SENATE—*Thursday, October 30, 1997*

The Senate met at 10 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 guest Chaplain Dr. Charles Lever, Lake Magdalene United Methodist Church, Tampa, FL. He was born in South Carolina, but he moved to Florida.

We are glad to have you with us.

PRAYER

The guest Chaplain, Dr. Charles Lever, Lake Magdalene United Methodist Church, Tampa, FL, offered the following prayer:

Almighty God, You know the desires of our hearts, the burdens we bear, and the temptations we confront. Awaken us anew to Your way, that our hearts may be made pure, our burdens lightened, and our will made steadfast in confrontation with temptation.

We pray for our Nation, for we realize the wisdom of the Psalmist who wrote, "Lest the Lord build the house, they labor in vain who build it." We pray for the world, for we know that You are the creator of all peoples. As we celebrate our commonality as Your people in this global community, we also recognize the great diversity that exists between and among us. As the destiny of our Nation is tangled with the destinies of other nations, let us seek a world in which we can live and work together, always seeking the betterment of people everywhere, and never yielding to those who oppress the human spirit.

Bless these men and women of the U.S. Senate who seek to lead this Nation through the challenges of each new day. Grant them Your wisdom as they bear the tremendous responsibility for so many, that the decisions they render might bring healing and hope to those under their care. Empower them to find Your way in the midst of the crossroads of life that Your vision and Your kingdom may be first in their minds and hearts.

For Your presence with us in a world which all too often teeters between faith and doubt, hope and despair, we give You thanks for Your healing and renewal in both our public and private lives. Enable us in all our ways to follow after You in the paths of righteousness. We ask this, O Lord, in Your name, which is above every name. Amen.

DR. CHARLES LEVER, GUEST CHAPLAIN

Mr. MACK. Mr. President, the Senate is honored today to have Dr. Charles Lever with us. Dr. Lever is the senior minister at the Lake Magdalene United Methodist Church in Tampa in my home State of Florida. We are also happy to have his wife, Xiommy, who works as a hematopoeitic product specialist at Ortho Biotech and is also active in the church as a certified lay speaker and is involved in Disciple Bible Study and the Walk to Emmaus. They have two sons—Chaz who is in the seventh grade, and Chapman, who is in the first grade.

Dr. Lever was called to the ordained ministry as a young man. He began his education at Wofford College in South Carolina, where he earned a bachelor of arts degree. He earned a master of divinity from the Candler School of Theology at Emory University in Atlanta, and a doctor of ministry from Vanderbilt University in Nashville. He has also done continuing education work at the Jerusalem Center for Church Studies in Israel, and the Robert Schuller Institute in Garden Grove, CA.

Among his many educational and leadership awards and honors are the American Legion Award, induction into Phi Beta Kappa, Blue Key, and numerous other honorary fraternities and societies.

Mr. President, with some 3,200 members, Lake Magdalene Methodist is one of the largest churches in Florida. But Dr. Lever's accomplishments have always extended far beyond the santuary of his church. He is a leader in numerous organizations serving the people in his local community. Among these are the 90-unit apartment complex for the elderly, 125-unit child care center for low-income families, and the Life Center for older adults that he served as minister at the Riverside Park United Methodist Church of Jacksonville, FL.

He is active in both district and conference affairs of the United Methodist Church in Florida. He has served on the board of the Christian Enrichment School, the district committee on finance, and the Conference Council on Ministries.

The list of Dr. Lever's church and community leadership achievements is impressive and quite extensive. I ask unanimous consent that his biography be printed in the RECORD in its entirety at the end of my statement.

Let me say again, Mr. President, the Senate is honored and very pleased to have Dr. Lever with us today, and we appreciate his opening prayer this morning. I'm sure all my colleagues wish him and his family all the best in his ministry to the members of Lake Magdalene United Methodist Church of Tampa, FL.

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

DR. CHARLES C. LEVER, SR.

Dr. Charles C. Lever, Sr. is the Senior Minister at the 3,200 member Lake Magdalene United States Methodist Church (UMC) in Tampa, Florida. His wife, Xiommy is a Hematopoietic Product Specialist with Ortho Biotech, one of the Johnson and Johnson family of companies. They have two sons, Chaz, who is in the 7th grade and Chapman, who is in the 1st grade.

Dr. Lever received his Bachelor of Arts degree from Wofford College is Spartanburg, SC; his Master of Divinity degree from Candler School of Theology at Emory University in Atlanta; and has Doctor of Ministry degree from Vanderbilt University in Nashville, TN. Dr. Lever's continuing education credits include work at the Jerusalem Center for Church Studies in Israel; the Robert Schuller Institute in Garden Grove, CA; and others.

Dr. Lever is the recipient of the American Legion Award for "Courage, Honor, Leadership, Patriotism, Scholarship and Service." He has been inducted into the International Honorary Chapter of the Sigma Nu Fraternity, the Phi Beta Kappa "National Scholastic Society," and Pi Gramma Mu "National Social Science Honor Society," the International Society of Theta Phi for "Scholars and Leaders in Religion," the Blue Key National Honor Fraternity which recognizes "Academic and Extracurricular Leadership," and has been listed in various volumes of "Who's Who, Outstanding Young Men in America," and "The Dean's List."

Dr. Lever has a varied background in Christian Ministry. In college he served as Youth Counselor at the Look-Up Lodge and Camp in Traveler's Rest, SC; as a Youth Director at Duncan Memorial UMC in Spartanburg, SC; and as a Summer Youth Director at Southside UMC in Jacksonville, FL. In seminary he served as Minister of Martin's Chapel UMC in Lawrenceville, GA; as Chaplain to the terminal care unit at Wesley Woods Health Center in Atlanta, GA; and as Chaplain to the oncology unit at Crawford Long Memorial Hospital in Atlanta, GA. Dr. Lever's first appointment in the Florida Annual Conference was to the Ortega UMC in Jacksonville, FL. He then served Swaim Memorial UMC also in Jacksonville. While at Swaim UMC, Frank and Helen Sherman gave seven million dollars to begin the Sherman Scholarship program for students entering the ministry from the Florida Conference and one thousand dollars to begin a preschool program during the weekday at the church. After Swaim UMC, Dr. Lever then served Riverside Park UMC in Jacksonville until his appointment to Lake Magdalene UMC in June, 1995. Riverside Park is recognized for its numerous outreach ministries including a ninety-unit apartment complex for the elderly, a 125-unit child care center for low income families, and The Life Center (a community outreach ministry for older adults which draws individuals from around the city).

Dr. Lever is active in both District and Conference affairs. In the Jacksonville District he served on the Board of the Christian

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Enrichment School, the District Committee on Finance and the District Committee on Superintendency. He also served as Chairman of the District Committee on Ordained Ministry. On the Conference level, he has served on the Conference Council on Ministries, the Conference Work Area on Education and he currently serves on the Conference Board of Ordained Ministry (CBOM). On the CBOM he serves on the Executive Committee, the Guidance Committee, the Policy Committee and as the CBOM Secretary.

Dr. Lever has served on numerous boards and agencies. Among these are the boards of the St. Marks Ark Lutheran Church Child Care; the Riverside Park Apartments; The Riverside Park Child Care Center; and The Life Center. He has also served as Vice-Chair of the Wesley Manor Retirement Community and as Vice Chair of the Wesley Villas which is currently completing a 6 million dollar, 640-unit villa retirement complex.

Dr. Lever received his calling into the Ordained Ministry as a youth and received his License to Preach in 1975. He met his wife, Xiommy, on a double-date in high school (they were both dating other individuals as the time) and ended up dating their senior year in high school. Their common love for the church and of one another made them an ideal match for each other. Today, Xiommy is active in Disciple Bible Study and the Walk of Emmaus. She also serves as a Certified Lay Speaker in the United Methodist Church.

Dr. Lever is excited to be sharing in the ministry of Lake Magdalene UMC. He believes that the bedrock to our faith is to be found in coming to know Christ and in making Him known to others through word and deed. It is to this end that Dr. Lever has committed his life to God's Kingdom.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator GREGG, is recognized.

Mr. GREGG. Thank you, Mr. President.

SCHEDULE

Mr. GREGG. Mr. President, this morning the Senate will immediately proceed to executive session for consideration of Calendar No. 324, the nomination of Charles Siragusa of New York to be a U.S. district judge. Under the order, the time between now and 10:30 a.m. will be equally divided between the chairman and the ranking member. At the expiration or yielding back of time, the Senate will proceed to a vote on the Siragusa nomination. Therefore, Senators should be alerted that there will be a rollcall vote this morning at 10:30 a.m.

Following the vote, there will be a period of morning business until 12 noon. At 12 noon the Senate will begin consideration of S. 1292, a bill disapproving the cancellations transmitted by the President on October 6. While that measure has a 10-hour statutory time limitation, it is the hope of the majority leader that much of that time may be yielded back.

The Senate may also consider and complete action on any or all of the following items during today's session: The D.C. appropriations bill, the FDA reform conference report, the Amtrak strike resolution, the intelligence authorization conference report, and any additional legislative or executive items that can be cleared.

I also remind all Senators that under rule XXII, they have until 1 p.m. today in order to file timely amendments to H.R. 2646, the A-plus educational savings account bill. Needless to say, all Senators should expect rollcall votes throughout today's session of the Senate.

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

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

The legislative clerk proceeded to call the roll.

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

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

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF CHARLES J. SIRAGUSA, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NEW YORK

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and proceed to the nomination of Charles J. Siragusa, of New York, which the clerk will report.

The legislative clerk read the nomination of Charles J. Siragusa, of New York, to be U.S. district judge for the Western District of New York.

The PRESIDING OFFICER. The time until 10:30 a.m. shall be equally divided between the Senator from Utah [Mr. HATCH] and the Senator from Vermont [Mr. LEAHY].

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, on behalf of the leader, I ask unanimous consent that the vote scheduled for 10:30 a.m. today be postponed until 12 noon.

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

LEGISLATIVE SESSION

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate now resume legislative session.

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

MORNING BUSINESS

Mr. GRAMS. Mr. President, I ask unanimous consent that a period for morning business now commence until 12 noon and that the previous order with respect to S. 1292 then follow the vote.

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

Mr. GRAMS. Mr. President, I ask unanimous consent that I be allowed to speak in morning business for up to 15 minutes.

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

DOD AUTHORIZATION BILL CONFERENCE REPORT

Mr. GRAMS. Mr. President, I rise in opposition to the conference report to the DOD authorization bill. One of the issues which held up the resolution of the conference was the high performance computer issue. This matter certainly was not resolved to my satisfaction, and I understand that this is one of three issues that may cause the veto of this legislation.

On July 10 the Grams-Boxer amendment passed in the Senate by a vote of 72–27. It created a GAO study on the national security concerns related to computer sales between 2,000–7,000 MTOPS to tier 3 countries. Those countries include China, Russia, and Israel. The amendment was a second degree amendment to an amendment which sought to license exports of these mid-level computers, after they had been decontrolled 2 years ago. Rather than creating an unwise barrier to US-made exports, 72 of my colleagues believed we needed more study of this issue before passing this new regulation on the Senate floor circumventing the usual committee debate and consideration.

Mr. President, as Chairman of the Subcommittee on International Finance, of the Banking Committee, which has jurisdiction over export control matters, I strongly opposed this attempt to circumvent the normal committee process. Chairman D'AMATO joined me in vigorously opposing the underlying amendment, paving the way for a strong Senate vote on the issue.

After the vote, Chairman D'AMATO and the Subcommittee Ranking Member CAROL MOSELEY-BRAUN joined me in sending a letter to the Conferees requesting we be consulted prior to any attempts to modify the Senate provision in conference. I regret that at no time in the months-long process did any consultation occur, even though the issue was clearly one of Banking Committee jurisdiction.

I was informed by the conferees that they had accommodated my request for a GAO study. What I determined from

other sources was that language accompanying my study essentially accomplished the same thing as the underlying amendment my second-degree amendment defeated. And I was supposed to be satisfied because my study remained in the bill.

I applaud my colleagues who worked hard in the conference committee to complete the report. There were many difficult issues effectively handled. In total, the bill is a good one. However, because this bill may be vetoed, I would like to make a strong case for further resolution of this issue once it is returned to conference.

My specific concerns with the provisions of the conference report are the following:

First, rather than a mandate to obtain export licenses for computers between 2,000 and 7,000 MTOPS to tier 3 countries, the conference report would require a 10 day notice to Commerce of a proposed sale. If no government entity opposes, the shipment can be made. This not only creates a bureaucratic nightmare taking scarce resources away from review of truly sensitive export license applications, but the reality would be that there would be an objection to each one of them—if for no other reason that the Government needs more time to look at them. So the 10-day notice requirement essentially implements the intent of the original amendment the Senate defeated. This is not acceptable. The reason we decontrolled in the first place, requiring licenses between 2,000 and 7,000 MTOPS only to questionable end users in tier 3 countries, was to free up needed resources to analyze exports of higher performance computers, including those computers between 20,000 and well over 1 million MTOPS—which are the real supercomputers. Opponents of my amendment insisted on defining computers between 2,000 and 7,000 MTOPS as being supercomputers, but supercomputer technology has long ago passed this level of computers. They are now the kind of computer systems we have in our offices. They are not supercomputers used to design nuclear weapons.

There is a 180-day layover for future decontrol of computer level changes and a 120-day layover for any changes in which countries remain on the tier 3 list. I believe the President should have flexibility to continue to exercise current authority to make these changes. These layovers will give opponents plenty of time to prevent these changes—and will ensure that no changes will be made in the future even though rapid technology advancements challenge us to maintain a system for decontrols in the future.

Mr. President, there is also a requirement for end-user verification that could be unenforceable and also create a strain on limited resources. This language should be worked out with the Administration. Certainly post shipment checks should not be required over 2,000 MTOPS regardless of whether decontrol is made in the future. Even by next year that level of computer will be found in the local computer store, so it is unlikely that all of these verifications could be made. Also, there should be some discretion regarding whether verification in every case is even necessary if the exporter maintains service on the computer.

Mr. President, I am just as concerned about selling sensitive high-technology equipment to military end users, but I don't think this is the right way to stop the few diversions that brought about the original amendment. There is adequate enforcement authority now to address diversions. Those that have occurred are being addressed.

Mr. President, my floor amendment also asks Commerce to work more closely with companies to identify questionable end users than they are doing now. The GAO study will help us study national security interests involving sales of computers at this midlevel. There simply is no need for the provisions added in conference that will compromise our efforts to remain competitive with other nations which do not have these type of requirements. Anyone who will tell you that an export license takes only a short time is wrong. It takes months. And sales have been lost because of our lengthy, burdensome licensing process.

Mr. President, I urge my colleagues to oppose this conference report. I also ask unanimous consent that a copy of my statement at the time my second-degree amendment was offered be printed in the RECORD. That statement relates all of my reasons for opposing the underlying amendment reimposing export licenses of these midlevel computers.

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

[From the Congressional Record, July 10, 1997]

Mr. GRAMS. Mr. President, I understand that there is a lot of concern in this body about United States computer sales being diverted for military use to either China or Russia. None of us wants that to occur. But we have to consider whether the Cochran amendment solves the problem. I believe that it does not.

The Cochran amendment would require export licenses for all midlevel computers. Now, these are not supercomputers, these are not high-end computers. You are going to hear that term, but they are not supercomputers. These are midlevel computers, and they are shipped to China, Russia, Israel, and 47 other countries. We talk about the Third Tier countries. They involve 51 nations, like Russia, China, India, Pakistan, Saudi Arabia, Israel, Romania, and the Baltic States. Some of our future NATO Allies could also be involved. Mr. President, export licenses do not solve end-user problems. These are diversions that would not have been caught during the export license procedure. Export licenses do require end-user certification, but if the end user chooses to ignore the agreement, or if the computer is stolen, that possibility will not be evident in the licensing process. In my judgment, the current system works.

Just yesterday, Secretary of Defense Bill Cohen sent us a letter opposing the Cochran amendment. He said the current law and system can deal with unauthorized exports and diversions. This is from the department that has been very conservative on all export decontrol matters. Secretary Cohen further states that we should focus our controls on technology that can make a national security difference, not that which is widely available around the world and is obsolete.

Yes, Mr. President, there have been three diversions, but that was out of 1,400 sales. But, no, this is not the right way to address those problems. The right way is to force the administration to publish as many military end users as possible and then to work with the industry to identify all military end users. We have been able to identify diversions through our capable intelligence sources. Mr. President, there is no evidence that there are dozens of computers out there used by military end users. It is just not there.

Further, I don't believe that the industry irresponsibly ignores available information about military end users. They have too much at stake. A company which violates export control laws takes a very big risk. The penalties are prohibition of all exports for 20 years or more, 10 years in prison, and up to a $5,000 fine for each violation. This doesn't include the blemish that would remain on the company's reputation or the great difficulty that company would have in the future seeking an export license. No company, Mr. President, can afford that risk.

What we would be doing here this morning is handing this midlevel computer business over to the Japanese and other allies. Now, again, I want to emphasize that these are midlevel computers, they are not supercomputers. Next year, they will be the kind of systems that we will be able to have in our offices here in the Senate, or what you could find in a small company or in a doctor's office. These are not the computers that are sought after for nuclear weapons production or design. Again, we are looking at midlevel computers, between 2,000 and 7,000 MTOPS, which are widely available around the world.

Supercomputers, which are sought after for weapons design, start at the 20,000 MTOPS level and go all the way up to 650,000 this year, and they will go beyond the 1 million MTOPS level next year. By the way, China already produces a computer at 13,000 MTOPS. No other country considers these computers to be anything but generally available and will step in to take over the business that the Cochran amendment will hand to them. The question is, is that what we want?

Also, anyone can purchase upgrades, by the way, to raise a PC, a current PC, above the 2,000 MTOPS level. We can't control the box. We can't control the chips around the world that can be put in it. We can't control the upgrades. There is no way to control these low-level PC's under the 2,000 MTOPS threshold, again, since they are available in nearly every country in the world.

Further, the chips that make up these computers are also available and produced around the world. They were decontrolled during the Bush administration. Our chip producers have markets throughout the world, and they need to maintain them to remain competitive. Chip producers cannot control who receives their end product.

Also, how do you prohibit a foreign national from using a computer even above the 7,000 level here in the United States and taking the results back, or faxing it back?

Our friend Jack Kemp has written to us also this week stating that the Cochran amendment would "establish a policy that is destined to fail and would hurt American computer manufacturers without protecting our national security. The American high-technology sector is critical to the future of this country and must be protected from overly intrusive Government restrictions."

I wish there was something we could do to effectively control some of these exports, but it is just not possible at these lower levels. We cannot convince our allies to reverse 2 years of their own decontrol. In fact, Europe has tabled a decontrol proposal at 10,000 MTOPS, which proves that they have no intention of even respecting our 7,000 level. We cannot pull all the PC's and upgrades off the retail shelves, and we cannot close our borders to prevent all foreign nationals from entering this country and using our computers.

We must concentrate our resources on keeping computers above the 7,000 level from reaching military end users; that's for sure. But I fear that an increased license burden in the administration would steer resources away from efforts to locate diversions and investigate them.

Now, Mr. President, in an earlier statement, I also countered a claim that an export license requirement would not slow down these computer sales. I have heard that someone made the comment that an export license would take 10 days. Well, anyone who knows how the licensing process works knows that it can take many, many months to obtain one. This will only earn our industry a reputation as an unreliable supplier, and it will cost us sales and it will cost us many, many U.S. jobs. The administration admits that a computer license application averages 107 days to reach a decision. I have seen it take far longer. Even 107 days, by the way, is enough to convince the end user to go out and seek a buyer in another country.

Since so many of the Tier 3 countries are emerging markets, we need to be in there early to maintain a foothold for future sales. When we hear about the 6.3 percent of sales to Tier 3 countries, that is misleading. It is in an area where the market is expanding rapidly. If we leave our companies out of those markets, they will not be there to compete in the future. They will not be there to provide sales and jobs for the United States.

Another argument I have heard is that there is no foreign availability over 3,500 MTOPS. Well, last year, NEC of Japan tried to sell a supercomputer to the United States Government at a level between 30,000 and 50,000 MTOPS. They match our speeds all the way to the top.

Mr. President, I believe that all of us are proud of our computer industry, that our industry remains the state of the art in so many areas, particularly in the levels above 7,000. We have made progress to facilitate exports without compromising our national security, progress which began back in the Reagan and Bush administrations, but here is an effort today to reverse all of that progress.

Our industry has to survive on exports, and it has to pursue commercial business with these 50 countries to remain competitive. All computer sales over the 7,000 MTOPS level do require license now. We have not sold any computers above that level. And, again, the 7,000 MTOPS are not supercomputers—they are not—they are midlevel computers. We have not sold any computers above that level to Tier 3 countries; nor do our allies, to my knowledge. However, we should not restrict the sales of these midlevel and, again, generally available computers to commercial end users. We should simply maintain the current licensing requirement for the questionable end users. I firmly believe that there will be improved cooperation between the Government and industry on end-user information, particularly those for Russia and China.

Now, I also commend the Commerce Department for starting to publish information on end users and to examine all sales that are made to the Tier 3 countries within these computer speeds.

The Grams-Boxer amendment requests the GAO to determine whether these sales affect our national security. That is very important. It will look into the issue of foreign availability. It will also require the publication of a military end-user list, and it requires Commerce to improve its assistance to the industry on identifying those military end users.

There will be some that vote today solely to express their dissatisfaction with China's alleged military sales to our adversaries. Let me remind you once again that there is no evidence that U.S. computers were involved in any of those cases. I also urge you to look at the merits of this issue. Pure and simple, the Cochran amendment would hand the sales of midlevel computers over to the Japanese and the Europeans at the expense of an industry that we have sought to protect and to promote and an industry that we are proud of.

As chairman of the International Finance Subcommittee of Banking, the committee that has jurisdiction over this issue, I strongly, this morning, urge my colleagues to vote for my substitute and let us continue this debate in the normal manner, through committee consideration. At the same time, the administration should step up its efforts to express to the Chinese and the Russians our grave concerns regarding efforts to divert commercial sales to military end users without knowledge of the United States seller.

Mr. President, I appreciate the efforts of my colleague from Mississippi to address these diversions. I want to work with him in my role as chairman of the subcommittee of jurisdiction to ensure that the current system does work or on how we can improve it once we have better information regarding the extent of the problem.

I urge the support of my colleagues for the Grams-Boxer substitute as a compromise to this very, very controversial issue. Thank you very much.

AGRICULTURE APPROPRIATIONS CONFERENCE REPORT

Mr. GRAMS. Mr. President, I rise today in support of the fiscal year 1998 Agriculture appropriations conference agreement that was passed last night. There is much to be proud of in the conference agreement and I feel it is another step forward in implementing the 1996 farm bill.

I am particularly pleased with the inclusion of the Grams-Feingold amendment directing the Office of Management and Budget to conduct a study of the economic impacts of the Northeast Interstate Dairy Compact.

I will not reiterate my long-standing opposition to implementation of the compact or the history surrounding its inclusion in the 1996 farm bill. But along with my colleagues in the House and Senate who have an interest in equitable and lasting dairy reform, I remain committed to bringing fairness to Minnesota's dairy farmers.

There has been some disagreement as to what should be included in such a study. I know the senior Senator from Vermont has addressed us on more than one occasion in defense of the compact. More recently he outlined his concerns regarding what he felt should be included in the OMB study.

However, I must stress that these are the remarks of one Senator and should not be misconstrued by OMB or anyone else as the official position of the U.S. Senate.

The conference agreement clearly calls for a comprehensive economic evaluation of the direct and indirect effects of the compact. I welcome the results of a study I expect to be free of outside influences. I am confident this compact will be exposed as a misguided, ill-fated attempt at market manipulation.

Mr. President, the OMB study in this conference agreement will help us assess the compact's effects on the poor, needy senior citizens and children, as well as the Nation's dairy producers.

It is to be completed by December 31, 1997, and I will closely observe its progress in order to ensure that the study is conducted in a fair and equitable manner and is not manipulated by outside interests. I expect the administration to allow an independent study that is not influenced by any USDA or White House political agenda.

Another provision I am pleased was included will prohibit Agriculture Market Transition Act [AMTA] payments to a producer who plants wild rice on contract acreage, unless the payment is reduced proportionally.

As it currently stands, producers of other commodities who choose to plant wild rice on land designated for other crops can receive both their AMTA payment and the proceeds for sale of their wild rice. This has placed wild rice farmers at a disadvantage. It violates the intent of the law and it also results in unfair competition.

I am pleased the House and Senate conferees agreed with my amendment and chose to include it in this agreement. The provision clarifies congressional intent and restores fairness to our farm payment system.

I also want to make special note of the research funding contained in this bill for fusarium head blight, commonly known as scab, and vomitoxin.

During a recent trip through Minnesota's Red River Valley, wheat and barley producers stressed time and time again the economic impact these diseases have had on their crops. Minnesota is again experiencing an epidemic of scab which marks the fifth

straight year the disease has been seen to some degree in the Northern Plains.

When added to contributions producers and the State of Minnesota have made to scab and vomitoxin research, I believe that the provisions contained in the research titles of this agreement are an appropriate approach to the Federal commitment regarding long-term basic research.

Mr. President, as I have stated many times both here and in Minnesota, we must give our farmers the tools to manage their business and not hamstring their creativity and productivity from Washington.

Although there is much work to be done regarding dairy and regulatory reform and risk-management, this conference agreement is a step in the right direction. I look forward to its immediate passage.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ASHCROFT. Mr. President, may I inquire as to the state of the business of the Senate?

The PRESIDING OFFICER. The Senate is in morning business, with Senators permitted to speak up to 5 minutes each.

Mr. ASHCROFT. May I inquire when that expires?

The PRESIDING OFFICER. Twelve o'clock.

Mr. ASHCROFT. I ask unanimous consent that, joined by my colleague from Arkansas, Senator TIM HUTCHINSON, we be allowed to speak in morning business for 25 minutes.

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

UNITED STATES-CHINA RELATIONS AND AMERICA'S POSITION AS A WORLD LEADER

Mr. ASHCROFT. Mr. President, I am pleased to come to the Senate floor today, joined by my friend from our neighboring State of Arkansas, Senator TIM HUTCHINSON.

As the 21st century approaches, Senator HUTCHINSON and I both share a desire to see the United States maintain its position as a world leader—a world leader that emphasizes opportunity and freedom. A strong America abroad preserves the safety of our citizens at home and helps advance the ideals of liberty around the world.

The United States is involved internationally in very substantial ways, and in some of those settings it is my fear that, instead of exhibiting strong leadership, we have demonstrated that we are incapable of demanding integrity and of requesting that others deal with us honestly.

We are in the waning moments of a summit meeting between the President of China, Jiang Zemin, and President Clinton. Summit meetings can be very important times. They can provide opportunities for the United States to demonstrate leadership, to demonstrate a commitment to freedom and integrity in international relationships. Or they can do the converse and they can demonstrate that America will not demand integrity, will not demand a commitment to freedom and fair play. Summits can indicate that America does not have the kind of care for the rights of individuals generally around the globe that we would be known for historically in this country.

When we have summit meetings, we need to advance America's security and economic interests. Summit meetings should be times of structural advance for the United States, when we put in place the kind of framework that will result in our country being stronger—the kind of framework that will preserve our security and advance freedom around the world.

