Nation's Federal agricultural policy is responsible, in part, for this success and it is on that foundation that we must work toward the future.

The world around us has evolved over the past 6 years and now our agricultural livelihood must evolve in response to those changes. As we prepare for the next millennium of American agriculture, we will look to the future and see a global market that is more critical to the American producer than ever before. Moreover, in some reaches of the globe, the outlook has never looked so promising.

This conference agreement before us today is a step forward in the evolution of farm policy. H.R. 2854, the Federal Agriculture Improvement and Reform Act, includes budgetary saving provisions contained in the Balanced Budget Act of 1995. It represents sweeping change in farm policy by presenting farm producers with greater flexibility to pursue profits from the marketplace, but retains elements of the policy that has served us so well over the years such as the nonrecourse marketing loans.

This measure also contains improvements to the widely supported Food for Peace Program, which build on the successful aspects of the program by making modifications to refine and update the existing structure.

The Federal Agricultural Improvement and Reform Act represents compromises made to help ensure that producers in all regions of the country will make a smooth transition to a more market-oriented program. Most importantly, it offers the regulatory reform and flexibility that farmers have been seeking to help them plant for the world market rather than the U.S. Government. Moreover, H.R. 2854 moves future farming generations toward a more secure financial future by helping attain our responsible balanced Federal budget goals.

Today, we have the opportunity to get our Federal fiscal policy and farm legislation back on the right track through the passage of this conference report—I strongly urge its adoption.

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

Mr. Speaker, I say to the gentleman from Missouri, "Mr. EMERSON, we love you, man."

And to Mr. POMEROY and Mr. TAYLOR and Mr. VOLKMER, good friends of mine all, I have a lengthy, lengthy refutation as to why freedom to farm is not welfare, and how we have halved the budget in regards to agriculture and saved $10 billion. But I am just going to autograph what I have down here, and turn it in, and revise and extend.

THE MARKET TRANSITION PAYMENT AND THE WELFARE MYTH

The political rhetoric: Currently within the agricultural community there are some who seem to be concerned with the appropriateness of federal payments—"market transition payments" under the Agricultural Market Transition Act—for farmers during periods of high prices. Some even liken market transition payments to welfare. Agriculture Secretary Dan Glickman, in recommending a Presidential veto of the Balanced Budget Act, restated this position:

. . . As we move to balance the budget, farmers should not receive windfall payments when market conditions are good. They should receive assistance when in greatest need—when prices are low, as provided for by the current structure of programs. . . .

I have highlighted "market conditions" and "low prices." This statement may reflect the Secretary's thinking, but is the statement accurate in the real world of agriculture? First, farm programs are not welfare and partisan statements equating farm programs with welfare do a disservice to farmers and ranchers.

Check Webster's—Agriculture doesn't fit the definition of welfare: One of the most unfair arguments against farmers is to say that agriculture payments—of any kind—are welfare payments. Under current law, to receive "welfare," whether it's food stamps or Aid to Families with Dependent Children (AFDC), an individual simply meets the definition of "disadvantaged" to receive government assistance. In total contrast, farmers work on their land, and receive a payment for agreeing to a variety of conditions. FIRST, farmers must adhere to environmental mandates—conservation compliance and wetlands requirements—in return for a federal payment. There is a clear exchange of beneficial environmental practices for benefits received by farmers in the program. Second, the federal payment helps to offset unfair trading practices under which farmers live. Farmers are at the mercy of many trade restrictions. Major markets in the Middle East such as Iran and Iraq are under export embargoes. Threats to continued trade with China also pose significant concern in American agriculture. And finally, due to federal assistance, U.S. farmers can ensure a stable and affordable food supply for American consumers. A federal payment is a small price for a national food supply that guarantees the basic staples of bread, meat and milk at the lowest prices in the world.

What about "high and low prices" and farm income: Those who call a market transition payment "welfare" follow the basic proposition that Congress cannot justify paying farmers when prices are high because they would get an enormous "windfall." For this scenario to work, farmers must be selling above average quantities of commodities at very high prices. But, does that often happen? The answer is no.

Here's how it really works: Think of the basics of supply and demand: When supplies are tight, prices go up; when supplies are excessive, prices drop. Supply—tight or excessive—usually determines a windfall profit. Farmers receiving a windfall through a market transition payment during periods of high commodity prices, as Secretary Glickman indicates, depends upon whether farmers actually have a commodity to sell.

Follow this example: Consider the two following scenarios that a wheat farmer could face:

High prices: Wheat: $5.00 per bushel; average production: 15/bu./acre; Gross Revenue acre: $75/acre.

Low Prices: Wheat: $3.00 per bushel; Average Production: 40 bu./acre; Gross Revenue/Acre: $120/acre.

Who's right?: Under the current government program in the situation outlined above, the farmer should receive a payment in the year of relative low prices even though his income is higher. In fact, those who complain about giving a payment when prices are high cannot justify their view when you compare farmers' gross revenues. When you actually look at the real world facts, the rhetorically-popular "welfare" argument no longer hold up.

Market transition payments allow farmers to manage their own destinies: A market transition payment gives the farmer responsibility for his own economic life. Just as farmers will need to look to the market for production and market signals, the Agricultural Market Transition Program will require farmers to manage their own finances to meet market swings. Government is out of the business of running the farm.

Don't believe us—check with the economists: The economic consulting firm of Abel, Daft, Earley and Ward looked at the calculations and agreed. They said, "variations in production more than offset variations in market price, usually in the opposite direction. While market prices typically are lower with a larger crop, the positive impact of an increase in crop size on crop value more than offsets the negative impact of a lower market price. And, the reverse is true as well. The increase in market price associated with a small crop is typically not sufficient to offset the negative effect a small crop has on crop value."

How to avoid a $2 billion payback disaster: The facts prove that the market transition payment is NOT welfare for farmers. Indeed, it actually corrects a major flaw in the present target price system. High prices, but no crop, means farmers have to pay back their advance deficiency payments. Without a crop or federal payment, farmers have repeatedly called for disaster assistance in the past—which costs billions of dollars. That's why the market transition payment is a sound basis for the transition out of a 60-year-old government-run farm program. The key in looking at the policy options is to consider farm income, not high price.

What about "market conditions": Market conditions involve much more than price. One "market condition" could be the circumstance of weather-related factors. The market transition contract will provide payments in lean years as well as in a year such as this when production is down in various regions of the country, but prices are strong. One thing is very clear: The market transition payment is not a welfare payment.

THE FEDERAL AGRICULTURAL IMPROVEMENT AND REFORM ACT IS RESPONSIBLE TO TAXPAYERS

1. Average expenditures for commodity and export programs in this farm bill are significantly less than previous farm bills.

Average expenditures for commodity and export programs (CCC expenditures): 1985 Act-$15.5 billion per year; 1990 Act-$10.6 billion per year; HR 2854-$6.7 billion per year.

2. Budget Certainty. Expenditures are capped so that ag program spending is no longer an open-ended entitlement.

CBO is the 1985 farm bill would cost $55 billion over 5 years—it cost nearly $80 billion.

The 1990 farm bill was supposed to cost about $41 billion—instead it cost $56 billion.

Under this bill there is budget certainty—expenditures will not exceed $47 billion on farm programs and ag. export promotion programs.

3. Payment limitation is reduced by 20 percent, to $40,000 from the current level of $50,000.

4. Part of the payments are really to compensate producers for the fact that deficiency payments have been capitalized in land values. The transition payments will buffer any shocks to land values that may come about as we move to a more market-oriented agriculture.

5. The Market Transition Payment recognizes the fact that high prices do not translate into high income levels. Often the reason prices are high is because farmers didn't have a crop and a high price times no crops does not equal high income.

6. Payments are based on 85 percent of each farm's former base acres and program yield multiplied by the per bushel payment. Estimated average payments are corn: 36 cents per bushel, wheat: 63 cents per bushel, upland cotton: 7.3 cents per pound and rice: $2.43 per cwt.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, March 20, 1996.

Hon. PAT ROBERTS,
Chairman, Committee on Agriculture,
Washington, DC.

DEAR MR. CHAIRMAN: Although the Speaker declined to name members from the Committee on Resources as conferees on the House and Senate farm bills, both measures do contain provisions which fall within the Committee on Resources' jurisdiction. I am sending this letter to confirm our continued jurisdictional interest in these provisions and hope that you will take our views into consideration during the conference on S. 1541 and H.R. 2854.

Senate bill (S. 1541)

Section 313, Wetlands Reserve Program. Section 313 of the Senate bill amends the wetlands reserve program of the Food Security Act. As the primary successor in interest to the Merchant Marine and Fisheries Committee, the Resources Committee received its jurisdiction over "fisheries and wildlife, including restoration and conservation". The Merchant Marine and Fisheries Committee has successfully argued that the crucial role that wetlands serve as habitat for migratory waterfowl, their contribution to the nutrient base and habitat for many species of fish and wildlife (including endangered species) at critical stages in their development and their function in shoreline protection and flood protection all gave that Committee a strong jurisdictional interest in legislation affecting wetlands. The Merchant Marine Committee's jurisdiction over bills affecting wetlands, including those amending or affecting the Food Security Act, have long been recognized, with the Committee receiving sequential referrals on the wetlands provisions of the farm bills in both 1985 and 1990. The 1985 Food Security Act report (H. Rept. 99-272, Part II) states "(t)he Merchant Marine and Fisheries Committee's jurisdiction over fish and wildlife, including habitat, provides the basis for Committee jurisdiction over legislation affecting wetlands". Most recently, the Merchant Marine Committee was also represented on the 1990 conference on the Food, Agriculture, Conservation and Trade Act. Finally, the Resources Committee itself has received referrals of wetlands bills in the past (see H.R. 1203, a bill to promote the conservation of migratory waterfowl and to offset or prevent the serious loss of wetlands by the acquisition of wetlands and other essential habitat, referred to the Committee on Interior and Insular Affairs in the 99th Congress).

The changes proposed to the wetlands reserve program in section 313 of the Senate bill will enhance benefits for fish and wildlife while also recognizing landowner rights. We have no objection to including the measure in the conference report as long as our jurisdictional interests in this matter continue to be recognized.

Section 545. Cooperative Work for Protection, Management, and Improvement of the National Forest System. The Committee on Resources has jurisdiction over "forest reserves . . . created from the public domain". This provision would affect the operation of these forests. With this understanding of our jurisdictional interest, however, we have no objection to having the provision included in the conference report.

Section 554, Wildlife Habitat Incentives Program. This section establishes a $50 million Wildlife Habitat Incentive Program overseen by the Secretary of Agriculture. The program will provide payments to landowners to develop "upland wildlife, wetland wildlife, threatened and endangered species, fisheries and other types of wildlife habitat approved by the Secretary."

We are sympathetic to the policy underlying this measure, which is similar to provisions included in H.R. 2275, reauthorizing the Endangered Species Act of 1972, However, we also believe that, based on the arguments outlined above, the Committee on Resources would be the primary committee of jurisdiction should this provision be introduced as a separate bill. We have no objection to its inclusion in the conference report, but will fully exercise our jurisdiction over the implementation of the program in the future.

Section 557, Clarification of Effect of Resource Planning on Allocation or Use of Water. Section 557 amends the Forest and Rangeland Renewable Resources Planning Act and the Federal Land Policy and Management Act to ensure that private property rights, including water rights, will be recognized and protected in the course of special use permitting decisions. The Committee on Resources shares jurisdiction over these laws based on its jurisdiction over "forest reserves and national parks created from the public domain". Section 557 would affect the management of National Forests created from the public domain.

We agree with the policy underlying these amendments and would have no objection to including the provision in the conference report with this recognition of our shared jurisdiction.

Section 824, Aquaculture Assistance Programs. The Committee on Resources enjoys jurisdiction over aquaculture, as outlined in

the discussion below. The amendments made by this section to the National Agricultural Research, Extension, and Teaching Policy Act of 1977 implement the National Aquaculture Act referenced below for the Department of Agriculture. Although we prefer that all aquaculture activities take place as part of the larger aquaculture plan developed under the National Aquaculture Act, the amendments made by this section are acceptable and we have no objection to including this provision in the final conference report.

Section 872, Stuttgart National Aquaculture Research Center. This provision is a slightly modified version of H.R. 33, a bill introduced in the 104th Congress by Congresswoman Lincoln to transfer a fish laboratory in Arkansas from the Department of the Interior to the Department of Agriculture. The bill was referred solely to the Committee on Resources, and passed by the House of Representatives on December 18, 1995, by voice vote under Suspension of the Rules.

With this understanding of our jurisdiction, we have no objection to including this measure in the conference report, with one change. We noticed after passage in the House that the bill contains a typographical error: it refers to "station and stations"; it should be "station or stations" to execute properly.

Section 873, National Aquaculture Policy, Planning and Development. This section amends the National Aquaculture Act of 1980. The bill creating that Act (H.R. 20, 96th Congress) was referred originally to the Merchant Marine and Fisheries Committee. I was an original cosponsor of the measure. After it was reported, it was sequentially referred to the Committee on Agriculture. The reauthorization of the law in 1984 was provided for in H.R. 2676 (98th Congress); the referral pattern is the same. The law was again reauthorized in 1985 as part of the Food Security Act of 1985, which incorporated the National Aquaculture Act reauthorization measure H.R. 1544, a bill referred originally to Merchant Marine and sequentially to Agriculture. Finally, the Act was reauthorized in 1990 in the Food Security Act of 1990. As stated earlier, the Merchant Marine Committee received a sequential referral of the 1990 and 1985 farm bills, including a referral of sections of the bills dealing with aquaculture.

In addition, in the 103rd Congress, Congressman Studds introduced H.R. 4853, which amended the National Sea Grant College Program Act and the Coastal Zone Management Act to enhance marine aquaculture in the United States. This bill was referred solely to the Merchant Marine and Fisheries Committee. Mr. Studds also introduced H.R. 4854, which amended the National Aquaculture Act of 1980; that bill was jointly referred to the Merchant Marine and Agriculture Committees. Finally, in the 103rd Congress, Congresswoman Lambert introduced H.R. 4676, a bill which looks remarkably similar to Section 873. This bill was also jointly referred to Merchant Marine and Agriculture Committees. It is very clear that the Committee on Resources has a substantial jurisdictional interest in aquaculture.

Section 873 makes radical changes to the National Aquaculture Act, including changing the definition of "aquaculture" to exclude private ocean ranching of Pacific salmon in a State where such salmon is prohibited by law. In addition, the section adds a definition of "private aquaculture" to include the activities of "the Federal Government, any State or local government, or any Indian tribe recognized by the Bureau of Indian Affairs." Most importantly, the amendments to the National Aquaculture Act strips the co-equal decision making authority of the Secretaries of Interior, Commerce and Agriculture in developing Federal aquaculture policy, and gives this authority to the Secretary of Agriculture, with a mere consultative role for the other Secretaries. In short, if adopted, these proposed amendments would cede authority for all forms of aquaculture, both onshore and offshore, to the Department of Agriculture.

This is a major policy departure from the original Act, In the 1980 law, it is clear that all three Departments will have equal status in developing policy, regulations and the continuing assessment of aquaculture in the United States. In fact, the Act authorizes equal funding for the three Departments for Fiscal Years 1991, 1992 and 1993.

While changes to the National Aquaculture Act may be warranted, we have not addressed this issue during the 104th Congress. Therefore, until the Committee on Resources has had an opportunity to examine the need for change in United States aquaculture policy and these specific changes, we ask that you drop this provision from any conference agreement at this time.

HOUSE BILL (H.R. 2854)

Section 507, Everglades Agricultural Area. Section 507, as added on the House Floor, provides $210 million to the Secretary of the Interior for restoration of the Florida Everglades. Even under a very restrictive view of the Rules of the House, the Committee on Resources would have primary jurisdiction over this provision as it affects the Everglades National Park, several National Wildlife Refuges, the Florida Keys National Marine Sanctuary and the restoration of the Everglades for the benefit of fish and wildlife.

One of the House conferees on this section, Congressman Richard Pombo has been working extensively with me and my staff to see that protections for the Everglades are effective, reasonable and in the public interest. Therefore, I would support the inclusion of an Everglades acquisition provision in the final conference report IF the provision is acceptable to Congressman Pombo.

New Provision. We understand that the conference committee may include a measure similar to section 872 of the Senate bill which transfers a fish culture laboratory in Marion, Alabama, from the Department of the Interior to the Department of Agriculture. This provision is taken from H.R. 1205, the Marion National Aquaculture Research Center Act of 1995, introduced by Congressman Hilliard. The bill was referred to both resources and Agriculture Committees.

Although we do not have the benefit of a hearing record on this measure (as with the Stuttgart fish laboratory transfer), we know of no reason why the laboratory should not be transferred between the departments. Therefore, with this recognition of our jurisdiction, we have no objection to this discretionary measure being included in the conference report.

I appreciate your consideration of these recommendations (which affect what I hope are noncontroversial provisions in the historic Agricultural Market Transition Act) and ask that you include this letter in the conference report on the bills. You and your staff should be congratulated on the reforms you are trying to accomplish in the text of these bills.

Sincerely,

DON YOUNG,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC, March 27, 1996.

Hon. PAT ROBERTS,
Chairman, Committee on Agriculture,
Washington, DC.