If statesmanship is not present, summits can become transactional rather than address the critical structural issues in a bilateral relationship. We have seen that during the United States-China summit this week, where the President of the United States has been eager for certain businesses to sell their goods to China, and has, in this particular summit, made it possible for the Chinese to gain access to some of the most important and sensitive nuclear technology in the United States. But the real issues in United States-China relations, however, have been deferred. Critical national security challenges, a staggering trade deficit, and an appalling human rights record in China all took a backseat to business contracts.

Summits can turn into shallow media events when the critical bilateral issues are ignored. The United States-China summit was worse than just a shallow event. Unfortunately, it was an event which demonstrated that we were willing—in order to acquire certain business contracts—to look past what ought to be clear, structural issues that ought to galvanize our attention. China did not come to the summit to make real concessions on any front, and we responded with accommodation and appeasement. We agreed to have the summit anyway, in spite of the fact that China didn't come to provide genuine progress for the people of China or for the people of the United States.

Whenever we don't achieve structural change, such as progress in our trading relationships, which would be a reduction in tariffs or nontariff barriers from China; whenever we don't see an improvement in the human rights situation in China so that personal freedom is advanced; whenever we don't have a clear record which demonstrates that China will cease proliferating nuclear and chemical weapons and mass destruction technology—we have lost the ability to advance our nation's fundamental interests and we have traded principle for a few commercial contracts.

The real opportunity of summitry is the opportunity for structural change—not of transactions alone. It is an opportunity for statesmanship—not just salesmanship.

I don't think it is wrong for the President of the United States to want to sell our goods abroad. But when we sell our goods and our principles along with them—the kind of commitment we have to freedom, the kind of commitment we have to integrity, the kind of commitment we have to stopping the proliferation of nuclear and chemical weapons around the world—I think the price is too high.

I think we will have to ask ourselves when we look at the record of this summit, "Has this been an exercise in statesmanship, or has this been an exercise in salesmanship?" If it has just been an exercise in salesmanship, what have we sold? Have we bartered away our credibility, our commitment to freedom and liberty, and our demand for fair and balanced trade? Have we compromised our position when it comes to combating the proliferation of chemical and nuclear weapons? In my judgment, I think we have to ask those questions very, very soberly.

Did the summit advance America's economic and security interests? Did it put United States-China relations on a firmer footing by addressing the critical issues in our bilateral relationship, or was it centered around accommodation and big-ticket commercial deals? Have we, instead of engaging in statesmanship, just found ourselves engaged in salesmanship and perhaps selling some of the things which we hold most dear in the process?

My distinguished friend from Arkansas has shared many of these same concerns about our policy towards China. Senator HUTCHINSON has looked at this situation. He has grasped, I think, what is happening pretty well.

Senator HUTCHINSON, is there any indication that the administration's China policy is defending American security, economic, and human rights interest? Or has this been something that simply ended up as being a transactional experience where we sold some goods and apparently were sold a bill of goods in return?

Mr. HUTCHINSON. First, may I say I am glad that I am able to join my distinguished colleague from Missouri.

When he speaks of "statesmanship" on the issue of foreign policy, I think he exemplifies that term.

To answer the Senator's question, I think it is unfortunate that after the summit the whole issue of human rights has really taken a back seat to commercial interests and that the attention that has been given to human rights is primarily attributable to those who have been willing to protest the presence of Jiang Zemin in our country, coming to the United States with the kind of attention at a state dinner, with a 21-gun salute, and with the red carpet treatment he has been accorded.

So I am glad for those who have pushed the issue of human rights.

The President was praised yesterday for chiding Jiang for the human rights record in China. But I think the chiding at whatever level it may have occurred and to what extent it may have occurred is greatly undermined when it is accompanied by 21-gun salutes, red carpet treatment, and state dinners, that, in fact, the ultimate end result of this summit will be to give greater acceptance of the Chinese Communist Government and greater willingness to accept and condone the oppressive practices that have become characteristic of this regime.

So instructive engagement has degenerated, I am afraid, into an exercise of appeasement. I think "appeasement" is a very strong word to use. But when we look at the last 4 years, I think it is not too strong a term to use to describe what the administration's policy has been.

The logic behind constructive engagement, as my colleague well knows, has been that expanded trade would lead to political liberalization and that economic freedom frequently leads to political freedom.

I have had meetings with a number of dissidents this week from China, the most famous of whom in this country is probably Harry Wu. When I raised this issue with Harry Wu, I said, "Harry, when they talk about economic liberalization leading to political liberalization and that trade ultimately always leads to political liberty if we will just give it time, that greater trade opportunities, the higher standard of living, and what they experience with economic prosperity has to ultimately lead to political liberalization and greater freedom," his response was if the administration were sincere in that, if they were genuine in that conviction, why not use that in North Korea, why not use that in Cuba? If, in fact, trade ended totalitarianism, we would be practicing that in other places.

I would be delighted to yield to my colleague.

Mr. ASHCROFT. Mr. Wu is a person who speaks with some experience as it relates to the human rights situation in China because he spent some considerable time in Chinese jails as a result of speaking openly, didn't he?

Mr. HUTCHINSON. That is correct. I believe Mr. Wu spent a total of 19 years in Chinese prisons.

Mr. ASHCROFT. Is this because he attempted to rob a bank, or launched an assault on the Government?

Mr. HUTCHINSON. His incarceration was because he was drawing attention to something that China is sensitive to, which is the slave labor camp system that exists within China, and most recently, of course, his drawing attention to the Chinese Government's policy of selling organs from those who have been executed within those prisons.

Mr. ASHCROFT. So for telling the truth in China, he spent 19 years in Chinese prisons.

Mr. HUTCHINSON. Simply for being willing to express a dissenting opinion.

Mr. ASHCROFT. During the time when he was in prison, was there expanding trade or contracting trade with the United States?

Mr. HUTCHINSON. As the Senator knows, trade has consistently expanded. I might also add that our deficit in trade with China has expanded as well, so that this year it is anticipated we will have a $44 billion trade deficit.

But I think at the time Harry Wu was first incarcerated, it was down in the single digits.

Mr. ASHCROFT. The expanded trade didn't expand his rights very effectively. He is free, and has to be outside of China to be confident of his ability to continue to speak freely.

Mr. HUTCHINSON. I believe what underscores that even more is during the 8 years since Tiananmen Square and during the 4 years since we have adopted this so-called policy of instructive engagement, by every measure, human rights conditions in China have deteriorated, which seems to me to greatly undermine this approach that economic trade will lead to greater political liberty.

Mr. ASHCROFT. I thank the Senator.

Mr. HUTCHINSON. So the administration's decision not even to consider human rights abuses when dealing with China has proven, I think, disastrous for the people of China and they have been removed from the threat of any repercussions; that is, the Chinese Communist government in their trade relationship with the United States and the Chinese Communist leaders have succeeded in jailing every last dissident in a country of over 1 billion people. So rather than seeing expanded liberties, we have seen those contracted by the jailing of every last dissident as our country has turned a blind eye to the atrocities that have escalated, and the oppressive government in China has strengthened its hold on fully what is one-fourth of the world's population.

Since the United States formally delinked American trade with China from its human rights performance of abuse, much has changed, but nothing has changed for the better.

I had in my office yesterday—I share this with the Senator from Missouri—a number of Chinese political dissidents, democracy dissidents, those who had raised their voices on the side of freedom. One was a former editor with the People's Daily, a Communist Chinese newspaper. He resigned that position because they would not allow him to speak the truth.

But the one I remember the most and that made such an impression upon me was the young man who said that on the very day that President Clinton announced his policy of delinking in which he said no longer will we tie human rights abuses and violations to our attitude toward trade with Communist China, it was on that very day that they came and rounded him up and his incarceration and his prison term began.

So the policy of constructive engagement has simply failed. It has produced more persecutions of Christians, more forced abortions, more sterilizations to the mentally handicapped, more incarcerations of political dissidents, and the near extinction of the expression of any opinions contrary to that of the Communist regime.

I participated yesterday, I believe it was yesterday, in the "Adopt a Prisoner of Conscience" Program that began on the House side in which Members of the House and Senate were invited to adopt a particular individual who today is languishing in a Chinese Communist prison for no other reason—not because they robbed a bank or because they mugged somebody, or they robbed—for no other reason than they had expressed their own conscience contrary to that of the Communist government.

The "prisoner of conscious" whom I adopted, and whose name I do not seek to say, was charged with this crime: Helping Christians. That was the charge. That is why he is incarcerated. The date of release is unknown. How long he will stay in prison we don't know. But his crime was simply helping Christians.

So I suggest, as I yield to the Senator from Missouri, that this policy of constructive engagement has failed, and at some point, if time allows, I would like to talk about how this foreign policy contrasts so poorly with the very firm foreign policy that we had under Ronald Reagan.

Mr. ASHCROFT. I thank the Senator.

I have to say in response to the Senator that the contrast between the rights of man in America and the kind of lip service given to freedom by the Chinese leadership could not be more striking.

When asked about the nature of liberty, Chinese President Jiang said that liberty, in and of itself, is not an absolute, that it is a relative thing. He

analogized it to Einstein's theory of relativity. For President Jiang, liberty is something that can grow or shrink depending on the need, or the circumstance of the moment. Freedom might be something to be cherished; it might not.

In contrast, the United States of America was founded on the concept in our Declaration of Independence that we are endowed by our Creator with inalienable rights. And this means a couple of things. One, that these rights are not relative, they are not adjustable; they are immutable, they are unchangeable—that these are given to us by God. It also suggests to us that they are given to everybody because it is the Creator that gives the right. It is not even governments which give rights. Rights are something that we are given by virtue of being created, and these rights are for the benefit of people all across the globe.

We have on the one hand a Chinese leader that would have total latitude to adjust rights based on a theory of relativity. That is precisely what is happening in China. Someone being an accessory to Christianity, helping a Christian, finds himself in jail for an indeterminant length of time; someone who not only is not engaged in domestic unrest or criminal activity, but is just assisting other people in their own ability to recognize the existence of a Creator in accordance with their beliefs. In China, accessories to Christianity are criminals.

That is the extent to which liberty can be withheld or granted in China, and that makes it very difficult to deal with such a goverment. The administration invites the Chinese delegation to the United States and we talk to them about human rights issues. While those officials are here in this country, it is very easy for them to make commitments to human rights in China. Since rights are relative, promises can be made now, but when the delegation returns to Beijing, the commitments take on new meaning.

The truth of the matter is that I think America has it right about rights, that rights are something granted by the Creator, guarded perhaps by government, sometimes threatened and taken away by government. But rights are something we have because of our creation and our existence. They are not relative. They are not dependent upon whether someone thinks the condition is favorable to the rights of man. These are things which we are born with, we are created with. They are inalienable. They are immutable.

President Jiang often says the right thing on human rights. Even China's constitution provides for fundamental human rights. China signed the U.N. International Covenant on Economic, Social and Cultural Rights this week. Signing documents is painless, but if you really believe that rights are relative, that circumstances determine rights, what does the signature mean? It means that the rights will be granted so long as we want them to be granted.

The 1996 State Department human rights report says, "All public dissent against the party and government was effectively silenced by intimidation, exile, the imposition of prison terms, administrative detention, or house arrest. No dissidents were known to be active at year's end."

Now, that is a sobering concept, when our own State Department says, "No dissidents were known to be active at year's end." That has a very sobering tone. I believe that we ought to demand and expect a better human rights record from the Chinese Government.

Mr. HUTCHINSON. If the Senator will yield?

Mr. ASHCROFT. I am pleased to yield.

Mr. HUTCHINSON. I was impressed with the Senator's comments as he reminds us of what Jiang has said concerning rights, that they are relative, that they are not absolute. And how do you deal, how do you negotiate, how can you trust a leader that has that concept of liberties, and how that contrasts in fact with our own Founding Fathers—the attitude that they seem to have that rights are like aspirins to be dispensed as needed by the government and to expand or to contract as the situation may require?

The ideals of the American Revolution were not narrow. They were not culturally limited appeals without relevance beyond our shores. Our Founding Fathers recognized that when God gave rights, when the Creator gave rights, he didn't just give them to Americans; that he gave them to all human beings. And so the efforts of the Chinese leadership to depict Western democracy as being only a Western phenomenon, that it is a Western cultural thing like business suits or like eating with knives and forks is I think contrary to the reality that in fact rights are absolute and that civil liberties, that human rights transcend cultures and they transcend societies and they even transcend various forms of government.

The young students in Beijing 8 years ago who defied the tanks, I say to the Senator, were not there making papier-mache models of Chairman Mao but of Miss Liberty. They didn't quote from Marx. They were quoting from Thomas Jefferson. And we may not be able to save the lives of every young, brave student in the world, but we should always make it clear that our prayers and our policies are on the side against the tanks of terror and that we should never sell out his cause of freedom for trade opportunities.

I recall, as does the Senator, when the copyright issue came up with China and that China was violating American copyright laws. It was at that point that the administration threatened sanctions against China. When I was talking with Harry Wu, he replied as only Harry Wu could, that copyright equals sanctions, human rights equal no sanctions. And I think it really puts in perspective the attitude of the administration that profits seem to be more important and will bring greater repercussions and consequences with the Chinese Government than will the violation of human rights.

I thank the Senator.

Mr. ASHCROFT. I thank the Senator. I see that our time is fast fleeting. I thank the Senator for making the case against China's human rights record.

There are other points to be made about the inequities in the relationship between the United States and China. Not the least of those is trade. The average tariff that China has on our goods is about 23 percent. The average United States tariff on Chinese goods is about 4 percent. That it is basically a 6-to-1 ratio. And as a result there is a staggering trade deficit with China. The Chinese citizens do not buy nearly as much from us as other countries do.

The average Chinese buys 10 dollars worth of United States goods every year compared to $1,000 for the Taiwanese, $550 for every South Korean. Our trade deficit with Japan is troubling, but it only grew by 10 percent between 1991 and 1996. The United States trade deficit with China grew by more than 200 percent during that same period.

But as important as trade and human rights are, there is another important issue: the national security of the United States. China has been the worst proliferator of weapons of mass destruction technology, according to a CIA report. Today's Washington Times headline reads, "Clinton Jiang Reach Nuclear Accord." This is an accord which is designed to give China the very best of the nuclear information we have in this country, much of it sponsored with taxpayers' dollars as a result of governmentally assisted research. And not far from the "Clinton Jiang Reach Nuclear Accord" headline is, "China Aided Iran in Chemical Arms." This second article talks about a report from our Government that indicates that China has helped Iran develop a chemical weapons capacity—weapons of mass destruction for the kind of Third World rogue regime that we find in Iran.

To see these things juxtaposed on the front page of a newspaper sends a chill, and it should, through my spine. To think that we are signing high-level nuclear accords with governments that are helping terrorist states like Iran acquire weapons of mass destruction technology is incomprehensible.

To have that article right there, the nuclear accord, right beneath the story

on China aiding Iran in the development of chemical weapons, is a dramatic illustration of this administration's failing China policy. The CIA report released this past summer said that China was the worst proliferator of weapons of mass destruction technologies in the latter half of 1996. A greater degree of caution is needed in dealing with such governments.

U.S. credibility was at stake in the nuclear cooperation debate. What kind of leadership are we providing to the rest of the world? Other countries will not take their responsibility to restrain proliferation seriously if the United States enters into nuclear cooperation with the world's worst proliferator of nuclear and chemical weapons technologies.

I thank the Senator for coming to the floor. If there are other questions or comments, I invite them.

Mr. HUTCHINSON. I thank the Senator for taking the leadership on this issue so forcefully. If I could ask unanimous consent for just 2 minutes.

Mr. LEAHY. Mr. President, I will not object but I would ask in the unanimous consent that after the 2 minutes I be recognized for a statement. I have been waiting for that time to do so.

The PRESIDING OFFICER (Mr. BURNS). Is there objection? The Chair hears none, and it is so ordered.

Mr. HUTCHINSON. In closing, may I say it is my understanding that Jiang will be in Philadelphia, PA, today at the Liberty Bell, this great cradle of liberty, this great cradle of democracy in our country. I hope he reads well the words that are inscribed in the Liberty Bell because it is from the Scriptures. I think it is from the Book of Deuteronomy. It says, "Proclaim liberty throughout the land." I hope he takes it to heart, that this is a concept he needs to bring back to China, and there is much he can do, starting with no longer jamming Radio Free Asia. If he believes in liberty, let the message of freedom come into his country.

Among the dissidents I met with this week was an elderly Tibetan lady who had been arrested and spent 28 years in prison. She said that all of those who were arrested when she was arrested are now dead. And she said she has asked repeatedly, why only her? Why did she live? Why did she survive those 28 years in prison? And as we met right over here in the Foreign Relations Committee room, she looked around—there were 10 Senators there, and she looked at those Senators and said, "That's why I survived, so I could tell my story."

I thank Senator ASHCROFT for helping tell her story to the American people.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I have different things I want to talk about. One of the things I might talk about is the beauty of the great State of Montana, but I know I would only embarrass the Presiding Officer if I did that. So I will hold that for another occasion.

REVERSING FCC TOWER-SITING RULES

Mr. LEAHY. Mr. President, I have strongly objected to the proposed Federal Communications Commission rules that I believe essentially rob States and communities of the authority to decide where unsightly telecommunications towers should be built, and I want to renew my objection to those proposed rules.

Back when the Telecommunications Act of 1996 passed, there were only five Senators who voted against it. I was one of the five. One of my fears was that the will and voices of States and of local communities would be muzzled.

As a lifelong Vermonter, I didn't want to see that happen to my State. Unfortunately, the fears I had at that time have been confirmed. Under the so-called telecommunications reform bill, Vermont towns and towns in other States have very little say when big and unsightly towers are proposed. Towns can no longer just say, "No, you can't put that awful tower in our community, blocking our scenic vistas." It is unfortunate that 91 Senators said they were willing to see the rights of towns and cities trampled that way.

The bill also prohibits towns and cities from having stricter health and safety standards regarding environmental effects of radio frequency emissions.

Here is what has happened in Vermont. Keep in mind, Mr. President, that our State is one of the most beautiful States in the country. People come to our State because of the magnificent views. And those of us who were born there want to remain there because of this beauty. Now we are being told that no matter how much we have done to promote this beauty, if somebody wants to just slap up telecommunication towers right in the middle of the most magnificent vista there may be little we can do about it.

The State of Vermont, from Gov. Howard Dean to the Vermont Environmental Board and local zoning officials and mayors and citizens, is concerned that it is losing control of the siting and design and construction of telecommunication towers and related facilities.

These people have written to the FCC opposing this rule, and I endorse their comments. They have done an excellent job representing the views of all Vermonters. As a matter of fact, I also submitted a lengthy petition, something I rarely do but I did this as a Vermonter hoping that we will influence the FCC.

I think these tower siting rules should be stopped once and for all. We ought to tear them out by their roots which were planted in the 1996 telecommunications bill.

To make sure that they can be torn out, I am introducing legislation that repeals the authority given to the FCC in 1996 to preempt State and local regulations on the placement of new telecommunication towers. I don't want Vermont turned into a giant pin cushion with 200-foot towers indiscriminately sprouting up on every mountain and in every valley, ruining the view that most of us have spent a lifetime enjoying.

I might note that my distinguished colleague from Vermont, Mr. JEFFORDS, is going to join me as a cosponsor of this legislation

The backbone of Vermont's beauty is its great mountains, surrounded by magnificent views of valleys, rivers, and streams. Vermonters do not want these scenic vistas destroyed by towers, bristling with all manner of antennas and bright lights, strobes, flashes, and everything else that destroy this vista.

I think of my own home, my tree farm in Middlesex, VT. When I step out the front door of my home, I look 35 miles down a valley ringed by mountains. I live on a dirt road, and I literally cannot see another house or another dwelling in any direction. I look at some of the most beautiful scenery of Vermont. Frankly, Mr. President, each time I am back home this renews my soul and my spirit.

I am sure all Vermonters and all those who visit us in Vermont feel the same way I do about the scenic wonders of our State. Because of that, we Vermonters have determined that we want to move with care to avoid the indiscriminate placement of towers that would jeopardize one of our State's most precious assets. We Vermonters want some say in our own life. We Vermonters want some say in protecting what is the best in our beautiful State.

Vermont citizens and communities should be able to participate in the important decisions that affect their families and their future. The location of large transmission towers have significant effects on property values, on health, and enjoyment of one's home, in fact even the ability to sell one's home.

I say the Telecommunications Act went far too far toward preemption of local control and now this proposed FCC implementation goes even further. Vermont has enacted landmark legislation, Act 250, to preserve our environment while permitting growth.

Understand, when I sit in my home in Vermont, I am connected by computer to my office in Washington and my offices in two other locations in Vermont. I can communicate with my

children wherever they are by telephone or by computer. I pull up newspapers that are not available to me immediately in Vermont off the Internet. I am for progress. I think that is something Vermont has always supported, but not for ill-considered, so-called progress at the expense of Vermont families and homeowners.

It is important that Vermont not be left out of technological progress, but that is the whole reason Vermont enacted the Act 250 process. Vermont communities and the State of Vermont have to have a role in deciding where these towers are going to go. Vermonters should be able to take into account the protection of our scenic beauty. It is not enough just to have technological advances.

So by requiring the companies to work with Vermont towns, acceptable alternatives can be found. My bill, again, affirms where the burden of proof should be: with the applicant, not the community. I trust Vermonters to do what is right to protect our State's beautiful scenery. All I am saying, Mr. President, is let Vermonters decide what to do with our scenery. The FCC rules should not stand.

The PRESIDING OFFICER. Who seeks time?

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, under the order, I believe we had 30 minutes reserved.

The PRESIDING OFFICER. That is correct.

Mr. THOMAS. Several of my associates and I want to take that time to talk about the Medicare Beneficiaries Freedom to Contract Act, which we think is very important to Medicare recipients and to the system. We want to talk about that. However, before we begin, and we will then share our time, I yield to the Senator from Kansas for several minutes.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Thank you, Mr. President. I thank my colleague from Wyoming for yielding a couple minutes. I will be very brief about this and pointed.

(The remarks of Mr. BROWNBACK pertaining to the introduction of S. 1334 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BROWNBACK. Mr. President, I, again, thank my colleague from Wyoming and others for allowing me this opportunity to introduce this bill. I yield the floor.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

MEDICARE BENEFICIARIES FREEDOM TO CONTRACT ACT

Mr. THOMAS. Mr. President, we would like to scoot back now on to this focus on Medicare, the idea that Medicare patients certainly have an opportunity to choose, that we are able to strengthen the Medicare Program through this function. I will first yield to the sponsor of the bill and, frankly, the person who has carried the weight and continues to, the Senator from Arizona.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, will you please advise me when I have spoken for 7 minutes?

The PRESIDING OFFICER. We shall grant the Senator 7 minutes.

Mr. KYL. I appreciate that.

Mr. President, I appreciate the Senator from Wyoming taking this time to discuss what we think is one of the most important matters yet to be decided before the end of this legislative session. I know we have some appropriations bills to pass to ensure that the Federal Government is funded for next year, and perhaps a couple of other items, like the fast-track legislation. But in terms of important principles, I can't think of anything more important than ensuring that the American people have the right to go to the doctor of their choice.

You heard me right. I said to ensure that the American people have the right to go to the doctor of their choice. You mean they don't have that right? Well, Mr. President, unless we fix a part of the balanced budget bill that we passed earlier in this session, as of January 1, senior citizens in this country will not be guaranteed the right to go to the physician of their choice. Here is the problem.

The Clinton administration interprets the Medicare law to require that a Medicare patient be treated under Medicare; that that person cannot go to a doctor who may see some Medicare patients but is not taking anymore Medicare patients and, therefore, is unwilling to treat the patient as a Medicare patient. Here is the exact situation, a real-life story that happened to one of my constituents in the small town of Prescott, AZ.

She just turned 65. She is diabetic. She was having complications. She wanted to see a physician who could take care of her, and there weren't very many specialists in that small town. She found one who could take care of her. She went to him and he said, "Now, you are 65."

She said, "Yes."

He said, "Then I don't think I can take care of you."

She said, "Why not?"

He said, "I'm not taking anymore Medicare patients, you're Medicare eligible."

She said, "That is all right, send me the bill, I will pay you. We will save Medicare money."

He checked with HCFA, the entity that runs Medicare, and sure enough, he could be prosecuted for a Federal crime if he entered into what is called a private contract with her.

That is the way the Clinton administration interprets the law and, in fact, Mr. President, that is the way they want the law to read because they don't want any competition for Medicare. Once you turn 65, it is their view that everybody should have Medicare and only Medicare. One of my colleagues said it is Medicare or no care.

That is an unacceptable choice for senior citizens in this country. Why should you become second class when you turn 65 and not be able to contract privately with a physician of your choice?

I am on a Federal health care plan. I happen to like Blue Cross, so I signed up with the Blue Cross plan. But I still go to a doctor that is outside of that plan and pay for it myself. I have that right. Why shouldn't a senior citizen have the same right that I do under my Federal health care plan? Why should someone, merely because they turn 65, be denied the right to privately contract with the physician of their choice? Maybe they have been seeing the same doctor for 40 years and they want to continue seeing that doctor but he is not taking anymore Medicare patients, why shouldn't they be able to go to him and why shouldn't he be able to contract directly with them?

We passed it 64–35 in the Senate. It went into the balanced budget bill, but the administration said, no, they would veto the balanced budget bill unless we took that provision out or unless we changed it. How did they insist it be changed, without my approval by the way? They said, OK, the patient can have the choice but no doctor can serve such a patient unless in advance he opts out of Medicare for 2 years.

Let's be realistic, only 4 percent of the nonpediatricians don't serve any Medicare patients. Most doctors have some Medicare patients. Do we want to literally force those doctors to dump all of their Medicare patients just so they can privately contract? That is not the way to encourage more doctors to see more Medicare patients. Why shouldn't a physician be able to both treat patients under Medicare and not treat patients under Medicare?

There is only one argument, other than the fact this presents some competition to Medicare. In that regard, I don't see how it hurts Medicare, because to the extent that anybody would choose not to take advantage of Medicare, they are saving Medicare money. It doesn't hurt Medicare. It actually helps Medicare, they don't have to pay as much.

There is some concern that some unscrupulous doctor somewhere might take advantage of a Medicare patient. "I'm not going to treat you under Medicare; you have to enter into a private contract with me, and I am going

to gouge you." I don't think that is going to happen.

Just to be sure, we built into the bill which I introduced a provision against fraud. It requires a written contract, and the patient can get out of it at any time. HCFA gets information from the doctor which tells them exactly what is going on. So if there is any fraud, that doctor can be prosecuted. So we have taken care of the major problem that has been raised.

I don't think there is any reason why our bill should not pass. I don't think this Congress should go on record as standing for the principle that when you turn 65 in the United States of America, you don't have the choice to go to the doctor of your choice, and that doctor doesn't have the choice to care for you if he wants to do that. It is wrong, it is un-American, it is a violation of fundamental rights, and before this Congress adjourns, Mr. President, we need to fix the law so that senior citizens in this country have a fundamental right to the medical care that they deserve.

Again, I thank the Senator from Wyoming for his sponsorship of this time for us to discuss this issue. I hope we have a chance before this legislative session is over to act upon this bill to get it passed and that the President will sign it. Thank you, Mr. President.

Mr. ALLARD. Mr. President, I understand that the Senator from Wyoming controls the time, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLARD. I request 5 minutes.

Mr. THOMAS. I yield to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 5 minutes.

Mr. ALLARD. Mr. President, it is a pleasure to be here with my colleagues from Arizona and Wyoming, because I share in their concern that this is a fundamental issue of our freedom and that is the right of the seniors to privately contract their own health care.

Quite frankly, I am surprised we are having to debate this issue on the Senate floor. It is amazing to me how far we have strayed from this principle of some fundamental freedoms that the individual should enjoy.

Again, I compliment particularly my colleague from Arizona for his leadership on this particular issue and also my colleague from Wyoming.

The notion that in America we have a group of citizens who would be effectively prohibited by law from paying for their own health care is absurd.

In order to fully understand the issue, I think it is important to review a bit of the history about this particular issue.

The Health Care Financing Administration has interpreted current law to restrict voluntary, private contracts between physicians and Medicare-eligible beneficiaries. HCFA has issued threats of fines and exclusion against doctors who violate this arrangement and enter into private agreements. HCFA has created a situation where doctors must comply with regulations stipulated by Medicare if they accept even one Medicare beneficiary as their patient. Medicare, as we all know, is the only federally funded health care program that prohibits private contracting by the participants.

During the balanced budget debate, Senator KYL offered an amendment that would have allowed for seniors to use their own money for their health costs. Unfortunately, through deliberations in conference, this provision was stricken and a new law that takes effect in January requires physicians who enter into private contracts to forego Medicare reimbursement for a period of 2 years. It has been reported that currently only 9 percent of physicians do not have any Medicare patients. This provision effectively restricts the choice and the quality of health care services provided to senior citizens. This would tend to prohibit doctors from treating elderly patients and would deny seniors the choice of seeking treatment outside of the Medicare system. According to the amended law, any doctor who is found to be treating Medicare patients and privately contracting will be subject to fines and even imprisonment. In all practicality, the language makes private contracting impossible.

It is imperative that Congress revisit this issue and resolve this shortsighted legislation. I am proud to support Senator KYL's bill, the Medicare Beneficiaries Freedom to Contract Act, which would allow seniors the ability to use their own discretion and money for their health care needs. This legislation is crucial for the elderly individuals who rely on our Medicare system. By allowing senior citizens the ability to retain the doctors of their choice, they are able to receive the care that they want and require. This legislation is essential to senior citizens' rights to use their own discretion for their health care needs.

Although it is true that the deficit in January has declined, the portion of these revenues claimed by entitlement spending continues to rise as entitlement spending rises. I agree with my colleague from Arizona when he says this is also something that will help us balance the budget. Why wouldn't Medicare accept the idea that a private individual can pay for his own health care services out there? It means they don't have to pay for it. It means less expenditures on entitlement spending. It means we can do more to reduce deficit spending. Particularly at a time when Medicare is in dire need of reform, how can Congress simply deny seniors the right and ability to use their own money for health services?

This is not a "Washington one-size-fits-all" situation. We are talking about the health care of our Nation's elderly. Medicare beneficiaries should be given the right to pay out of pocket and to choose their own health care provider. It is their freedom we are infringing upon, and it is imperative we act now to rectify this wrong.

Congress must create a more efficient and effective health coverage program for seniors. Senator KYL's bill is one essential step to complete that goal. More choice and competition must be implemented in the Medicare Program, thereby facilitating proper health care coverage that fits different individuals' needs and desires. Congress must act now to rectify this problem.

I yield the remainder of my time.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Wyoming.

Mr. THOMAS. Mr. President, we have been joined by our associate from Minnesota. Let me first say that this Medicare issue, of course, is one of the most important issues that we deal with. I think it is one of the most important issues to America. Certainly it is the most important issue to seniors. The idea is to keep it available over time so people who are now paying into part A and will pay into part A will have the benefits of it when they are eligible, to keep choice in it so that seniors will have some choice as they enter into this kind of health care; to keep it financially strong, which is the difficulty, of course—their costs have gone up in Medicare; they have finally narrowed down some, largely through the involvement of managed care, and there will be a committee or a commission appointed in December to take a look at the future of it—and to make it available in all parts of the country. My friend from Colorado just talked about that. We have small towns, we have towns in which there are only one or two physicians. So this choice thing is so important, that it be there.

Let me now yield to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAMS. Mr. President, I rise today to join my colleagues in expressing my support for Senator KYL's Medicare Beneficiary Freedom to Contract Act, of which I am a cosponsor. As I explained on the floor in a statement last Monday, the thought that we have to debate in the U.S. Senate whether or not we are going to allow seniors the very basic right to use their money as they see fit is really just testimony to how far this administration is willing to go in trying to impose its will and its vision of socialized medicine on the American people. Socialized medicine, what Americans rejected in 1993, the administration is trying to, in incremental steps, reimpose on the American public.

Over the past few weeks I have received many letters, many phone calls and e-mails on this very subject. I would like to share one of these letters with my colleagues today. This comment came from a constituent of mine in Saint Paul, MN. The constituent wrote:

By what right do you arrogate to yourself the right to determine the length of my life? Medicare could easily fall short of the necessary medical steps to preserve health and life. Remember, this will apply to you, too.

My fellow Minnesotan could not be more correct in the assessment of this provision which was tucked into the Balanced Budget act. It was tucked in there in the dark of the night, without debate and with little regard for the consequences and with the demand by the administration that it be included no matter what. It is unconscionable that the United States, the world's model of freedom and liberty, has now decided that senior citizens are somehow second-class citizens, that they are incapable of making their own choices when it comes to health care.

Opponents of the Freedom to Contract Act claim that this bill now will make it easier for doctors to force seniors to give up their Medicare rights and be charged "the sky's the limit." They say that without this protection, seniors will be overpaying for their medical care.

I give our Nation's physicians and our Nation's seniors a lot more credit than that. This bill does absolutely nothing to force seniors to opt out of the Medicare Program, nor does it implicitly encourage them to do so. It simply will give our seniors an additional choice in how they receive their health care services—an additional choice on how they receive their services. In fact, I believe increasing choices for seniors in the Medicare Program was probably one of the best things that came out of this year's Balanced Budget Act. The Medicare Beneficiary Freedom to Contract Act is just a logical extension of the Medicare Plus Choice Program that was created in the Balanced Budget Act.

I urge my colleagues to set aside the demagoguery and restore the rights of our senior citizens. They deserve our respect and they deserve the right to make their own choices. If we don't act on this bill before this session of this Congress ends, it will go into effect and then it will be very hard to restore this right to our seniors. So I am asking my colleagues, urging them, to join with us to make sure that we preserve the rights of our senior citizens to have an additional choice in how they decide on their health care.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I appreciate very much the time. I appreciate being joined by my friends in support of this Medicare Beneficiaries Freedom to Contract Act. Let me just review how we got where we are.

During the consideration of the balanced budget, Senator KYL put in a very simple amendment which simply said that you could have this choice that did allow for physicians to treat under a private contract in addition to Medicare. Unfortunately, the administration became adamant about it. I think they followed, as the Senator from Minnesota said, the idea of turning this back into a one-size-fits-all kind of federally controlled program. The President threatened to veto the entire budget package because of this, if this 2-year prohibition was not included. So, today I am still disappointed with the administration, with HCFA, with the President's opposition to this proposition.

We are going to continue to push for consideration of this issue before this Congress adjourns so we can eliminate this bottleneck, this thing which takes away the choice of senior citizens in their health care.

MEDICARE BENEFICIARY FREEDOM TO CONTRACT ACT

Mr. KEMPTHORNE. Mr. President, I am pleased to rise this morning in support of S. 1194, the Medicare Beneficiary Freedom to Contract Act. This legislation is another step in our continuing effort to give the Nation's senior citizens something they have lacked for far too long—real choice in health care.

I believe we are fortunate that a provision added to this year's Balanced Budget Act has served to focus our attention on a very important and basic freedom. I'm talking about the freedom of individuals, regardless of age, to choose how they are going to spend their health care dollars. When the Senate first debated this issue, I wholeheartedly supported the idea of "private contracting" for two reasons. First, I heard from numerous Idahoans who feel they are losing their choice of doctors because of Medicare's overly bureaucratic method of operation. As more and more health care providers refuse to accept Medicare, senior citizens are finding they no longer have access to the providers they wish to see. Allowing private contracting will provide seniors the chance to maintain the patient-provider relationships which are so important to them.

Second, I support S. 1194 for an even more fundamental reason. I do not believe a nation, for which so many have sacrificed so much in the name of freedom, should tell senior citizens that they do not have the freedom to provide for themselves, even if they are perfectly able to do so. Many of our senior citizens are people who worked, and fought, during some of this century's most difficult times, yet current Medicare rules tell them we don't think they are capable of determining, for themselves, how to best meet their own health care needs. Mr. President, this implies that government bureaucrats don't feel those who survived the Great Depression and World War II, and helped make this Nation what it is today, are capable of understanding and meeting their own needs. What a ridiculous concept.

Would we tell food stamp recipients that they could not use their own money to buy food, even if they worked hard to gather the financial resources needed to feed themselves? Would we tell someone in subsidized housing that they may not use their own resources to move into a home which they could call their own? The answer to both these question is, of course, no. In fact, I would be willing to guess that anyone suggesting such an idea would be laughed right out of this Chamber. Yet, there are those who don't believe senior citizens should be allowed to provide, voluntarily, for their own health care needs.

Mr. President, the bill we are discussing this morning simply says that if you have the ability to take care of your own health care needs, and you wish to do so, you should be legally allowed to do so. Supporting it should simply be a matter of common sense.

I have heard from numerous Idahoans who tell me they want the freedom to decide whether or not to use Medicare to pay for health care services. I have heard from numerous health care providers in my State who sincerely want their patients to have that choice. I trust the senior citizens of Idaho. I believe they are more than capable of making a decision about how to pay for health care services, and should be given the option to make that choice for themselves.

The American people are intelligent. If you give them choices, they are certainly able to decide which option is in their best interest. During my tenure in the Senate, I have consistently worked to give Americans more choice, while reducing government intrusion in their lives. The Medicare Beneficiary Freedom to Contract Act accomplishes both of these goals, and I urge all of my colleagues to support it.

Mr. CAMPBELL. Mr. President, today I join my colleagues in supporting the Kyl-Archer "Medicare Beneficiaries Freedom To Contract Act."

When I first discovered that the version of this summer's Balanced Budget Act that was signed into law included such a drastic deviation from Congress' intent, which was to allow Medicare beneficiaries the choice to go outside the Medicare system for care, I was outraged. We agreed to ensure this freedom, not strangle it by kicking doctors out of the Medicare system for seeing Medicare patients on a private

contract basis. By excluding physicians from Medicare for 2 years as a punishment for entering into a private contract, the law offers seniors a choice in one breath and takes it away in the next.

If beneficiaries choose to pay for care out of their own pocket, that is their right. In no way does that constitute a criminal act. It is not an appropriate role for the Federal Government to be telling people how they can spend the money in their wallet—we already do enough of that with their tax dollars.

The claims made for instituting such a restrictive law are unfounded. The assertion that seniors of significant means will be siphoned out of the system, creating an increased burden on the Medicare trust fund, makes several false assumptions. First, income and population statistics produced by the Social Security Administration indicate that nearly two-thirds of this country's over-65 population live at or near the poverty level, with less than 20 percent seniors earning more than $75,000 a year. Given that, it is doubtful that we'll see a wave of seniors rushing to contract privately and disrupting the Medicare system. Those same statistics also deflate the argument that droves of doctors will begin denying care unless patients agree to privately contract at a higher rate. The patients aren't there, leaving physicians strongly dependent—as they are now—on Medicare clients. Therefore, there is no threat of a two-tiered system of care, with only the wealthy having access to the best care. It is just not economically sound or feasible for a significant number of doctors to establish a "new tier" of medicine.

The concerns about rampant fraud and abuse resulting from private contracting seem to disregard some very compelling facts. For example, over the last 2 years, Congress has implemented strict penalties for Medicare fraud and abuse, including thousands of dollars in fines and jail time. We have seen people go to jail for committing Medicare fraud. I have medical professionals contacting me regularly because they are so fearful of inadvertently misbilling Medicare and winding up in jail or out of business. More importantly, however, Medicare beneficiaries are copied on all bills that Medicare pays for services they've received. If a doctor double-bills Medicare for services that a beneficiary has already paid for out of their pocket, that senior would be dialing Medicare's 1-800 fraud number faster than you or I could blink.

Finally, Senator KYL's bill would allow patients to terminate contracts at virtually anytime, which will force physicians who are interested in private contracting to offer services at reasonable and competitive rates. Consumers would finally be playing a role in the Medicare market.

Choice and competition have emerged as the most viable and fair solutions for saving the Medicare Program and ensuring quality, affordable healthcare for generations of Medicare beneficiaries to come. This bill embodies those very concepts.

Mr. President, I yield the floor and 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. 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. TORRICELLI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

THE A-PLUS SAVINGS ACCOUNTS

Mr. TORRICELLI. Mr. President, within the next few days this Senate will vote upon a proposal that I have offered with Senator COVERDELL, S. 1113—A-plus savings accounts. It is a proposal I know that many Members of the Senate are considering for the first time. I take the floor today to ask them to look carefully at its many provisions.

Like many Members of my party, I have great reservation about the movement to vouchers in the various States and by the Federal Government. It has always been my concern that vouchers not only invite constitutional challenge, but inevitably results in a movement of resources from the public schools, where they are already too scarce, to private schools.

The issue in my mind is not to move resources from public to private schools, but to increase resources for all schools. That is why, although I differ with Senator COVERDELL and other Members of the Senate on vouchers, we have come together as Democrats and Republicans, provoucher and antivoucher Senators, on the issue of the A-plus savings accounts.

Let us look at the facts about these savings accounts.

First, there is not the use of public money. This is money that an individual or their employer or their labor union can put in a savings account for the education of a child in grade school or high school, therefore, there is not a constitutional issue and there is not a diversion issue of public educational resources to private schools.

Second, where does this money go? And who does it help? The Joint Committee on Taxation estimates that almost 75 percent of the money that will be placed in these accounts actually would go to public school students because although we are allowing the accounts to be used to support tuition at parochial schools or other private schools, it also would be available for ancillary activities of public school students.

Since 90 percent of American students go to public schools, these funds—available for computers, tutoring, after-school transportation—would, to a significant, indeed overwhelming extent, actually go to public school students.

This is the right program at the right time, bringing the right resources to the students most in need.

In many of our urban centers today, including in my own State of New Jersey—from Camden to Newark to Jersey City—if we lose our private schools, our parochial schools, we do not have the capacity in the public schools for those students. And many working-class, working-poor parents want this option. I do not know why we would deny it to them.

Critics have said, "Well, this is only available to the rich." But in fact for a single taxpayer, we have put a ceiling of $95,000. It is estimated that 70 percent of all of these resources would go to families that earn under $70,000 a year.

An uncle can put $10 in an account every month for a favorite nephew or niece. A grandparent, at a birthday or Christmas, can put $100 or $200 in an account. A parent, from the time of birth, can put a few dollars away every month to ensure that their child is getting the high school or grade school education they want them to have.

What can be wrong with that, getting the entire family involved in saving for a child's education? But if the option is public school—which it is overwhelmingly in the United States; and understandably so—then these funds are available to give a quality public school education.

Sixty percent of all students in public schools in America today do not have a computer at home. Eighty-five percent of all minority students in the public schools do not have a computer at home.

An overwhelming majority of public school students cannot afford a tutor, even if they are having trouble with math or science. These accounts are available for that tutoring and for that equipment. It gives a new advantage to parents who want to get engaged in their child's education in the public schools.

For all of those reasons, I am asking, particularly members of my own party, to look once again at the Coverdell-Torricelli proposal for A-plus savings accounts. This escapes the central conflict over vouchers and strengthens both public and private education.

No Member of this body today, no matter how they feel about vouchers, can possibly argue—when the United States is now being ranked 15th out of 18 nations in the quality of math performance by our students; near last in

science education—no one can defend the status quo. No Member can honestly believe that a chance to bring new resources, private resources, to middle-income families who want to get engaged in their own child's education is a bad idea.

We will, Mr. President, have a chance to obviously debate this at length when the bill is brought before the Senate. But here today, in anticipation of that debate, I wanted to ask Members of the Senate to use the time between this discussion and that debate to familiarize themselves with this proposal and the hope that we can genuinely have a good and bipartisan level of support in sending this bill, which has already passed the House, on to the President.

Mr. President, I yield the floor.

THE INTELLECTUAL ROOTS OF NATIVISM

Mr. BROWNBACK. Mr. President, I would like to highlight an article from the October 2 issue of the Wall Street Journal written by Tucker Carlson.

It is important to recognize the valuable contributions that immigrants make to this country. Groups that refuse to recognize that legal immigration makes a positive contribution to the productivity and vitality of our country ignore the history of our Nation and exploit irrational fears. Mr. Carlson has done an exemplary job of exploring the initiatives and history of such anti-immigration organizations.

I ask unanimous consent that the article be printed in the RECORD.

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

[From the Wall Street Journal, Oct. 2, 1997]

THE INTELLECTUAL ROOTS OF NATIVISM

(By Tucker Carlson)

When the U.S. Commission on Immigration Reform issued its final report on Tuesday, Dan Stein, executive director of the Federation for American Immigration Reform, stood ready to comment. Responding to a recommendation that the U.S. citizenship oath be modified to strike antiquated words like "potentate," Mr. Stein told the Los Angeles Times, "If the oath of [allegiance] is too hard for the immigrants to understand . . . we're admitting the wrong immigrants."

In the debate over immigration policy, no single group has received more attention than FAIR, a Washington-based nonprofit that claims a membership of 70,000. For close to 20 years, in books, monographs, op-eds and thousands of newspaper stories, FAIR has made the case for tighter national borders. And while the group's goal seems clear enough—to curtail immigration into the U.S.—its ideology is harder to pin down. FAIR's supporters include both the conservative magazine National Review and former Colorado Gov. Richard Lamm, a Democrat; Pat Buchanan as well as Eugene McCarthy. Where does FAIR stand politically? It's hard to say, says Mr. Stein: "Immigration's weird. It has weird politics."

IN FAVOR OF INFANTICIDE

Certainly FAIR does. Consider the group's connection to Garrett Hardin, a University of California biologist who became moderately famous in the 1960s for his essay "The Tragedy of the Commons," a polemic against population growth and Americans' "freedom to breed." Mr. Hardin, now in his 80s, was for many years one of the more active members of FAIR's board of directors, writing and speaking extensively under the group's auspices. He is now a board member emeritus, and his ideas are still influential at FAIR; just this spring, Mr. Stein quoted "noted immigration scholar and thinker Garrett Hardin" in testimony before the Senate.

What are Garrett Hardin's ideas? "Sending food to Ethiopia does more harm than good," he explained in a 1992 interview with Omni magazine. Giving starving Africans enough to eat, Mr. Hardin argued, will only "encourage population growth." His views got less savory from there. In the same interview, the "noted immigration scholar" went on to criticize China's notoriously coercive population control programs on the grounds they are not strict enough. He also argued against reducing infant mortality in undeveloped nations and came out foursquare in favor of infanticide ("in the historical context," as the Omni reporter put it), which he declared "an effective population control."

"In all societies practicing infanticide," Mr. Hardin explained to the reporter, who happened to be five months pregnant at the time, "the child is killed within minutes after birth, before bonding can occur." Not surprisingly, Mr. Hardin wasn't shy about his enthusiastically pro-choice views: "A fetus is of so little value, there's no point in worrying about it."

What does eliminating children have to do with immigration? According to Mr. Hardin, just about everything. "Because widespread disease and famine no longer exist, we have to find another means to stop population increases," he explained. "The quickest, easiest and most effective form of population control in the U.S., that I support wholeheartedly, is to end immigration."

At FAIR, Mr. Hardin's views are considered well within the pale. Founded in 1979 by a Michigan ophthalmologist named John Tanton, FAIR has from its inception been heavily influenced by the now-discredited theories of Thomas Malthus, an 18th-century English clergyman who predicted that the world's food supply would soon fail to keep pace with its rising population. During the 1970s, Dr. Tanton, now FAIR's chairman, did his part to reduce world population by founding a local Planned parenthood chapter and running the group Zero Population Growth. With the birthrate of native-born Americans declining, however, Dr. Tanton says he soon realized that the key to population control was reducing immigration. Unless America's borders are sealed, Dr. Tanton explained to the Detroit Free Press this March, the country will be overrun with people "defecating and creating garbage and looking for jobs." To this day, FAIR's "guiding principles" state that "the United States should make greater efforts to encourage population control." Several months ago, the group organized a "bicentennial event" to commemorate Malthus's "Essay on the Principle of Population."

Mr. Stein, the organization's current executive director, doesn't deny that Malthusian fears of overpopulation are "central" to FAIR's mission. Nor does he flinch when confronted with Mr. Hardin's views of killing newborns. Instead, Mr. Stein defends Mr. Hardin by pointing out that his colleague has never supported "involuntary, coercive infanticide." (As opposed to the voluntary kind?) As for the Chinese government's well-documented campaign of forced abortions and sterilization, Mr. Stein describes it as an "international family-planning program."

Perhaps most telling, Mr. Stein appears to embrace Mr. Hardin's long-standing support of eugenics. In his interview with Omni, Mr. Hardin expressed alarm about "the next generation of breeders" now reproducing uncontrollably "in Third world countries." The problem, according to Mr. Hardin, is not simply that there are too many people in the world, but that there are too many of the wrong kind of people. As he put it: "It would be better to encourage the breeding of more intelligent people rather than the less intelligent." Asked to comment on Mr. Hardin's statement, Mr. Stein doesn't even pause. "Yeah, so what?" he replies. "What is your problem with that? Should we be subsidizing people with low IQs to have as many children as possible, and not subsidizing those with high ones?"

Several years ago FAIR was forced to defend itself against charges of racism when it was revealed that the organization had received more than $600,000 from the Pioneer Fund, a foundation established in 1937 to support "research in heredity and eugenics." Mr. Stein did his best at the time to downplay Pioneer's nasty reputation. "My job is to get every dime of Pioneer's money," he told a reporter in 1993. But an unpleasant odor remained.

FAIR also has repeatedly been accused of hostility toward Hispanics and the Catholic Church. Mr. Stein claims the charges are nothing more than "orchestrated attacks from some of these fervent, out-of-control zealots on the so-called religious right." (And, he warned me, I had better not imply otherwise: "I will call you at home and I'll give your wife my opinion of the article if I don't like it," he said heatedly.) But Mr. Stein does little to disprove his critics. In one widely quoted outburst, he suggested—that certain immigrant groups are engaged in "competitive breeding." He told me: "Certainly we would encourage people in other countries to have small families. Otherwise they'll all be coming here, because there's no room at the Vatican."

There are reasonable critics of immigration, but Dan Stein is not one of them. Which makes it all the more puzzling that a number of otherwise sober-minded conservatives seem to be making common cause with Mr. Stein and FAIR. According to National Review editor John O'Sullivan, FAIR, "until very recently, never saw the political right as sympathetic to the cause. That was an obvious error." An error Mr. O'Sullivan has done his best to correct: Over the past several years, National Review has touted FAIR's positions in its editorials and published several articles by FAIR employees.

'THESE CENTRAL AMERICANS'

FAIR itself has made a conscious play for the support of social conservatives, running ads that blame immigration for "multiculturalism," "multilingualism," "increasing ethnic tension" and "middle-class flight." Mr. Stein claims that many immigrants are left-wing ideologues, making conservatives FAIR's logical allies. "Immigrants don't come all church-loving, freedom-loving, God-fearing," he says. "Some of them firmly believe in socialist or redistributionist ideas. Many of them hate America, hate everything the United States stands for. Talk to some of these Central Americans."

Two years ago Insight, a magazine published by the conservative Washington

Times, referred to "the conservative Federation for American Immigration Reform." And last year Republican strategist Paul Weyrich allowed FAIR to co-produce more than 50 hour-long programs dealing with immigration for National Empowerment Television, his conservative network. Clearly, FAIR's overtures to the right are paying off. But do conservatives who embrace FAIR know all they should about the object of their affections?

EXECUTIVE SESSION

NOMINATION OF CHARLES J. SIRAGUSA, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NEW YORK

The PRESIDING OFFICER (Mr. THOMAS). Under the previous order, the clerk will report the Executive Order No. 324.

The legislative clerk read the nomination of Charles J. Siragusa, of New York, to be U.S. district judge for the Western District of New York.

The Senate continued with the consideration of the nomination.

Mr. LEAHY. Mr. President, I note that we are soon going to vote on the nomination of Charles J. Siragusa to be a judge of the U.S. district court for the Western District of New York.

The judge has the highest rating possible from the ABA. He was unanimously reported by the Judiciary Committee. He was a prosecutor. I commend him and the others.

This morning the majority leader has decided to call up the nomination of Charles Siragusa to the U.S. District Court for the Western District of New York. I expect this rollcall vote to be much like the last seven in which a unanimous Senate approves a well-qualified judicial nomination.

As I stated, Judge Siragusa received the highest rating possible from the ABA. He was unanimously reported by the Judiciary Committee along with others who remain on the Senate calendar awaiting action. He is supported by Senators MOYNIHAN and D'AMATO.

Judge Siragusa served as an assistant district attorney for the Monroe County district attorney's office in Rochester, NY, for 15 years from 1977 to 1992 and is currently a judge on the New York State Supreme Court. He has been the recipient of numerous legal awards, including the 1996 Recognition Award from the Monroe County Magistrates Association. He has served as a volunteer member of the Families and Friends of Murdered Children and Victims of Violence advisory board since 1995.

I congratulate Judge Siragusa, his wife and family on this day and look forward to his service on the U.S. district court.

But I would also note, we had time set aside for debate on this. And we continue to have judges who are held up silently, and then we cannot vote on them.

Margaret Morrow of California is an example of this. We have spent far more time on quorum calls this year than we have on any debate of Margaret Morrow, except that we find Senators who have press conferences saying that she should not be confirmed or could not be confirmed or will not be confirmed—but nobody wants to bring her nomination to a vote.

She, like the judge we will soon confirm, is an extraordinarily well-qualified nominee. She does have one difference. She is a woman. And I do not know why this woman, who has been the president of the California Bar Association, one of the most prestigious positions any lawyer has ever received, as well as the L.A. bar, why this woman is continuously blocked.

Frankly, I could find no other reason than her gender. And I think it is shocking. I think it is a shame.

While I am encouraged that the Senate is today proceeding with the confirmation of a judicial nominee, there remains no excuse for the Senate's delay with respect the more than 50 other judicial nominations sent by the President. The Senate should me moving more promptly to fill the vacancies plaguing the federal courts. Twenty-three confirmations in a year in which we have witnessed 115 vacancies is not fulfilling the Senate's constitutional responsibility.

At the end of Senator HATCH's first year chairing the Committee, 1995, the Senate adjourned having confirmed 58 judicial nominations and leaving only 49 vacancies. This year the Senate has confirmed less than half of the number confirmed in 1995 but will adjourn leaving almost twice as many judgeships vacant.

At the snail's pace that the Senate is proceeding with judicial nominations this year, we are not even keeping up with attrition. When Congress adjourned last year, there were 64 vacancies on the Federal bench. In the last 10 months, another 50 vacancies have occurred. Thus, after the confirmation of 23 judges in 10 months, there has been a net increase of 28 vacancies, an increase of almost 50 percent in the number of current Federal judicial vacancies.