DEAR CHAIRMAN ROBERTS: I am writing to clarify the legislative history associated with the termination of the Agricultural Weather Service which you reference in the Joint Explanatory Statement of the Committee of Conference on H.R. 2854, the Federal Agriculture Improvement and Reform Act of 1996. As you are aware, under Rule X (n)(11) of the House of Representatives, the National Weather Service (NWS) and all its programs are within the jurisdiction of the Science Committee.

Last year, during consideration of the fiscal year (FY) 1996 authorization of the NWS' programs, the Science Committee amended the NWS Organic Act to forbid the NWS from continuing specialized weather services that can be provided by the private sector including the Agricultural Weather Service. The Committee also included report language which specifically addressed the issue of the Agricultural Weather Service. Report 104–237 (Part 1) reads:

"* * * The Committee supports terminating the National Weather Service Agricultural and Fruit Frost specialized weather forecast programs in fiscal year 1996. The Committee notes that concerns have been raised about terminating the programs on October 1, 1995. The Committee believes that the Secretary of Commerce should have flexibility to continue the programs beyond October 1, 1995 if he finds that the private sector is unwilling or unable to provide replacement services. Under no circumstances should such an extension last beyond April 1, 1996.

"* * * No additional money has been authorized for the continuation of existing Agricultural and Fruit Frost services and any expenses associated with these services, if necessary, should come from National Weather Service's operating budget * * *"

The Committee's NWS authorization passed the House on October 12, 1995 as part of H.R. 2405, the Omnibus Civilian Science Authorization Act of 1995. On March 4, 1996, the National Oceanic and Atmospheric Administration (NOAA) printed notice of its intent to terminate specialized weather services including the Agricultural Weather Service on April 1, 1996 in the Federal Register.

The Science Committee continues to support the privatization of specialized weather services such as the Agricultural Weather Service. The Committee expects the service to be terminated on April 1, 1996. Further, the Committee has not authorized appropriations for Agricultural Weather Service for FY 1996 or FY 1997, and no money should be appropriated for its continuation.

I hope this letter helps clarify the legislative history associated with the Agricultural Weather Service. Please let me know if I can provide you with any additional information on the subject.

Cordially,

ROBERT S. WALKER,
Chairman.

Hon. ROBERT S. WALKER,
Chairman, Committee on Science,
Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter. As you indicate, under Rule X of the House of Representatives, the National Weather Service and all its programs fall

under the primary jurisdiction of the Committee on Science. The statement of the Joint Explanatory Statement of the Committee of Conference on H.R. 2854, the "Federal Agriculture Improvement and Reform Act of 1996", was intended as an expression of support for a program within the Science Committee's jurisdiction and this Committee's concern that weather service be provided to rural areas and that those involved in agriculture continue to have adequate collection and dissemination of weather data.

Thank you for providing me with the historical context under which the Department of Commerce has recommended terminating the agricultural weather service.

Sincerely,

PAT ROBERTS,
Chairman.

Ms. KAPTUR. Mr. Speaker, I must express my strong opposition to language inserted in the bill during the conference which will severely impact our ability to move to a modern science-based meat and poultry inspection system.

Section 918 of this bill establishes a permanent advisory committee to evaluate and review meat and poultry inspection programs. This proposal is similar in effect to the proposal made last summer in the Appropriations Committee to slow meat and poultry inspection reform by forcing USDA to undertake negotiated rulemaking at a late point in the regulatory process.

Section 918 was never subject to public hearings and was not included in the Senate or House passed bills.

This advisory committee would review every decision made by the Food Safety Inspection Service, including inspection procedures, labor relations, employee work rules, food safety practices in meat and poultry plants and approval of new technologies. This could delay the implementation of the new Hazard Analysis and Critical Control Points [HACCP] inspection system, a science-based system endorsed by both industry and consumers.

Further, this panel will be able to meet in secret and conduct its deliberations outside of public scrutiny because it is specifically exempt from the requirements of Federal Advisory Committee Act.

Mr. Speaker, last year there were five million foodborne illnesses and 4,000 deaths in our Nation. Section 918 has no place in this bill and we should take no actions which will decrease public confidence in the healthfulness and safety of our meat and poultry products. Have we learned nothing from the recent British experience?

Mrs. MORELLA. Mr. Speaker, the conference report of the farm bill, which is before us today, will benefit farmers, rural communities, and taxpayers. I congratulate the members of the conference committee for their diligence in crafting an innovative bill that will continue to provide Americans with an affordable food supply.

I am particularly pleased that the final report contains a provision that will provide Federal funding for State farmland protection efforts. This provision will make the Federal Government a partner in State efforts to gain long-term protection of important agricultural resources. The measure will help to counter the loss of millions of acres of productive farmland to urbanization.

It has come to my attention, however, that a provision has been added to the bill in conference that threatens consumer confidence in the safety of meat and poultry in the United States. Constituents have advised me that language has been included in the conference report to establish a meat and poultry inspection panel to review every decision made by the Food Safety and Inspection Service [FSIS]. This panel could delay the implementation of the new Hazard Analysis and Critical Control Points [HACCP] inspection system and undermine the authority of the FSIS.

The language calls for two new Federal Register publication steps in the decision process which would add delays to the existing decision-making process. Moreover, the provision was not subject to hearings or public debate, and it has been my experience over the years that meat and poultry inspection issues have been considered separately, not as part of past farm bills.

It is my understanding that FSIS is underfunded, and that both meat and poultry producers have complained about the shortage of inspectors. The agency simply cannot afford to pay for another advisory panel.

The Centers for Disease Control and the Department of Agriculture point out that contaminated meat and poultry cause five million illnesses and four thousand deaths every year. The purpose of the meat and poultry inspection program is to protect human health. If this provision is implemented, public confidence in the safety of meat and poultry products could erode, which will not be beneficial to either consumers or the industry.

I appreciate the opportunity to add my comments regarding this innovative and important farm bill.

Mr. LATHAM. Mr. Speaker, I am pleased that the conferees agreed to include a provision in the bill that I originally sponsored in the House regarding revenue insurance. I believe, as do farmers in Iowa's 5th District, that revenue-based risk management tools are a vital resource for today's and tomorrow's American farmer as the weather, market, and global trading patterns continue to fluctuate and pose often unpredictable risks for farmers worldwide.

The FAIR Act would require the Federal Crop Insurance Corporation to offer pilot revenue insurance programs for a number of crops for crop years 1997 through 2000 so that by 2002—when the production flexibility contracts expire—we will have well-tested revenue based risk management products available for farmers.

It is very important to note, however, that it was never my intent to restrict the authority of the Federal Crop Insurance Corporation as it currently exists under law to conduct pilot programs. There are two revenue insurance pilot programs currently operating for crop year 1996. I don't, and I don't believe the Conferees, intend for this new language in any way to interfere with the operation or expansion of these existing programs to other crops under the same terms and conditions under which they are currently operating—for example, on a whole state basis. Rather, my intent was to encourage the Corporation to expand current efforts to other crops and speed the development of such products for the American farmer.

I strongly urge the Corporation to further experiment with revenue-based insurance products and to do so under similar terms and conditions represented by the 1996 crop year revenue insurance programs.

I wish to state for the RECORD that I fully agree with Representative LATHAM that the FAIR Act is not intended to restrict the existing authority of the FCIC to approve pilot programs under similar terms as the 1996 revenue pilot programs. The language agreed to by the Conferees is intended to be liberating, not restricting, in terms of FCIC authority.

Mr. BUYER. Mr. Speaker, the Federal Agricultural Improvement and Reform Act [FAIR] is truly an historic opportunity for farmers and for rural communities. This legislation seeks to reform Federal agriculture programs that begin to wean farmers off government subsidies and move them toward more market oriented principles. In addition, it consolidates existing grant and loan authorities and places primary administrative responsibility with the states and is the most environmentally friendly farm bill in 60 years. This legislation is a giant step in the right direction and I enthusiastically support it.

Hoosier farmers will be the beneficiary of such incremental steps to move the farmer into the next century and be able to plant for the market. Washington bureaucrats have told farmers for far too long what to plant, when to plant, and where to plant. The result has been ineffective farm policy.

The weaning of farmers off government subsidies is important to our country's financial health. Government should not be in the business of subsidizing inefficient operations.

Technology is ever so important to farmers. If Indiana farmers are to successfully move into the next century and compete in the world marketplace, we must continue the public/private research initiatives. This legislation will aid in the transition into the market-oriented farm policy of the future.

Furthermore, this legislation reduces the regulatory burden on farmers. Every time I meet with Hoosier farmers, the discussion quickly turns to regulatory relief. The regulatory demands on time and resources upon the family farmer is too great. This bill is the beginning of the end of needless, overbearing regulations.

The FAIR Act continues our commitment to rural communities. Indiana, and particularly the Fifth District, have benefited tremendously over the years from rural development programs. Many rural communities throughout Indiana need assistance to meet needs which include rural housing, rural water supply and wastewater infrastructure, and rural economic development.

There are several Federal programs to assist rural communities in meeting their needs through a combination of loan and grant funds. It is this position that streamlines and consolidates a variety of existing rural development programs, in order to provide a more focused federal effort and encourage additional decision-making at the state level.

It is important that we address rural programs that: First, provide assistance to attain basic human amenities; second, alleviate health hazards; third, promote stability of rural

areas by meeting the need for new and improved rural water and waste disposal systems; fourth, meet national safe drinking water and clean water standards. Most very small systems have no credit history and have never raised capital in financial markets. Increasingly, many small communities are being forced to install or remodel water and wastewater systems in order to meet state and federal water quality standards. It is these smaller, mostly rural communities that have the most difficulty in complying with drinking water regulations and securing the financial resources to meet their needs.

This legislation seeks to authorize a new delivery system for rural development programs called the Rural Community Advancement Program. It would consolidate existing grant and loan authorities and place primary administrative responsibility with the state directors of USDA's RECD offices. Existing rural housing, development, and research programs would receive $300 million in mandatory funding.

The demand by local communities in Indiana's 5th Congressional District facing these funding concerns during my three years in office have included, Medaryville, Francesville, Goodland, Bass Lake, Lake of the Woods, Monticello, Buffalo, New London, Lowell, Cedar Lake, Cayuga, Wheatfield, DeMotte, Kewanna and Fowler. All of these communities are small towns with limited resources. Municipal water supplies and wastewater treatment facilities not only help protect the environmental resources of these communities, but they also form the infrastructure framework necessary to attract economic development.

Rural development is an integral part of the farm bill. Rural America must have access to the economic infrastructure to enable it to compete, including clean water, adequate housing, and good/low cost sewage infrastructure; all of which are prominent issues to Hoosiers in rural America.

The FAIR Act marks the most environmentally friendly farm bill in 60 years. It lifts the requirements that tie farmers to the same crop year after year, which will allow them to maintain soil health and fertility through crop rotation. Thus, farmers will rely less on chemical fertilizers, herbicides and pesticides to maintain yields.

The FAIR Act promotes soil conservation and wetlands protection by requiring all regulations of such, to be met in order for farmers to qualify for payments. Additionally, it reauthorizes for seven years two successful programs, the Conservation Reserve Program and the Wetlands Reserve Programs, creates the Quality Incentives Program, and protects wetlands, water quality, and fights erosion.

Hoosiers will be the beneficiary of this legislation. Weaning farmers off government subsidies and lessening government involvement will provide America's agri-businesses the opportunity to continue to be the most productive and the most cost effective in the world.

Mr. Speaker, the Federal Agricultural Improvement and Reform Act is an historic opportunity for farmers and for rural communities. The FAIR Act reforms programs designed in the depression area and moves them into the next century. This bill gives Hoosier farmers the opportunity to do what they do best—farm the land with minimal government control and provide the resources to improve the quality of life in rural communities. I strongly support the FAIR Act.

Mr. RICHARDSON. Mr. Speaker, farmers in my district are in desperate need of some type of farm legislation now.

Although I am not totally sold on the freedom to farm concept, I fully support this conference report which will provide our nation's producers with some direction immediately.

I think the House and Senate Agriculture Committees have done a good job of shaping a bill with peanut program reforms that will make it no-net costs.

I believe the conservation programs contained in this bill are the strongest that we have ever reported out in a farm bill. This bill retains our commitment to help farmers as the stewards of America's land.

I am also pleased to see that the conference committee chose to include the fund for rural America. This fund will give small towns in rural America the tools through research and economic development activities to provide their citizens with safewater and sewer systems and the basic infrastructure to survive.

When we talk about reforming agriculture policies we must also talk about the needs of rural communities whose economies rely heavily on agriculture production.

Mr. Speaker it is time to send the President this agreement on farm policy.

Mr. SKAGGS. Mr. Speaker, I want to focus briefly on one section of this conference report that's particularly important for Colorado and other western States where municipal water supply facilities are located on or above National Forest lands.

During its consideration of this bill, the Senate adopted an amendment by Colorado's senior Senator that would have amended existing laws applicable to the National Forest System. The amendment was explained as a response to Forest Service proposals that renewal of permits for water facilities serving several Colorado municipalities be accompanied by changes in the management of those facilities that would result in smaller diversions from streams on National Forest lands.

In arid States like Colorado, Mr. Speaker, no issues are more sensitive and important than those relating to water. So, even though I had very serious concerns about how his amendment would affect management of the National Forests, I understood why Senator BROWN attached such importance to this matter.

But I was disappointed to note that in his explanation of the amendment, the Senator referred to Boulder, a city located in my congressional district. It seems to me that this could have lead some to mistakenly think there's a need for new legislation to resolve a dispute between that city and the Forest Service. In fact, however, that is not the case. It's true that the city of Boulder wants to replace a water supply pipeline that now brings water across National Forest lands. But the city and the Forest Service are not in deadlock. Rather, they are both acting in accordance with agreements, worked out with my direct participation, establishing the terms and conditions of an easement for the pipeline and the procedure to be followed in determining its route. Furthermore, Boulder has reached an agreement with the State of Colorado regarding continued in-stream flows, and the Forest Service has determined that this meets relevant requirements, so that there is no need for the city to take further steps to maintain bypass flows.

So, in addition to other serious reservations about Senator BROWN's amendment, I was concerned that its enactment might undermine the progress that Boulder and the Forest Service had made in connection with the pipeline project.

I also was concerned that a letter from Boulder's city manager to Senator BROWN regarding the amendment might have the inadvertent effect of creating confusion about the Boulder pipeline project. To clarify matters, I've both met and corresponded with the city manager, who confirmed that the city was continuing to work toward a successful outcome to the pipeline project. For reference, I am attaching my letter to the city manager and his reply as part of this statement.

For all these reasons, I'm glad that the conference report drops the original language of the Brown amendment and instead provides for an 18-month moratorium on certain Forest Service decisions while a special task force develops recommendations for possible ways to address this subject in the future.

I also am very pleased to note that the conferees, in the statement of managers regarding section 389, make it clear that "the moratorium imposed by this section is not intended to interfere with the ability of the Forest Service to negotiate or comply with the requirements of voluntary agreements concerning the use of National Forest land for water supply facilities."

In other words, Mr. Speaker, enactment of section 389 of this conference report will neither rewrite the laws applicable to management of the National Forests nor interfere with continued progress in connection with Boulder's pipeline. The Forest Service will be able to proceed with issuance of a draft environmental impact statement concerning possible routes, and the terms and conditions of an easement across National Forest lands will be as provided in the existing agreement between the Forest Service and the city of Boulder.

Therefore, I can support this part of the conference report.

U.S. HOUSE OF REPRESENTATIVES,
March 26, 1996.

Mr. STEPHEN T. HONEY,
City Manager, City of Boulder, Boulder, CO.

DEAR TIM: I'm glad to have had the chance to briefly discuss with you the status of Boulder's application or renewal of the permit for the Lakewood Pipeline. I also appreciate your providing me a copy of your February 16 letter to Senator Brown expressing support for his amendment to the farm bill dealing with water facilities on national forest land.

Your letter repeats some of the city's previously expressed complaints about the U.S. Forest Service's approach to permitting renewal for the Lakewood Pipeline, and it provides a separate historical outline that includes description of more recent negotiations, agreements, and environmental reviews in which the city and the Forest Service are engaged.

Frankly, I was a little surprised by the letter's emphasis on problems the city feels it has had in the past with this process since I had believed that, through negotiations I was pleased to sponsor, most of those problems had been resolved or set aside.

In particular, the city and the Forest Service agreed to language for a water conveyance facility easement for the pipeline. That language does not, as I understand it, negate the city's claim to a permanent right-of-way for the pipeline, but rather postpones an assertion of that right while the negotiated easement is in place.

I was also pleased that we were able to secure in the easement negotiated with the Forest Service its acknowledgement that the city's instream-flow agreement with the State of Colorado is sufficient for forest management purposes.

Also, as you know, the city and the Forest Service have entered into a memorandum of understanding that is now guiding formal and public consideration and comparison, under the National Environmental Policy Act (NEPA), of alternate locations for the rebuilt pipeline. While these agreements are described in the background paper attached to the letter, the letter itself seems to suggest that there has been a lack of cooperation and effort on the part of the Forest Service toward fulfillment of these agreements.

The letter, for example, speaks of the city's difficulty with another provision in the easement language agreement, relating to compliance with Forest Management Plan standards and guidelines. Is there some chance that the city intends to withdraw from that portion of the agreements? If so, I'd like to know more about that.