Judicial vacancies have been increasing, not decreasing, over the course of this year and therein lies the vacancy crisis. The Chief Justice of the United States Supreme Court has called the rising number of vacancies "the most immediate problem we face in the Federal judiciary."

I have commended Senator HATCH for scheduling 2 days of confirmation hearings for judicial nominees this week. Unfortunately, that brought to only eight the total number of confirmation hearings for judicial nominees held all year, not even one a month.

The Judiciary Committee still has pending before it over 30 nominees in need of a hearing from among the 73 nominations sent to the Senate by the President during this Congress. From the first day of this session of Congress, this committee has never had pending before it fewer than 20 judicial nominees for hearings. The committee's backlog had doubled to more than 40.

There is no excuse for the Judiciary Committee's delay in considering the nominations of such outstanding individuals as Professor William A. Fletcher, Judge James A. Beaty, Jr., Judge Richard A. Paez, Ms. M. Margaret McKeown, and Ms. Susan Oki Mollway, to name just a few of the outstanding nominees who have all been pending all year without so much as a hearing. Professor Fletcher and Ms. Mollway had both been favorably reported last year. Judge Paez had a hearing last year but has been passed over so far this year. Professor Fletcher, Judge Paez and Ms. McKeown are all nominees for judicial emergency vacancies on the Ninth Circuit, as well.

The committee still has pending before it 10 nominees who were first nominated during the last Congress, including five who have been pending since 1995. Thus, while I am delighted that we are moving more promptly with respect to certain nominees, I remain concerned about all vacancies and all nominees.

Since no regular executive business meeting of the Judiciary Committee was held this week and none has yet been noticed for next week, which may be our last before adjournment, the committee may not have an opportunity to report any of the 13 fine judicial nominees who participated in hearings this week or the nominations of Clarence Sundram or Judge Sonia Sotomayor or, for that matter, the nomination of Bill Lee to be Assistant Attorney General for the Civil Rights Division.

I have urged those who have been stalling the consideration of these fine women and men to reconsider and to work with us to have the committee and the Senate fulfill its constitutional responsibility. Those who delay or prevent the filling of these vacancies must understand that they are delaying or preventing the administration of justice. Courts cannot try cases, incarcerate the guilty or resolve civil disputes without judges. The mounting backlogs of civil and criminal cases in the dozens of emergency districts, in particular, are growing more critical by the day.

A good example of the continuing stall is the long-pending nomination of Margaret Morrow. The extremist attacks on Margaret Morrow are puzzling—not only to those of us in the Senate who know her record but to those who know her best in California,

including many Republicans. They cannot fathom why a few Senators have decided to target someone as well-qualified and as moderate as she is.

Anthony Lewis asked the question in a column in The New York Times earlier this week: "Why [are some] trying to frighten conservatives with talk of nonexistent liberal activist Clinton judges?" Those who start a witch hunt, want to find a witch—even if they have to contort the facts and destroy a good person in the process. That seems to be what is going on with this nomination as opponents of this administration are seeking to construct a straw woman in the place of the real Margaret Morrow. She does not subscribe to an activist judicial philosophy and I am confident that as a district court judge would apply the law consistent with precedents established by the U.S. Supreme Court, the court of appeals and judicial precedent.

With respect to the issue of judicial activism, we have the nominee's views. She told the committee: "The specific role of a trial judge is to apply the law as enacted by Congress and interpreted by the Supreme Court and courts of appeals. His or her role is not to 'make law.'" She also noted:

> Given the restrictions of the case and controversy requirement, and the limited nature of legal remedies available, the courts are ill equipped to resolve the broad problems facing our society, and should not undertake to do so. That is the job of the legislative and executive branches in our constitutional structure.

Margaret Morrow was the first woman president of the California Bar Association and also a past president of the Los Angeles County Bar Association. She is an exceptionally well-qualified nominee who is currently a partner at Arnold & Porter and has practiced for 23 years. She is supported by Los Angeles' Republican Mayor Richard Riordan and by Robert Bonner, the former head of DEA under a Republican administration. Representative JAMES ROGAN attended her second confirmation hearing to endorse her.

Margaret Morrow has devoted her career to the law, to getting women involved in the practice of law and to making lawyers more responsive and responsible. Her good works should not be punished. Her public service ought not be grounds for delay. She does not deserve this treatment. This type of treatment will drive good people away from Government service.

The president of the Woman Lawyers Association of Los Angeles, the president of the Women's Legal Defense Fund, the president of the Los Angeles County Bar Association, the president of the National Conference of Women's Bar Association and other distinguished attorneys from the Los Angeles area have all written the Senate in support of the nomination of Margaret Morrow. They write that: "Margaret Morrow is widely respected by attorneys, judges and community leaders of both parties." She "is exactly the kind of person who should be appointed to such a position and held up as an example to young women across the country." I could not agree more.

This nomination has been pending since May 9, 1996. No one can blame President Clinton for the delay in filling this important judgeship. Within 4 months of Judge Gadbois' disability, the President had sent Margaret Morrow's name to the Senate. She had a confirmation hearing and was unanimously reported to the Senate by the Judiciary Committee in June 1996. This was one of a number of nominations caught in the election year shutdown and was not called up for Senate consideration during the rest of that year.

She was renominated on January 7, 1997, the first day of this session of Congress. She had her second confirmation hearing in March. She was then held off the judiciary agenda while she underwent rounds of written questions. When she was finally considered on June 12, she was again favorably reported with the support of Chairman HATCH. She has been left pending on the Senate Executive Calendar for more than 4 months and been passed over, again and again.

Senator HATCH noted in a Senate floor statement on September 29 that he continues to support the nomination of Margaret Morrow and that he will vote for her. He said:

> I have found her to be qualified and I will support her. Undoubtedly, there will be some who will not, but she deserved to have her vote on the floor. I have been assured by the majority leader that she will have her vote on the floor. I intend to argue for and on her behalf.

Yesterday Senators ASHCROFT and SESSIONS held a press conference in which they noted their opposition to this nomination. I am glad that the secret holds that had prevented the consideration of this nomination are now over and urge the majority leader to proceed to call up this nomination for a debate and vote without further delay. This is the U.S. Senate, once the greatest deliberative body in the world and the conscience of the Nation. We should proceed to debate this nomination and vote.

Every Senator is free to vote for or against a nominee. What I have not appreciated is the mysterious hold over nominations for months at a time. Now that the sources of the hold have come forward, the Senate should proceed to debate and vote.

I do not oppose a recorded vote on Margaret Morrow any more than I opposed a recorded vote on Frank J. Siragusa, or Algenon Marbley, or Katherine Sweeney Hayden, or Janet C. Hall, or Christopher Droney, or Joseph F. Bataillon, or Frank M. Hull, or Henry Harold Kennedy, Jr., or Merrick B. Garland. In fact, on the last seven roll call votes on judicial nominees preceded that this morning, there has been a cumulative total of one negative vote by a single Senator on one of those seven nominees. Six judges were confirmed by unanimous roll call votes and one was confirmed 98 to one.

Meanwhile, while the Senate fiddles, the people served by the District Court for the Central District of California continue to suffer the effects of this persistent vacancy, one of the dozens of judicial emergency vacancies being perpetuated around the country. This nomination has been held up so long that the vacancy has now extended to more than 18 months and is designated a judicial emergency vacancy by the Administrative Office of the United States Courts.

This is a district court with over 300 cases that have been pending for longer than three years and in which the time for disposing of criminal felony cases and the number of cases filed increased over the last year. Judges in this district handle approximately 400 cases a year, including somewhere between 40 and 50 criminal felony cases. Still this judicial vacancy is being perpetuated by the refusal to vote on this well-qualified nominee.

I fear that the nomination of Margaret Morrow has become a fund raising ploy for the extreme right wing. This past weekend we learned that a $1.4 million fund raising and lobbying effort is underway to try to perpetuate the judicial vacancy crisis and continue the partisan and ideological stall on Senate consideration of much-needed judges.

I understand that big donors are solicited with promises of intimate dinners with leading conservative elected and public figures closely involved with the judicial confirmation process and that Senators appear on a videotape being used as an integral part of this opposition effort.

Those pressing this effort complain about what they see as the failure of the U.S. Senate to block the appointment of judges to the Federal bench. The American people, litigants, prosecutors, and judges have just the opposite complaint—that the perpetuation of judicial vacancies is affecting the administration of justice and rendering our laws empty promises.

It is sad that this effort is premised on the slanted portrayal of decisions, many of which were decided by judges appointed by Republican Presidents. I have spoken before about the dangers of characterizing isolated decisions to stir up anger against the judiciary. Short-term monetary or political gain is not worth the price.

This fund raising campaign seems to extend back over the course of the year but has only become public with reports in the Los Angeles Times and New York Times over last weekend.

Those who delight in taking credit for having killed, judicial nominees last year continue their misguided efforts to the detriment of effective law enforcement and civil justice. This extreme right-wing fund raising campaign to kill qualified judicial nominations is wrong.

Targeting such a well-qualified nominee as Margaret Morrow is an example of just how wrong this scheme is. I believe all would agree that it is time for the full Senate to debate this nomination and vote on it. I understand that Senator ASHCROFT welcomed such a debate at his press conference yesterday. I have looked forward to that debate for some time. I ask again, as I have done repeatedly over the last several months, why not now, why not today, why not this week?

I yield the floor.

Mr. MOYNIHAN. Mr. President, in a few moments the Senate will vote to confirm a most able candidate for U.S. District Judge for the Western District of New York. Charles Joseph Siragusa was western New York's most experienced prosecutor who became its most admired supreme court judge. We now have the opportunity to bring his considerable talents to the Federal bench.

I had the honor of recommending Judge Siragusa to President Clinton on May 14, 1997. He enjoys the full support of my friend and colleague, Senator D'AMATO, and the unanimous approval of the Committee on the Judiciary.

Might I note that my judicial screening panel interviewed more than 20 applicants to fill the vacancy that resulted when Judge Michael A. Telesca took senior status. There were, as one might have expected, many splendid candidates. However, Judge Charles J. Siragusa stood out.

Judge Siragusa has served with great distinction in the Seventh Judicial District. He was elected to the State supreme court in 1992, following 15 years as a prosecutor with the Monroe County district attorney's office. In that capacity he tried over 100 felonies and was involved in a number of significant criminal cases including the prosecution of Arthur J. Shawcross, a serial killer responsible for the deaths of 11 women. He received widespread recognition and praise for his work on that case.

A native of Rochester, Judge Siragusa was graduated from LeMoyne College in DeWitt, NY, in 1969. He received his law degree from Albany Law School in 1976 and has been a member of the New York State Bar since 1977.

Judge Charles J. Siragusa is a man of great intelligence and unwavering principle. I am confident that, upon confirmation, he will serve with honor and distinction.

Mr. HATCH. Mr. President, it is with great pleasure that I endorse the nomination of Charles Siragusa who has been nominated by President Clinton for the position of U.S. District Judge for the Western District of New York.

Judge Siragusa comes before the Senate with an already distinguished record having served on the New York supreme court since 1993. In that position, he has presided over both civil cases and criminal cases. He is currently assigned full time to the criminal division.

Judge Siragusa is not only a seasoned jurist, but he is also an experienced trial lawyer. He has extensive litigation experience having first been an assistant district attorney and then later serving as a first assistant district attorney in the Monroe County district attorney office from 1977 to 1992. I am sure my colleagues will agree that he is well qualified for a position on the Federal bench for many reasons not the least of which because he is someone who has had the practical experience of having tried approximately 100 cases as lead trial counsel. I might add that 95 percent of those cases were jury trials and many of them involved homicides.

Judge Siragusa also brings the experience of having been a teacher of sixth graders and junior high school from 1969 to 1973, in Rochester, NY. I am sure that job taught him great patience—a skill that might come in handy someday on the Federal bench.

He is also active in his community. Judge Siragusa is a member of numerous organizations including the Jewish Community Center; the New York District Attorney Association; the Monroe County Bar; the Rochester Inn of Court; Jury Advisory Commission; and the Association Justices Supreme Court in New York.

Judge Siragusa graduated cum laude from LeMoyne College in 1969 having earned a bachelor of arts sociology, and his juris doctorate from Albany Law School in 1976.

He has two published writings, in addition to his other than judicial opinions—one entitled "Prosecution of a Serial Killer;" and the other being, "View from the Bench" that appeared in Rochesterian Magazine.

I would also like to add that Judge Siragusa's nomination might have been before the Senate sooner, but for the fact that when the Judiciary Committee first tried to schedule a hearing on his nomination my staff had a bit of trouble locating him. We later learned that he was in Aruba on his honeymoon. Congratulations, Judge Siragusa.

I am confident that Judge Siragusa will be a worthy addition to the bench of the Federal District Court in the Western District of New York. I am very pleased that the Senate has scheduled a vote on his nomination, which I am happy to support. He is also supported by Senator MOYNIHAN and Senator D'AMATO. I urge my colleagues to do the same.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, on the matter of the pending nomination, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Charles J. Siragusa, of New York, to be U.S. District Judge for the Western District of New York? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Indiana [Mr. COATS] is necessarily absent.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 286 Ex.]

YEAS—98

Abraham	Feingold	Lugar
Akaka	Feinstein	Mack
Allard	Ford	McCain
Ashcroft	Frist	McConnell
Baucus	Glenn	Mikulski
Bennett	Gorton	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grams	Murray
Boxer	Grassley	Nickles
Breaux	Gregg	Reed
Brownback	Hagel	Reid
Bryan	Hatch	Robb
Bumpers	Helms	Roberts
Burns	Hollings	Rockefeller
Byrd	Hutchinson	Roth
Campbell	Hutchison	Santorum
Chafee	Inhofe	Sarbanes
Cleland	Inouye	Sessions
Cochran	Jeffords	Shelby
Collins	Johnson	Smith (NH)
Conrad	Kempthorne	Smith (OR)
Coverdell	Kennedy	Snowe
Craig	Kerrey	Specter
D'Amato	Kerry	Stevens
Daschle	Kohl	Thomas
DeWine	Kyl	Thompson
Dodd	Landrieu	Thurmond
Domenici	Lautenberg	Torricelli
Dorgan	Leahy	Warner
Durbin	Levin	Wellstone
Enzi	Lieberman	Wyden
Faircloth	Lott	

NOT VOTING—2

Coats	Harkin

The nomination was confirmed.

DISAPPROVAL ACT

The PRESIDING OFFICER. Under the previous order, the Senate now will proceed to the consideration of S. 1292, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1292) disapproving the cancellations transmitted by the President on October 6, 1997, regarding Public Law 105-45.

The Senate proceeded to consider the bill, which had been reported from the

Committee on Appropriations, with an amendment on page 2, line 3, to strike "97-15, 97-16."

Mr. STEVENS. Mr. President, there are 10 hours, as I understand it, on this bill. I do not have any knowledge yet as to how much time we will take. I will give myself such time as I need in the beginning of this statement.

On October 6, the President impounded funds for 38 projects contained in the fiscal year 1998 military construction bill, which totaled $287 million. Let me first take a moment to review the merits of this bill.

Mr. President, in June, President Clinton reached a budget agreement with the bipartisan leadership of the Congress. That agreement provided for an increase of $2.6 billion for national defense over the amount the President had requested for the budget in the fiscal year 1998. The President's action on the military construction bill, in my judgment, reneges on the budget agreement that he reached with the Congress. Congress was given spending caps. We then allocated that within the appropriations process, and the Appropriations Committee presented the Senate with 13 appropriations bills consistent with the spirit, terms, and limits of the revised budget.

Mr. President, I state to the Senate, without any chance of being corrected, that the Senator from West Virginia and I have done our utmost to live within the terms of the budget agreement, although we didn't agree with it and we weren't present at the time it was made. Now, we have upheld the congressional commitment to the President. Simply stated, the President did not when he used the line-item veto on this bill.

After consultation with Senator BYRD, the committee held a hearing 3 weeks ago to evaluate the President's use of the line-item authority and review the status of these projects for military construction. We asked military witnesses from three services to testify. They told us there were valid requirements for each of these projects, Mr. President. They were mission-essential to the U.S. military. They also informed the Appropriations Committee that each of these projects was, in fact, executable during the coming fiscal year.

Now, these projects clearly did not meet the criteria intended by Congress to eliminate wasteful or unnecessary spending. Those were the tests under the line-item veto law. Instead, the President chose to cancel a project because of three criteria that were announced after the action taken by the President. First, he would veto a bill if it was not in the President's 1998 budget request and no design work had been initiated and it did not substantially contribute to the well-being and quality of life of the men and women in the armed services.

Senator BYRD is going to speak at length on this. He is an expert in this area, and I don't want to go into the area he will cover. It is very clear that that was not within the terms of the bill passed, the law that the President signed, which set forth the process for using the line-item veto. At our Appropriations Committee hearing, it was apparent that, in fact, some design work had been initiated on most of these projects—not all of them, but most of them.

The generals that were before us confirmed what many of us already knew. The White House decision conflicted with the military needs of the Armed Forces. In every instance these projects were needed and desired by the military services. Since that time the administration has stated—and even today, the President has a message out today—that mistakes were made. The administration has indicated that it will support many of these projects. But so far it has not told the committee which ones, Mr. President. We have a criticism of this bill from the administration, but the administration vetoed 38 projects, and it says it made some mistakes. But it has not publicly said which ones.

It is my belief that we will be successful in our effort to overturn these line-item vetoes in this instance because the projects the President has attempted to eliminate are meritorious. They are sought by the Department of Defense and by the services involved in each instance, and they are within the budget agreement.

I want to go back and emphasize that, Mr. President. We had a budget presented to us by the President that was lower than many of us thought was necessary to meet our national needs. The President, in the budget agreement, agreed to that, and he agreed to an increase in defense spending. Our committee received no specification on what he thought that increase should be spent for. So we did what the Constitution gives us the right to do. We determined where the money would be allocated. None of these projects have been listed as being either wasteful or excessive spending. Again, almost all of them are in the 5-year plan, and those that were not in the 5-year plan were indicated to be necessary and ones that were needed by the military.

I believe that our military people, soldiers, sailors, marines, airmen, and Coast Guardsmen are the ones that are being shortchanged by the President's veto—not the officials in the Pentagon or the White House.

Let me tell you why I believe the President is reneging. If this line-item veto application, the application of that law to these projects, is sustained, we lose part of the increase that was in the budget agreement. This $287 million is no longer available for expenditure to meet military needs. It is a way for the administration to renege and not meet the goals that we sought for military spending. The President indicated some protected areas in the budget—areas that he wanted protected because of his priorities. Our committee has met every single one of those. We have not stood here and used a pen and taken them out. We have not used what would be a congressional line-item veto and said, no, we don't agree with you on this or that. We have not done that.

But in this instance, the use of the line-item veto reduces the amount that is available for defense spending for fiscal year 1998 by the amount of the application of the line-item veto.

I am differing with my good friend from West Virginia. Although for many years I opposed the line-item veto, I came to the conclusion that because we needed additional impetus behind our efforts to bring about a balanced budget, I indicated I would support the line-item veto—and, as a matter of fact, due to circumstances that developed, I was the chairman of the committee and the chairman of the Senate side of the conference on the Line-Item Veto Act. I supported it because I believed it should be used for the stated purpose to eliminate wasteful and excessive spending, and only to eliminate wasteful and unnecessary spending—not to be used as the display of Presidential executive or political power.

I urge the Senate to support this bill that is before us. We have conferred with all of those involved in the projects. I state that all of the projects except 2 that were in the President's 38 are in this bill. There are two not in there at the request of the Senators involved. Those two, however, are in the House bill.

COMMITTEE AMENDMENT WITHDRAWN

Mr. STEVENS. Just one last word about this procedure. This bill is not subject to amendment in the sense of adding anything to it. I state now that we will not offer the Senate's Appropriations Committee amendment to this bill, and I ask it be withdrawn at this time.

The PRESIDING OFFICER (Mr. HUTCHINSON). If there is no objection, the committee amendment is withdrawn.

The committee amendment was withdrawn.

Mr. STEVENS. Mr. President, that means that there are two projects that are not in this bill that are in the House bill. If the Senate passes this bill—and I seriously urge that it do so—we will go to conference, and the only matters that can be considered in the conference are those two projects. If the House passes the bill—and I presume it will—which has all of the 38 projects, and we pass this one which has 36 projects, the only 2 things that can be discussed in that conference are the 2 projects. And we will bring the

conference report back before the Congress very quickly, I believe.

But, Mr. President, this bill goes beyond the question of what should normally happen under the Line-Item Veto Act concerning actions of a President. This bill pertains to projects that were eliminated at a time when there was an agreement entered into by the leadership of the conference and the Presidency on the level of spending in several discrete categories. From the point of view of this Senator, the most important one was the agreement on the level of spending for the Department of Defense. If this bill does not become law, $287 million of the amount we thought would be available to meet our needs of the Department of Defense will not be there. That $287 million is part of the most vital part of our spending. It is spending for facilities for our people to live in and to work in. I can't think of anything that is more essential right now than to try to maintain our efforts to modernize our bases, modernize our facilities, and to assure that we maintain the quality of life for the military by doing so.

Mr. President, I urge the Senate to stand together with the House to assure that the President—and really the Presidency—lives up to the bargain that was made with the Congress. I do not speak of the President in a personal vein. I think he relied on the advice that was given him. I do object to the use of the concept of the criteria that was announced by the White House. I think Senator MCCAIN will speak about that.

Senator MCCAIN and I are in agreement in terms of what the White House should have done when the law was passed. It should have announced then the criteria the President and the administration would use to review individual bills and then match every bill up against that type of criteria. That was not done, Mr. President.

I believe this bill should become law.

I thank the Chair.

I yield to my good friend from West Virginia.

I believe the Senator from West Virginia controls 5 hours; is that correct?

The PRESIDING OFFICER. The Senator is correct.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I yield myself such time as I may require.

Mr. President, I am looking at the memorandum that is being distributed by the Executive Office of the President, the Office of Management and Budget, dated October 30, 1997.

It carries the heading "Statement of Administration Policy."

I will read it.

This statement of administration policy provides the administration's views on S. 1292, a bill disapproving the cancellations transmitted by the President on October 6, 1997.

S. 1292 would disapprove 34 of the 38 projects that the President canceled from the fiscal year 1998 Military Construction Appropriations Act. The administration strongly opposes this disapproval bill. If it originally was presented to the President in its current form, the President would veto the bill.

The President carefully reviewed the 145 projects that Congress funded that were not included in the fiscal year 1998 budget. The President used his authority responsibly to cancel projects that were not requested in the budget that would not substantially improve the quality of life of the military service members and their families and that would not begin construction in 1998 because the Defense Department reported that no architectural and engineering design work had been done. The President's action saves $287 million in budget authority in 1998.

While we strongly oppose S. 1292, we are committed to working with Congress to restore funding for those projects that were canceled as a result of the data provided by the Department of Defense that was out of date.

I have read the statement of administration policy in its entirety.

Let me take a further look at this sentence which appears in the memorandum. "The President used his authority responsibly to cancel projects that were not requested in the budget."

Mr. President, I don't know of any authority anywhere engraved in stone or bronze or in granite that gives the President the authority to cancel projects that were not requested in his budget. Of course, he did it. There is no question about that. But I don't understand this statement; namely, "The President used his authority responsibly to cancel projects that were not requested in the budget."

Mr. President, we don't live under a king in this country. And I don't propose ever to live under a king. I have been in this Congress now—I suppose I am the dean of the entire Congress, unless Mr. YATES in the other body is, who served before I came to the House of Representatives. But he voluntarily terminated his service over there for a while. He ran for the U.S. Senate. He ran against Senator Dirksen, I believe, and lost.

But, in any event, for the benefit of those who may or may not be interested, I have been in Congress quite a while. So I am the dean of both Houses. I will say it that way.

Also, I am 29,200 days old today, October 30. This is not my birthday. It is just that I was born 29,200 days ago.

I have taken an oath to uphold—to "support and defend." Those are the words, "support and defend" the Constitution. I have taken an oath many times to support and defend the Constitution of the United States—many times, beginning with my service in the State Legislature of West Virginia 51 years ago. And I have never yet found, and I can't find the authority to which this memorandum from the Executive Office of the President, Office of Management and Budget refers, I can't find the authority by which the President can cancel projects solely because they were not requested in the budget. I don't find that in the Constitution. I don't find that in the rules of the Senate. I don't find it in even in the Line-Item Veto Act. I don't find that criterion in there. And all who may doubt, let them take a look at the Line-Item Veto Act, against which I voted. But it is not in there.

So much for that. It is just as I expected when I stood on this floor on several occasions and talked ad nauseam with respect to my opposition to the line-item veto.

I yet cannot understand whatever got into the heads of the educated, intelligent men and women which would cause them to voluntarily cede to any President—not just this one. I don't have anything against this President in that particular. He wanted the line-item veto. But so did his predecessor, and so did his predecessor, and so did his predecessor, and so did his, going all the way back to President Taft. Taft didn't want it. George Washington didn't think much of it.

But anyhow, here it is, the line-item veto. And I said, and so did a lot of my colleagues, the White House, not necessarily the President but the people who work under him, will expand this authority.

I don't know who recommended to the President that he veto these items. One of the items happens to be for West Virginia. But let me hasten to say I would not negotiate with this President or any other President to keep him from vetoing that item for West Virginia. I am not going to negotiate with him to keep something for West Virginia. That is important to me, but more important to me than that is the constitutional system of separation of powers and checks and balances, and that is what we endangered in passing this illegitimate end run around the Constitution of the United States.

We handed it to the President just as the Roman Senate handed to Caesar and handed to Sulla the control over the purse. The Roman Senate ceded voluntarily, handed to the dictators, Sulla, Caesar—they made Caesar dictator for 10 years and then turned right around and made him dictator for life. But they said, "Here it is, the power of the purse." The Roman Senate had complete power over the public purse. But when the Roman Senate ceded to the dictators and later to the emperors the power over the purse, they gave away the Senate's check on the executive power. They gave away the Senate's check on executive tyranny. And that is what we have done.

Let me make clear to all Senators that in voting on this resolution today they are not voting for or against the line-item veto. I am against the line item veto. We all know that. Everybody knows that. If they don't, they ought to have their head examined. But this vote today is not a vote for or

against the line-item veto. I hope all Senators will understand that. I hope all Senators' offices will understand that. I hope all Senators' aides will understand that. And I hope that the press will understand that.

This is not a vote for or against the line-item veto. This is a vote for or against the disapproval resolution. A Senator can be very much for the line-item veto, yet feel that the President exercised the line-item veto in this case in an arbitrary and unfair manner.

That is what we are voting on today, whether or not we feel that the line-item veto was exercised in an arbitrary manner or whether it had a genuine basis, whether it ought to be upheld in this instance; whether or not these items that are in the resolution should go back to the President, hopefully for his signature this time.

In this case, Senators are only voting whether or not you want to send these particular items that were line-item vetoed back to the President a second time. That is all. I happen to think that the line-item veto was used in this instance in a very arbitrary manner.

I think the administration took this action without ample forethought, without a very careful analysis of the items and whether or not they, indeed, did fit into the criteria. I think the administration acted in an arbitrary manner, and they have said that they acted on incorrect data from the Defense Department.

I hope all Senators will understand that they can vote for this resolution today and still be for the line-item veto. It doesn't make any difference as to what their position is on the line-item veto. The fact that they may vote for the disapproval resolution does not mean they are for the line-item veto. It doesn't mean that at all. It should not be taken as an indication that Senators are for or against the line-item veto.