The letter also includes a discussion of projected problems with alternatives being considered in the NEPA review, including statements that I would have expected to be made in the form of comments on the imminently forthcoming draft Environmental Impact Statement.

As you know, I have believed that issues surrounding the Lakewood Pipeline permitting process can and should be settled locally through negotiations and without resorting to the expense and trouble of litigation or to legislation that would revise one or more of the laws applicable to the National Forest System. Because I believed that the Forest Service and the City of Boulder were making progress along those lines, I found it surprising that Senator Brown cited Boulder's experience in connection with the Lakewood Pipeline as demonstrating the need for new legislation.

I assume the city hasn't changed its position regarding the desirability of resolving this matter through the existing agreement with the Forest Service. And, if the city believes that the Forest Service is failing to fulfill its obligations under the memorandum of understanding or other agreements, I would like to know more about that failure and what steps I could take to assist to rectify the situation. In any case I'd appreciate an update about progress made and work completed under the framework of the existing agreements.

Thanks again for your continuing efforts to keep me informed and, where I can be useful, involved on this matter. I look forward to continuing to do what I can toward a successful outcome.

Sincerely yours,

DAVID E. SKAGGS.

CITY OF BOULDER, OFFICE OF THE CITY MANAGER,

March 26, 1996.

Hon. DAVID SKAGGS, LONGWORTH H.O.B., WASHINGTON, DC.

DEAR CONGRESSMAN SKAGGS, I am pleased to respond to your March 26th letter and your request for clarification on specific issues surrounding the Lakewood Pipeline Environmental Impact Statement (EIS).

Please keep in mind that as of today, March 26th, a draft EIS has not been released by the Forest Service. Although we have been working with the Forest Service staff in supplying information for them to review and possibly use in the EIS, we have not received any final, written documents from the Forest Service as to their assessment of the issues. Their preliminary assessment will be included in the draft EIS and their record of decision is scheduled to be implemented in November, 1996. As such, perhaps my February 16th letter was more an expression of the frustration about the timeliness for this project than the integrity of the project. If so, I apologize for that.

You are correct that the language for the water conveyance facility easement does not negate the City's claim to a permanent right-of-way, but rather postpones a decision on that right while the easement is in place. If the EIS contains all this information and an easement is executed, then this concern will be resolved.

With regards to the City's in-stream flow agreement with the State of Colorado, I did not mean to imply that the Forest Service doesn't recognize and support this program. In fact, it is our understanding that the Forest Service has evaluated and determined that the in-stream flow program does meet the Forest Management Plan standards and guidelines and no additional bypass flows will be required, and I expect that the draft EIS will reflect this.

With respect to compliance with the Forest Management Plan, the MOU indicates that the EIS will analyze the information in compliance with the National Forest Management Act of 1976, as well as other applicable statutes, regulations and Forest Service Manual direction. In addition, the MOU says the Forest Service will assure compliance with all federal and state laws and regulations. There is not specific statement about the Forest Management Plan standards and guidelines. At this point, we don't know if there will be any difficulty in complying with the Forest Management Plan until the draft EIS is released and the Forest Service's analysis is reviewed by the public. Between the time I signed the MOU and the decision is implemented, more than 2 years will have passed, and some changes to the Forest Management Plan may have occurred. At this point, I just don't know what the impacts of these changes may mean.

My previous letter included a discussion about some of the alternatives. We do intend to fully and carefully comment on the draft EIS when it is released, but the comments may change depending upon the content of the draft EIS. I believe it is important for the City to discuss the issues throughout the process, but I apologize for any confusion which may have resulted from our concerns about what may appear in the draft EIS.

The City continues to work toward a successful outcome for this project. Your assistance and leadership in this project has been essential, and the City greatly appreciates your commitment to achieving the goals set forward in our joint MOU with the Forest Service.

Sincerely,

STEPHEN T. HONEY,
City Manager.

Mr. LIPINSKI. Mr. Speaker, I rise today to express my opposition to the safe meat and poultry inspection panel provision which was added at the last minute, with no hearings or public debate, to the farm bill. Although its title suggests otherwise, the safe meat and poultry inspection panel will actually hamper consumer protection efforts by delaying meat and poultry inspection reform.

The seven-member panel, consisting primarily of meat scientists, poultry scientists, and food scientists, would be responsible for reviewing every decision made by the USDA's Food Safety and Inspection Service [FSIS]. This industry-friendly panel would have broad authority over USDA decision making in such matters as inspection procedures, labor relations, employee work rules, food safety standards, food safety practices in meat and poultry plants, and approval of new technologies. Such broad authority gives tremendous power to a part-time panel that does not necessarily include public health doctors. Yet, even if the panel met full time year round, it could not meaningfully address the large volume of decisions made regularly by the USDA's FSIS. It is obvious that the safe meat and poultry inspection panel would quickly cause a bottleneck in the FSIS decision making process. The FSIS food safety reform agenda would be substantially delayed, if not entirely blocked, by this panel.

In fact, the safe meat and poultry inspection panel is actually an attempt at back door regulatory reform. It puts additional regulatory review power in the hands of industry-friendly panel members. This panel provision also adds two new Federal Register publication steps to the existing decision process. In other words, it creates another regulatory hurdle to delay implementation of additional safeguards. However, each delay in the reform process further undermines the public's confidence in the meat and poultry inspection system and food supply.

In these times of severe budget constraints, the Food Safety Inspection Service is struggling to simultaneously meet its current inspection responsibilities and make needed food safety reforms. The agency certainly cannot afford to pay for another advisory panel; yet, this provision provides no new funds to finance the panel. I cannot believe that at a time when Americans want less Government, the Congress is creating an unfinanced panel that actually duplicates the work of the existing National Advisory Committee on Microbiological Criteria for Food [NACMCE], which has a diverse membership and has worked closely with the FSIS since 1987.

The safe meat and poultry inspection panel is not needed and would actually work against the consumer protection mission of the FSIS. It has no place in this otherwise fine farm bill compromise. Mr. Speaker, I appreciate this opportunity to express my opposition and greatly urge my colleagues to join me in opposition to the safe meat and poultry inspection panel.

Mrs. KENNELLY. Mr. Speaker, I rise in support of the conference report on the farm bill.

I voted against this legislation when it was first addressed by the House, because I was concerned that the legislation did not address reauthorization of nutrition programs and did not include the northeast dairy compact. I am pleased that the conference committee saw fit to include these provisions in the conference report.

The northeast dairy compact was approved by all six New England and will play a significant role in boosting farm income and stabilizing the dairy industry in the northeast through interstate cooperation. It is my hope that this compact will serve as a model partnership between farmers and consumers to maintain stable milk prices.

I am also pleased that in reauthorizing many nutrition programs, the conference committee included the Community Food Security Act which will provide a one-time infusion of funds for projects designed to meet the food needs of low-income people. This vital assistance will help to make good quality, and reasonably priced food available to many low-income communities like those in my home city of Hartford.

While I believe that this farm bill conference report is greatly improved, I remain concerned about the seven year market transition, which would make payments to farmers without requiring them to farm at all. But I believe that the reauthorization of nutrition programs, strong conservation provisions, and the inclusion of the Community Food Security Act and the northeast dairy compact has greatly improved this legislation and I urge my colleagues to support passage of this legislation.

Mr. GOODLING. Mr. Speaker, I am pleased the House and Senate conferees for S. 1541, the Agricultural Market Transition Act of 1996, included a provision to protect horses during transport to slaughterhouses. In particular, I would like to thank Congressman STEVE GUNDERSON and Chairman PAT ROBERTS for their support.

Last year, I introduced H.R. 2433, the Safe Commercial Transportation of Horses for Slaughter Act, intended to improve the handling, care, and equipment requirement for the safe transportation of horses to slaughterhouse facilities. My colleague, Senator MITCH MCCONNELL, introduced similar legislation in the Senate. Since then, my office has received tremendous support for introducing this legislation from the public and Members of Congress who have large horseman populations in their congressional districts.

Two years ago, I sent a dear colleague to Members bringing their attention to an article I read in "equidae," the National Horseman's Inc. publication, that exposed the inhumane treatment of horses transported for slaughter. Two constituents in my district visited a horse auction in New Holland, PA and described the horrible conditions to which these horses are subjected. Imagine injured, pregnant, and ill horses crammed into cattle cars with combative stallions and other horses to be shipped on long journeys to slaughterhouses with no dividers separating them. Often, these horses travel for days without food or water. As a thoroughbred owner, I find this appalling.

While Americans traditionally view horses as pets or companions, the reality is that many of our beloved friends are sent to slaughterhouses for consumption in European, Asian, and Latin countries. Horses have a unique, trusting relationship with people and deserve to have a humane and dignified end to their lives as other household pets.

Fortunately, through the hard work of Senator MITCH MCCONNELL, Congressman GUNDERSON and other members of the House and Senate Agriculture Committee, the conference committee was able to come to a compromise on language that will ensure the safe transportation of horses for slaughter while protecting other livestock and poultry for slaughter from regulation. The language provides authority to the Secretary of Agriculture to authorize guidelines for the regulation of persons engaged in the commercial transportation of horses for slaughter. The Secretary shall consider in carrying out this section of the bill food, water, rest, and the segregation of stallions from other horses during transportation.

I am hopeful these guidelines will be issued in timely manner to protect the thousands of horses sent to slaughter each year. I would suggest the Secretary consider requiring horses be rested and provided food and water after traveling no longer than 10 hours, vehicles be required to be in sanitary condition and provide at least 7 feet, 6 inches of headroom, and provide for the separation of stallions from other horses.

This legislation has the full support of the horse industry and animal feed industry including the American Horse Council, the American Horse Protection Association, the Humane Society of the United States, the American Association of Equine Practitioners, American Horse Shows Association, American Veterinary Medical Association, Pennsylvania Horse Breeders Association, the American Feed Industry Association, and the National Pork Producers.

Once again, I would like to thank the Members of the House and Senate conference committee for their compassion and hardwork. I am sure this legislation will go a long way in protecting horses transported for slaughter and provide incentive for those in the industry to treat horses with greater care and respect.

Mr. BILIRAKIS. Mr. Speaker, I rise in support of the conference report for H.R. 2854, the "Agricultural Market Transition Act." This measure reforms numerous laws affecting the business of farmers, including dairy farmers. In modifying laws that pertain to dairy farmers, H.R. 2854 has the effect of amending the Food Drug and Cosmetic Act [FFDCA] as it pertains to standards of identity and nutrition labeling requirements for fluid milk under milk marketing orders. As Chairman of the Committee on Commerce Subcommittee on Health and Environment, I would like to note the jurisdictional interest of both the full Committee and my Subcommittee in these modifications of our country's dairy program.

Portions of the language in the conference report regarding dairy programs supersede certain provisions in the FFDCA by making them inapplicable in some circumstances. The FFDCA is a statute within the exclusive jurisdiction of the Committee on Commerce. Therefore, the amendment to the FFDCA in the conference report for H.R. 2854 is also within the exclusive jurisdiction of the Commerce Committee. In accordance with rule X of the rules of the House, I look forward to continued exercise of our legislative jurisdiction in this area.

Mr. ROBERTS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. OXLEY). The question is on the conference report.

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

RECORDED VOTE

Mr. VOLKMER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 318, noes 89, not voting 24, as follows:

[Roll No. 107]

AYES—318

Abercrombie
Ackerman
Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Flake
Flanagan
Foley
Forbes
Franks (CT)
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Maloney

Manton	Porter	Stearns
Manzullo	Portman	Stenholm
Mascara	Poshard	Stockman
Matsui	Pryce	Stump
McCollum	Quillen	Stupak
McCrery	Quinn	Talent
McDade	Radanovich	Tanner
McHale	Rahall	Tate
McHugh	Ramstad	Tauzin
McInnis	Rangel	Taylor (NC)
McIntosh	Reed	Tejeda
McKeon	Regula	Thomas
Meek	Richardson	Thompson
Metcalf	Riggs	Thornberry
Meyers	Roberts	Thornton
Mica	Roemer	Thurman
Mink	Rogers	Tiahrt
Molinari	Rohrabacher	Torres
Mollohan	Roth	Torricelli
Montgomery	Royce	Towns
Moorhead	Rush	Upton
Morella	Salmon	Vucanovich
Murtha	Sanders	Waldholtz
Myers	Sawyer	Walker
Myrick	Schaefer	Walsh
Nethercutt	Schiff	Ward
Neumann	Schumer	Watt (NC)
Ney	Scott	Watts (OK)
Norwood	Seastrand	Weldon (FL)
Nussle	Shadegg	Weller
Olver	Shaw	White
Ortiz	Shays	Whitfield
Orton	Shuster	Wicker
Oxley	Sisisky	Wilson
Packard	Skeen	Wise
Parker	Skelton	Wolf
Pastor	Slaughter	Woolsey
Paxon	Smith (MI)	Wynn
Payne (VA)	Smith (NJ)	Young (AK)
Peterson (FL)	Solomon	Young (FL)
Petri	Souder	Zeliff
Pickett	Spence	
Pombo	Spratt	

NOES—89

Andrews	Goss	Oberstar
Baesler	Green	Obey
Barrett (WI)	Gutierrez	Owens
Becerra	Hoke	Pallone
Blute	Jackson (IL)	Payne (NJ)
Bonior	Jacobs	Pelosi
Borski	Johnson (SD)	Peterson (MN)
Brown (CA)	Johnston	Pomeroy
Cardin	Kaptur	Rivers
Chabot	Kennedy (MA)	Roybal-Allard
Clay	Kleczka	Sabo
Collins (MI)	Levin	Sanford
Conyers	Lincoln	Saxton
Coyne	Lipinski	Scarborough
DeFazio	LoBiondo	Sensenbrenner
Dellums	Lofgren	Serrano
Dicks	Lowey	Skaggs
Doggett	Luther	Stark
Dooley	Markey	Taylor (MS)
Doyle	Martini	Torkildsen
Engel	McCarthy	Traficant
Fattah	McDermott	Velazquez
Filner	McKinney	Vento
Foglietta	Menendez	Visclosky
Ford	Miller (CA)	Volkmer
Fox	Miller (FL)	Wamp
Frank (MA)	Minge	Waters
Franks (NJ)	Moakley	Williams
Frelinghuysen	Moran	Zimmer
Gephardt	Nadler	

NOT VOTING—24

Beilenson	Lantos	Schroeder
Bryant (TX)	Martinez	Smith (TX)
Coleman	McNulty	Smith (WA)
Collins (IL)	Meehan	Stokes
Eshoo	Neal	Studds
Fowler	Ros-Lehtinen	Waxman
Gibbons	Rose	Weldon (PA)
Hayes	Roukema	Yates

□ 0036

Mr. FOX of Pennsylvania changed his vote from "aye" to "no."

Mr. TORRES changed his vote from "no" to "aye."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. ROS-LEHTINEN. Mr. Speaker, it was necessary for me to return to my district on Thursday, March 28, before the final vote of the day was taken. I would have voted "no" on the procedural motion to H.R. 3136; "yes" on the final passage of H.R. 3136, "yes" on ordering the previous question on the modified closed rule (H. Res. 392) for H.R. 3103; "no" on the amendment in the nature of a substitute (H. Res. 392) to H.R. 3103; "no" on the motion to recommit H.R. 3103; "yes" on passage of H.R. 3103; "yes" on agreeing to the conference report on H.R. 2854.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 2854 just passed.

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

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was grant to:

Mrs. SMITH of Washington, (at the request of Mr. ARMEY) for today, on account of illness.

Mr. MCNULTY (at the request of Mr. GEPHARDT) for today after 2:15 p.m. and the balance of the week, on account of death in the family.

Ms. ESHOO (at the request of Mr. GEPHARDT) for today after 8:30 p.m. and the balance of the week, on account of a death in the family.

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. JEFFERSON) to revise and extend their remarks and include extraneous material:)

Mr. SKELTON, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. PETE GEREN of Texas, for 5 minutes, today.

Mr. BROWDER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(Mr. MOAKLEY, and to include extraneous material, after debate on the unfunded mandate motion to recommit H.R. 3136 today.)

(Mr. FAWELL and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,742.)

(Mr. MCINNIS (at the request of Mr. KOLBE), and to include extraneous material on the reconciliation rule of last year.)

(The following Members (at the request of Mr. JEFFERSON) and to include extraneous matter:)

Mr. TORRES.
Mr. STARK.
Mr. NEAL of Massachusetts.
Mr. POSHARD.
Mr. WARD.
Mr. MILLER of California.
Mr. FROST.
Mr. JACOBS.
Ms. ESHOO.
Ms. FURSE.
Ms. EDDIE BERNICE JOHNSON of Texas.
Mr. MONTGOMERY.
Mr. BROWDER.
Mrs. LOWEY.
Mr. SKAGGS.

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. BUNNING of Kentucky.
Mr. SHUSTER.
Mr. SOLOMON.
Mr. COMBEST.
Mr. FLANAGAN.
Mr. DAVIS.
Mr. FORBES.
Mr. CAMP.
Mr. ROGERS.
Mr. WELDON of Pennsylvania.
Mr. GANSKE.
Mr. MOORHEAD.
Mr. EWING.
Mr. CUNNINGHAM.
Mr. RIGGS, in two instances.
Mr. SMITH of Michigan.
Mrs. KELLY.
Mr. OXLEY.
Mr. HORN.
Ms. MOLINARI.
Mr. CLINGER.
Mr. GILMAN.
Mr. BUYER.
Mr. PACKARD.
Mr. BUNN of Oregon.
Mrs. MYRICK.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill and joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2969. An act to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897.

H.J. Res. 168. Joint resolution waiving certain enrollment requirements with respect to two bills of the 104th Congress.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 4. An act to give the President line item veto authority with respect to appropriations, new direct spending, and limited tax benefits.

ADJOURNMENT

Mr. HAYWORTH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 42 minutes a.m.), the House adjourned until today, Friday, March 29, 1996, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2311. A letter from the Secretary of Defense, transmitting the Department's report entitled "Annual Report to the President and the Congress, March 1996," pursuant to 10 U.S.C. 113 (c) and (e); to the Committee on National Security.

2312. A letter from the Comptroller General of the United States, transmitting the list of all reports issued or released in February 1996, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

2313. A letter from the Executive Director, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting a report entitled "Report on the Mayor's District of Columbia FY 1997 Budget and Multiyear Plan" adopted by the District of Columbia Financial Responsibility and Management Assistance Authority on March 21, 1996, pursuant to section 202(d) of Public Law 104–8; to the Committee on Government Reform and Oversight.

2314. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1995, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2315. A letter from the Commissioner, Social Security Administration, transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

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. GOODLING: Committee on Economic and Educational Opportunities. H.R. 3055. A bill to amend section 326 of the Higher Education Act of 1965 to permit continued participation by Historically Black Graduate Professional Schools in the grant program authorized by that section (Rept. 104–504). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOODLING. Committee on Economic and Educational Opportunities. H.R. 3049. A bill to amend section 1505 of the Higher Education Act of 1965 to provide for the continuity of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development (Rept. 104–505). Referred to the Committee of the Whole House of the State of the Union.

Mr. ARCHER: Committee on Ways and Means. H.R. 2337. A bill to amend the Internal Revenue Code of 1986 to provide for increased taxpayer protections; with an amendment (Rept. 104–506). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2501. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, and for other purposes; with an amendment (Rept. 104–507). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2630. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois; with an amendment (Rept. 104–508). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2695. A bill to extend the deadline under the Federal Power Act applicable to the construction of certain hydroelectric projects in the State of Pennsylvania; with an amendment (Rept. 104–509). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2773. A bill to extend the deadline under the Federal Power Act applicable to the construction of 2 hydroelectric projects in North Carolina, and for other purposes; with an amendment (Rept. 104–510). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2816. A bill to reinstate the license for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Ohio, and for other purposes (Rept. 104–511). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2869. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Kentucky; with an amendment (Rept. 104–512). Referred to the Committee of the Whole House on the State of the Union.

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. FROST:

H.R. 3180. A bill to increase penalties for sex offenses against children; to the Committee on the Judiciary.

By Ms. ESHOO:

H.R. 3181. A bill to prohibit providers of cellular and other mobile radio services from blocking access to 911 emergency services; to the Committee on Commerce.

By Mr. EWING (for himself, Mr. POSHARD, Mr. WELLER, Mr. LAHOOD, and Mr. EMERSON):

H.R. 3182. A bill to amend title 49, United States Code, relating to alcohol and controlled substances testing of operators of motor vehicles used to transport agricultural commodities and property for small local governments; to the Committee on Transportation and Infrastructure.

By Mr. MONTGOMERY:

H.R. 3183. A bill to amend title 38, United States Code, to limit the amount of recoupment from veterans' disability compensation that is required in the case of veterans who have received certain separation payments from the Department of Defense; to the Committee on Veterans' Affairs.

By Mr. HORN (for himself, Mr. CLINGER, Mr. DAVIS, Mrs. MALONEY, and Mr. PETERSON of Minnesota):

H.R. 3184. A bill to streamline and improve the effectiveness of chapter 75 of title 31, United States Code—commonly referred to as the Single Audit Act; to the Committee on Government Reform and Oversight.

By Mr. DINGELL (for himself, Mr. BENTSEN, and Mr. SPRATT):

H.R. 3185. A bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, to increase the deduction for health insurance costs of self-employed individuals, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and Economic and Educational Opportunities, 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. CLAY:

H.R. 3186. A bill to designate the Federal building located at 1655 Woodson Road in Overland, MO, as the "Sammy L. Davis Federal Building"; to the Committee on Transportation and Infrastructure.

By Mr. CLYBURN:

H.R. 3187. A bill to amend title 49, United States Code, to provide protection for airline employees who provide certain air safety information; to the Committee on Transportation and Infrastructure.

By Mr. COMBEST:

H.R. 3188. A bill to amend title 49, United States Code, to limit the applicability of hazardous material transportation registration and fee requirements for persons who offer crude oil and condensate for transport in commerce, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. DAVIS (for himself, Mr. ENGLISH of Pennsylvania, and Mr. MORAN):

H.R. 3189. A bill to delay the privatization of the Office of Federal Investigations of the Office of Personnel Management in order to allow sufficient time for a thorough review to be conducted as to the feasibility and desirability of any such privatization, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. FRANKS of Connecticut:

H.R. 3190. A bill to prohibit Federal agencies to require or encourage preferences based on race, sex, or ethnic origin, in connection with Federal contracts; to the Committee on Government Reform and Oversight.

By Mr. KLINK:

H.R. 3191. A bill to authorize a program of grants to improve the quality of technical education in manufacturing and other vocational technologies; to the Committee on Economic and Educational Opportunities.

By Mr. MOORHEAD:

H.R. 3192. A bill to make amendments to section 119 of title 17 of the United States Code; to the Committee on the Judiciary.

By Ms. PELOSI:

H.R. 3193. A bill to recognize the significance of the AIDS Memorial Grove, located in Golden Gate Park in San Francisco, CA,

and to direct the Secretary of the Interior to designate the AIDS Memorial Grove as a national memorial; to the Committee on Resources.

By Mr. PICKETT:

H.R. 3194. A bill to provide that the property of innocent owners is not subject to forfeiture under the laws of the United States; to the Committee on the Judiciary.

By Mr. SANFORD (for himself, Mr. BREWSTER, and Mr. LARGENT):

H.R. 3195. A bill to amend title 23, United States Code, to modify the minimum allocation formula under the Federal-aid highway program, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. SHAYS:

H.R. 3196. A bill to increase the penalty for trafficking in powdered cocaine to the same level as the penalty for trafficking in crack cocaine, and for other purposes; to the Committee on the Judiciary, 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. BARTON of Texas (for himself, Mr. PETE GEREN of Texas, Mr. ARCHER, Mr. SHADEGG, and Mr. HALL of Texas):

H.J. Res. 169. Joint resolution proposing an amendment to the Constitution of the United States relating to taxes; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause I of rule XXII,

Mr. PICKETT introduced a bill (H.R. 3197) for the relief of Emma W. Todd; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 244: Mr. HOKE.

H.R. 452: Mr. INGLIS of South Carolina.

H.R. 580: Mr. COX.

H.R. 894: Mr. ACKERMAN.

H.R. 895: Mr. BONILLA, Mr. GENE GREEN of Texas, Mr. DUNCAN, Mr. HOEKSTRA, Mr. NEAL of Massachusetts, Mr. BONO, Mr. CUNNINGHAM, Mr. STUPAK, Ms. PRYCE, Mr. DEFAZIO, Mr. THORNBERRY, and Mr. VISCLOSKY.

H.R. 1044: Mrs. MYRICK.

H.R. 1363: Mr. BRYANT of Tennessee and Mr. HEINEMAN.

H.R. 1496: Mr. SAXTON.

H.R. 1560: Mr. MENENDEZ and Mrs. THURMAN.

H.R. 1619: Mr. TORRES.

H.R. 1625: Mr. QUILLEN.

H.R. 1627: Mrs. ROUKEMA.

H.R. 1755: Mr. CAMP and Mr. BARCIA of Michigan.

H.R. 1893: Mr. RAHALL, Mr. EVANS, Mr. EHRLICH, and Ms. DELAURO.

H.R. 1963: Mr. HILLIARD.

H.R. 2089: Mr. WHITE, Mr. MCDERMOTT, Mr. DICKS, and Mr. PETERSON of Minnesota.

H.R. 2200: Mr. ZELIFF, Mr. BONIOR, Mr. HOSTETTLER, and Mr. MONTGOMERY.

H.R. 2240: Mr. REED.

H.R. 2320: Mr. MARTINI, Mr. MCKEON, Mr. ENGLISH of Pennsylvania, Mr. NUSSLE, Mr. MATSUI, Mr. THOMAS, and Mr. MANTON.

H.R. 2471: Mr. BARRETT of Wisconsin.

H.R. 2508: Mr. KILDEE, Mr. LIVINGSTON, Mr. BARR, Mr. CALLAHAN, Mr. CANADY, and Mr. WISE.

H.R. 2531: Mr. WELLER and Mr. SCHAEFER.

H.R. 2566: Mr. KLECZKA.

H.R. 2579: Mr. SAWYER, Mr. BURR, and Mr. WHITE.

H.R. 2651: Mr. BILIRAKIS, Mr. MCHALE, and Mr. SOLOMON.

H.R. 2697: Mr. GUTIERREZ and Mr. ABERCROMBIE.

H.R. 2745: Mr. KASICH.

H.R. 2820: Mr. COLLINS of Georgia, Mr. LAUGHLIN, Mr. TALENT, and Mr. MCCRERY.

H.R. 2864: Mr. VENTO.

H.R. 2892: Mr. CLEMENT, Mr. CALVERT, Mr. OLVER, Mr. ABERCROMBIE, Mr. BAKER of Louisiana, and Mr. LIPINSKI.

H.R. 2912: Mr. KLECZKA, Mr. HILLIARD, Mr. RAHALL, Mrs. THURMAN, and Mr. KILDEE.

H.R. 2925: Mr. BONILLA.

H.R. 2928: Mr. METCALF, Mr. WELLER, and Mr. COBURN.

H.R. 2930: Mr. WATTS of Oklahoma.

H.R. 2938: Mr. DURBIN, Mr. EHLERS, Mr. SMITH of New Jersey, Mrs. JOHNSON of Connecticut, and Mr. BILBRAY.

H.R. 2959: Mr. LEACH.

H.R. 3011: Mr. TATE, Mr. MCINTOSH, and Mr. FRANK of Massachusetts.

H.R. 3067: Mr. CONDIT, Mr. MANTON, Mrs. THURMAN, and Ms. DANNER.

H.R. 3095: Mr. KOLBE.

H.R. 3142: Mr. STEARNS, Mrs. SEASTRAND, Mr. SAWYER, Mr. GORDON, Mr. COX, Mr. DORNAN, Mr. FARR, Mr. OBERSTAR, and Mrs. SMITH of Washington.

H.R. 3159: Ms. BROWN of Florida.

H.J. Res. 70: Mr. TEJEDA, Mr. BERMAN, and Mr. SANDERS.

H. Con. Res. 26: Ms. MOLINARI.

H. Con. Res. 47: Mr. HUNTER.

H. Con. Res. 152: Mr. NETHERCUTT, Mr. ORTIZ, Mr. MCHUGH, Mr. BONILLA, and Mr. STUPAK.

H. Con. Res. 155: Mr. PAYNE of New Jersey, Mrs. CLAYTON, and Mr. GILMAN.

H. Res. 123: Mr. RAHALL, Mr. PACKARD, and Mr. DORNAN.

H. Res. 285: Mr. BONIOR.

H. Res. 359: Mr. FRAZER, Ms. MOLINARI, Mr. ANDREWS, Mrs. KENNELLY, Mrs. MEEK of Florida, Mr. VENTO, and Mr. MCINNIS.

H. Res. 381: Mr. DEFAZIO, Mr. KENNEDY of Rhode Island, Mr. UNDERWOOD, Mrs. SEASTRAND, Mr. HORN, and Mr. STOCKMAN.

H. Res. 385: Mrs. MORELLA, Mr. RANGEL, and Mr. ORTON.

EXTENSIONS OF REMARKS

STEVEN REDDINGTON'S WINNING ESSAY

HON. MICHAEL PATRICK FLANAGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. FLANAGAN. Mr. Speaker, the winner of the first annual Fifth Congressional District essay contest is Steven Reddington, a student in the Saint Priscilla School at 7001 West Addison Street in Chicago. The principal of the school, Sister Joyce Roehl, is to be commended for allowing her students to participate in the contest.

Evidently, Steven Reddington has learned the lessons of his English faculty adviser, Ms. Corinne Schade, well. The contest asked students to write about an American invention of the student's choosing and describe how that invention impacted society. Over 100 schools in the Fifth District were invited to participate in the essay contest and my office received an overwhelming response. Out of all the essays received, Steven's was the only one that was written from the perspective of the inventor. He chose to write about Thomas Edison and his electric light bulb. Steven entitled his imaginative and inventive essay, "The Quest for Light."

I urge my colleagues to read Steven's essay. If you do, you will find a fine example of creative writing by a young man who may well make a mark in American literature in the 21st century. Steven Reddington's essay follows:

THE QUEST FOR LIGHT

(By Steven Reddington)

As the sun begins to set, the light in my laboratory grows too faint to work any longer. I must put away my work until tomorrow. Out on the street the arc lamps are lit to burn until the sun rises again. I have thought long about finding an artificial light, and each day my endless research takes me closer to my goal.

How the world would change with my invention. I can only imagine what it would be like to have light twenty-four hours a day. Life in the home would change dramatically. There would be no more going to bed when the room became too dark for seeing. Now I could read the morning newspaper in the evening while my children study or play games. One day would be so much longer. The economy would flourish. Factories could run all day and night producing more goods and employing new workers. In turn these workers would have more money to spend, and more time to spend it. This would open up a whole new world of nightly entertainment for people to enjoy. Now we could attend social gatherings and church services that before would only take place during daylight hours.

Picture what Grand Central Station would be like with thousands of glowing lights as passengers board the midnight trains to Boston. Hospitals could care for the sick, and perform life saving operations without the use of dim light given off by oil burning lamps. Fires from these type of lamps would no longer be a concern. All the lives and homes that would be spared if a new source of light could be produced. The benefits and use to humanity would certainly be worth all the painstaking hours of work that I have dedicated to this project. As I've always said, "One-percent inspiration and ninety-nine percent perspiration!".

It is now October of 1874, I believe I have finally realized my dream. At my laboratory in Menlo Park, New Jersey, I have before me a glass tube with a wire thread inside of it. Next, electricity flows through a wire and into the glass tube. The wire thread glows with heat, and the room is illuminated with a soft light. As I gaze with pride, I understand the effects this will have on the future of our everyday lives.

Now if I could give it the proper name. Maybe I should call it the Thomas Edison, or perhaps the Edison Bulb. No, I have it! I'll call it the light bulb. That would be a most fitting name!

TRIBUTE TO LT. COL. WILLIAM JOHN NICHOLS, U.S. AIR FORCE

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. COMBEST. Mr. Speaker, I rise to recognize the dedication, public service, and patriotism of Lt. Col. William John Nichols, U.S. Air Force, on the occasion of his retirement after a career of faithful service to our Nation. Col. John Nichols' strong commitment to excellence will leave a lasting impact on the vitality of our modern warfighters, commanding admiration and respect from his military colleagues and Members of Congress.

Colonel Nichols, a 1977 graduate of Cornell University and the Reserve Officer Training Corps, is serving his last day of a 15-month assignment as the special assistant for space, command, control, communications, and intelligence, and special operations programs, with the Office of the Assistant Secretary of Defense for Legislative Affairs.

Colonel Nichols' first duty assignment was to the 6931st Electronic Security Squadron, Iraklion Air Station, Crete, Greece, as a flight commander, from April 1978 through July 1980. John was then sent to Osan Air Base, Korea, where he headed intelligence collection operations in support of U.S. Forces in Korea. He was also responsible for U–2 intelligence collection operations during this 1-year remote assignment. In August 1981, John was reassigned to Headquarters Electronic Security Command in San Antonio, TX, where he managed tactical intelligence collection assets. Next Colonel Nichols was assigned to 13th Air Force at Clark Air Base, Philippines, from January 1983 to October 1984, where he was responsible for electronic combat programs throughout the Pacific region. In this capacity, John orchestrated the first ever involvement of electronic combat and intelligence assets into Cope Thunder air combat training exercises.

Colonel Nichols was next assigned as detachment commander for the 6947th Electronic Security Squadron in Key West, FL, where he led a 70-person intelligence operation providing key support to operations in the Caribbean Basin. After almost 3 years in this position John was assigned to RAF Mildenhall, England, in July 1987 as the operations officer for the 6988th Electronic Security Squadron. In this job he led a 200-person RC–135 airborne reconnaissance operation in support of theater and national intelligence collection requirements. In July 1990, he was reassigned to Air University in Alabama where he was a distinguished graduate and top performer at Air Command Staff College and where he earned a master of airpower art and science degree as a student in the first class of the School of Advanced Airpower Studies.