I hope all Senators will vote for the disapproval resolution. Senator STEVENS, as chairman of the Appropriations Committee, conducted a hearing. It was well attended by Senators. And it thoroughly exposed the vulnerability of the administration's position. The Department of Defense witnesses did not uphold the administration in the information that it sent abroad in the land to the effect that this item or that item or some other item was not on the Defense Department's 5-year plan.

Now, I hope that the Senate and House will send this resolution to the President. I hope it will be supported overwhelmingly. And, of course, the President will veto it. He has said he would. But let him veto it. That is an old scarecrow. That is a scare word. It doesn't scare everybody, but it may scare some people. He will veto it. So what. Go ahead. Veto it. Maybe the Senate and House will override the veto. They may not. But in that instance things will be operating according to the Constitution.

Now, here it says in the final paragraph, "While we"—I do not know who "we" is. That is the editorial pronoun "we" "While we strongly oppose S. 1292, we are committed to working with Congress to restore funding for those projects that were canceled as a result of the data provided by the Department of Defense that was out of date."

What is the matter with the administration? Why don't they make sure of what they are doing? They should have acted cautiously. They should have acted carefully because they are vulnerable on this. They have been exposed to have acted, I won't say with malice aforethought but certainly without careful aforethought. It is not to their credit. I don't happen to believe that the Sun rises in the west, Mr. President. It has never risen in the west a single day of the 29,200 days I have been on this Earth. It rises in the east.

So I am not going to bow down to the west—to the western end of Constitution Avenue. I bow down to the Constitution. I took an oath to support and defend that Constitution. I am not above amending the Constitution. The forefathers saw a possible need to amend it and they made provision for that. But I am never going to join in dismantling the structure, the constitutional system of separation of powers and checks and balances. Count me out.

Mr. President, it is with the dispassionate eye of a history student, it is with that kind of dispassionate eye that I have tried to view this subject matter. Everything I have said about this subject matter has come true. It comes with sadness, when we find that in the OMB's explanation of the President's veto it resorts to a statement to the effect that the President has authority responsibly to cancel projects that were not requested in the budget.

But to me that statement demonstrates a superabundance of inflated arrogance. It demonstrates a superabundance of inflated arrogance for a President of the United States, any President—I am not just talking about this one—to feel that he has a right, and the power and the authority—apparently he does have the raw power now that Congress unwittingly gave him the line- item veto—to take the position that if it isn't in his budget, he will veto it.

That is a supremely inflated arrogance, to assume that if it isn't in the budget, the President of the United States shall strike it out. "Upon what meat doth this our Caesar feed . . ."? When an administration arrogates to itself the sole determination that items that are in the President's budget are sacrosanct but those that may be added by the directly elected representatives of the American people are negotiable, and they are vetoable—this is plain, bloated arrogance.

So, as a history student I have studied the practices and the customs and the traditions of the U.S. Senate during its over two centuries of existence, and I believe I can say with some authority that today is a landmark day in the Senate's history. For over 200 years the Senate has exercised its constitutional authority to write and pass the laws of the land. But today that tradition will be momentarily set aside as we consider legislation that asks—yes, asks the President to rethink his decision to erase provisions from a bill passed by Congress and signed into law by that same President. Today the Senate completes the abdication of legislative power that it began last spring when it adopted the conference report on the Line-Item Veto Act. The Senate acted upon the conference report on March 27, 1996. The Senate had originally passed the Line-Item Veto Act a year and 4 days previous to that, on March 23rd, 1995. Those are the two dark days in the constitutional history of this country.

I would like to take a few moments to impress upon my colleagues the significance of today's vote and to implore them to reconsider the misguided course that they embarked upon a year-and-a-half ago. But in so doing, let me say again, your vote today is not a vote for or against the line-item veto. But I do think it's good for us to look back. Lot's wife looked back and she was turned into a pillar of salt, but Senators will not be turned into a pillar of salt. I think it's good for us to look back and have an opportunity to see where we have erred. We all need to look back once in a while and see where we made a mistake, where we left the straight path. And maybe we can find a way to mend ourselves in the future.

So I begin my discussion, as always, with the Constitution of the United States of America. Any discussion of the line-item veto, indeed any discussion of the Federal Government, properly begins with the Constitution of the United States of America. And for those who may be watching the Senate, here it is—right out of my shirt pocket. Here it is: The Constitution of the United States of America. It cost me 15 cents when I first purchased it from the GPO. I think it's about $1.75 today, but it is worth every penny of it.

I begin my discussion with that Constitution, as any consideration of the Federal Government should begin. For the Constitution is not some musty document expressing abstract concepts, a quaint if antiquated relic which only a few high school civics instructors deign to read.

The Constitution is the users' manual of the Federal Government. It specifies how the branches of Government function, how they interact, how

their powers overlap, and yet those powers are separated. It explains how the framers heeded the warnings set out in the Federalist Papers that "[t]he accumulation of all powers, legislative, executive, and judiciary, in the same hands . . . may justly be pronounced the very definition of tyranny."

The solution that the framers hit upon was to divide powers between and among three equal and distinct branches of government. It is a marvelous, marvelous document. One, in my opinion, cannot truly understand the Constitution of the United States without also understanding the history of the ancient Romans, without understanding the history of England, and without understanding the American colonial experience, and without reading the Federalist Papers, in other words, without having a thorough grasp of the roots of the Constitution that lead back into the misty centuries.

The solution that the framers hit upon was to divide powers between and among three equal and distinct branches of government. The Constitution sets forth a clear separation of powers between and among these three branches. Article I specifies that all—all—let's give what I say here 100 percent authenticity. I won't risk my memory.

Abiyataka was the nickname of Artaxerxes II, of Persia. His memory was so fabulous and outstanding that he was given the nickname Abiyataka. So I won't depend on memory. I'll read it from the Constitution, so it has to be authentic.

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Article II, by contrast—Article II, by contrast—let's be sure that it's authentic also, states in Section 1:

The executive Power shall be vested in a President of the United States of America.

There it is. And one of the key functions of the President is to, "take Care that the Laws be faithfully executed." It's a matter of some bemusement to me, to think that the Constitution mandates that the President is to take care that the laws be faithfully executed and yet Congress passed the Line-Item Veto Act that allows the President to sign an appropriation bill into law and to not faithfully execute that law which he has just signed, but, instead, to turn right around and unilaterally repeal it, amend it, cancel or rescind this item or that item. Is that a faithful execution of the laws? The framers could not have made their intentions any plainer. Congress has the job of passing laws. The President has the job of executing them.

What are the legislative powers "herein granted" that the Constitution assigns to Congress? Article I lists a number of these powers: they run the gamut from the power to "lay and collect taxes" to the power to "fix the standard of Weights and Measures." Article I also takes great care to spell out in clear and precise language the process by which Congress is to make laws. The most important language is contained in the so-called "Presentment Clause" of the Constitution—Article I, section 7, clause 2—which I will accordingly quote at length. "Every bill," not just some bills, not just a few bills:

Every Bill which shall have passed the House of Representatives and the Senate, shall, [not maybe, not may—shall; not might—shall] before it become a Law, be presented to the President of the United States; If he approve he shall sign it. . .

It doesn't say he may sign it. He shall sign it if he approve.

. . . but, if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law.

* * * * *

If any Bill shall not be returned by the President within 10 Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

That is from the Constitution of the United States.

The Presentment Clause, then, offers the President three mutually exclusive alternatives in considering a bill passed by both houses of Congress: He may "sign it," he may "return it with his Objections" to Congress, which may then pass the measure into law by a two-thirds vote of both Houses; or he may choose not to return the bill, whereupon "the Same shall be Law," unless Congress has adjourned before the bill's 10-day return limit has expired. So, whatever path the President chooses, he is compelled to consider it. And, by "it," the Constitution means the entire bill as passed by Congress in its entirety; not just parts of it.

But, in defiance of the Presentment Clause, the Line-Item Veto Act creates a fourth option for the President. Under the Act, the President may take any bill "that has been signed into law" within the past 5 days and he may cancel—I am reading now, quoting from the Line-Item Veto Act, ". . . cancel in whole (1) any dollar amount of discretionary budget authority; (2) any item of new direct spending; or (3) any limited tax benefit. . . ."

The 5-day provision is a figleaf designed to conceal the measure's brazen violation of the presentment clause. The drafters of the Line-Item Veto Act knew that they could not explicitly authorize the President to alter a bill passed by Congress before signing it, because to do so would violate the presentment clause's mandate that he send or return each bill in its entirety.

Thus, the act inserts a gratuitous pause of up to 5 days between the President's signing a bill and then canceling certain items in the bill that he just signed. There can be 100 items in that bill, and he can strike out 99 of them. He has 5 days in which to do it. He can strike out 100 the first day, the second day strike out another 100, the third day strike out another 100, the next day strike out 100, the next day strike out 99. He already signed it into law. It is his little plaything then to do whatever he wants.

Although the conference report justifies the 5-day allowance as giving the administration sufficient time to provide Congress with "all supporting material" justifying any cancellation, the report makes clear its intention "that the President's cancellations be made as soon as possible."

Nor should it be forgotten that while the President may take up to 5 days to cancel an item, he need not wait that long. He is free, free, free to cancel items the next second after he signs the bill into law, and he remains free to cancel items the next second after he signs the bill into law, and then he remains free to continue to do so for the next 119 hours and 59 minutes. He has 120 hours.

I hope the High Court will say the presentment clause is not so easily evaded. The Supreme Court acknowledged the importance of strict adherence to the Constitution's procedural mandates when it declared that "the prescription for legislative action in article I, sections 1 and 7, represents the Framers' decision that the legislative power of the Federal government be exercised in accord with a single, finely wrought and exhaustively considered, procedure . . . With all the obvious flaws of delay, untidiness, and potential for abuse, we have not yet found"—this is the Supreme Court of the United States speaking—"we have not yet found a better way to preserve freedom than by making the exercise of power subject to carefully crafted restraints spelled out"—where?—"in the Constitution."

That is what this line-item veto is all about. It is not about money, really. It is not about reducing the deficits. Fie upon such reasoning. It is just window dressing. It is not about reducing the budgets. It is not about balancing the budget. It is all about power. Where will the power over the purse lie? When it lies here, the power of the people is protected, and as long as that power over the purse is vested in the Congress, the people's freedoms are secure.

Let's see what this Court says, again. This bears repeating. I am quoting from the Court's position itself:

The prescription for legislative action in article I, sections 1 and 7, represents the Framers' decision that the legislative power of the Federal government be exercised in accord with a single, finely wrought and exhaustively considered, procedure . . . With all of the obvious flaws of delay, untidiness, and potential for abuse, we have not yet found a better way to preserve freedom than by making the exercise of power subject to the carefully crafted restraints spelled out in the Constitution.

Accordingly, it is not enough that the President may wait up to 5 days after signing a bill before he retroactively violates the presentment clause. The violation is just as egregious as if the President had crossed out the items he disliked before signing the bill into law.

Supporters of the line-item veto argue that the veto complies fully with the presentment clause. Since the veto applies to bills that have already been enacted into law in compliance with the presentment clause, the supporters of the line-item veto say, and since the requirements of the presentment clause are fulfilled when the President signs the measure into law, the Constitution cannot have been violated.

Well, even, Mr. President, if we accept this syllogism, it follows that the act, by empowering the President to rewrite certain laws, to repeal certain laws, to amend certain laws— grants the President the most basic of Congress' legislative powers; namely, the power to make laws.

The act defines the President's cancellation authority as, alternately "with respect to any dollar amount of discretionary budget authority, to rescind"—to rescind—or, with respect to any item of new direct spending or any limited tax benefit, to prevent "from having legal force or effect." As this definition indicates, "cancellation" is but another word for "repeal." A rose by any other name smells just as sweet.

So cancellation is but another word for repeal and, functionally, what the President is doing when he cancels certain parts of the law is repealing—unilaterally repealing—those same acts, those same parts for, if as veto advocates argue, only bills that have been previously, albeit recently, passed into law are subject to the line-item veto, then those same bills, like all other laws, may only be repealed by legislative action pursuant, again, to the presentment clause. After all, as the Supreme Court has recognized, "[a]mendment and repeal of statutes, no less than enactment, must conform with Article I."

I repeat, as the Supreme Court has recognized:

[A]mendment and repeal of statutes, no less than enactment, must conform with Article I.

The line-item veto advocates cannot have it both ways. Either the Line-Item Veto Act, as its very title indicates, gives the President the authority to alter a bill passed by Congress by effectively signing only certain parts of the bill into law, or the act allows the President to unilaterally repeal portions of an existing law. In either event, the act permits the President to encroach upon the legislative powers assigned to Congress and to Congress alone, by bypassing the procedures set forth in the presentment clause.

Mr. President, I hope that I have impressed upon my colleagues, those who are listening, that the line-item veto offends the most clear and incontrovertible requirements of the Constitution. But if that isn't enough to sway my colleagues, let me point out that granting the President line-item veto power is not just unconstitutional, it is also bad policy. If anyone doubts what I am saying, and lest I be accused of forgetting the pretext for my speech today, let us consider the disapproval resolution before us.

The disapproval bill is but a small attempt to repair the damage wrought by the President's misguided cancellations of 38 projects in the fiscal year 1998 military construction appropriations bill. A number of my colleagues have criticized those same cancellations: "arbitrary," "capricious," "a raw abuse of political power." These are the words of those who voted for the line-item veto. Those who voted for the line-item veto now say that the President's exercise of the political tool which they handed to him, now they accuse him of being "arbitrary," "capricious," "it was raw abuse of political power."

Such criticisms are, of course, absolutely correct. There seems to be little logic underlying the President's cancellations. What logic can be found is so flawed as to scarcely warrant a response. I repeat, for example, the White House stated that it only vetoed projects that were not "executable," meaning that construction could not begin in fiscal year 1998, but in truth, every one of the 38 vetoed projects was eligible for construction in fiscal year 1998.

With regard to the West Virginia project, the design contract with ZMM, Inc., of Charleston, West Virginia was signed on August 29, 1997. Completion of the design contract is due in April 1998, and a construction contract could be let in the May–June timeframe.

An amount of $965,214.39 has been obligated and an amount of $44,967.61 has been expended against the design contract. So clearly, the design work is underway and the project is executable in the current fiscal year.

The White House also said that it only considered items that were not included in the President's fiscal year 1998 budget request. How arrogant! How arrogant! "Upon what meat doth this our Caesar feed . . ."? Never mind that the Senate was careful to include projects that were already in the Department of Defense's 5-year plan.

Never mind that the Senate moved up projects that were considered urgent or particularly meritorious, or that were necessary to remedy oversights in the Presidential budget that would have deprived our Armed Forces of needed quality-of-life improvements or denied funding to important Guard and Reserve projects.

Never mind the many previous occasions on which Congress has safeguarded the preparedness and well-being of the Armed Forces by funding projects that various Presidents overlooked or shortchanged.

Now, the rules have changed, and congressionally backed projects are targets for the Presidential blunderbuss that is the line-item veto. They are targets for his blunderbuss of the line-item veto if they are not in his budget.

It is difficult for me to overstate my anger at the rank arrogance of the White House in relegating congressionally backed projects to such harsh scrutiny. Need I remind the administration that it was Congress that in 1921 assigned the Executive the task of submitting annual budget proposals? It was Congress that in 1921 assigned the Executive the task of submitting annual budget proposals. Need I also point out that those proposals are, by law, not binding and that Congress remains free to exercise its "power of the purse" however it sees fit? And so "lay on, Macduff." It is the Congress that retains the freedom to exercise its power of the purse however it sees fit.

My anger is not directed at William Jefferson Clinton. He is merely exercising the power that we—we—in our weak moments gave him. The ultimate blame lies here and across the corridor to the other end of the Capitol. The ultimate blame lies here, here in this Chamber, which gave away a portion of its most important power, with no strings attached.

And I quoted upon the occasion when the Senate passed this ill-formed, deformed monstrosity, I quoted upon that occasion the words of Aaron Burr, who in 1805 said that if the Constitution be destined ever to be destroyed, "its expiring agonies will be witnessed on this floor." And I said at the time that Burr's prophecy was being fulfilled.

So the ultimate blame lies here, which gave away a portion of its most important power, with no strings attached. Here it is, Mr. President. We witnessed the expiring agonies of the Constitution on the floor, as Burr said we would, when we passed the Line-Item Veto Act.

We had an opportunity to retrieve our honor and our commitment to our forefathers and our promises to our children at the time the conference report came here. But the Senate again

stabbed itself in its back, and the expiring agonies of the Constitution were witnessed on this floor.

"Didn't we tell the President how the line-item veto should be used?" some may protest. Yes, we did. But the restrictions we placed on the line-item veto were so vague and feeble as to give the President virtually unlimited cancellation authority.

The Line-Item Veto Act states tautologically that any veto must "reduce the Federal budget deficit"—a requirement that any cancellation of a spending measure or tax benefit would presumably meet. The act also insists that any cancellation must "not impair essential Government functions" or "harm the national interest."

Well, what are "essential Government functions"? How should "the national interest" be protected? Those answers must rest with the President, for the act provides little guidance—the act provides little guidance.

Moreover, even if the President determines that all three criteria have been met, he is still free to decide not to effect a cancellation. The act says only that "the President may" cancel certain items meeting those criteria.

Mr. President, my colleagues protest that the President's cancellations are arbitrary and capricious. To this I respond: Of course they are, because we gave the President the authority to be arbitrary and capricious.

And so let us not now, at this late moment—those of us who voted for the Line-Item Veto Act—let us not heap obloquy and scorn and condemnation and criticisms and castigations and imprecations upon the President because he is being "arbitrary" and "capricious."

We have given the President the power to strike any item he pleases and for any reason he pleases. He can say it was not in his budget. If he does not have any other reason, he can say, "Well, it wasn't in my budget." Not according to the act, but he can do it. He has done it.

And who is to blame? We have only ourselves to blame. By passing the line-item veto, we have deprived Congress of an effective say in which projects will be funded, we have denied ourselves the ability, which we exercised so often and so successfully in past budget cycles, to correct flaws or oversights in the President's budget proposal.

In past years, Congress repeatedly ensured that essential defense projects were funded at the appropriate levels. It was Congress that insisted on adequate funding for the stealth fighter. It was Congress that insisted on the funding for the Osprey helicopter. It was Congress that insisted on adequate funding for the C-130 aircraft, and countless other valuable projects that the administration at the time opposed.

It is no exaggeration to say that this country's defense capabilities would be significantly weakened today if not for Congress' vigilance and dedication in the fulfillment of its appropriations duties.

Now, however, congressional vigilance is subject to indiscriminate line-item vetoes. No longer can Congress ensure proper investments in this country's defense and infrastructure, thus, safeguarding the present and future well-being of all Americans.

The line-item veto has created a new order in which Members of Congress must resort to "disapproval measures" to restore funding that they already approved and that the President already signed into law, which under the Constitution would indicate that he had already approved the items. The Constitution says, if he approves, he shall sign it. And he signed it.

Today is a black day for this institution whose Members must prostrate themselves on bended knee before the President and ask him—ask him—to do what the Constitution requires: To respect and enforce and execute, faithfully execute, the laws passed by Congress.

But this is also a black day for the Nation which now finds that its single most representative institution no longer possesses unqualified authority to make the law. That is the legislative branch.

As Members of Congress, we represent the people of this great country. By abdicating a portion of our responsibility to pass laws—that is exactly what we did—we have denied ourselves the ability to represent those people effectively.

I apologize if my words today have seemed angry or vituperative. I apologize if my vehemence has offended any of my colleagues. I do not mean to provoke partisan dispute or internal dissent. I only wish to ask my colleagues to consider, as they ponder their vote on the disapproval bill before us—and go ahead vote as they wish on the disapproval bill; that is not an indication of whether they favor of disfavor the line-item veto—but they should ponder whether the Nation ought to continue down the shadowy trail that it embarked upon when we passed the Line-Item Veto Act.

I pray that before we blunder too far down this misguided path, we will retrace our steps and return to the route laid out by the framers, the path that was lighted by the clear light of the Constitution.

The President says, "We'll say to any Member, we'll be happy to negotiate with you about your item."

"We might be able to work it out so the President won't veto it."

Senators, do not do it. Do not act to legitimize this legislation. Do not act to legitimize this process by which we have, in part, emasculated the Constitution, the constitutional system with its checks and balances and separation of powers.

Do not negotiate for a moment, because when you do, you are negotiating with respect to the Constitution, you are saying, "Well, I'll negotiate with you. You can go ahead and line item the item out, but maybe we can work out something." I say that when one negotiates under those circumstances, he is negotiating something that the Constitution is pretty clear about, and that is the checks and balances and separation of powers.

The Constitution is not to be negotiated. And I, for one, will not negotiate to save any item for West Virginia. I will not negotiate. I will negotiate with other Members until we are able to work out language, compromise language, in a bill, dealing with a matter, but when it comes to negotiating in order to keep the President from wielding his dreadful line-item veto pen, that's not for me.

When we took it upon ourselves to correct some of the framers' mistakes by ignoring the clear language of the Constitution, we did not just display a breathtaking contempt for the rule of law and the principle of separation of powers; we also cast aside our own responsibility as Members of Congress to act as a check upon the executive branch, and we there and then deprived ourselves and deprived the people that we represent of the ability to ensure that the power of the purse is exercised in the best interests of the Nation.

I yield the floor.

Mr. STEVENS. Mr. President, I ask unanimous consent that the following Senators be added as original cosponsors: Senator SHELBY, Senator HAGEL, Senator MIKULSKI, and Senator LAUTENBERG.

I further ask unanimous consent that the following Senators be recognized in this order in consideration of this measure:

Senator BURNS, Senator MURRAY, Senator COVERDELL, Senator CLELAND, Senator MCCAIN, and Senator GRAHAM.

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

Mr. BURNS. Mr. President, not to take away from the seriousness of the moment or the debate that we heard about the line-item veto and the debate we are hearing today, I will say about my chairman and ranking member of the full committee, since this circumstance has happened, it has sure picked up the most colorful debate in committees. That had been absent for quite a while.

I want to congratulate my friend from West Virginia on laying out the situation as it really is. But we are here and we have to deal with the moment as it is, and given the President's desire to improve the quality of life for the men and women in uniform, and

given the President's dedication to a balanced budget as reflected in the real world, and the real world is appropriations—that is where we actually spend the money. We can debate on the budget all we want to but accounting time is when we start appropriating dollars for the real world.

The ranking member on military construction appropriations, Senator MURRAY, has worked hard with our colleagues in the House and also with the administration before we finally passed a conference report and sent it to the White House for the President's signature. We worked very hard to take out those items that would have been objectionable, and it reflected the intent of Congress, both through the budget statement and through the appropriations statement and the charge that was given us when appropriating the money. I believe we did a responsible job in working with everyone.

Of course, of all the projects that are in this, we had to single out 38. Now we are offering some back. We have to remember that we are charged with covering the most basic defense requirements. After hearing from the military services, the Congress did add back $800 million to the President's budget, with the agreement from the President to fund those meritorious requirements that, as articulated to us, are essential to the services' operations.

I guess since I've been working in this committee, we have tried to shift the focus in military construction to quality of life. We have a professional military now. It is not like it used to be. We have made those shifts primarily into the quality of life—the building of health care centers, the building of child care centers, new barracks for enlisted people—because everywhere that I have traveled, looked at our men and women in uniform, and especially with the rollbacks and the downsizing in the force structure, I am concerned, now more than ever, about the morale of our fighting men and women.

I have visited the installations around the country. I have seen soldiers, marines, airmen and sailors sleeping on floors, airmen working in substandard facilities, and families forced to go on—would you believe it—on food stamps. They actually qualified for food stamps.

Even though we have a professional military, we still ask them to defend our country on a moment's notice. I, for one, think they deserve better. That is why I question the veto of this President. I guess I'm even more familiar with the facilities in Montana. I had one of those lines that was vetoed, a dining facility at Malmstrom Air Force Base in Great Falls, MT. I just wish the President had accepted my invitation to have lunch there. It didn't look much like the north side of the White House last night, I can tell you. He would see a facility that is in bad need of repair and renovation. I'm not real sure if the food preparation areas or where they serve the food would pass health inspection in the civilian sector. There is lack of ventilation and food storage space. It was an old commissary. The facility would sure flunk the most basic of all inspections.

It is my strong view that the President used the line-item on this bill not as the Congress intended, or even his own stated intent. I would not feel so bad, I really wouldn't, had we gone over the budget agreement or had we gone over what we spent a year ago or even 2 years ago. The ranking member knows that we are almost $2 billion out of an $11 billion appropriation lower than we were 2 years ago in providing necessary items of need in the military construction for these projects. If we had gone over and had we just thrown money hand over fist and wasted it, I wouldn't feel bad about this line-item veto, but we did not do that. We did not approach this bill in that manner. We knew the line-item veto was out there. We knew that everything in this bill, No. 1, had to be authorized by the authorizers, and we knew the amount of money that we were expected to save in order to comply with the balanced budget and still get the job done for our military people.

Every project on this list was carefully screened. It was authorized by the Armed Services Committee. It was included in the final Defense authorization conference for fiscal year 1998. Had we not gone through that process, had we not taken each item individually, had we not been sensitive to the need of our lifestyle and the quality of life, had we not done any of that—yet in consultation with the President and with the representatives of each one of the military services—had we not done that, I wouldn't feel so bad today. But we did that. We did it in the most conscientious way that we know, and that is human contact, actually talking to people through the whole process, keeping them informed about what was in there and what was not in there.

Everybody was not happy with it, but it was a pretty big vote, 97–3. I think that is pretty overwhelming. It tells the story of the work that we did on this legislation.

So I appreciate my ranking member and both sides of the aisle. I appreciate all the folks that worked on this piece of legislation. And, yes, I appreciate the people who represented the military services and the people who represented the White House as we were working on it. I appreciate them, too. But maybe some things I don't appreciate: Once you agree on something, then you walk away from it some 6 weeks later. That is not the way we do business in Montana, and I don't think that is the way we do business in Washington, Arizona, Georgia, or Kansas.

I ask for your support on this. We will probably have more to say with regard to this piece of legislation.

I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I rise today to strongly support the legislation before the Senate, along with the chairman, Senator BURNS, who has done an outstanding job of putting this legislation together. I hope the Senate does disapprove the cancellation of projects which the President made under his line-item veto authority. I do not think it was appropriate to exercise that authority in the case of our bill. The subcommittee worked very hard and successfully to review the many requests that came before us for projects that were not included in the President's budget. We worked very hard to include only those which met very stringent criteria. In all cases, that included the criteria that the project be executable in fiscal year 1998. That is, that contracts could be awarded for construction.

It is puzzling to me why the administration concluded that some 38 projects were not executable. That conclusion is wrong. The Pentagon's own paperwork, provided to the subcommittee for each of the proposed projects, plainly states virtually every project we included was capable of execution in fiscal year 1998.

The subcommittee added substantial sums for new health facilities, quality of life improvements such as the housing area, and for the National Guard and the Reserves. Despite these additions, the final product was frugal, and represented a 6-percent reduction below last year's milcon spending level.

Mr. President, the chairman and ranking member of the Appropriations Committee, Senators STEVENS and BYRD, have rejected the vetoed items as an inappropriate overreaching of authority on the part of the administration. I am gratified that the committee is standing up for the subcommittee's work. It is a substantially better product than the budget submitted by the President, and that is our job. The administration has no exclusive corner on wisdom in making its selection of projects.