In July 1992, Colonel Nichols was assigned to the intelligence staff at Headquarters U.S. Air Force in the Pentagon. He quickly moved to the Air Force Secretariat where he was assigned to the Office of Legislative Affairs. After serving for a year and a half in this capacity he moved to the Office of the Secretary of Defense for Legislative Affairs where he ably represented the Department of Defense on important intelligence issues until his retirement today. John's support of the Congress and in particular to the House Permanent Select Committee on Intelligence, which I chair, has been commendable. We understand the importance of the challenges imposed by legislative liaison. Colonel Nichols met them with frankness and aplomb. His expertise will truly be missed.

Colonel Nichol's military awards include the Defense Superior Service Medal, the Meritorious Service Medal, the Air Medal, the Aerial Achievement Medal, the Air Force Commendation Medal, the Air Force Achievement Medal, the National Defense Service Medal, the South West Asia Service Medal with campaign star, and several unit commendations and service ribbons. John is married and resides with his wife Wil and daughters Sarah and Rachel In Woodbridge, VA.

Our Nation, the Department of Defense, the U.S. Air Force, and his family can truly be proud of the colonel's many accomplishments. A man of extraordinary talent and integrity is rare indeed. While his honorable service will be genuinely missed in the Department of Defense, it gives me great pleasure to recognize Col. John Nichols before my colleagues and wish him all of our best wishes in his new and exciting career.

TRIBUTE TO JIMMY F. BATES

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. SHUSTER. Mr. Speaker, I want to bring to the attention of my colleagues the achievements of Mr. Jimmy F. Bates, the Deputy Director of Civil Works for the headquarters of the Army Corps of Engineers. After more than three decades of public service, Mr. Bates is retiring from the Corps.

As the Deputy Director of Civil Works, a registered professional engineer, and the senior civilian in the Corps of Engineers' water resources program, Jimmy's responsibilities include managing, directing, and providing stable leadership for the Nation's premier engineering and water resources agency. The Civil Works Program, with a total annual responsibility of about $3.5 billion, provides water infrastructure that is essential to America's safety, well-being and economic growth. This thoughtful leader has devoted a career to improving the development and implementation of comprehensive water policy and water infrastructure, ranging from the development of projects to reduce damages from devastating floods and improvements to the national system of inland waterways to the implementation of new environmental authorities provided by Congress.

A native of Tennessee, Jimmy began and spent most of his Federal career with the Corps' Nashville District. He also served in the agency's Ohio River Division in Cincinnati, OH, as well as in the Washington headquarters. In addition, Jimmy had a distinguished career in the Army Reserve, rising to the rank of major general.

Through his extensive experience in the planning and engineering aspects of water resources projects and his numerous leadership assignments, he has earned a reputation of a seasoned professional and an expert in Federal water policy. More important, his dedication, loyalty, and character make him one of the most respected and emulated leaders in government. Although the Corps of Engineers is losing a paragon of leadership and integrity, the Nation will long benefit from the contributions Jimmy has made to water infrastructure and the development of Federal water policy. He has been a model citizen, soldier, and public servant throughout his career.

As Jimmy leaves Federal service, we extend best wishes to him, his wife Sharon, and their children.

THE ACCESS TO EMERGENCY SERVICES ACT

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Ms. ESHOO. Mr. Speaker, today I am introducing the Access to Emergency Services Act. This legislation would require the FCC to establish a framework which would prohibit the blocking of 911 calls placed by cellular and wireless users.

Why is this legislation necessary? In many markets, cellular phone users have been put in jeopardy because they are unable to access emergency 911 help when they were not subscribed to the local cellular company. Fortunately, cellular companies in California no longer block emergency 911 calls.

However, this change in policy did not happen soon enough for a California woman who, in December 1994, was shot and robbed because her calls to 911 on her cellular phone were blocked by the local cellular company.

The irony is, of course, that many cellular customers purchase cellular phones for just these emergency situations. Would they have become customers if they realized they might not be able to reach 911 when necessary?

The FCC is currently conducting a rulemaking on wireless 911 services. I hope the FCC will do the right thing, and address this issue in its rulemaking.

I am introducing this legislation because this issue is too important to cellular users to leave to chance. We must ensure that no one is victimized because he or she was unable to reach 911 on their cellular phone.

These cellular licenses were given to cellular companies in order to develop a new service for the American people. As a member of the Commerce Committee, I take very seriously my responsibility to ensure that the public's airwaves are put to good public use. At the very least, cellular users deserve access to local 911 emergency services.

I urge my colleagues to support this legislation.

WESTMORELAND COUNTY ATTORNEYS DO PRO BONO WORK

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. KLINK. Mr. Speaker, I rise today to congratulate the many attorneys who perform pro bono work in Westmoreland County. These men and women take time out of their busy schedules to help those less fortunate with legal representation.

Pro bono work is essential in our communities. Many people who need representation in this country cannot afford it. Legal service organizations can only help on a limited basis. This is due to a lack of funding which leaves them overworked and underpaid.

Many legal organizations have realized the need for pro bono work and have actively influenced their members to participate. Some States have considered adding pro bono work to continuing legal education requirements.

Pro bono work reflects what is great about our country, giving back to our community—62 attorneys in Westmoreland County are doing just that.

With that in mind, Mr. Speaker, I along with my colleagues in this House would like to show our appreciation to those 62 attorneys for their efforts.

They are as follows:

A.C. Ansani; Bruce A. Antowiak; Brian D. Aston; Lawrence F. Becker, III; H. Reginald Belden, Jr.; Alan K. Berk; Eric E. Bonomi; William D. Boyle; Jennie K. Bullard; David A. Colecchia; James B. Crowley; Sandra E. Davis; Anthony W. DeBernardo, Jr.; Patricia A. DeConcilis.

Rhonda Anderson Marks; James A. Meade; Scott O. Mears; James R. Michael; Paul S. Miller, Jr.; David J. Millstein; John M. Noble; Jeffry A Pavetti; Richard F. Pohl; Dwayne E. Ross; William A. Ryan; Thomas R. Shaner; Mark J. Shire; Bernard S. Shire.

Michael J. Drag; James M. Duffy; Paul J. Elias; Scott A. Fatur; Karen L. Ferri; Henry B. Furio; William C. Gallishen; Mark S. Galper; Edward E. Gilbert; Barry B. Gindlesberger; Abby S. Harrison; Thomas A. Himler, Jr.; Stuart J. Horner, Jr.; Carl P. Izzo, Jr.; Richard L. Jim; Robert I. Johnston; K. Lawrence Kemp.

Lawrence D. Kerr; Randall G. Klimchock; Maureen S. Kroll; Stephen Langton; Marceline A. Lavelle; Wm. Jeffrey Leonard; Larry D. Loperito; Irene Lubin; Robert H. Slone; Thomas W. Smith; Marvin D. Snyder, Jr.; Mark L. Sorice; Margaret A. Tremba; R.E. Valasek; James A. Wells; Ronald J. Zera; Susan M. Zydonik.

A TRUE AMERICAN HERO

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. RIGGS. Mr. Speaker, I rise today to recognize and honor a true American hero, Mr. Arthur E. Lewis. Arthur Lewis now resides at the Yountville Veterans Home of California.

During the trying years of World War Two, Seaman "Art" Lewis was assigned aboard the U.S.S. *Balch.* In the spring of 1942, the U.S.S. *Balch* sailed with Task Force 16. Task Force 16 was a group of ships that launched the successful daylight bombing raid on Tokyo by General Doolittle and his sixteen Army B–25 bombers. The Doolittle raids were an enormous boost to the morale of the American people in the first months of the war following the tragic Japanese surprise attack on Pearl Harbor.

Not long after this important mission, the U.S.S. *Balch* was to again engage the enemy in the pivotal battle of Midway Island. Aboard the U.S.S. *Balch*, Art Lewis demonstrated his gallantry and bravery under adverse and treacherous conditions.

The Battle for Midway would result in a resounding victory for the United States Navy. However, the battle did not end without exacting a substantial toll on the American forces. In the concluding hours of the historic sea battle, the aircraft carrier *Yorktown* was mortally damaged. Its crew abandoned ship in the shark-infested waters of the South Pacific. The sailors of the *Yorktown* were scattered about the ocean, wounded, exhausted, and oil-soaked. They were in danger of being lost if immediate assistance was not forthcoming. Seaman Lewis, with disregard for his own safety, took immediate action to save the lives of his fellow sailors by carrying buoyed lines 300 to 400 years out to exhausted swimmers.

Uncertain whether the Japanese would strike again, all ships in the vicinity were under

orders to make full speed in the event of another air attack. Despite this possibility, Seaman Lewis continued to save the lives of his comrades.

Fortunately, the Japanese did not launch a second attack, and 9 hours after the sinking of the *Yorktown*, the rescue operations were complete. Art, along with others had saved the lives of 2,270 Americans on that historic day in June, 1942.

Art's story of gallantry is not a fading memory of an aging veteran. Along with many military historians, Adm. Chester Nimitz made note of Art's bravery in his written accounts of the Battle of Midway.

Despite these facts, Art was never officially recognized for his acts of bravery. Because of the length of time since the Battle of Midway, military regulations make it impossible to award Seaman Lewis with the Bronze Star, the medal he would have received during World War Two for his actions.

While the Pentagon cannot bestow Mr. Lewis with a Bronze Star, I feel it is incumbent upon me and all Americans to make note of Mr. Lewis' brave acts. At the very least, it is important to make record of Mr. Lewis' dedication and courage. Mr.Speaker, on behalf of the American people, I convey-our gratitude and thanks to a true American hero, Seaman Art Lewis.

IN RECOGNITION OF ARLENE GIBEAU

HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. BUNNING of Kentucky. Mr. Speaker, I would like to take this opportunity to recognize the fine efforts of one of my constituents, Arlene Gibeau of Covington, KY.

In northern Kentucky, Arlene's name is synonymous with the arts. For the last 13 years, she has served with distinction as a volunteer and then executive director of the Northern Arts Council. Through her dynamism and determination, she has helped build the council and its home, the Carnegie Center for the Arts, into the most respected showcase for the arts and culture in the Cincinnati area.

Along with all of her other activities, Arlene has also managed to find time to help run our Artistic Discovery Competition in the Fourth District. Every year she has always done a first-rate job, and I have no idea how we could have done it without her.

A dancer and musician, Arlene came from an artistic family. She established her own dance company at the age of 14 and ran it until World War II broke out. Widowed by the war, she raised her two daughters on her own until she remarried 3 years later. She eventually had two more daughters and a son.

Her children carry her love of culture. Two of her daughters are writers and one son works in movies. A granddaughter performs as a Shakespearian actress.

As an artist, Arlene's greatest strength has always been her determination that no student should be deprived of the joy of learning about the arts. When she worked at the Carnegie Center, she organized arts programs for children that really made a difference in many young lives. Over the years, word spread and kids literally walked in off the street. Arlene always found for each youngster an art project to help teach and enhance their lives.

Being married to an artist myself, I think that I understand some of Arlene's passion for culture and how the arts can enrich our lives. She has helped make our corner of the world more beautiful and enjoyable.

She has made a difference.

Mr. Speaker, Arlene Gibeau deserves our recognition and respect for all of her efforts on behalf of the arts. I know that the city of Covington and northern Kentucky are certainly all the more rich because of her good works.

WOMEN'S HEALTH ENVIRONMENTAL FACTORS RESEARCH ACT

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Ms. FURSE. Mr. Speaker, today's introduction of the Women's Health Equity Act is extremely important. This landmark legislation holds much promise for the women of our great Nation.

I authored one piece of it, the Women's Health Environmental Factors Research Act, and will introduce it soon as its own free-standing bill. This act calls for the National Institute of Environmental Health Sciences to do two things. First, NIEHS is to compile a status report on what we already know about the effects on women's health of environmental exposure and then, NIEHS is to outline a research agenda to fill in the gaps.

We need more information about the impact of certain environmental factors on women's health. Breast cancer, immune dysfunction, and other women's health issues may be partially the result of environmental factors.

Many chemicals in our environment today are compounds that mimic human estrogen. For many years, risk assessment research inadvertently excluded gender-specific problems from the studies. It is quite possible that some chemicals affect women differently than men.

We must put women's health research back into the equation.

I look forward to working with my colleagues on the Women's Health Environmental Factors Research Act, as well as the entire Women's Health Equity Act.

HONORING THE PAINTSVILLE HIGH SCHOOL TIGERS

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. ROGERS. Mr. Speaker, I rise today to honor the 1996 Kentucky Boys High School basketball champions—the Paintsville High School Tigers.

High school basketball holds a special place in the heart of every person in eastern Kentucky. This is especially true in the city of Paintsville.

The 1995–96 Paintsville Tigers beat the odds and captured the State championship with hard work and determination. The Tigers began the year with a rigorous schedule against some of the toughest competition available.

Head Coach Bill Mike Runyon and Assistant Coach David VanHoose guided the Tigers through a tough regular season which included Lexington Catholic, Harlan, and Boyd County. These regular season tests would prove critical in preparing the Tigers for their eventual showdown in Rupp Arena.

Paintsville's road to the sweet sixteen was paved with hard-won victories. The Tigers defeated longtime rival Magoffin County to win the district crown. The two teams faced each other again in the 15th region final, with Paintsville winning again.

After a trip down the Mountain Parkway to Lexington, the Tigers were ready to face Kentucky's best teams. Paintsville defeated Owensboro, Allen County-Scottsville, and Lexington Catholic to advance to the Saturday night final. The Tigers cruised to victory in the title game with a resounding defeat of Ashland.

Paintsville's team was rich in talent and size. They were led by sophomore sensation J.R. VanHoose. The 6'10" center set a new, single-game, tournament record for rebounds—breaking the old record held by NBA great Wes Unseld. VanHoose was also named the tournament's most valuable player.

Joining VanHoose were seniors Craig and Matt Ratliff, Todd Tackett and Josh McKenzie completed the Tigers' primary lineup. Other members of the varsity squad included: Danny Scott, Kyle Adams, Josh Greiner, Jason Conley, Kyle Kretzer, Devon Pack, Jeremy Watkins, Mike Short, Mikie Burchett, Mark Grim, and Eric Addington.

Mr. Speaker, the Paintsville Tigers have made the people of Johnson County and eastern Kentucky very proud. They now have their own chapter in Kentucky's renowned history of high school basketball.

TRIBUTE TO GEORGE GAZMARARIAN

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize Mr. George Gazmararian of Alma College, as he celebrates his retirement as emeriti professor of business administration. During his 30-year career at Alma College, Mr. Gazmararian has touched many lives. He has served as an extraordinary leadership figure to numerous students who are striving to learn and grow at Alma College. He has instilled in them courage and self-confidence as they entered into the professional world. He has prepared his students for extraordinary community leadership and involvement by promoting the essential attributes of integrity, ambition, and initiative. Mr. Gazmararian has set the standards

for conscientious attention to student needs, teaching the practical application of business principles and encouraging lifelong learning for his mentorees.

Through his strong commitment to educating and promoting excellence in others, he has served as an example to fellow professors and community leaders. He established long-standing relationships with his students, enabling him to serve as a motivator, counselor, and educator.

Professor Gazmararian is a great instructor and strong advocate of education. I know you will join me in recognizing him for all that he has done as he celebrates his retirement from the staff of Alma College.

THE VILLAGE TIMES NEWSPAPER CELEBRATES 20TH ANNIVERSARY

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. FORBES. Mr. Speaker, I rise today to pay tribute and to congratulate "The Village Times" and its founder, Leah S. Dunaief, for 20 years of dedicated service to the people of Suffolk County.

On April 8, 1976, as Americans were getting ready to celebrate the 200th Birthday of their Nation, Leah S. Dunaief founded The Village Times as a weekly newspaper to cover the historic Three Village area of Long Island's North Shore. Starting off with little more than the notion that a newspaper should devote itself fully towards serving the community it covers, while always maintaining the highest journalistic ideals, Dunaief's business grew into a six-newspaper chain with a circulation of over 30,000, covering the entire North Shore area from Wading River to Smithtown.

During her 20 years in the weekly community newspaper business, Dunaief has never wavered from that original mission. While other newspapers and television news outlets may have chased sensationalistic stories in the pursuit of a profit, Dunaief's Times/Beacon/Record chain has maintained what she terms "that starry-eyed commitment to serving this community." That commitment has often meant stepping outside the traditional role of journalists as observers and becoming active participants in the events of their hometown. A recent example of Dunaief's commitment to her hometown was having her newspapers co-sponsor, with John T. Mather Hospital of Port Jefferson, the Cardio-Wise Cafe, a workshop at the hospital that taught local residents how to adopt heart-healthy lifestyles and nutritional habits.

The Cardio-Wise Cafe is just one example of the projects and involvements that have helped Times/Beacon/Record Newspapers become an integral part of the foundation of the communities they serve. Each of the six newspapers were built by Dunaief from the ground up, growing into respected members of the Long Island, New York and National journalism community. Along the way, they have garnered journalism awards too numerous to list in full. "Excellence" is the motto of the Times/Beacon/Record newspaper company, and judging by the opinion of other journalists who have assessed the work of Dunaief's reporters and editors, "Excellence" is the word to which they are committed.

Among the many honors bestowed upon Times/Beacon Record journalists by their peers are the National Newspaper Associations' awards for Best Investigative Reporting and for Feature Photography. The New York Press Association consistently honors Dunaief's newspapers with top prizes, including the prestigious Stuart Dorman Award for General Excellence for the best overall community newspaper in the state. Other New York Press Association awards include top honors for Community Service, Editorial Excellence, Best Front Page, Best Editorial Page, Best Advertising Campaign and Best Looking Advertisement and Dunaief herself has been honored for Best Column. Additionally, the University of Missouri Journalism School has awarded Times/Beacon/Record Newspapers with its Penny-Missouri Award for Best Lifestyle Section. Locally, the Long Island Press Association has honored Dunaief's reporters and editors with numerous awards for journalistic Excellence.

After 20 years in the weekly newspaper business, Dunaief's newspapers have become vital members of the North Shore communities they serve, along the way earning the respect of readers and peers alike. In this age of rapidly emerging technologies, where news and other information are readily available via computer and the Internet, a weekly newspaper is still the only medium that can ably chronicle the happenings and define the character of an entire community. Every Thursday for the past 20 years, The Village Times has done an extraordinary job of offering its readers the kind of news, insight, and guidance that simply isn't available anywhere else. The Times/Beacon/Record Newspapers are the paradigm of what community journalism should be, garnering success and glory by always putting its readers' interest first and always striving for "Excellence."

Congratulations to Leah Dunaief and her able team at "The Village Times." May you continue to serve the community for many years to come.

CLINTON'S DAMAGE TO U.S. FOREIGN POLICY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. SOLOMON. Mr. Speaker, I insert for the record two articles which point out the depths to which the Clinton administration has brought U.S. foreign policy. The first is an oped by Charles Krauthammer, detailing the administration's obsequious appeasement of Communist China, which seems more like a parody with each passing day.

The second is a Washington Times article revealing President Clinton's offer to help Boris Yeltsin get reelected in Russia, in exchange for Russia dropping a recent ban on United States chicken imports. Of course, this ban severely impacted some of President Clinton's friends back in Arkansas.

What is so pathetic is that after Russia imposed this absurd chicken import ban, the Clinton administration's response was not to use our enormous leverage with Russia due to the fact that we provide them with billions of dollars of taxpayer aid. Instead, the President offered to help Yeltsin get reelected, which means making more concessions on matters of national security such as NATO expansion and missile defenses.

Mr. Speaker, China and Russia are two nuclear armed giants that grow more adversarial by the day, and this administration is doing nothing about it. In fact, they are openly encouraging this dangerous trend, and voters should do something about it this November.

[From the Washington Post, Mar. 22, 1996]

CHINA'S FOUR SLAPS—AND THE UNITED STATES' CRAVEN RESPONSE

(By Charles Krauthammer)

The semi-communist rulers of China like to assign numbers to things. They particularly like the number 4. There was the Gang of Four. There were the Four Modernizations (agriculture, industry, technology and national defense). And now, I dare say, we have the Four Slaps: four dramatic demonstrations of Chinese contempt for expressed American interests and for the Clinton administration's ability to do anything to defend them.

(1) Proliferation. The Clinton administration makes clear to China that it strongly objects to the export of nuclear and other mass destruction military technology. What does China do? Last month, reports the CIA, China secretly sent 5,000 ring magnets to Pakistan for nuclear bomb-making and sent ready-made poison gas factories to Iran.

(2) Human rights. Clinton comes into office chiding Bush for "coddling dictators." In March 1994, Secretary of State Warren Christopher goes to China wagging his finger about human rights. The Chinese respond by placing more than a dozen dissidents under house arrest while Christopher is there, then declare that human rights in China are none of his business. Christopher slinks away.

(3) Trade. The administration signs agreements with China under which it pledges to halt its massive pirating of American software and other intellectual property. China doesn't just break the agreements, it flouts them. Two years later the piracy thrives.

(4) And now Taiwan. For a quarter-century, the United States has insisted that the unification of Taiwan with China must occur only peacefully. Yet for the last two weeks, China has been conducting the most threatening military demonstration against Taiwan in 40 years: firing M-9 surface-to-surface missiles within miles of the island, holding huge live-fire war games with practice invasions, closing shipping in the Taiwan Strait.

Slap four is the logical outcome of the first three, each of which was met with a supine American response, some sputtering expression of concern backed by nothing. On nuclear proliferation, for example, Clinton suspended granting new loan guarantees for U.S. businesses in China—itself a risible sanction—for all of one month!

"Our policy is one of engagement, not containment," says Winston Lord, assistant secretary of state for East Asian and Pacific affairs. This is neither. This is encouragement.

Two issues are a stake here. The first is the fate of Taiwan and its democracy. Taiwan is important not just because it is our eighth-largest trading partner. With its presidential elections tomorrow, Taiwan becomes the first Chinese state in history to

become a full-fledged democracy. It thus constitutes the definitive rebuff to the claim of Asian dictators from Beijing to Singapore that democracy is alien to Confucian societies. Hence Beijing's furious bullying response.

The second issue has nothing to do with Taiwan. It is freedom of the seas. As the world's major naval power, we are, like 19th century Britain, its guarantor—and not from altruism. Living on an island continent, America is a maritime trading nation with allies and interests and commerce across the seas. If the United States has any vital interests at all—forget for the moment Taiwan or even democracy—it is freedom of navigation.

Chinese Premier Li Peng warns Washington not to make a show of force—i.e., send our Navy—through the Taiwan Strait. Secretary of Defense William Perry responds with a boast that while the Chinese "are a great military power, the premier—the strongest—military power in the Western Pacific in the United States."

Fine words. But Perry has been keeping his Navy away from the strait. This is to talk loudly and carry a twig. If we have, in Perry's words, "the best damned Navy in the world," why are its movements being dictated by Li Peng? The Taiwan Strait is not a Chinese lake. It is indisputably international water and a vital shipping lane. Send the fleet through it.

And tell China that its continued flouting of the rules of civil international conduct—everything from commercial piracy to nuclear proliferation, culminating with its intimidation of Taiwan—means the cancellation of most-favored-nation trading status with the United States.

Yes, revoking MFN would hurt the United States somewhat. But U.S.-China trade amounts to a mere two-thirds of one percent of U.S. GDP. It amounts to fully 9 percent of Chinese GDP. Revocation would be a major blow to China.

Yet astonishingly, with live Chinese fire lighting up the Taiwan Strait, Treasury Secretary Robert Rubin said Tuesday that the Clinton administration supports continued MFN for China. He did aver that Congress, angered by recent events, would probably not go along.

This is timorousness compounded. Revoking MFN is the least we should do in response to China's provocations. Pointing to Congress is a classic Clinton cop-out. The issue is not Congress's zeal. It is Beijing's thuggery.

Quiet diplomacy is one thing. But this is craven diplomacy. What does it take to get this administration to act? The actual invasion of Taiwan? you wait for war, you invite war.

[From the Washington Times, Mar. 27, 1996]

CLINTON VOWS HELP FOR YELTSIN CAMPAIGN—ARKANSAS' INTEREST IN POULTRY DISPUTE DISCUSSED AT ANTITERRORISM SUMMIT

(By Bill Gertz)

President Clinton, in a private meeting at the recent anti-terrorism summit, promised Boris Yeltsin he would back the Russian president's re-election bid with "positive" U.S. policies toward Russia.

In exchange, Mr. Clinton asked for Mr. Yeltsin's help in clearing up "negative" issues such as the poultry dispute between the two countries, according to a classified State Department record of the meeting obtained by The Washington Times.

Mr. Clinton told Mr. Yeltsin that "this is a big issue, especially since about 40 percent of U.S. poultry is produced in Arkansas. An effort should be made to keep such things from getting out of hand," the memo said.

White House and State Department spokesmen confirmed the authenticity of the memo but declined to comment on what they acknowledged was an extremely sensitive exchange between the two leaders.

The memorandum on the March 13 talks in Sharm el-Sheikh, Egypt, does not quote the two presidents directly but paraphrases in detail their conversation.

According to the classified memorandum, Mr. Yeltsin said "a leader of international stature such as President Clinton should support Russia and that meant supporting Yeltsin. Thought should be given to how to do that wisely."

The president replied that Secretary of State Warren Christopher and Russian Foreign Minister Yevgeny Primakov "would talk about that" at a meeting in Moscow. The meeting ended last week.

Mr. Clinton told Mr. Yeltsin "there was not much time" before the Russian elections and "he wanted to make sure that everything the United States did would have a positive impact, and nothing should have a negative impact," the memo said.

"The main thing is that the two sides not do anything that would harm the other," Mr. Clinton said to Mr. Yeltsin. "Things could come up between now and the elections in Russia or the United States which could cause conflicts."

The memorandum, contained in a cable sent Friday by Deputy Secretary of State Strobe Talbott, was marked "confidential" and was intended for the "eyes only" of Thomas Pickering, U.S. ambassador to Russia, and James F. Collins, the State Department's senior diplomat for the former Soviet Union.

The memo said Mr. Clinton suggested that the chicken dispute and others like it could be made part of talks between Vice President Al Gore and Russian Prime Minister Victor Chernomyrdin.

Mr. Gore announced Monday that Russia has lifted the ban on U.S. chicken imports that had been imposed out of concern that the chicken was tainted with bacteria.

The Washington Times reported March 8 that Mr. Clinton intervened personally in the poultry dispute late last month.

The president's directives to his staff to solve the problem right away benefited powerful Arkansas poultry concerns. Among them is the nation's leading producer, Tyson Foods Inc., whose owner, Don Tyson, has long been a major contributor to Mr. Clinton's campaigns.

U.S. poultry exports made up one-third of all U.S. exports to Russia and are expected to total $700 million this year.

Asked about the memo on the Clinton-Yeltsin meeting, White House Press Secretary Michael McCurry said yesterday that it is "inaccurate" to say Mr. Clinton promised to orient U.S. policy toward helping the Russian leader's political fortunes. Rather, he said, the president wanted to make sure that issues in the two countries do not hamper good relations. The poulty issue was raised in that context only, the press secretary said.

Mr. McCurry, who said he was present at the meeting, also said the president was referring to "positive relations" between the two countries and not political campaings.

Those present at the meeting included Mr. Christopher, CIA Director John Deutch, National Security adviser Anthony Lake and, besides Mr. Yeltsin, four Russian officials, including Mr. Primakov and Mikhail Barsukov, director of the Federal Security Service.

During the discussion, Mr. Yeltsin outlined his political strategy for winning the June presidential elections and said he still had doubts about running as late as last month.

"But after he saw the Communist platform, he decided to run," the memo said. "The Communists would destroy reform, do away with privatization, nationalize production, confiscate land and homes. They would even execute people. This was in their blood."

Mr. Yeltsin said he will begin his campaign early next month, traveling throughout Russia for two months to "get his message to every apartment, house and person" about his plan to strengthen democracy and reforms.

"The aim of Yeltsin and his supporters would be to convince the candidates one by one to withdraw from the race and to throw their support behind Yeltsin," the memo said.

Russian Communist Party leader Gennady Zyuganov is "the one candidate who would not do this" because he is "a die-hard communist," and Mr. Yeltsin noted that he "would need to do battle with him."

Mr. Yeltsin dismissed former Soviet President Mikhail Gorbachev as "not a serious candidate."

"He had awaken one morning and decided to run and would wake up another morning and decide to withdraw his candidacy," Mr. Yeltsin said of his predecessor. "This would be better for him because he now had some standing and if he participated in the elections, he would lose any reputation he had left."

CONTRACT WITH AMERICA ADVANCEMENT

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. PACKARD. Mr. Speaker, the American people overwhelmingly supported our Contract With America. Today we take another step toward implementing the commonsense reforms the American people support.

The measure before us today goes a long way toward ensuring the American dream. It raises the Social Security earnings limit to $30,000 by 2002. The current law punishes our seniors who chose to remain productive beyond age 64. Seniors lose $1 in Social Security benefits for every $3 they earn above $11,250. Today's seniors have a lot to offer and the Government should not penalize them for it.

One of the greatest things this country has to offer is its entrepreneurial spirit. Yet ironically, it is the vehicle for this entreprenuerialism—small business—that bears the burden of overwhelming regulatory machinery. The small business items in the contract return common sense to the regulatory process and gives small businesses the advantages they need to succeed. Small business is the engine that drives this country. When small business succeeds, America succeeds.

Finally, we have the opportunity to implement one of Ronald Reagan's great visions—the line-item veto. This provision would allow the President to selectively weed out wasteful

pork-barrel spending in a bill. It ensures Government spends hard-working American's tax dollars wisely.

Mr. Speaker, the Contract With America outlines a vision for our country based on the values that our Nation holds dear—individual liberty, economic opportunity, and personal responsibility. Our vote today puts us another step closer to making this vision a reality.

HONORING ROBERT P. HARTZELL

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. RIGGS. Mr. Speaker, I rise today to pay special tribute to Robert P. Hartzell, the outgoing president of the California Association of Winegrape Growers [CAGW].

The wine and winegrape industries are extremely important to my district and to the State of California. Let me share with my colleagues some figures to illustrate this point:

At $1.7 billion, grapes are the second highest-ranked California commodity based on farm gate value.

The State's wine industry generates over $10 billion in annual revenue.

In 1995, over 3 million tourists visited California's wineries.

The California industry produces over 90 percent of the wine produced in the United States.

More than 2.6 million tons of grapes are crushed annually for use as wine and concentrate.

These numbers clearly demonstrate the beneficial impact of this important industry on California's economy.

Mr. Hartzell, who has served as CAWG's president since 1978, recently announced his retirement from the association. Prior to his tenure at CAWG, Mr. Hartzell served as deputy director of the California Department of Food and Agriculture under then-Governor Ronald Reagan.

Mr. Hartzell's 17 years of hard work and dedication has contributed to the success of California's winegrape growers in developing a successful and profitable industry. In the mid-1970's, grape growers faced extremely difficult economic times. During those years, Mr. Hartzell was instrumental in the development of a statewide winegrape grower group created to assist the industry.

Mr. Hartzell also is credited with increasing the industry's ability to compete in international markets through his extensive efforts to fund viticulture, consumer, and marketing research. As this industry grows, the development of new export markets becomes increasingly important. Mr. Hartzell recognized the importance of exports long before many others in the wine and winegrape industry.

Over the years, Mr. Hartzell has served as a diplomat for California's winegrape industry, and his efforts have earned the industry respect in the United States and throughout the world.

I commend Mr. Hartzell for his years of service on behalf of the winegrape growers. His efforts will be greatly missed by the entire industry. I wish him the best of luck in his future endeavors.

PORNOGRAPHY ON THE INTERNET

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. SMITH of Michigan. Mr. Speaker, I am concerned about recent stories of children accessing pornographic material on the Internet. This does not, however, mean that there is a problem with the Internet, rather it tells us how much the moral fiber of America has decayed. In short, this material is available because people are demanding it.

When a product is in demand, such as pornographic material on the Internet, there is no system more powerful in delivering these demands than our free market. Therefore, we must focus on strengthening our families' and citizens' morality, so it is no longer acceptable to transmit or possess this material. The Government cannot prevent the market from delivering its product to a want in consumer. We must change the focus of the debate from Government prevention, back to the family responsibility.

Short of this, the Government can only hope to help business by allowing them to be responsible and close off children's access to this material. That's why I supported Representative CHRIS COX'S amendment in the House, which allowed business to filter material without threat of a lawsuit.

A TRIBUTE TO MY MOTHER

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. WELDON of Pennsylvania. Mr. Speaker, I am saddened today to bring to your attention the recent passing of one of this Nation's finest, most caring, and gentlest women—my mother.

Catherine C. Weldon, as she is known to others, was a devoted mother. And devoted she had to be to be put up with raising myself, my six brothers, and my two sisters. Yet she cared for each of us as if we were an only child, giving every one of us the individual attention that children need from their mother. And she did so happily and from the bottom of her heart.

One would think that simply raising the nine of us would have been a full-time job, yet she still found time to become an activist in our church. There she volunteered her time at the Sunday school and various other church activities. She also was the founder and leader of the Pioneer Girls of Marcus Hook Baptist Church.

My mother served her community in other ways as well. She was a regular volunteer for the Red Cross and their local bloodmobile. Additionally, she served on the Parent-Teachers Association at Marcus Hook Elementary School, the school my brothers, sisters, and I attended.

She was married to the late Stephen Weldon, Sr., mother of 9 children: Harry Weldon, Dick Weldon, Kay Weldon Nass, Don Weldon, Betty Weldon Doyle, Bob Weldon, Paul Weldon, myself, and the late Steve Weldon, Jr; 37 grandchildren: Stephen W. Weldon III, Lillian Weldon Speakman, Doris Weldon, Catherine Weldon LeMand, John Weldon, Jennifer Weldon Higgins, Harry Weldon, Jr., Earl Weldon, Lisa Weldon Cowper, Paula Weldon Chaplin, David Weldon, Richard Weldon, Jr., Kerry Weldon McDermott, Timothy Weldon, Craig Weldon, Robert Nass II, Curt Nass, Scott Nass, Tracy Nass Brown, the late Christopher Nass, Donald Weldon, Jr., Glen Weldon, Sandra Doyle Moon, Sharon Doyle Freeman, the late Robert Weldon II, Jeff Weldon, Greg Weldon, Julie Weldon, Clay Weldon, Clint Weldon, Chad Weldon, Christie Weldon, Karen Weldon, Kristin Weldon, Kimberly Weldon, Curt Weldon, Jr., and Andrew Weldon; 54 great-grandchildren, and 2 great-great grandchildren.