In fact, the administration has admitted making serious errors in the handling of this matter. I would have thought that the administration would have been far more careful and selective in exercising its new line-item authority, but the reverse was the case. The exercise of power here was sloppy, and rushed—and resulted, as OMB Director Raines wrote to the committee on October 23, in inaccuracies. The administration has taken to writing to individual Senators to indicate it would help restore those projects wrongly vetoed, and put them back in

the budget at the earliest opportunity. That tactic makes the situation, if anything, even more confused, since it appears the administration is revising its evaluation of the mix of projects based on new information or criteria and there has certainly been no meeting of the minds on such new acceptable criteria with the committee.

Mr. President, I would suggest that Senators look at this disapproval resolution in the narrow framework in which it is written. Senators need not address this position on the constitutionality or wisdom of the line-item veto legislation itself to vote for this resolution. A vote for this resolution is a vote against back-of-the-hand capriciousness, apparently in a hurried manner, after the subcommittee, full committee, and both Houses labored over a period of several months to scrub the budget and add only those projects which are deemed worthy.

I hope this measure will receive the strong support of the full Senate, as it did when the conference report was first presented, and that it will be presented to the President before we conclude the first session of this Congress.

Mr. President, I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, before my friend from Arizona speaks, we had a unanimous consent on the order.

I ask unanimous consent that we go back and forth, which would mean that the next Senator allowed time would be Senator MCCAIN from Arizona and, after that, Senator CLELAND from Georgia.

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

Mr. BURNS. I yield to my friend from Arizona.

Mr. MCCAIN. Mr. President, I intend to be brief. This issue has been well discussed and well debated, and will be again because this is the first step in a process that we will see for the first time in the Senate, and that is a motion of disapproval of a veto by the President and an attempt to override the President's veto. So we will have plenty of time. I mainly asked to speak, one, to congratulate Senator STEVENS not only for his stewardship of the entire Appropriations Committee, but his staunch advocacy for a strong national defense and his sincere efforts to do what he feels is right.

Senator BURNS has done an outstanding job as the chairman of the Military Construction Subcommittee. I believe that his recent depiction of the situation at Malmstrom Air Force Base is an ample indication of his concern for the living standards of the men and women in the military and his deep and abiding concern for their welfare.

Having said that, Mr. President, I, as a supporter of the line-item veto, intend to vote against this resolution. I believe that we have to set up criteria that need to be met, because there is not an unlimited amount of Defense dollars or taxpayer dollars for that matter. Not only did these projects—or at least the overwhelming majority of them—not meet the criteria I have been using now for 10 years, but there were 129 low-priority items added to the Milcon appropriations bills that should have been—at least under the criteria I have been using for the last 10 years—vetoed.

Mr. President, there is a process that we go through. It is authorization, it is hearings, it is budget requests, it is the kind of orderly process that gives a priority that is sufficiently compelling for the taxpayers' dollars to be used on that project, whether it be in military construction or defense appropriations, or any other appropriations bill. In order to understand that, in my view, in order to make a reasonable and fair and objective decision, you have to set up objective criteria. That is where the administration has failed in this exercise.

The people in this body—the Senator from Washington, who just spoke about what happened in her State, the Senator from Montana, the Senator from Georgia, and all the other cosponsors of this bill—deserve the right to know under what criteria the President of the United States would act in vetoing these various projects; in this case, they are military construction projects. They have a right to know that, as do the people and the military installations in their districts. We have a future years defense plan that the Pentagon sets up, which lists the projects that are going to be funded, and which they plan to, after a careful screening process, request funding for from the Congress and the American people. There is a system that goes before the authorizing committees. We have a military construction authorization bill, and then it goes before the Appropriations Committee. That process should be adhered to.

Why am I against so many of these projects? Simply, Mr. President, because there are 12,000 American military families that are on food stamps. I understand they don't have a decent facility to eat in at Malmstrom, but I also know they are kept away from home because of a lack of equipment. And we are having a hemorrhage of Air Force and Navy pilots because we are not paying them enough and we are keeping them away from their families, keeping them at sea, or in places like Iraq or Turkey, because we are not funding them adequately.

Mr. President, I happen to know that we are not modernizing the force sufficiently in order to meet the challenge in the future. We are buying things such as the B-2 bombers, which we find out can't even fly in the rain. Then we have the *Seawolf* submarines, and there is no tangible challenge to American security that warrant paying for that. Frankly, we are funding projects not on the basis of merit, but for other reasons.

I believe that the men and women in the military, especially those enlisted men and women, deserve more than they are getting. They are not getting it because we are funding projects and programs many times which are unnecessary. Also, in the Defense appropriations bills we are funding projects that have nothing to do with national defense. I am not sure what electric car research has to do with national defense. I am not sure what supercomputers to study the aurora borealis have to do with defense. They may be worthwhile projects, and I do not disagree that some of the projects that were vetoed by the President here were worthwhile; it is a matter of priority.

I hope that the President of the United States and the Director of the Office of Management and Budget, who obviously is making many of these recommendations to the President, will understand that we have to set up criteria for when the line-item veto is used or not used. Otherwise, you give the appearance of politicization of the process, which understandably angers and upsets Members of Congress who feel that they or their projects are being singled out, where other projects under the same criteria were not line item-vetoed.

So I believe that if we want to avoid going through this exercise on a fairly frequent basis, the Members of Congress and the American people deserve the President of the United States to say: This is the criteria I will use—whether it is authorized or not, whether it is added in conference or not, whether it was earmarked or not, whether it was requested, or whatever. I am not saying the President should use my criteria, but I am saying he should use an objective criteria that is credible; so that when the Senator from Montana, Senator BURNS, who has devoted so many hundreds of hours to this effort and takes his duties as chairman of the Military Construction Subcommittee so seriously, decides whether or not to add or not add a project to his legislation, he will know whether it meets his criteria. He will have a certainty as to whether the President will veto it or not.

I congratulate the Senator from Montana and his staff for their hard work. I hope we can provide a framework in which he can work so there would be certainty and objectivity, and not a taint or appearance of politicization of this process, which is the case today.

I yield the floor.

Mr. CLELAND addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

PRIVILEGE OF THE FLOOR

Mr. CLELAND. Mr. President, I ask unanimous consent that Regina Jackson, a legislative fellow on my staff, be granted floor privileges for the debate on S. 1292.

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

Mr. CLELAND. Mr. President, I join my distinguished colleagues today in search of any rhyme or reason behind the veto of the $6.8 million project that the President vetoed at Moody Air Force Base in Georgia. It is known as the HH-60 OPS/pararescue project. It is a critical project that supports combat search and rescue training and pararescue training operations. This project should have been included in the budget. It benefits the quality of life for our service members, and has been operating at Moody since April, 1997. There is no apparent rationale for this veto action. I believe that the Moody project was vetoed because it failed to meet all the criteria for approval set by the administration. Thus, the claim was made that: first, the Moody project was not requested in the President's 1998 budget; second, the project would not improve the quality of life of military service members and their families; three, the project almost certainly would not begin construction in 1998.

Responsible consideration of veto targets would have taken into account and weighed all the facts. The facts are these. My information is based on the fact that, in 1996, the Pentagon announced its plans to move two squadrons, the 41st and 71st, from Patrick Air Force Base, FL, to Moody Air Force Base, GA. In connection with the move, the Air Force began quartering a small number of people at Moody as early as October 1996 and subsequently moved the squadrons there in April 1997. The relocation is now complete and the unit is operating out of a temporary trailer.

Having made a formal announcement, the Pentagon certainly had a genuine interest in the success of this project. The Air Force, having begun the transition in October 1996, obviously intended to implement the plan. Unfortunately, the decisions came too late for the Pentagon to include this project in the President's fiscal year 1998 budget, though, again, I believe there can be no doubt that our defense leadership fully supports the new mission for Moody.

My distinguished colleagues, let us not forget that this Congress is duly responsible for ensuring that our legislation considers appropriate measures where the administration's submission may actually be lacking. It is not unusual, Mr. President, but in fact very common, that in the course of congressional review, we make additions or deletions that are in the best interest of national defense.

In my opinion, this is one of the most critical projects that I have come across. I sit on the Armed Services Committee. I think it is my job, not only as a Senator from Georgia but as a U.S. Senator to bring up other concerns that the administration does not raise. I would like to say that the Moody squadron does employ the Blackhawk helicopter to implement its mission, and the project supports essential combat search and rescue training and pararescue training operations. What could be more important to the quality of life of military service members and their families than facilities that can operate to preserve those lives?

Apparently, the administration erred in assuming that the squadrons had not yet located to Moody. Actually, the move began in 1996 and is now complete. I think if this veto is not overridden, the mission capability of the squadron will be seriously impacted. A combined function facility is required to provide both an adequate squadron operations space and pararescue space. No facility currently exists at Moody to support the HH-60 pararescue squadron. Without this facility, new mission functions will be almost impossible to perform and may not be able to operate as designed. Whether the veto was arbitrary or ill-advised, the bottom line is that the Moody veto makes no sense.

Mr. President, I ask unanimous consent that a letter sent by myself and Senator COVERDELL be printed in the RECORD that expresses our point of view on this important matter.

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

U.S. SENATE,
Washington, DC, October 7, 1997.

Hon. WILLIAM JEFFERSON CLINTON,
President of the United States,
Washington, DC.

DEAR MR. PRESIDENT: We are writing to express our profound disappointment with your decision to veto a military construction project vitally important to Air Force rescue squadrons based at Moody Air Force Base. Yesterday you vetoed a $6.8 million project to build a squadron operations support facility to support the 41st HH-60 Pararescue Squadron which has been relocated to Moody AFB from Patrick AFB. We are unable to understand the rationale used in canceling this project. Without this facility, the new mission functions associated with this relocation will be almost impossible to perform and the mission capability of this squadron will be severely impacted. This was an essential project with high military value, and your decision is even more troubling given revelations that Defense Department officials were not consulted.

We are particularly disturbed by the discrepancy in the facts you cited in vetoing this project. Your veto message indicated that 1) "the mission has not yet relocated from Patrick AFB" and 2) "it is unlikely that these funds can be used for construction during FY 1998." Both of these assertions are false. The relocation of these units began in April 1997 and is now complete. Furthermore, the Air Force informs us that the proposed construction can be executed in FY 1998. We are disappointed that your staff has ill-served you in presenting to you the facts regarding this project.

It should be made clear that we both support the line-item veto as a means to reduce spending on wasteful programs when the facts merit a veto. The facts here do not support a veto. We are concerned that the perceived arbitrary nature of this and other such vetoes will undermine support for this useful mechanism.

In closing, we regret that your decision was based on erroneous information regarding the urgency of this project and the ability of the Air Force to execute it. We hope to be able to work with you in the future to support the needs of the men and women who serve at Moody AFB and in the entire Department of Defense.

Most sincerely,

PAUL COVERDELL,
U.S. Senator.
MAX CLELAND,
U.S. Senator.

Mr. CLELAND. Senator COVERDELL and I are both supporters of the line-item veto to reduce wasteful spending. But the basis for the veto, as the Senator from Arizona indicated, must be prescribed and must rely on the facts, not on false assumptions. Clearly, in the case of the Moody facility, the facts did not justify the decision, and the project did not warrant a veto.

Mr. President, this project has been and remains a top priority for Moody Air Force Base and for both Georgia Senators. The mission has been and remains in place at this time. I look to this bill to make right the wrong of the veto. In so doing, I hope to be able to support the needs of the additional 680 military personnel and approximately 1,500 spouses and dependent children that the mission has brought with it to Moody.

I yield to my colleague, the senior Senator from Georgia, for his remarks. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, I rise today to apprise my colleagues of a terrible mistake made by the President and the administration in its issuing a veto on the $6.8 million HH-60 Operations Pararescue Unit project at Moody Air Force Base in Valdosta, GA.

I am aware of the interest of my colleague, Senator CLELAND, in this matter, and I understand that he has joined me in questioning the rationale behind the abuse of power by the President. We just heard an excellent statement from my colleague, Senator CLELAND, of Georgia, on this very matter.

In looking at this project at Moody, it is important to understand, first, that this pararescue unit is critical to our combat search and rescue training operations which allow this group to function in a proper capacity.

As you may know, Mr. President, pararescue units are imperative to instilling in our fighting forces the battlefield and training confidence necessary for just the type of confidence that we have earned in this century.

The administration claimed that the Moody project was not needed for several reasons—such as budget requests, quality of life, and construction capability. We now know that these assertions are not accurate. The Air Force has distinct plans to fund the Moody project which was included in the Air Force's 1999 budget request. Officials at Moody inform me that they could have, indeed, begun construction on the project this year.

Finally, the Pentagon in 1996 announced its plans to move two squadrons, the 41st and the 71st, from Patrick Air Force Base, FL, to Moody Air Force Base in Georgia.

A small number of personnel began quartering at Moody as early as October of 1996, and subsequently moved the squadron there in its entirety in April of 1997. Make no mistake. The move is now complete, and the personnel are operating out of temporary trailers at Moody as we speak here today.

What greater quality of life issue exists for the nearly 2,200 military personnel and their families that this mission has brought to Moody?

We need to move expeditiously on this legislation to correct this error. The administration did not know, Mr. President, that the squadrons were already in Georgia. They believed they were still in Florida when they exercised this veto.

On this note, I commend my colleague from Alaska, Senator STEVENS, for bringing this bill before the Senate. I ask for my colleagues' support.

Mr. President, if I might make an inquiry of my colleague from Georgia, did he still prefer to participate if the colloquy here this afternoon, or did you want to just enter that into the RECORD?

Mr. CLELAND. Mr. President, I thank the distinguished senior Senator from Georgia who spoke eloquently on this matter. It is clear that the people are already there, and the need exists for this operation facility. There was a misunderstanding, a miscommunication, about this matter at the Executive level, and that we were not properly consulted. Otherwise, we would have been able to share vital information with them at the time, and it might have changed the outcome.

But I hope, along with my distinguished colleague, Senator COVERDELL from Georgia, that the Senate will override the President on this matter and make sure that this vital operational facility is present at Moody Air Force Base in Georgia to accommodate some 2,000 personnel that are already in place, as the Senator has so accurately indicated.

Mr. COVERDELL. I appreciate the remarks again of my good colleague from Georgia, Senator CLELAND. His remarks have documented the travesty that has occurred here. And, of course, when something like this happens, you have over 2,000 families in Georgia who are living in temporary facilities, and it is imperative that this error, this mistake, be overturned, which, of course, would be among the many, many issues that are in Senator STEVENS' bill.

So my colleague from Georgia and I are both rising in support of that to get this error corrected.

Mr. President, I yield the floor.

Mr. MCCONNELL. Mr. President, I would like to thank the chairman of the full committee, Senator STEVENS, and the ranking member, Senator BYRD, for their strong leadership on this important issue.

Additionally, Senator BURNS and Senator MURRAY, the chairman and ranking member of the Military Construction Subcommittee, have done an outstanding job all year of putting together an appropriations bill which addresses the vital needs of our military installations.

Mr. President, we are here debating the merits of President Clinton's decision to strike funding for over 30 military construction projects. Let me state clearly that I strongly object to the President's reckless use of this new authority.

While I support the line-item authority, in this instance the President not only misused it, he endangered soldiers lives.

Let's look at the President's argument. Among his statements, the President claimed that he was canceling only projects "that would not have been built in fiscal year 1998 in any event; projects where the Department of Defense has not yet even done design work."

Wrong. The President's statement is absolutely inaccurate.

In fact, of the projects contained in this measure, each of them could begin construction in fiscal year 1998, a direct contradiction to the President's claim.

As for the two projects in Kentucky which were deemed wasteful by the President, one had 10 percent of the design work completed, and the other had completed 90 percent of the design work. Ninety percent, Mr. President, that is hardly insignificant.

President Clinton also claimed his effort was "another step on the long journey to bring fiscal discipline to Washington." In fact, he went on to claim he was ensuring "that our tax dollars are well spent," and was standing "up for the national interests over narrow interests."

Wrong again.

The projects eliminated by the President totaled $287 million. Our Federal budget is over $1.6 trillion. Therefore, the President's efforts have saved the nation a whopping seventeen thousandths of 1 percent of the Federal budget. So the simple truth is no real money will be saved as a result of President Clinton's veto.

The fact is every single project contained in this measure is in the President's own future year plan for military construction. Therefore, these facilities will be built, if not this year some time in the next 5 years. And, Mr. President, I don't have to explain to you the reality that delaying the inevitable construction will only increase the cost of these projects.

Mr. President, anyone who believes that the projects will be built for only $287 million, their cost in fiscal year 1998, is sadly mistaken. Each of these projects will increase in cost, and the American taxpayers will be left holding the bag once again.

Finally, Mr. President, allow me to discuss one of the Kentucky projects which was vetoed in order to provide an example of how the process was mishandled by the Clinton administration. And, let me begin by reminding the Senate that the administration did not even use accurate information in evaluating this and other projects.

Fort Campbell, KY, is home to the 101st Airborne, Air Assault, the "Screaming Eagles." This unit is one of the most important assets in the U.S. Army, and is often the first to deploy in a crisis situation.

As a result, the soldiers at Fort Campbell must maintain the highest level of readiness in order to deploy at a moment's notice. Yet, because President Clinton decided this was a pork-barrel project, over 200 soldiers a day are forced to work in facilities that are more than 50 years old, but were meant to last no more than 15 years when they were constructed.

Let me say that another way. Over 200 of America's finest soldiers are working, everyday, in facilities that should have been replaced or torn down over 40 years ago. These structures are literally falling down on top of the men and women working in these facilities.

Instead, Mr. President, the soldiers of the 101st are working in dilapidated, dysfunctional structures with little or no heat, faulty electrical wiring, no fire control systems and are riddled with asbestos.

An OSHA inspection of these facilities would do what no army in the world could—shut down one of our premier combat units and prevent it from meeting its mission requirments.

Conditions are so poor that work is often performed outside on gravel parking areas and not at all when temperatures reach severe levels.

The $9.9 million appropriated for this project would have provided much needed facilities to the 86th Combat Support Hospital—a rapid deployable unit equipped with the Army's most modern medical systems, and whose mission it is to support soldiers on the front lines of combat.

To meet its mission requirement, Mr. President, the 86th must maintain more than 1,200 pieces of equipment in

top, deployable condition around the clock. And, as you can imagine, much of this medical equipment requires conditions which cannot be met by these inadequate facilities.

Mr. President, the examples are numerous, but the most telling example is truly shocking. In 1991, one of the structures slated to be replaced burned to the ground in a matter of minutes. Fortunately, no one was hurt in this incident, this time.

If this is not a readiness and quality of life issue, I do not know what is.

Clearly, the condition of these facilities is incompatible with maintaining a premier fighting force and with retaining the quality men and women who work there.

Let me conclude, Mr. President, by saying the line-item veto was intended to be an instrument of precision and not the weapon of blunt force trauma. It was meant to deter wasteful spending—not endanger the lives of American service men and women.

But, the President's action was not, as he claimed, "another step on the long journey to bring fiscal discipline to Washington" rather it was a reckless abuse of authority that must be rejected. It is time we stop paying lip service and truly commit ourselves to meeting the needs and quality of life issues of these dedicated soldiers. I ask my colleagues to join me in voting to restore the funding President Clinton eliminated.

Mr. FRIST. Mr. President, I rise today to defend two projects the President of the United States chose to veto in the military construction appropriations bill. The President claimed that three criteria had to be met for an item to be cut. First, the item was not requested in the President's fiscal year 1998 budget; second, it would not substantially improve the quality of life of military service members and their families; and third, architectural and engineering design of the project has not started, making it unlikely funds can be used for construction in fiscal year 1998. Only the first criterion was, in fact met in the two cases I rise to support.

The first project the President struck was a tactical equipment shop at Ft. Campbell. The $9.9 million project would provide a vehicle maintenance shop, storage for a forward support battalion, and a combat support hospital. The project replaces a 55-year-old building that was constructed in 1942 as a temporary structure to last until the end of World War II. This project was, please note, fully designed, and therefore did not meet the President's third criterion.

This facility is Ft. Campbell's No. 1 priority mission support project. The structure is literally falling down around its occupants and is ridiculously expensive to maintain. The Army wastes tens of thousands of dollars on Band-Aid repair jobs every year just to keep the structure barely functional.

The old structures have significant environmental problems: No oil/water separators, no sumps for battery acid, and the buildings contain asbestos and lead-based paint. In addition to the environmental issues, the structures have old faulty wiring that caused a fire in October 1991. Also, there is no eye wash area or vehicle exhaust system.

The new structure would support the 101st Airborne, whose operational deployment requirements have increased 300 to 400 percent to support Operations Other Than WAr. In 1995 alone, the Clinton Pentagon spent $6.6 billion in Operations Other Than War in places like Bosnia, Haiti, and Somalia. Combined, the cost of both of the Tennessee projects vetoed by the President are about the same as one day's spending at that rate.

Ironically, according to the President's formula for cuts, if this facility were an arts and crafts center, it would have been classified as a "quality of life" project sale from cuts. Of course, the building's current state of disrepair is a "quality of life" issue to the young Army troop who is spending 8 to 12 hours a day working in the facility.

The other Tennessee project canceled by the President was an atmospheric air dryer facility at Arnold Air Force Base. This $9.9 million project would construct an air dryer facility to replace the antiquated facility currently used. The new facility would support the mission of the propulsion wind tunnel facility used to test several new weapon systems, including the F-22 and joint strike fighter.

Mr. President, both of these projects are vital to military readiness and national security. It is my hope that my colleagues will take a close look at the projects in this legislation and cast a vote for this critical legislation. We must not allow our forces to decline further into a hollow state reminiscent of the late 1970's.

Mr. KOHL. Mr. President, I want to make a few remarks about the legislation before us. I am a strong supporter of the line-item veto. I believe we must use whatever tools we have at our disposal to restrain Federal spending.

That said, I agree with my colleagues that we have a right to expect the President to exercise his line-item veto authority in a manner that is fair. If he says he is going to use a set of criteria, then he should. Unfortunately, some but not all of the project vetoed met the President's own criteria.

For example, the President used his line-item veto authority to eliminate funding for an aerial port training facility at the General Mitchell Air Reserve Station in Milwaukee based on erroneous information. The administration has admitted as much. There is no question that this project is 35 percent designed with a site selected and is ready to be constructed in fiscal year 1998. In addition, this project was authorized in the fiscal year 1998 defense authorization bill conference report and is included in the Pentagon's 5-year plan.

I should also add that this project makes a significant contribution to the military readiness of a unit which plays an important role in our Nation's defense. The merging of the 34th Aerial Port Squadron, 154 persons, and the 95th Aerial Port Squadron, 102 personnel, has overburdened the current training facility. The 34th Squadron must train its reserve airlift specialists to load and unload military cargo aircraft using one bay of the base warehouse and a leased modular facility. Even with the temporary facility, overcrowding is so severe that the unit cannot train together. Some reservists must train on weekends that are not normal unit training assembly weekends, depriving them of working with the rest of the unit personnel. Using the warehouse bay has also created a shortage in onbase storage. Members of the 34th Aerial Port Squadron have been deployed to support our mission in Bosnia, and they will continue to be called upon to support other active duty and reserve units.

Funding for the aerial port training facility is not included in the legislation before us today. It is my hope that the Department of Defense will recognize the importance of this project and will move it up 1 year to include it in the fiscal year 1999 budget, and I am working to that end.

Mr. President, it is our job to make difficult choices. I am not willing to support a bill that restores all of the projects which were line-item vetoed. Some of these projects were not 35 percent designed. Some of these projects did not meet the President's criteria. Some of these projects did not need to be built this year.

If this legislation included just the project which met the President's criteria that would be a different story, but that is not the bill before us today. Thus, Mr. President, I cannot support this legislation and I urge my colleagues to uphold the President's line-item veto.

Mr. FORD. Mr. President, just a few weeks ago President Clinton vetoed 38 projects in the military construction appropriations bill. Two of those projects were in Kentucky, one at Fort Knox and one at Fort Campbell. These projects were included despite the fact that neither one fell within the administration's criteria for a veto.

That criteria included projects not requested in the budget, that would not substantially improve the quality of life of military service members and their families, and that would not begin construction in 1998 because the Department of Defense reported that

no architectural and engineering design work had been done.

Both the qualification range at Fort Knox and the tactical equipment shop at Fort Campbell were requested in the Army's 5-year plan, both have well over the necessary amount of design work completed, and both could begin construction in 1998.

Over 50 percent of the design work is completed at Fort Knox and with funding, construction would begin in 1998. This project replaces 10 1940 vintage multipurpose small arms training ranges which generate high costs for maintenance and use—into one modern multipurpose range. This project was the number two construction priority for Fort Knox.

The Fort Campbell tactical equipment shop project is in the second phase of an effort to replace World War II era buildings. With 90 percent of the design work completed, construction can also begin as soon as the money is made available.

Mr. President, the projects at Fort Campbell and Fort Knox were included in the appropriations bill because the Army considered them priorities. And while I am for getting rid of government waste as much as anyone else, these two projects clearly do not meet that criterion.

Mr. REED. Mr. President, I rise in support of S. 1292, the Military Construction Appropriations Line Item Veto Disapproval bill.

I have long questioned the line-item veto in general terms. I am not convinced of its merit and I am particularly concerned with the manner in which it was applied to the Military Construction Appropriations bill for fiscal year 1998.

Like my colleagues I believe that wasteful spending must be cut. However, since the line item veto was exercised for the first time on the Military Construction Appropriations bill for fiscal year 1998, we have learned that even the White House now recognizes that its own data and process for identifying "wasteful" items to be subjected to the line item veto were seriously flawed. Indeed, OMB Director Franklin Raines wrote in the official Statement of Administration Policy, ". . . we are committed to working with Congress to restore funding for those projects that were canceled as a result of the data provided by the Department of Defense that was out of date." Indeed, it is my understanding that the Administration is seeking ways to right these wrongs through other avenues. Moreover, I am perplexed by the theory that only the Administration knows what deserves to be in the budget. Instead, I believe there is plenty of wisdom here in Congress as well as the White House to establish budget priorities based on rational compromise and debate. Lastly, I would suggest to supporters of the line item veto that the real task of balancing the budget requires votes like the one I cast in 1993 for deficit reduction, not line item vetoes.

There are also some who believe the line item veto is an innocuous device that could never be used for purely political purposes. However, the people of Rhode Island know full well what giving the President the authority to pick and choose specific budget items means. Rhode Island has already experienced a Presidential effort 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 the livelihood of thousands of working Rhode Islanders. Fortunately, Democrats were able to beat back the attempt to rescind funding for the Seawolf, but this experience led me to believe that a line item veto would make future battles even more of a lopsided battle than a fair fight. In addition, 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.

Mr. President, The line item veto is of untested constitutionality. Without a Constitutional amendment, the line item veto act transferred significant power from the Legislative Branch to the Executive. I would hope that the Supreme Court rules on the constitutionality of the line item veto in the near future so the Congress can act accordingly. In the interim, I believe the two principle tests on the use of the line item veto should be: One, is a particular line item veto politically motivated? Two, is a particular line item veto the outcome of a rational and coherent analysis based on sound policy?