Her funeral service will be held at Marcus Hook Baptist Church, in Linwood, PA, on April 2, 1996, at 11 a.m. Friends may call from 9:30 a.m. until 11 a.m. at the church. Internment will follow the service at Lawncroft Memorial Cemetery in Linwood. The Catherine Weldon Christian Education Fund has been setup to receive donations in lieu of flowers. Contributions will be used to provide educational funding for children of families throughout the area. Donations can be sent to the Catherine Weldon Christian Education Fund, c/o the First National Bank of West Chester, P.O. Box 523, West Chester PA 19381.

My mother was truly a remarkable woman. Words cannot express how deeply she will be missed by her friends, neighbors, and relatives.

150 YEARS FOR THE FIRST UNITED METHODIST CHURCH OF DALLAS

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to celebrate the sesquicentennial of the First United Methodist Church of Dallas. This church has seen the city of Dallas grow from the small town that Dallas was in the late 1860's to the booming metroplex of today.

The history of the First United Methodist Church of Dallas begins in 1846 when the Methodist Church sent a minister to the small town of Dallas. The population of the city was about 200. The reverend from the Methodist church met with several resident, formed a small congregation and proceeded to build Dallas' first church on the corner of Commerce and Lamar. In 1879, the church was destroyed by fire. The second church resided at the corner of Commerce and Prather from 1894 to 1916. Then, the church purchased land on the corner on Ross and Harwood and began the construction of the church we know today. It was not completed until February 7, 1926, exactly 80 years after its formation.

During the 1960's, the church was a meeting place for civil rights activists in downtown

Dallas. No other church would let blacks meet in Dallas, but the First United Methodist Church has never discriminated and has always allowed groups to congregate nonviolently within their walls. They believe in accepting people into their church and not turning away people who need their help.

The First United Methodist Church of Dallas, today, is a downtown church which has a distinct identity and culture all of its own and has been able to flourish. People come from as far as north Texas and Waco making the trek downtown, and they pass more convenient churches along the way. Music and the arts are the First United Methodist Church's outreach to its congregation. Many people attend the other activities at the church during the week as well as on Sunday. On Wednesday, the church holds a weekly midday music program where the music is free and a hot homecooked meal is provided for $5.

While downtown churches in many cities are shutting their doors, and are experiencing a decline or moving to the suburbs, the First United Methodist Church of Dallas is holding its own with no plans of abandoning its home in the inner city.

The church is a spiritual landmark for anyone who has lived in Dallas, and everyone has come to know the First United Methodist Church of Dallas and the people who work there as friends. It provides a wealth of services in support to the community and should truly be congratulated for its commitment to Dallas and the people who attend this church. This 150th anniversary celebration recognizes all that the church has given to Dallas, and now it is our turn to give back to it. We wish the First United Methodist Church of Dallas a happy 150 years and many more.

TRIBUTE TO AMERICA'S VOLUNTEER FIREFIGHTERS

HON. GLEN BROWDER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. BROWDER. Mr. Speaker, I rise to pay special tribute to the 1.7 million men and women across America who serve as firefighters. They risk their own lives each day to protect our communities from the destruction that fire causes. They are truly American heroes.

Our Nation, rich in so many things, cannot escape fire's grasp. The United States has a higher incidence of death and property loss due to fire than any other industrialized nation in the world. Each year, we are painfully reminded of the death and destruction fire can cause. Last year alone, 4,275 people died in fires—an average of one death every 2 hours. Fires injured over 27,000 others.

Specifically, I rise today to commend our volunteer firefighters for the excellent job they do in protecting our country's and my State's rural areas. These special people take their own free time, after working long hours on their regular jobs, and volunteer so that others might rest assured that they are well protected. They give everything and expect nothing.

Almost 90 percent of our Nation's fire service is volunteer. In my State of Alabama, 30,000 men and women proudly serve as volunteer firefighters. These dedicated volunteers often must overcome more than just deadly fires. Their fire departments often operate on small budgets, using old equipment, and with small water supplies.

The value of volunteer fire departments extends beyond fire and safety protection. In Alabama's small communities, the building often serves as the community center. Firefighters bind communities together, and they truly embody the idea of people helping other people.

Last fall, after Hurricane Opal's destruction came through Alabama, I accompanied the volunteer department in Gold Hill one Sunday cleaning up the yard of an elderly woman. A huge tree lay across her driveway. We spent several hours removing the limbs and debris from the blocked driveway, clearing a path for her in case of a medical emergency. Being part of such a show of community spirit after such a devastating storm was truly remarkable.

On the way home that evening, I spoke with a crew of power company employees who had just returned from their job of restoring power to homes. One employee told me that were it not for the thousands of volunteer firefighters who began clearing downed trees from the road, it would have been impossible for the power company to reach many of Alabama's hardest hit areas and restore electricity.

Finally, Mr. Speaker, I rise to pay tribute to the three Alabamians who were among the Nation's fallen firefighters. There names were inscribed on the Fallen Firefighters Memorial in Maryland last fall. Jay Boothe, a 17 year old from Shelby County, Bedford Cash, a member of the U.S. Forest Service in Tuskegee, and Herbert Smith, also of Shelby County, paid the ultimate price—giving their lives in the line of duty. In the January edition of the Volunteer, the newsletter of the Alabama Association of Volunteer Fire Departments, Linda Boothe, the mother of Jay Boothe, wrote about the memorial dedication:

> The honor and tributes paid to these fallen heroes is a wonderful display of how a country does care and remember its other heroes—those who serve their country in their own communities and fight the war against the fiery dragon that threatens through carelessness. The monumental plaque with the names of the firefighters that died in 1994 now stands at the monument site so that others can read these heroes' names for years to come.

That, Mr. Speaker, truly sums up the valuable role these volunteers play in so many lives each and every day across this great country. On behalf of the U.S. Congress and a grateful Nation, I say Thank you and God bless you.

INTRODUCTION OF THE SATELLITE HOME VIEWER PROTECTION ACT OF 1996

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. MOORHEAD. Mr. Speaker, the Satellite Home Viewer Protection Act of 1996 seeks to break the logjam in negotiations between the satellite TV industry and network broadcasters created by the Satellite Home Viewer Act of 1994, and to provide subscribers with rights and remedies with respect to reception of satellite-delivered network signals. The Home Viewer Protection Act accomplishes these goals in several ways.

The bill adds new section 119(a)(2)(D) which requires satellite carriers to notify their new and existing subscribers of the network signal restrictions of the 1994 Home Viewer Act. Many subscribers have complained that they have spent hundreds of dollars on satellite equipment without being told that they may not be eligible for service of certain network signals. Further, existing subscribers have had their network service turned off with little or no explanation or information from their satellite carriers. The bill will resolve this problem by placing an affirmative duty on satellite carriers to inform their potential subscribers of the network restrictions prior to their providing service, as well as inform their current subscribers of the restrictions by a date certain.

The bill also provides subscribers, whose service of network signals is challenged by their local network affiliates, a direct means of determining whether they are still eligible for service. If a local affiliate challenges a subscriber in its local service area under the 1994 act, the satellite carrier must inform the subscriber of the challenge in writing. The subscriber then has 30 days to request the satellite carrier to conduct a signal intensity measurement at his household to determine if he is eligible for service of the network signal that is the subject of the challenge. If the subscriber does not make a timely written request, then the satellite carrier must terminate service. The limits placed on the number of measurements that the satellite carrier must conduct, established in the 1994 act, are retained.

If the signal intensity measurement determines that the subscriber is an unserved household, then the local network affiliate must reimburse the satellite carrier for the cost of the survey. If the measurement reveals that the subscriber does not reside in an unserved household, then subscriber must reimburse the satellite carrier.

In order for the new signal intensity measurement procedure to work, there must, of course, be accepted standards for the measurement. Both satellite carriers and broadcasters agreed in 1994 that they would work out the parameters of the measurement under the current law, but they have been unable to do so. The bill provides both sides with a short negotiation period in which to voluntarily agree to terms and conditions, followed by binding arbitration. Arbitration would be governed by the provisions of title 9 of the United States

Code. Whether the signal intensity measurement standards are developed through agreement or arbitration, they must be deposited with the Register of Copyrights for public inspection and copying.

Finally, the bill makes two additional changes regarding the signal intensity measurement. By deleting section 119(a)(8)(D), the measurement is confined to only those subscribers residing within the predicted grade B contour, local service area, of the network affiliate station issuing the challenge. Under the current law, the network has the option of challenging and testing subscribers outside their local service area. As a practical matter, however, most broadcast stations' advertising rate cards are based upon viewers residing within the stations' local service area, so loss of viewership resulting from subscribers outside the local service area does not economically harm broadcasters. Consequently, there is no reason to vest broadcasters with the ability to issue challenges against, and terminate the service of, subscribers who do not reside within their local service area.

The signal intensity measurement procedures of the current law are scheduled to expire at the end of this year. Because of the lack of industry agreement, the procedures have not functioned as envisioned in 1994. Consequently, the bill extends the procedures by an additional year, so that the network challenge and signal intensity measurement regime will not expire until December 31, 1997. I intend to announce a hearing date and a date for markup after the Easter/Passover break.

CONGRATULATIONS TO COLETTE JOHNSON

HON. GREG GANSKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. GANSKE. Mr. Speaker, I would like to bring your attention to the excellent work and accomplishment of Colette Johnson for being a national winner in the Voice of Democracy contest sponsored by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary. Colette is a senior at Abraham Lincoln High School in Council Bluffs, IA.

I want to offer my congratulations to Colette and to VFW Post 737 in Council Bluffs for sponsoring her in this contest. Following is Colette's inspirational essay "Answering America's Call."

ANSWERING AMERICA'S CALL

(By Colette Johnson)

It's time to put the phone back on the hook. She's been trying to get through to you. You took the phone off to forget about your responsibilities. But it's an urgent call. She's been trying to get through. She needs your help. She's calling now. America's calling. You need to answer her call.

Who's calling? America? Your country. But without people she's just a name. A country isn't great because of its land. A country isn't great because of its buildings or cars or weapons. The only thing that can make a country great is its people—people who care, people who are willing to give of themselves, because they have a dream bigger than themselves—a dream of what America should be. America needs dreamers. She needs people who see a land free from the destruction of pollution, where the beauty of nature is cherished and protected. She needs people who see a land free from the shame of pornography, where women and children are never exploited, but are respected. America needs people who see a land where every home is safe from drug abuse and alcoholism, where it is safe to drive through every neighborhood, where every child is free from the fear of abuse and kidnapping, where no one is discriminated against because of their age or color or disability, where all men are brothers, and all brothers are kind. America needs dreamers.

But America needs dreamers who will wake up and do something. It's not enough to dream. America needs people who will make their dreams a reality. She needs people who will do what they should do and not just what is easy to do. America needs dreamers who will plant trees, conserve water, ride bikes, people who will protest pornography and protect its victims. She needs dreamers who will provide foster homes and adopt and love unloved children. America's dreamers need to work with drug and alcohol rehabilitation. America needs dreamers who will look beyond age and color and disability and love all people.

Be a dreamer. America needs dreamers. But more importantly, be a dreamer who makes a dream a reality. As Henry David Thoreau said, "If one advances confidently in the direction of his dreams, and endeavors to live the life which he has imagined, he will meet with a success unexpected in common hours." Don't leave the phone off the hook any longer. Answer America's call. She needs you.

ELIMINATE DOUBLE TAXATION OF LUMP SUM SEPARATION BENEFITS FOR VETERANS

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. MONTGOMERY. Mr. Speaker, I am introducing legislation today, H.R. 3183, which would eliminate double taxation of lump sum separation benefits for a veteran who is subsequently determined to be entitled to compensation for a service-connected disability.

This bill would not only do equity, it would correct a legislative oversight.

Prior to 1981, the Department of Veterans Affairs was required to recoup only 75 percent of the total amount of the military separation payment by withholding disability compensation. This provision was intended to account for the inequity of recouping taxable separation pay with nontaxable compensation.

The enactment of 10 U.S.C. 1174(h) eliminated the percentage recoupment and established total recoupment of separation pay. The effect is to require the veteran who has paid income tax on the total separation pay to, in effect, pay that tax again, out of his disability compensation.

H.R. 3183 would correct this inequity by limiting future recoupment of separation pay to no more that 75 percent of the benefit received.

I urge my colleagues to join me in cosponsoring this legislation.

RETIREMENT OF JAMES E. SULLIVAN

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. NEAL of Massachusetts. Mr. Speaker, today I would like to congratulate Mr. James E. Sullivan of Springfield, MA, on his retirement from the Massachusetts Turnpike Authority after more than 20 years of diligent service. Mr. Sullivan, or Jimmy, is a lifelong resident of Springfield and hails from a family with a strong tradition in public service. The youngest of five brothers, James answered the call to public service shortly after his graduation from Cathedral High School in 1949 when he joined the 104th Air National Guard. Jimmy served the Guard dutifully for 9 years, handling supplies and public relations for the 104th. Following his honorable discharge, James began a distinguished working career in a wide_variety of occupations including finance, sales, media, and ultimately transportation. It was in this final area that James excelled, working his way up the ladder of the Massachusetts Turnpike Authority from a toll taker to an assistant superintendent, a position he held for the past 17 years.

In addition to his outstanding work for the MTA, Jimmy was extremely active in a host of community activities. He served as president of the Sacred Heart Holy Name Society and is currently a lecturer and a eucharistic minister at Our Lady of Hope Parish in Springfield. He was also a member of several organizations that have made tremendous contributions to the Springfield community. Among these organizations are the Knights of Columbus, the Archbishop Williams Council, and the Springfield Elks Lodge. James also served as the chairman of the Ward 2 Democratic Committee in Springfield. It was also from this position that he offered tremendous support for the many area politicians who hailed from ward 2, including myself.

In addition to these other activities, Jimmy has been tremendously active in Irish affairs both at home and abroad. As a member of the John Boyle O'Reilly Club and the host of an Irish radio program for 25 years, he is intensely proud of his Irish heritage. These two activities have provided him with an ideal vehicle to expose several generations of Irish-Americans, in the Springfield area, to the rich traditions of song and history that Ireland enjoys. He has also been a longtime advocate of the peace process and I know he has done much to promote this sentiment throughout our region.

I would like to congratulate Jimmy on a wonderful career and I wish him all the best as he enjoys his retirement with his wife Peggy, his children Margaret, Sean, and Thomas, and his granddaughter Kaila. While this retirement is a tremendous loss for the MTA, I know that it will enable him to devote even more time to a family he cares for deeply.

I would also like to salute Jimmy Sullivan as a true public servant. His devotion to his family, his church, his job, his country, and his heritage have enabled him to enrich the lives of all who know him. As his Congressman, fellow Democrat, and personal friend, I join the citizens of the Second Congressional District in offering Jimmy our heartfelt congratulations. His life and service to his community are an inspiration to us all and I thank him for all that he has done.

GROWING SUPPORT FOR MINIMUM WAGE INCREASE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. STARK. Mr. Speaker, the last minimum wage adjustment made in 1989 has been completely eroded by inflation. However, we can learn from the experience of that last increase to help assuage the fears that another increase will be detrimental to employment opportunities.

According to analysis by Richard B. Freeman, the preeminent labor economist from Harvard University, studies done on the 1989 minimum wage increase show "that moderate increases in the minimum (wage) transferred income to the lower paid without any apparent adverse effect on employement. * * *"

Translation: the 1989 minimum wage increase did not cost jobs; it did boost the incomes of affected workers.

Mr. Speaker, the 1989 increase was overwhelmingly supported on a bipartisan basis in both the House and the Senate before being signed into law by President Bush. It is time for this Congress to address the wage erosion for low-wage workers with a meaningful minimum wage increase. It is time that the people's House began addressing the real concerns of people.

CONTRIBUTIONS TO THE AMERICAN HERITAGE CLUBS OF NORWALK-LA MIRADA AND CARSON, CA

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. TORRES. Mr. Speaker, I rise today to recognize a special group of individuals who have generously supported the American Heritage Clubs of Norwalk-La Mirada and Carson, CA. It is through these contributions of time, energy, and unwavering dedication, that the young people of our community receive the educational opportunity they deserve. The kindness of the following individuals is greatly appreciated:

Roger Leue, for three decades of dedication to Carson's youth; Ted Kimura's support of the 1995 tour of our Nation's Capital; Dr. Caroline Hee for her continuous support and her special floral arrangement at the 1995 Luau; the leadership Elito Santarina displayed in organizing the Carson High American Heritage tour of Washington, DC; the financial support of Dr. Dhyan Lal for the 1994–95 trip; to our 1996 grand marshall, Jesse Sapolu and the fine example he sets for not only the youth of the Pacific Islands, but for all Americans; and the financial support provided by Mayor Don Dear greatly contributed to the success of the Washington, DC, tour for students of Stephen White Middle School.