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT REQUEST—CAMPAIGN FINANCE REFORM

Mr. LOTT. Mr. President, after a great deal of communication and discussion working back and forth, I think we have come up with a fair agreement on how to handle the campaign finance reform issue that would allow us to go forward with other bills this year, and have a time certain in which to proceed next year, and one that would allow for a full discussion and votes.

So I ask unanimous consent that the majority leader, after notification of the Democratic leader, shall turn to the consideration of a bill regarding campaign finance reform to be offered by Senator LOTT, or his designee, on or before the close of business on Friday, March 6, 1998.

I further ask that Senator MCCAIN be recognized to offer the first amendment, in the nature of a substitute, that inserts the text of S. 25, the McCain-Feingold bill, as modified by Senator McCain on September 29, 1997. No further amendments would be in order to the McCain amendment prior to a motion to table.

I further ask that if the amendment is not tabled the amendment and the underlying bill will be open to further amendments, debates, and motions.

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

Mr. LOTT. I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I thank the distinguished majority leader for his efforts and for the leadership he has shown in keeping everybody at the table as long as he has in order for this to be accomplished.

Let me also thank Senators MCCAIN and FEINGOLD for their diligence in working as long as they have to get us to this point.

Finally, let me thank Senator MCCONNELL for his involvement and his participation in allowing us to reach this agreement.

As Democratic leader I can say with great enthusiasm that we are pleased that we have now reached this point. I also feel the need to express my public gratitude to Senators in the Democratic caucus for their willingness to be united in demonstrating the importance of this issue.

This is not better necessarily for Democrats or Republicans. But in our view, this is a very big victory for the country. This will give us an opportunity to have a good debate as we have discussed, and I look forward to that opportunity sometime prior to the first week in March.

Let me say, Mr. President, as a result of this agreement, I personally will oppose any other effort to bring this issue up prior to the time agreed to, because I believe we have necessary work to be done, and I believe that it is in the interest in keeping with this agreement that we now turn to those other matters.

I expect a full-fledged debate with plenty of opportunity to offer amendments. Given this agreement, now I have every assurance and confidence that will happen.

So, again, Mr. President, let me reiterate my public gratitude to all those involved for the successful agreement that we have announced this afternoon.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I want to thank the majority leader especially in all of this. I consider myself a close and dear friend of the majority leader. The majority leader has seen a lot more of me than he wants to ever see me with such frequency ever again. I

want to assure the majority leader that I am deeply appreciative of the time he has spent with me, and the time he has spent with the entire Republican conference.

I don't think there has been a more difficult issue that the majority leader has had to handle, nor do I believe that he will face one as difficult as this in the future.

I thank Senator DASCHLE, the Democrat leader, who I think has approached this issue in a fair fashion.

I think it is also only a entirely appropriate that I thank Senator MCCONNELL. The Senator has strongly held honest views on this issue. He has again shown a willingness to debate and discuss this issue. Our differences have been passionate but they have not been personal, and I know that he and I intend to maintain that relationship. I can assure my colleagues that Senator MCCONNELL will make strong arguments for his position. And I certainly respect and in some ways admire his willingness to stand forth on an issue which is somewhat difficult to address.

Mr. President, I also believe the following: That we can and should and will sit down together on both sides of the aisle, proponents and opponents, with the recognition that this system needs to be fixed. On how it needs to be fixed there are strong differences of opinion, but I think almost every American now understands that we need to fix this system because we need to restore the confidence of the American people in the way that we select our elected officials.

I am convinced that the real answer, the real solution, will probably not come in the form of debate or any cloture motions and all of that on the floor of the Senate. I believe it is going to come when we all sit down as dedicated Americans and come up with a bipartisan solution to this problem. I still believe that is possible. I will do everything in my power working with both Senator DASCHLE and Senator LOTT, Senator MCCONNELL, and my dear friend, Senator FEINGOLD, who has done a wonderful job here, as I have said many times, so that we can get this agreement.

So I believe this is not an end. There isn't a midpoint. This is just a beginning of a dialog that has to begin in all seriousness, and discussion and compromise which may be called for on both sides of this issue so we can do the will of the American people. I believe the will of the American people has been expressed convincingly that we need to fix the system.

I want to reiterate my openness to any suggestion or idea or proposal that would lead us to that.

Again, thanks to the majority leader.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Thank you, Mr. President.

I am, of course, very pleased that this agreement has been reached.

I want to join in the gratitude toward the majority leader. Any majority leader has a hard job on almost any issue. But this is about as tough as it gets. And I know this has been a very, very difficult period of negotiation.

I thank my leader, Senator DASCHLE. Without his persistence and willingness to take on a tough job in our conference I don't think this would have been possible either.

I want to join with Senator MCCAIN in expressing my admiration for the Senator from Kentucky as well, an extremely worthy adversary. I can honestly say it is enjoyable to debate this issue with him. It will be especially enjoyable to be debating specific amendments as we get into this next year.

But overall, what this represents is what Senator MCCAIN of Arizona and I have said from the beginning—that this can't possibly be done in the end on a partisan basis. The answers have to be bipartisan. This agreement reflects that realization.

I want to join with Senator MCCAIN in his statement about the desire to negotiate, the desire to put together something that the American people feel would make a real difference in this area.

My last comment, Mr. President, it certainly would have been my preference to have a bill pass this year. I said, many times it is very difficult to get this done in an election year, and that would be the conventional wisdom if we are in the middle of campaigns to try to legislate on that. But I think maybe this next year might be an exception. With this system continuing to display itself, perhaps next March will be the ideal time to take a look at this system as it is unfolding in another election and ask ourselves if this is really the best we could do in this country in terms of electing our officials.

So, again I thank all of the Senators involved in these difficult negotiations. This appears to be a fair outcome, and we will have a continuation of this important debate next year.

Mr. President, I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, my special thanks to Senator MCCAIN and Senator FEINGOLD, and Senator DASCHLE for allowing this debate to go forward in an orderly fashion.

As we all know here in the Senate, any Senator at any moment can kick off a debate on any subject. That, of course, gives each Senator a good deal of power in determining what we debate. But what we have essentially agreed to here today is an orderly process by which the Senate can go on and engage in other business and have another debate on another day on this very important issue which we have debated almost yearly for the last decade. Let me say that I think this is a very sensible way to do it.

Finally, I want to commend the distinguished majority leader. He has stood fast on principle over a difficult several-week period. The principle was that the majority leader should set the agenda for the Senate. I want to just say to my friend, the majority leader, that I have never seen a better example of leadership than he has exhibited over the last few weeks.

Senator MCCAIN said the majority leader saw a lot of Senator MCCAIN. He saw an equal amount of Senator MCCONNELL over this period. And I think he is probably ready to see less of both of us for a few weeks.

But in any event, in his position as leader, Senator LOTT obviously would like to see things go forward. On the other hand, there are from time to time matters of great principle where it is important to stand up and take a position. I say to my friend, Senator LOTT, that I can't think of a better example in the 13 years I have been here of standing steadfast for principle when it counted than the performance of the distinguished majority leader over the last 3 weeks.

I thank him on behalf of all the members of our conference, the vast majority of whom agree with the Senator from Kentucky and the Senator from Mississippi.

I yield the floor.

Mr. LOTT. Mr. President, I believe we are ready to return to the debate that was underway, so I will yield the floor at this time.

DISAPPROVAL ACT

The Senate continued with the consideration of the bill.

Mr. BURNS. Mr. President, we still have two more Senators who have indicated to us they wished to make statements on this particular issue, and we will give them a chance to get here. I warn Senators they should come to the floor and make their statements now because we want to get to a vote on this issue. We have other business pending in the Senate that we would like to get to. But if those Senators can get to the floor and make those statements, we will wait a few minutes on them. If not, then I would choose, with the permission of the leadership, to move to third reading on this bill.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Idaho is recognized.

Mr. KEMPTHORNE. I rise today in support of S. 1292, a bill to disapproved of President's Clinton decision to veto over 30 military construction projects.

I will add, Mr. President, I am a proponent of the line-item veto. I believe the line-item veto can be an effective tool to eliminate wasteful spending but I believe the fact that the White House now admits it used faulty data when it decided to veto a number of military construction projects demonstrates that this important authority must be used wisely and carefully.

I would like to speak for a moment about the two military construction projects the President vetoed in the State of Idaho. Both projects were intended to support the combat requirements of the 366th Composite Wing based at Mountain Home Air Force Base.

A recent letter to me from Secretary of Defense Cohen described the critical role played by the 366th Composite Wing: "As one of the first units to deploy to a problem area, it has the responsibility to neutralize enemy forces. It must maintain peak readiness to respond rapidly and effectively to diverse situations and conflicts."

In an ironic twist of fate, the 366th was doing its mission on deployment in the Persian Gulf when the President took inaccurate information, provided by the Air Force, and vetoed two projects intended to support the combat effectiveness of this unit.

President Clinton used his line-item veto pen to delete $9.2 million for an avionics facility for the B–1 bombers and $3.7 million for a squadron operations facility for an F–15 squadron.

In his veto statement, the President claimed the vetoed construction projects could not be started in fiscal year 1998 because there was no design work on the proposed projects. This assertion has now been proven false by a letter from the Deputy Secretary of Defense, John Hamre, which now acknowledges that the DOD provided inaccurate data about the status of design work.

With respect to the two projects at Mountain Home Air Force Base, the outdated Air Force data provided to the White House listed both projects at zero percent design when in fact, as now verified by Air Force, both projects are in fact over 35 percent designed. Moreover, before any of these projects could be included in the fiscal year 1998 Defense authorization bill, the services were required to certify that each of the projects could be initiated in fiscal year 1998 and that is what they did, without exception.

As my colleagues know, the Department of Defense puts together a future years defense plan which projects the DOD budget 6 years into the future. Regarding the two projects at Mountain Home, I note that the avionics facility is contained in the Air Force's 1999 budget and the F–15 squadron operations facility is contained in the service's 2000 budget.

As the President ponders the use of the line-item veto, I think there needs to be dialog with the legislative branch. If there had been dialog, we might have been able to point out the faulty data being used by the White House that was provided by the U.S. Air Force.

Early this year Congress and the President reached an historic agreement to balance the budget and increase defense spending above the President's request. Congress went through its normal deliberative process and we used the additional defense dollars to move forward funding for projects on the service's unfunded requirements lists. Indeed, the B–1 avionics facility was one of the top 10 unfunded military construction projects identified by the Air Force. In addition, the funds were within the budget caps agreed to by the Congress and the President.

Let me read a document, prepared by the 366th Wing, which explains why we need the B–1 avionics facility. This was written by the civil engineer at the base avionics facility:

> Current facility is inefficient, aging, wooden building misconfigured for avionics functions. Numerous false alarms in the fire suppression systems cause excessive avionics support equipment down-time and often cause damage to test equipment. This facility supports over $1 billion of avionics equipment for the wing's fighter aircraft with $115 million in testing equipment. Current avionics facility is approximately one-half the size required for all the wing's aircraft and has severe operational problems supporting fighter aircraft of this wing. About 33,000 sq. ft. of the existing 54,000 sq. ft. facility is condemned for personnel usage. B–1 avionics is currently being maintained at Ellsworth AFB, South Dakota due to inadequate facilities at this base. Engineering estimates by the Army Corps of Engineers found the current facility is uneconomical to renovate. Construction of a new facility collocating avionics for the B–1 and fighter aircraft is the most economical solution and finalizes the B–1 beddown program.

The Office of Management and Budget and the Deputy Secretary of Defense acknowledge the President used outdated and inaccurate data to make his decisions. The Senate should give the President another opportunity to do the right thing and pass the pending disapproval legislation.

Let me thank the chairman of the Senate Appropriations Committee, Senator STEVENS, and the ranking member, Senator BYRD for their quick and decisive action to bring this important legislation to the Senate floor. I urge my colleagues to support the pending legislation.

I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. I think the Senator from Idaho has brought up a good point making the case for his facility because I think we found this throughout this whole message from the administration, that, again, they don't give us the criteria before we finally pass the conference report and send it down there. All at once, then the criteria change. I guess that should not surprise me. We ought to get used to dealing with folks who have goalposts on wheels; they sort of change every now and again.

I hope we could make it through this thing and the Members realize that every project has been through the screens, two or three of them. The ranking member on this subcommittee, the chairman, and the ranking member of the full committee have set their satchel down, set certain standards, and we tried to meet those standards.

I thank the Senator from Idaho for his comments.

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

Mr. BURNS. I will yield.

Mr. KEMPTHORNE. It is just for a question.

Would the Senator from Montana agree with me that as we are provided the data, although the idea was that these projects were not necessary, were not needed, yet we find they are in the President's own budget for the very next year or the year following that? And, since we have all of this data and we have established, through written information from the Air Force, the inaccuracy of the data that they provided the White House, the President and the White House should not find themselves in a situation where they feel they have drawn a line in the sand and there is no way they can back away from this; that it is best for the Nation and our national defense for the White House to acknowledge that, based on inaccurate data, we all should review this and come to a different conclusion, and that is to allow these projects to go forward?

Mr. BURNS. One advantage of the line-item veto right now is it demands of us a dialog with the people who have to administer the programs. That is good. So I agree with the Senator's statement wholeheartedly, and I thank the Senator from Idaho.

I yield to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, are we on a time limitation?

The PRESIDING OFFICER. The time is controlled.

Mr. DOMENICI. I did not hear the Chair.

The PRESIDING OFFICER. The time is controlled.

Mr. DOMENICI. How much time does the Senator have?

The PRESIDING OFFICER. The Senator has 4 hours remaining.

Mr. DOMENICI. I didn't want to cut some other Senator short, but clearly——

Mr. BURNS. How much of that 4 hours would you like, Senator?

Mr. DOMENICI. I am not going to impinge on anybody with my remarks. I have been in another hearing and for that reason I have been trying to get recognition as soon as I can, and I will be as brief as I can.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DOMENICI. Mr. President, I rise today in support of the resolution of disapproval of the fiscal year 1998 military construction appropriations bill. In his special veto message, the President offered the following three criteria for each of the canceled items: "The project is being canceled for because:

"First, it was not requested in the President's fiscal year 1998 budget; second, it would not substantially improve the quality of life of military service members and their families; and third, architectural engineering and design of this project has not started, making it unlikely that these funds can be used for construction during fiscal year 1998."

Mr. President, the Congress gave the President line-item veto authority to eliminate unnecessary and wasteful spending. The Congress examined all of these projects very carefully and found them to be merit worthy and mission essential. In fact, the Appropriations Committee used stringent criteria including:

First, whether the project was mission essential; second, whether the project will enhance readiness, safety, or working conditions for service personnel; third, whether a site has been identified for the project; fourth, whether any money has been spent on the design or the project; fifth, whether the Department can begin to execute the project during fiscal year 1998; and, sixth, whether the project was included in the Department's future year defense plan.

Mr. President, these projects substantially meet the criteria established by the Appropriations Committee. Moreover, the Appropriations Committee worked closely with the military services in crafting its bill. In contrast, it is widely known that the President neglected to consult the military services in deciding which projects should be vetoed on this bill.

First, I want to make clear that if the President thinks that the only good project is one that he recommends, then he will continue to meet strong opposition in the Congress. I remind the President that article I, section 8, of the Constitution gives the Congress the right to raise and support armies. That means that if the Congress believes that a particular project will support the needs and requirements of the military that is not only their right, but their responsibility, to do so.

I am heartened by the fact that the President has used his line-item veto pen more sparingly on the various appropriations bills that have been sent to him since this military construction bill. However, Mr. President, let's be clear about his action on this particular bill. I believe it was an abuse of his authority for three reasons. First, vetoing these projects will not eliminate unnecessary or wasteful spending. Second, it is clear that none of the spending in this bill violates the budget agreement. Finally, using the President's own criteria, it is clear that the President made several errors.

On October 6, 1997, the chairman of the Appropriations Committee conducted a hearing to review the status of the 38 vetoed projects. Throughout the hearing, Senators asked the witnesses whether particular vetoed projects met the criteria as set out by the President. Most questions centered on the issue of whether each project could be executed in fiscal year 1998 and if that project were mission essential. In every case, Mr. President, the answers were affirmative.

Among the items the President vetoed were two New Mexico projects. The first project was $14 million for the construction of a new building for the theater air command control and simulation facility [TACCSF] at Kirtland Air Force Base [KAFB]. This project is in the Department's fiscal year 2002 budget. It is mission essential; 35 percent of the design has been completed with $1.4 million the Congress appropriated last year for this purpose. A site has been chosen for the project, and it is executable this year. Clearly, Mr. President, the President made a serious error in vetoing this project.

The TACCSF is the only facility where fighter crews, command control personnel, and air defense teams operate together in a realistic virtual war fighting environment. TACCSF allows Air Force war fighters to train with Army and Marine personnel under one roof, often their only opportunity to rehearse shoot-don't shoot procedures in a complex friend or foe environment.

Expanding TACCSF's simulation capabilities will support cost-effective development of Air Force systems. TACCSF has flexible simulation architecture that allows new concepts, components, or procedures to be tested in a virtual environment, giving hands-on experience years prior to first prototype—user feedback during early design results in enormous development cost savings.

TACCSF's present building does not allow for any expansion. A new facility is needed to meet growth needs. It is impossible to expand the current facility sufficiently to accommodate the simulators, supporting infrastructure and personnel growth needed to maintain TACCSF's preeminent capabilities. Failure to provide the requested new facility seriously jeopardizes TACCSF's ability to support DOD and the Air Force's vision for modeling and simulation in support of the war fighter.

The second project the President vetoed was $6.9 million for the launch complex revitalization program at White Sands missile range. Once again, using the President's own criteria, he made a serious error. This project will substantially improve the quality of life of military service members, 10 percent of the design has been completed, and the project is executable in fiscal year 1998. The project is mission essential and there is no question that it will enhance safety.

Four launch complexes at WSMR are suffering from deterioration in crumbling structures, failing facility components and below-par sanitary and sewage systems. Many of the complex facilities do not meet current safety laws and regulations. Adequate fire detection and suppression systems do not exist in the buildings and explosive handling areas. WSMR spokesmen have stated, "This totally involves a safety issue. There's quite a bit of activity that is conducted at these launch complexes. It is a potential breeding ground for hantavirus if infrastructure improvements to these areas is not made." Moreover, Mr. President, the commanding general of WSMR stated in a letter to the delegation members that he was very concerned about the safety of his people who worked in these facilities.

Mr. President, the President made serious errors on both these projects. All of them are mission essential and can be executed in fiscal year 1998. The Presidents' arbitrary and unfair exercise of his power demands the Congress' action. I applaud the chairman and ranking member for acting timely on this matter. I strongly support it, and hope my colleagues will do the same.

Mr. President, I have a letter dated April 18, 1997, from General Laws, Brigadier General, U.S. Army, Commanding General at White Sands missile range, to House of Representatives Member from New Mexico, the Hon. JOE SKEEN. I ask unanimous consent that be printed in the RECORD.

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

DEPARTMENT OF THE ARMY,
August 18, 1997.

Hon. JOE R. SKEEN,
House of Representatives,
Washington, DC.

DEAR MR. SKEEN: This information is provided in response to your question on the

health and safety matters at launch facilities at White Sands Missile Range. As you are aware from your recent visit to White Sands Missile Range (WSMR), extensive parts of our infrastructure, particularly the vital launch complexes, are in disrepair or an unserviceable. Many of these conditions entail critical safety and environmental problems that earnestly must be addressed as soon as possible.

Recently, we were required to disconnect the water supply that feeds a fire suppression system at a major missile assembly building due to uncontrollable and excessive plumbing leaks. We have many buildings at these launch complexes with inoperable heating and cooling systems. We also have septic systems that have or are failing, and will have to be deactivated due to environmental reasons. The resource reductions of the last several years have exacerbated the already significant backlog of maintenance and repair to the aging infrastructure of WSMR.

Aside from the increasing difficulties for our personnel to accomplish the critical test and evaluation mission for major programs of all the services in DOD, I am very concerned for their safety and health from working in such conditions. I deeply appreciate your consideration of these issues.

Sincerely,

TERRY L. LAWS,
Brigadier General,
U.S. Army, Commanding General.

Mr. DOMENICI. Mr. President, now I would like to talk to my fellow Senators. In particular I would like to talk to the Republicans on this side of the aisle. I say that because I hear some of them asking questions about why were we for line-item veto and how can we justify voting to override the President. If it fits some Senators' concerns on the other side, fine.

Let me just say, fellow Republicans, we took the lead, once we got control of the House and Senate, to pass this new law called line-item veto. I want to make sure everybody understands that we could not have intended to say that we would never override a President's line-item veto. Obviously, when we passed that, inherent in our passage of that measure was the fact that Congress still had to have some significant say about the propriety, the validity, the appropriateness of line-item vetoes. If it means, if we supported the original line-item veto legislation, whatever the President chooses to do under line-item veto, since we voted for that law we have to concede the President's authority, then I don't think any on this side of the aisle would raise their hands and say that is what they voted for line-item veto to mean. I can assure you I did not.

As a matter of fact, I would submit that it is quite right for the Senate of the United States to stand on its two feet and say to the President: You have line-item veto authority but it does not mean you can exercise it any old way you want. The sooner we send that signal to this President—either a Republican President or this one—the sooner you send the signal that there are certain circumstances under which, by virtue of our authority, that we would say "no" to a President, the better the President will respect the propriety of the notion that we are equal under the Constitution and that the President didn't gain superiority over appropriations when we passed the line-item veto legislation.

So it is almost as if we have a gift of the right situation to send that signal to the President, because in this case there is no doubt of the following set of circumstances.

No. 1, it is now acknowledged by the White House that many of the line-item vetoes, if not all, were issued and done by the President in error. Nobody will come to this floor and deny that. The problem is, they won't tell us how many are in error. We have concluded that almost every one that is on this list, in this bill of override, is in error, if we believed the statements by the White House as to why the line-item veto was used in the first place. We went through each one. We put the financial management officers for the three armed services in front of the Appropriations Committee and asked them the questions that related, not to something we dreamt up, but something the White House told us were the criteria.

Mr. President, they were simple criteria: Is project in the 1998 budget request, or did we just dream it up? Question No. 1. Second, has the engineering and design has started? And tied into that one is that the project contracts could be issued in 1998, the year of this appropriation. And the third one, that it was something that would improve the quality of life of military men and women and their families?

Frankly, we asked the questions of the military financial officers. In almost every one of these 38 projects, they said they were in the Defense Department 5-year plan, or they did do substantial improvement to quality of life, to family life, or third, design had been started and the project could commence during the appropriation year of 1998.

When the White House then says, well, it may be that we in the White House made mistakes; that 18 of these vetoed projects don't fit our own criteria; it may be that 16 didn't fit our criteria—in any event, we are not going to tell you exactly which ones. I say to the Senators who are wondering whether they should vote for this, that is enough to vote for the override. If you ever want to change the power structure, then let a President get by with that. He line-item vetoes and then he says, "I made a mistake, but I am sticking with them and I am not going to tell you which ones I made a mistake on." If you can't discern that, then it seems to me you have to send it back to him with a great big vote in the Senate and the House saying, "Since you won't tell us, we are giving them all back to you. And if you send them back, we are going to adopt them in law and override your veto, because you haven't squared with us."

I can think of some other reasons. Each Senator who voted for the line-item veto and who is worried about whether he can now vote to override, I ask just a simple question. Did you really mean you would never override? Of course you would say no. If you meant you might override sometimes, what is a more perfect case than this? You have two reasons: The projects are bona fide projects that meet any reasonable criteria; and the President will not tell us which ones are incorrectly vetoes, although he says there are some, that don't fit the criteria.

I know there are some former Governors in the Senate who are going to speak to line-item veto. I don't know which way they are coming down on this. But I take it from many Governors that they never had such a large argument over line-item veto in many years of being Governors; that all of a sudden you get 38 projects out of one bill, $287 million, and they don't know why it was done or why others were left in.

So, from our standpoint, this is the appropriate time to send a signal that line-item veto is not a one-way street; that Congress has a role. If it is not used reasonably and rationally as a policy instrument, then it will be overridden, and I hope we do that. I hope it is a very big bipartisan vote, because I think it is apt to be the same in the U.S. House of Representatives. We will start this process off on the right track.

Mr. President, I ask unanimous consent that that a table from the Congressional Budget Office comparing the pending bill to the President's original line-item veto message be printed in the RECORD.

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

EFFECT OF S. 1292, DISAPPROVING CANCELLATIONS MADE BY THE PRESIDENT ON OCTOBER 6, 1997, REGARDING P.L. 105–45

[By fiscal year, in millions of dollars]

	Budget Authority	Outlays				
		1998	1999	2000	2001	2002
Total CBO estimate of cancellations made by the President to P.L. 105–45	287	28	102	79	46	16

EFFECT OF S. 1292, DISAPPROVING CANCELLATIONS MADE BY THE PRESIDENT ON OCTOBER 6, 1997, REGARDING P.L. 105–45—Continued

[By fiscal year, in millions of dollars]

	Budget Authority	Outlays				
		1998	1999	2000	2001	2002
Projects not disapproved in S. 1292, as reported in the Senate						
Military Construction, Navy						
Chemical-Biological Warfare Detection Center, Crane Naval Surface Warfare Center, IN (97–15)	4	8	2	1	1	(1)
Military Construction, Air Force Reserve						
Base Civil Engineer Complex, Grissom Air Reserve Base, IN (97–16)	9	1	4	2	1	1
Aerial Port Training Facility, Mitchell Air Reserve Station, WI (97–41)	4	1	2	1	1	(1)
Total, Military Construction, Air Force Reserve	13	2	6	3	2	1
Military Construction, Army National Guard						
Aviation Support Facility, Rapid City, SD (97–31)	5	(1)	1	2	1	(1)
Total projects not disapproved in S. 1292, as reported in the Senate	22	10	9	6	4	1
Difference between S. 1292 and the President's cancellations	264	18	93	72	42	15

Source: Congressional Budget Office. Note: Details may not add to totals due to rounding. [1]=Less than $500 thousand

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Who yields time?

Mr. GRAHAM. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, I am here to speak on two of the specific projects that are covered by this veto and now the proposal to override that veto, and then, second, I will make some remarks based on my own personal experience as to how the relationships between the legislative and the executive branches should function when the Executive has the line-item veto.

First, let me turn to two projects with which I have extensive familiarity.

First, a pier improvement project at the Mayport Naval Station near Jacksonville, FL. Mayport has been designated by the Navy to be the second Atlantic coast major naval facility, the first being Norfolk. In order to carry out this role, it has been determined by the Navy that it is necessary to make certain improvements to the piers that serve Mayport Naval Station. The improvements were included in the 5-year Navy plan.

The Navy made another decision, and that was to utilize a design-build process as the means for constructing these pier improvements. In contrast to a traditional procedure in which a project is fully designed and then contractors bid on those completed designs, design-build merges the creative and the execution stages which one firm is responsible for submitting a bid to both design a project that will meet the needs of the client, in this case the Navy, and then to construct that project. It also has the benefits that the project can be segmented, so that if there are portions of the project that can proceed ahead on a more rapid pace because they are less complex or have less design requirements, they can be doing so.

The result of this design-build process for the Navy has been both a significant savings in time and cost.

A recent study by the Design-Build Institute of America states that over the last 4 years, naval facilities utilizing this design-build process have led to a timesaving of 15 percent over the conventional method of first design, then bid, then build, and a cost savings of 12 percent. That design-build process was determined to be appropriate to this pier improvement at Mayport.