In addition, we owe a debt of gratitude to Peggy Flores for her guidance and smiling face; Cheri Webster for her willingness to always rise to the challenges that the Washington tours present; Desiree Sullenger for her tireless work on numerous fundraisers; Jim and Bette Hannum, Bev Thies and Marianne Estes, your presence on the trips to Washington was immeasurable; Ernie and Jolinda Marquez and Joe and Mary Mendoza, concerned and caring parents are the foundation of the American Heritage Clubs.

Mr. Speaker, I ask my colleagues to join me in paying tribute to these special individuals. Their commitment enables the youth of Norwalk-La Mirada and Carson to make these annual historic and educational trips to Washington, DC. The youth in our community will be forever grateful to each of these caring individuals for helping with this extremely valuable experience.

THE INDIANA REGIONAL MINORITY SUPPLIER DEVELOPMENT COUNCIL IS VERY GOOD NEWS

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. JACOBS. Mr. Speaker, thank God there is good news as well as bad.

The Indiana Regional Minority Supplier Development Council is very good news because it plays a positive and effective role in building up the backbone of American enterprise, small business.

For nearly 20 years the council has brought together large majority businesses with small minority business suppliers in the State of Indiana. And the result has been a very happy one both for the large and small corporations.

In 1976 the Indiana Regional Minority Supplier Development Council was responsible for generating about 6 million dollars' worth of business between the large and small companies. By 1982 that figure had grown to $38,800,000. All this meant expanding employment opportunities and expanding businesses which have proved their capacity to endure and continue contributing to our economy.

All Hoosiers and, in a larger sense, all Americans are the beneficiaries of this fine organization which under the leadership of Donald Jones is obviously here to stay and one more reason why the American free enterprise system is also here to stay.

CITIZENS FROM FORT WORTH EARN EDUCATIONAL HONORS

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. FROST. Mr. Speaker, I would like to take this opportunity to acknowledge two outstanding citizens from the city of Forth Worth who have won national education honors and made themselves shining examples to their community.

When Shirley Knox-Benton, who is the principal of Dunbar High School in Fort Worth, first arrived at the school she encountered a situation where students were unable to learn. Gang violence was rampant, trash was everywhere, and good students were afraid to shine.

Mr. Speaker, along with the invaluable help from some dedicated parents, Mrs. Knox-Benton turned Dunbar High around. That success has not gone unnoticed, as this week Mrs. Knox-Benton was notified that she had won a 1996 Reader's Digest American Hero in Education award along with a $10,000 check for Dunbar High and $5,000 for herself.

Mr. Speaker, Mrs. Knox-Benton is the first Fort Worth winner in this 8-year program. She was chosen from a pool of 650 nominees nationwide. Her commitment to excellence, and her leadership at this critical time in our Nation's education system both deserve the highest honor.

Mr. Speaker, I also want to honor a student at Dunbar High, senior Kim Wood. Mr. Wood is the only student in the Fort Worth school district to win a National Achievement Scholarship for Black Americans.

Mr. Wood won the award by scoring in the 98th percentile among all juniors nationwide and in the top 3 percent among black students on the Preliminary Scholastic Assessment Test.

Mr. Speaker, by winning these national honors, Mrs. Knox-Benton and Mr. Wood have held themselves up as shining examples of what can be accomplished through hard work and a dedication to success. I wish them both the best in their future endeavors.

NATIONAL INVASIVE SPECIES ACT OF 1996

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. MILLER of California, Mr. Speaker, I am pleased to be an original cosponsor of the National Invasive Species Act of 1996 which is being introduced today by Congressman STEVEN LATOURETTE and Senator JOHN GLENN to establish a national voluntary ballast management program for vessels visiting U.S. ports. In addition to ballast management, this legislation will provide for research, education, and new technology to investigate and prevent species introduction in coastal and inland waters.

Aquatic species invasion is of tremendous concern in the San Francisco Bay/Delta Estuary. According to a recent report, the San

Francisco Bay and the entire Delta is now considered "the most invaded aquatic ecosystem in North America."

Current estimates indicate that an average of at least one new species is established every 12 weeks in the Bay, posing serious threats to the Bay ecosystem and economy. Hundreds of thousands of dollars are spent on controlling introduced species, and there are other expenses, such as reduced shipping efficiency due to hull fouling species and damages to piers from wood boring species.

The most disturbing cost of introduced species is the extinction or regional eradication of native species in the Estuary through competition and predation from introduced species. Introduced species have contributed to the extinction of some species of California freshwater fish and are now strongly contributing to the further demise of some endangered marsh birds and mammals. One introduced species, the Chinese mitten crab, can multiply so prolifically that it poses a threat to the Bay-Delta Estuary's ecology, agriculture, and water agencies. The presence of this species and other introduced species have lead to increasing restrictions on channel dredging, levee maintenance, water diversions, and other economic activities in and near-the Estuary, with costly implications for the whole of California's economy.

The ballast water of commercial vessels is a leading vector by which nonindigenous species enter U.S. waters. Cargo vessels arrive with thousands of tons of ballast water used to achieve the necessary trim and stability for ocean voyage. The ballast water contains eggs, larvae, and other marine organisms which are released in port depending on a vessel's cargo-loading requirements. One vessel could discharge tens of millions of viable organisms in San Francisco Bay. Hundreds of cargo vessels arrive each year in the Bay, establishing essentially a "biotic corridor" for species invasions in this coastal area. Ballast exchange can reduce the probability of ballast transfers of these non-native species.

There is tremendous support for Mr. LATOURETTE's bill among environmental groups, water agencies, and state and federal agencies in the Bay Area and throughout the country. Understanding the patterns of species invasions and reducing the occurrence of those invasions is imperative in promoting the economic and ecological health of our coastal resources. I encourage members to join me in supporting this legislation.

CELEBRATING THE RETIREMENT OF BETTY BOYER

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. POSHARD. Mr. Speaker, I rise today to pay tribute to Mrs. Betty Boyer, a legend in Illinois journalism who is retiring this month. In 1966, she started her own newspaper, the Coles County Daily Times, in Charleston, IL, because she was not satisfied with the quality of local news reporting. You can imagine what the reaction was to such an enterprise at that time. Despite her detractors, Betty not only survived, but thrived, and in the process raised the standard for news coverage in the area. I would like to congratulate her on a distinguished career, and also thank her for her contributions to the quality of life in the 19th District.

Betty started her journalism career working for the other paper in town, The Courier-News. After a couple of years with the Times, Betty purchased the competition, and in 1969 formed the Times-Courier. She sold the paper to Howard Publications in 1972, but remained there to run the show, same as before. Perhaps Betty's most extraordinary quality is her diverse character. Regarded by all as sweet-natured, she is a loving wife and mother of three, and also has six grandchildren. She is equally known for her tough stances in dealing with city officials who objected to her straight-ahead style of journalism. Add to that the talented and professional staff who worked for her, many of whom moved on to larger arenas, that still consider her a magnificent boss, if not a surrogate mother. The stories of Betty desperately seeking bank loans or saving the paper supply from a flooded basement have joined a canon that encompasses a career of over 30 years. In addition to her journalistic accomplishments, Betty was named the "Outstanding Citizen" in 1982 by the Charleston Area Chamber of Commerce and has been a patron of the local arts.

Mr. Speaker, conventional wisdom says that you cannot believe everything you read. Regular readers of the Times-Courier beg to differ. Thankfully, the quality Betty has worked so hard to achieve will be with us for a long time. It has been an honor to represent Betty Boyer in the U.S. Congress, I wish her every happiness as she enters this new stage of her life.

TRIBUTE TO LOUIS PATAKI

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mrs. KELLY. Mr. Speaker, the Hudson Valley and the people of my congressional district sustained a tremendous loss this week when Louis Pataki, father of New York Governor George Pataki, passed away.

A life-long resident of the Hudson Valley, Mr. Pataki was born in Peekskill, NY, into a family of Hungarian immigrants. It was in Peekskill that he raised his own family and continued to operate the family farm for many years. Mr. Pataki was a beloved father and grandfather whose devoted care shaped the lives of his children and grandchildren.

Louis Pataki was also devoted to his community and to his country. He worked as a mailman and retired as assistant postmaster in Peekskill after 30 years of service. For more than 50 years, he also served as a volunteer fireman who protected the lives and property of his neighbors.

Speaking on behalf of the Pataki family, the Governor said "* * * no one cared more or did more for his family and community than our father. We owe everything to him, and we will miss him enormously." What better tribute to family values has any of us ever heard?

Mr. Speaker, we have sustained a great loss and we reach out to the Pataki family in their grief. But even so, the spirit and integrity of Louis Pataki continues on in his wonderful family, and in the memory of his many friends whose own lives were enriched by him.

THE MARCH OF THE LIVING PROGRAM

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mrs. LOWEY. Mr. Speaker, next month thousands of young people will participate in the March of the Living Program. I would like to take this opportunity to commemorate the participants and organizers of this very special program.

Since 1988, the March of the Living Program has provided over 20,000 young people from around the world with an extraordinary method of Holocaust education. Participants of the program are taken to visit the concentration camps in Poland to view the sites of Nazi atrocities. They are shown the gas chambers, crematoria, and piles of personal articles confiscated from the children who perished in the camps. From there, the participants go to Israel to see the great triumph of those who survived the Holocaust and went on to create a nation.

Although this program will be a unique and wonderful opportunity for the participants, it will not receive the support of the Austrian Government. The Austrian Government has chosen not to participate in the program, and is thereby passing up an opportunity to affirm its commitment to the preservation of Jewish heritage. I am very disappointed in this decision, and have written to the Austrian President and Ambassador asking them to reconsider this decision.

The March of the Living will go forward this year, and it will be a profound experience for all those participating. It will be truly unfortunate, however, if the Austrian Government is not one of those participants.

TRIBUTE TO TRUMAN KOEHLER ON HIS RETIREMENT FROM SANDOZ CORP.

HON. SUE MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mrs. MYRICK. Mr. Speaker, in a time when America so desperately needs clear leadership; in a time when America so desperately needs ethical leaders; in a time when America needs to rally all of our best resources to find effective and fair ways to make crucial business, community and government decisions, I am pleased to bring to your attention an excellent role model for all of us.

The exemplary business leader to whom I refer is Truman L. Koehler. Truman currently serves Sandoz Corp. as the president of Master Builders, Inc., based in Cleveland, OH, and

as a member of the executive committee for Sandoz Corp., based in New York. But he plans to retire from these positions on May 1 to return to his home since 1981 in my favorite city, Charlotte, NC.

This is good news for Charlotte, for North Carolina, and for America. For during all of his business life, Truman has used his time, mind, and leadership talents to improve the quality of life on local, State, and national levels. With time away from daily management duties, I fully expect us to benefit from Truman's leadership in many ways on all of these levels.

Truman prepared himself for industry by earning a bachelor's degree in chemistry from Muhlenberg College in Allentown, PA. He continued to prepare himself for business leadership by earning a master's degree in experimental statistics from Rutgers University in New Brunswick, NJ, while working in quality control for Sylvania Electric Products, Inc., from 1952 to 1957. His keen mind and straight-forward manner were great assets to American Cyanamid Corp. in a wide variety of technical, marketing, and management assignments from 1957 to 1981. While taking on increasing management responsibility, Truman took time to develop and teach a series of evening courses in applied statistics in areas such as biology, agriculture, and ecology.

Truman came to Charlotte in 1981 as president and chief executive officer for the Sodyeco Division of Martin Marietta Corp. When Sandoz Ltd. of Basel, Switzerland, purchased Sodyeco in 1983, and later merged it with Sandoz United States dyes and chemical businesses, Sandoz worldwide executives selected Truman to continue to run the new company, Sandoz Chemicals Corp. As president and chief executive officer of these businesses for 10 years, Truman led State and local initiatives that brought community and business interests together for the benefit of all our citizens.

For example; during his 10 years in Charlotte, Truman chaired the mayor's Blue Ribbon Committee that recommended and then guided the development of an emergency response system for the city; served as a director Executive Committee member and a leader of the nationally acclaimed Environmental School for the Charlotte Chamber of Commerce; encouraged the development of a Manufacturer's Council to assure a steady and effective partnership among manufacturing merchandising and service members within the Charlotte Chamber; and to represent manufacturing interests in the community; served the community as a trustee of Science Museums of Charlotte; served all of the citizens of the State as chairman of the North Carolina Governor's Commission on Hazardous Waste Disposal; and continued to serve his alma mater as a trustee of Muhlenberg College on Allentown, PA.

During that time, Truman also served our Nation by using his commitment to intelligent and safe management of safety and environmental issues to help set standards and policies for the professions and industries he has served. He is a Fellow of the American Society for Quality Control and has served as director of the National Association of Manufacturers, the Chemical Manufacturers Association, and the National Paint and Coating Association.

Truman is recognized by his professional colleagues as a strong example of the best in American management. They know him to be an able and talented manager with a sincere concern for the financial and safety welfare of his employees; committed to safety and environmental responsibility; and an intelligent business executive who cares about the quality of life for his employees and his communities.

Charlotte enthusiastically welcomes back one of our most progressive and effective business civic leaders.

TRIBUTE TO EDDIEMAE LIVINGSTON, A "CAN DO" WOMAN

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. PAYNE of New Jersey. Mr. Speaker, I would like to introduce my colleagues to Ms. Eddiemae Livingston. Ms. Livingston is a true "can do" woman. I have known her for 30+ years and I still marvel at her compassion, passions, and competence.

Eddiemae Livingston was born in Newberry, SC. She was the valedictorian of her high school graduating class and graduated cum laude from Benedict College in 1942. She was employed for nearly 5 years by the Federal Government in Washington, DC, and Newark, NJ. The city of Newark benefited from Ms. Livingston's expertise for more than 40 years. She served in a variety of positions from clerk-typist to assistant chief clerk, and executive secretary.

Ms. Livingston has a passion for perfection. This quality is evident in her professional, civic, social, and religious activities. She is active in many organizations and her skills and leadership have been recognized by all.

She has been active as a girls' counselor at the Newark YMWCA. Her work with the Newark Branch NAACP has been extraordinary. She served as an executive board member for 12 years. She now holds the title of Board Member Emeritus. She holds two NAACP life memberships and two NAACP Golden Heritage memberships. Her membership with the Hopewell Baptist Church began in 1963. She has served as its financial secretary for more than 12 years. Ms. Livingston has been a board member of the Newark Community Health Centers for 7 years and a member of the Mayor's Commission on the Status of Women.

Eddiemae Livingston enjoys bridge and poetry writing. In 1989, I was deeply honored when Ms. Livingston read one of her original compositions at the swearing-in reception for my first term in Congress. She has written two books, "Poems and Reflections For All Occasions" and "Bridge Reflections in Rhyme."

Mr. Speaker, I am honored to commend to the permanent record of the U.S. Congress the life and works of Ms. Eddiemae Livingston.

COLORADO UNIVERSITY ATOMIC PHYSICS PROGRAM IS NO. 1

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. SKAGGS. Mr. Speaker, I rise to congratulate the Atomic and Molecular Physics Program at the University of Colorado, which was recently ranked first in the Nation by U.S. News and World Report.

Coloradans are very proud of these CU scientists, who this year won a ranking above such great institutions as Harvard, MIT, Stanford, and the University of California, in gaining this recognition.

The 8 professors and 40 graduate students in this small but powerful program have reason to be proud. The No. 1 ranking was based on a survey of department heads and directors of graduate schools who rated the institutions on the excellence of scholarship, curriculum, and quality of both faculty and graduate students.

Special recognition goes to CU physicists Eric Cornell and Carl Weiman and graduate students Jason Ensher and Michael Matthews who gained headlines last year when they created a new state of matter that was first predicted by Albert Einstein. This team, in a cooperative effort with the National Institute of Standards and Technology [NIST], created a new state of matter by cooling rubidium atoms to less than 170 billionths of a degree above absolute zero. At that temperature, atoms lose their individual identity and combine into a superatom form. For more than 25 years, scientists have been working to create this effect.

I've been watching the achievement of this great program for years and I am thrilled that they are finally getting the recognition they deserve. I join Chancellor Roderic Park, the faculty, students, and alumni at CU and physicists everywhere in celebrating the achievements of this great program.

HONORING GREEK INDEPENDENCE DAY

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Ms. MOLINARI. Mr. Speaker, last week marked a monumental day for the thousands of Greek-American residents throughout our country. As you know, the very democratic principles which our American Founding Fathers were inspired by in creating our independence were originally born in ancient Greece. This past March 25, we celebrated the 175th anniversary of the independence of the nation of Greece.

In more modern times, the Greek-United States relationship has grown especially strong. In fact, Greece is one of only three countries in the world which allied itself with the United States in every major international conflict in this century.

Our celebration this day was unfortunately tempered by the pain and outrage felt by Cyp-

riots who have lived with 20 years of occupation and horrible human rights abuses. We must keep in mind how essential it is for the United States to: First, keep the pressure on Turkey, second, to address these terrible atrocities, third, to further help the people of Cyprus, and finally fourth, to do all we can to stabilize relations between Turkey and Greece.

In closing, Mr. Speaker, let me mention that this weekend many of my friends and colleagues—including several constituents from the Holy Cross Greek Orthodox Church in my district—will be marching up Fifth Avenue to celebrate this historic event. I join with them, and the over 1 million American citizens who are of Greek ancestry, in celebrating this very special occasion. I look forward to many more years of fostering the close relationship which exists between America and Greece.