The significance of that, Mr. President, is that it runs in conflict with one of the criteria that the President used in determining which projects to veto, because one of those criteria was, was this project one which had been designed and, therefore, construction could commence in this fiscal year? In the case of a design-build project, you don't have a separate sequence of design. The design and the construction project are issued as one.

In the case of Mayport, the Navy expectation is that they will issue their design-build contract in March of 1998. At this point, some of the real benefits of design-build begin to take effect. As an example, the toe wall of these particular piers will use a similar design to the toe wall of piers that are immediately adjacent, and, therefore, the expectation is that they will use the same designs which have already been done, therefore allowing the construction work on the toe wall to commence in June of 1998.

Another important component of this pier improvement is to add a new electrical circuit so that the ships which have higher electrical demand today, because of all of their computerization and other electronics, will be adequately served. This electrical work represents a fifth circuit to the already existing four circuits. And so, again, no significant new design work will be required. It is expected that the electrical construction work will also commence in June of 1998.

So the facts of this case are that, if the purpose of that standard, which was, is the design complete so construction can start? has been met, the only difference is because this is a design-build contract as opposed to a traditional contract, you can't answer the question, is there a completed set of designs here ready to be bid upon? It is ironic that the design-build process was specifically recognized and applauded in the reinvention-of-Government study that was done in 1993 as the wave of the future as to how the Federal Government should go about much of its construction activity.

So, Mr. President, with that background on Mayport, I believe this clearly is one of those projects where the facts do not substantiate the reasoning that was given as the basis of the veto. We have an important project meeting a clear national defense need which the Navy has stated should be completed within the 5-year plan. The Navy has selected a design-build process which will result in construction commencing on important elements of this pier improvement in June of 1998.

The second item which is of concern to me relates to Whiting Field, a major Navy aviation training center in Santa Rosa County, FL. Whiting Field is the centerpiece of actually a series of fields of runways and other training facilities that are located throughout northwest Florida and south Alabama.

The Air Force and the Navy have decided on an eminently reasonable new joint project, and that is, that rather than having the basic training of naval aviators being done exclusively by the Navy and Air Force aviators being done exclusively by the Air Force, that they will develop joint training at the primary and advanced levels. Whiting Field has been designated as the field upon which approximately half of the primary training for both Air Force and Navy pilots will occur.

A new aircraft has been selected, called JPATS, which will serve the needs of both the Navy and the Air Force. This new aircraft has some different requirements than the aircraft which the Navy has used for many years at Whiting Field. One of those is a slightly longer runway for safety purposes. It is a somewhat higher performance aircraft.

In this legislation was $1.2 million to add to the length of one of the outlying fields which serves Whiting, which happens to be located in Brewton, AL. Also, as part of this $1.2 million, will be a safety zone built around one of these runways in order to enhance the safety for aviators with this new higher performance JPATS aircraft. Again, this

is in the Navy's 5-year plan. The JPATS aircraft are going to be delivered in the year 2000.

The work to be done is not high-tech, it is the extension of an existing runway, and, therefore, the development of complicated designs is not relevant to the project to be performed. Therefore, again, the rationale for the veto, which was that unless design had been conducted, assumedly construction could not start in the fiscal year and, therefore, the project became a candidate and, in fact, a victim of the President's veto.

Just as the project at Mayport, this meets all the tests. In this case, the Navy and the Air Force have agreed that this is a needed project to secure an important new joint relationship between our two principal aviation services which will result in significant savings to the Nation and, hopefully, enhancements in the quality of training and the jointness of training of the Air Force and the Navy.

I had the opportunity to visit Whiting Field in August of this year, and I can state from personal experience and discussions with the leadership of this important naval facility that there is great commitment to seeing that this joint training is a success and a contribution to the Nation's security. All this is going to have a key date of the year 2000 when the new aircraft begin to be delivered.

So, Mr. President, I urge that these and the other projects that are contained in the legislation to override the President's veto be supported, because I believe they are the kind of projects which the Nation will need for its long-term national security. I commend the leadership of the Appropriations Committee and the Military Construction Subcommittee for their careful attention to these two projects.

If I can take a brief period to comment about the line-item veto process. I was Governor of the State of Florida for 8 years with the line-item veto authority, and I utilized that authority where I thought appropriate. I believe that the most significant use of the line-item veto is in its deterrence effect. The fact that legislators who might be inclined to submit and seek passage of a project that did not have the positive qualities of Mayport and Whiting Field would be inclined to do so but for the fact that they knew the Executive could identify them as being inappropriate and, therefore, subject that sponsoring legislator to the public scrutiny of having advanced such a proposal.

But I believe for that deterrence to be effective, there are some requirements on the side of the executive branch which were not met in this first test of the line-item veto at the Federal level.

Two of those requirements are, first, no surprises. Neither of these projects are new to the Navy, to the Air Force, to the Office of Management and Budget, to the White House. These projects represent the completion of important previously determined military priorities: Mayport as the second naval port on the Atlantic coast; joint training of Air Force and naval aviators.

Therefore, as these two projects moved through the appropriations process, there were plenty of opportunities, if it was felt that they were going to be subject to veto, to have sent up such a signal. No such signal was sent.

The assumption was, since they had the support of the Department of Defense, and they were within the 5-year plan, that they were projects that had a time urgency, that they were appropriate.

In the future, I would urge whoever is the Executive authority to be engaged in this process at a much earlier stage to indicate if there are some problems and what the nature of those concerns will be. As the chairman has indicated, apparently even he did not know what the criteria were to be for these projects until after the Congress had passed the final bill and sent it to the White House for its consideration.

And the second is that after the bill has gone to the White House, and they are looking at these items, if they see an item that they believe is a candidate for veto, they owe it to themselves, they owe it to the sponsoring individuals and agencies, and they owe it to the national objectives which are sought to be achieved to have a frank discussion with the parties who are most knowledgeable so that they can get the facts.

I made an effort on both of these projects to educate who I thought were the appropriate people. Obviously, my attempt at education was not successful. But I am confident that had there been a full opportunity to review the facts that I have briefly submitted here this afternoon, that the White House would have made a different decision relative to these two projects.

So I think, second, that the White House needs to have the practice to bring into the process before the final decision those who are most knowledgeable so that never again will it have to issue statements that: "I'm sorry I did this. And I did it out of ignorance." Ignorance declared is a sign of a person who is ready to enter into confession and redemption, but this process is too important to have very many confessions and redemptions. We ought to try to be operating based on facts and knowledge and the importance to the national security of these significant defense items.

So, Mr. President, with those comments on these two specific projects, and a little unsolicited advice to the White House, I urge a strong Senate vote in favor of this proposal.

I hope that our colleagues in the House will follow suit and the President will see the wisdom of the line-item veto process in its full extension of a dynamic relationship between two equal branches of the U.S. Government. Thank you.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, we have one other scheduled speaker after Senator GRAHAM, and then Senator BYRD has requested some time. But I ask unanimous consent that the vote on S. 1292 take place at 4:30 this afternoon, and reserving 10 minutes for the ranking member of the full committee and recognizing Senator BUMPERS as the next speaker.

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

Mr. BUMPERS. Mr. President, parliamentary inquiry. Who controls the time on this side?

Mr. BYRD. Mr. President, how much time does the Senator need?

Mr. BUMPERS. Ten minutes.

Mr. BYRD. I believe I am in control of time, am I not?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I yield to the Senator 10 minutes.

Mr. BUMPERS. Thank you very much.

Mr. President, we are here today debating this issue which was a political creation in the beginning. It was a terrible idea and in my opinion, plainly unconstitutional. Ronald Reagan was President. He had promised the American people he would balance the budget by 1984 after he was sworn in in 1981. And in 1984 we did not have a balanced budget. On the contrary, deficits were soaring wildly out of control.

And then we begin to hear and read where the President said, "Well, you can't blame me because, you know, I can't spend a penny that Congress doesn't appropriate." And I am not going to belabor that argument, but the next thing we heard was, "If only the President could pick out all those pork projects and veto them, these deficits wouldn't be soaring out of control."

First of all, if the President had full line-item veto authority at the time, according to most calculations, the amount of dollar savings as a result of those vetoes would have been infinitesimal in comparison to that staggering deficit. All that line item veto talk was nothing but a sheer diversionary tactic in the face of a promise that had not been kept.

And I do not mean to denigrate President Reagan. But that rhetoric was the genesis of a very bad idea and in my opinion a patently unconstitutional idea.

I am almost bitter, Mr. President, at the passage of this line item veto. The

worst thing that can happen to a politician is to allow himself to become cynical or bitter, so I will say that I am elated. I am elated that this day has come.

A lot of the people in this body stood and made magnificent speeches about how wonderful the line-item veto would be. They declared that 80 percent of the American people favored the line-item veto. I understand that; I took a lot of political heat, along with a lot of people on this side of the aisle who stood up against the line item veto. Senator Hatfield, who is no longer in the Senate, stood up against it, along with a few people on that side of the aisle. We all took unbelievable political heat back home because it was wildly popular. The people had been led to believe, and they did in fact believe that the real problem with the spending habits of Congress was that the President did not have the line-item veto. So I don't know how many times the line item veto proposal was presented in this body, but I promise you I voted no, no, no every time.

So I am elated today because a lot of the people who got a lot of political benefit out of their support for the line item veto are now complaining. They are not saying that it was a mistake to pass it in the first place. No, they say that the trouble is that the President has abused the authority. Regardless of whether the President has properly vetoed these items before us today, I am not surprised at their protests. This is precisely what we told them they could expect if they passed the line-item veto. It is a bad idea, and plainly unconstitutional in the way it transfers the power of the purse to the President.

I heard Senator GRAHAM from Florida about his use of the line-item veto when he was Governor of Florida. I had the line-item veto when I was Governor of Arkansas—and I used it. You know how I used it? I would call a legislator down to my office and say, "You just voted against that administration bill, and you have a $250,000 appropriation coming for a big project in your district. And I can tell you, that sucker's toast unless you get down there and change your vote." That is what I did.

One of the arguments we made here was that the President could cow virtually any Member of the U.S. Senate with a line-item veto. I do not think President Clinton intended to insult Members of this body when he vetoed these 34 items, but it was a terrible political mistake.

Any time you veto bills that affect more than 25 States, you are in trouble. I do not think the President was really thinking about that. Incidentally, he followed me as Governor of Arkansas. And he used the line-item veto pretty extensively when he was Governor. But one of the main reasons I object to it is that it gives the President unbelievable power over the Members of this body. And I can tell you, the Framers of the Constitution never intended for a President to have that kind of power. That is the reason they said: The Congress will pass the laws, and present them to the President, not item by item, but bill by bill.

So, Mr. President, in conclusion, let me say I hope some of my colleagues will take this to heart and not trivialize the Constitution. It is almost contemptuous the way we treat our Constitution sometimes. I have voted for one constitutional amendment since I came to the U.S. Senate. That was the Equal Rights Amendment. I am sorry I voted for that, because it is not necessary. I have voted "no" 37 times on constitutional amendments, and "yes" once, and I regret that one. That is not to say I will never vote for a constitutional amendment, obviously. I reserve judgment on that.

But the thing that chagrins me more than anything else is that every time somebody comes up with a cute political idea, they want to put it in the Constitution. And I have taken heat on prayer in school and the balanced budget amendment and flag burning and term limits, and court-stripping proposals. I have taken my share of heat on all those things, almost every one of which undeniably was political.

So, as I say, if some of my colleagues—if as many as one colleague today is thinking, "I regret having voted for this thing. I regret having voted for something that in my heart I knew was unconstitutional," I hope those members will think hard about this vote. Let me close, Mr. President, by saying that I am going to vote to uphold the President's veto. That may sound a little bit perverse, I suppose, based on what I have been saying. I do not know all the merits of these 34 items. That probably does not speak well for me, but I can tell you one thing, if one of them affected Arkansas, I would be voting to override it. And this entire package of line item vetoes is going to be overwhelmingly overridden by this body. There may not be five votes to uphold the President.

But I will vote to uphold the veto and I will tell you precisely why. I want to make it so painful to support the line item veto that when we come to our senses and the legislation comes up to repeal the line-item veto, that it will be passed 100 to nothing. So the more pain we inflict, the more likely that is to occur.

Ultimately, I think the line item veto will be repealed. I think that if Senator BYRD could bring up his line-item veto repeal today, I would like to believe it would pass almost 100 to zip. It was a terrible idea. And the time has come when the Senate should think better of it.

I look forward to getting a piece of legislation up here even before the Supreme Court strikes it down. I personally believe the Supreme Court has very little alternative but to declare this thing unconstitutional when it is presented to them by somebody with standing.

So, Mr. President, this is really a happy day for me, now that the Senate is addressing this item.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield the distinguished Senator from Virginia [Mr. ROBB] 10 minutes.

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

Mr. ROBB. Thank you, Mr. President.

And I thank the distinguished senior Senator from West Virginia for yielding me time because he knows, as I have already alerted him to the fact, that I am going to speak against the position that he has taken for so long and with such eloquence.

And as the distinguished senior Senator from Arkansas departs, let me say, I agree with almost everything he said, save one small part of the speech that he just made. And I have joined him in voting against most of those other amendments.

But I rise today to oppose S. 1292 because I believe the credibility of the Senate is on the line.

Just last year, 69 U.S. Senators voted to give the President line-item veto authority. As a former chief executive who had the line-item veto authority, as indeed most Governors have that authority, I supported that decision. I did not use it in the way the senior Senator from Arkansas used it, but I had the authority. And I support it because I believe that only the President has the singular ability to reconcile the competing spending interests of all 535 Members of Congress and make decisions that will be based on our national interests.

Today, unfortunately, we stand ready to emasculate completely the line-item veto authority.

I realize that many distinguished Members of this body, some of whom have been heard today, many of whom have been heard from on previous occasions, oppose the line-item veto, and have consistently opposed the line-item veto, and indeed believe it is unconstitutional.

I would concede that it is quite possible that the Supreme Court will declare it unconstitutional when they consider it on the merits in a suit brought by plaintiffs who have standing to do so. But let's not pass a bill disapproving the President's veto of nearly every single project he lined out in the military construction appropriations bill.

What credibility can supporters of the line-item veto have if, in the first appropriations bill out of the gate, we

vote to disapprove the President's action simply because one of our projects is on the list?

Mr. President, I don't diminish the political difficulty this legislation poses for Members who have projects on this list. I have three projects on the cancellation list that are in my home State of Virginia. Since I believe these projects have merit, I will work to fund them in future bills. While I do believe strongly that we need to develop some objective criteria for the President to follow when making veto decisions, I never thought that the implementation of the line-item veto would be popular with either the President or Congress.

What I find objectionable about this legislation is that we didn't even try to determine the merits of the President's cancellations except for individual Members within their individual States. Instead, to maximize political support, we gave, in effect, every Senator line-item veto authority in reverse—allowing each Member to decide whether appropriations for his or her own projects would be restored. The result is that funding for 34 of the 38 projects vetoed by the President are included in this bill.

Is that what line-item veto supporters had in mind last year? It is certainly not what I had in mind, Mr. President.

Mr. President, quite simply, this legislation is a test of our resolve to stick by our decision to impose a measure of fiscal discipline on the appropriations process. We gave the President the authority. We expected him to use it. Even those who opposed the legislation expected him to use it. And he did. I am simply not prepared to say that all of the President's actions were totally without justification.

Mr. President, I urge my colleagues to vote against this disapproval bill. Passage of this bill will increase the deficit and set a dangerous precedent that I believe will lead to the emasculation of the line-item veto. But most importantly, Mr. President, passage of this bill would illustrate once again our own failure to make the tough choices, our own failure to be fiscally responsible.

Mr. President, I am under no illusions about what is going to happen in this particular case. But I hope before Senators cast their votes, they will think about what it was they thought they were doing when they voted for the line-item veto last year and vote in accordance with the convictions they had last year when they vote on this bill this year.

With that, Mr. President, I yield the floor, with particular thanks to the distinguished senior Senator from West Virginia, who knew I was going to speak against the legislation, which I know he has so eloquently opposed for so very long.

Mr. STEVENS. I understand the position of the Senator from Virginia, but I would like him to consider this: We had $800 million allocated to the military construction budget out of the budget agreement that was entered into with the President. That still left us $700 million below the 1997 level. The action of the President in vetoing 38 projects here has removed $287 million from that.

If this bill does not pass, that money is gone. But not only is it gone, the President has announced the 18 he made a mistake on he will fund by reprogramming over other money. So the net result of the President's veto is an excess of $450 million that is lost from the defense budget this year.

Now, it was a mistake. This was not a line-item veto that made sense. It was a sheer mistake. They will not tell us which projects, by the way, he made a mistake on. I wonder if the Senator from Virginia knows that?

The net result of not passing this bill will be that almost half a billion of the money that we got through the negotiations with the President to increase the defense budget will be gone forever, including quality-of-life projects, barracks, mess halls, housing. I ask the Senator, how can you justify voting for this if you are in favor of the line-item veto?

I was the chairman of the Senate conference on the line-item veto. I know the requirements of the line-item veto law. The President did not follow it. He did not establish criteria. He announced the criteria after—after—after the decision was made.

In the case of Virginia, as the Senator pointed out, the criteria didn't fit the Virginia projects. That was true on 36 of the 38 projects. Those 36 are in this bill.

Now, I say to my friend from Virginia, bad facts make bad law. If this bill doesn't pass, I guarantee the Senator from Virginia, this case will be taken to the courts, and if it is taken to the courts, this will be the vehicle that will lead to the destruction of the line-item veto.

We are coming at it from different directions, the Senator from Virginia and I. I still believe in the line-item veto, but if the President's veto is not overridden, I will join the Senator from West Virginia in seeking to repeal the line-item veto, because this is wrong. This is arrogance, an abuse of power, and it is an overwhelming mistake on the part of the executive branch.

I thank the Senator for listening to me. If the Senator from Virginia wishes to have time to respond, I yield from our time.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Virginia is recognized.

Mr. ROBB. Thank you, Mr. President. I would like to respond very briefly to my friend and colleague and the distinguished senior Senator from Alaska, for whom I have enormous respect.

I suggest two things: No. 1, that I share the concern about the imperfect process that was followed in this particular instance. I have shared my concerns directly with the White House, and I hope we will not have a repeat of the lack of prior consultation, et cetera. So I am not in disagreement with that particular aspect.

But the matter of how many dollars are actually involved is not the issue, as far as I'm concerned. It is the principle. If we believe that the President ought to have this particular authority because we believe only a President can reconcile all of the disparate interests of 535 Members of Congress who may have an interest in a project that may not have true national interest, then we have given him the authority to veto that particular item, and given us an opportunity to override it.

If this particular legislation were designed to collect only those about which there was agreement or only those individual projects which we could consider on their merit, I might well support the distinguished Senator's bill.

My objection with this legislation is that we have, in effect, taken every single request by any Senator who asked to have one of the items that was vetoed included in this bill and said, "We are going to, in one single bill, notwithstanding whatever merit or lack of merit may be evident in these particular items, we are going to tell the President he can't do that." I simply disagree.

Second, I disagree with the principle that if you are for the line-item veto in principle but can't stand the heat when it applies to a project in your particular district, then, indeed, you ought not to be for the line-item veto.

I would not argue with the basic premise of the Senator's remarks that if the distinguished senior Senator from West Virginia's legislation to repeal the line-item veto were offered again today, that it might well garner overwhelming support, although I am in a position to suggest that it might not be unanimous.

Mr. STEVENS. There is no Alaska project that was eliminated by the President.

Second, the difficulty that I really have with what the Senator has said is the line-item veto was intended to eliminate waste or projects that would lead to a deficit. We asked for the list. Can the Senator now tell me what 18 or 19 projects the President made a mistake on? Can he give us a list? We never got a list. We have 36 to 38 projects in this bill—because we never got a list from the White House as to what projects the President admitted were erroneously line-item vetoed.

Mr. ROBB. If the Senator will yield to respond on that particular matter,

Mr. President, I remind the distinguished Senator from Alaska that I could not agree with him more. I think it is wrong.

I agree with the Senator from Arizona, with whom I discussed the problem earlier, that we ought to establish clear criteria, and those criteria ought to be made known to those who would be affected by them, as well as all the rest of the Members of this body.

Mr. STEVENS. I thank the Senator.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. While the distinguished Senator from Virginia is on the floor, I disagree with the Senator in suggesting that we all ought to enter into some kind of an agreement with the White House as to what the criteria ought to be in applying the line-item veto. I think if we do that, we are further legitimizing what is an illegitimate end run around the Constitution. I'm not for entering into such agreements concerning criteria.

While I have the floor, I am not supporting this measure because it has an item in it that was wrongfully vetoed by the President and because that item is now included in this resolution. I'm supporting it because I think the administration was arbitrary and capricious in exercising the line-item veto in the way it used it. That is why I have said that Senators can vote for this resolution even though they support the line-item veto. A vote for this resolution doesn't mean they support the line-item veto, nor does it mean they are against the line-item veto.

It says that Senators believe that the administration, in applying the line-item veto, acted capriciously, acted arbitrarily, acted without justification, acted without a credible basis. That is what Senators are voting on. That is why I hope they will all vote for the resolution.

May I say to the distinguished Senator from Virginia, don't count me in when it comes to helping the administration to establish criteria by which it will apply this infernal, nefarious line-item veto.

Mr. ROBB. Mr. President, I simply acknowledge that no one has been more eloquent or consistent in their position that this is not appropriate legislation. From the very time that I entered this body I have known that the distinguished Senator, who was then chairman of the Appropriations Committee, felt that this was not a proper allocation of power under the Constitution, that it should be reserved for the legislative body. It was not appropriate to give this to the executive branch.

We have a disagreement on that matter in terms of the distribution of power, but as to the interpretation of the Constitution, I suspect that the Court will probably ultimately verify or validate the distinguished Senator's views and this debate may be moot.

My concern today, and I accept the Senator's view that nothing in West Virginia is included, but I am concerned if there were 69 of us, if that indeed is the count, who were willing to vote for the line-item veto and now come back simply because there is an item in our States and say we are against it because it happened to gore the ox in our pasture, then we are not maintaining the kind of principle that most Members of this legislative branch believe in in all the other dealings they take part in.

Mr. BYRD. Mr. President, I am not willing to assume that the President has a monopoly on wisdom. I have represented the people of West Virginia now for 51 years in one office or another. I think I have a pretty good idea of what they need, what they want, and so on.

But in this particular instance, the item that was vetoed for West Virginia was on the Department of Defense's 5-year plan.

He vetoed the item that would have been in West Virginia, and I say, let's give it right back to him by his own criteria. He made a mistake in vetoing it. I say let's put it right back on the President's desk, let him exercise his constitutional veto, and then let the Congress exercise its constitutional option of either overriding that veto or sustaining it.

I have sat right here and listened to three former Governors talk about the line-item veto. What is beyond my comprehension is how Senators can confuse the so-called line-item veto at the State level with the line-item veto at the Federal level. They are two different spheres of action. The distinguished Senator from Florida, the distinguished Senator from Virginia, and the distinguished Senator from Arkansas, all three of whom are former Governors, came from States that have the line-item veto. Well, so what? As Governors, they were acting under the constitutions of the State of Virginia, the State of Florida, and the State of Arkansas. But now they are operating under the aegis of the United States Constitution. They are two different things. I don't find the constitution of the State of Virginia written into the U.S. Constitution. I don't find the constitution of the State of Florida written into the U.S. Constitution. The U.S. Constitution refers to legislative powers "vested in a Congress of the United States."

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

Mr. BYRD. Yes.

Mr. ROBB. With all due respect to the distinguished senior Senator from West Virginia, that is the reason that we are proposing, proposed, and have effected the line-item veto, and propose it as a constitutional amendment, recognizing that the Constitution of the United States did not grant this power to the President that it grants to 40-some Governors and their respective States.

Mr. BYRD. We are talking about two different powers. We are talking about the powers that the 47 Governors have, dealing with the so-called line-item veto. Those are powers under their State constitutions. But the Senator from Virginia is no longer a Governor; he is a Senator. The Senator from Florida is not a Governor any longer, and he is not to be governed in his actions here by the constitution of the State of Florida; he is to be governed here by the oath he took to support and defend the U.S. Constitution—not the constitution of the State of West Virginia, not the constitution of the State of Virginia, but the United States Constitution. That is the Constitution by which we are governed here.

The line of demarcation, the line of separation of powers, the line of checks and balances is more strictly delineated at the Federal level. It is more strictly drawn, more finely drawn at the Federal level than it is at the State level.

Mr. ROBB. Will the Senator yield further?

Mr. BYRD. Yes.

Mr. ROBB. Mr. President, without the power to amend, this Senator will observe that we would not have had the Bill of Rights, much less the other amendments to the Constitution. So there is a procedure that is set forth for subsequent generations to reconsider the wisdom of the Founding Fathers, and it appears that the Founding Fathers accepted the fact that there might have to be some changes even in their seminal document, the Constitution.

I don't intend to continue the debate, Mr. President, with the distinguished senior Senator from West Virginia. I understand his point of view. I respect him and I respect him for it. I expect that this particular bill will probably achieve something in excess of 95 votes. So I am not sure that we need to protract the debate on this particular issue.

Mr. BYRD. Mr. President, I don't intend to protract the debate. But I agree that if this is going to be done, if we are going to have the line-item veto, let it be done the way the framers provided that it be done; namely, through an amendment to the U.S. Constitution, not by statute. I don't think we can do it by law. I do hope that the High Court of the United States will uphold the contention that I am making and will strike this infernal and nefarious law dead, dead, dead!

I thank the distinguished Senator. How much time does the Senator from New Mexico need?

Mr. BINGAMAN. I will ask for 5 minutes.

Mr. BYRD. I yield the Senator 5 minutes. I believe the Senator from New

York wants 5 minutes also, and I will yield him that time when he comes in.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me talk separately about two issues. One is this Senate resolution disapproving the cancellations that were transmitted by the President resulting in this S. 1292.

Let me first indicate the reasons that I support the resolution, and then I will say a few things about the line-item veto issue, the larger issue that the Senator and others have been discussing here. First, I do support the legislation, S. 1292, for the simple reason that I believe the administration acted to cancel worthy projects on the basis of erroneous information and that it is our duty in the Congress to override that decision if we have the votes to do that. The administration has admitted as much to us in a statement that we received today, and the President continues to insist that he will not allow the passage of this resolution to be signed into law.

At a minimum, I believe that if this override effort proves unsuccessful, the administration owes it to the military personnel in the country and to their families and to those of us in Congress to ensure that there is funding provided for the projects that were incorrectly included in the President's line-item veto package. The Senate received a statement from the administration today indicating that some military construction projects that the President vetoed were canceled on the basis of erroneous information. Mr. President, that is exactly what happened on the two projects that I am most familiar with, the two in New Mexico. The project at Kirtland Air Force Base and White Sands Range.

In both of those cases, we had information from the Department of Defense indicating that those projects had been substantially designed, and they were ready to be executed in this fiscal year, and as such, they did not meet this criteria that the President has indicated he used and the Office of Management and Budget used in deciding which items to line-item veto.

In fact, I had a conversation with Franklin Raines, head of the Office of Management and Budget, on the day that the decision was announced by the President, and I discussed with him the information we have received from the Department of Defense and how it conflicted with the information that he had which he was urging the President to use in making the decision.

So I am persuaded that the decision as to those two projects was based on erroneous information. I believe, based on what the President has indicated in his letter to us, that the decisions on many other projects were also based on erroneous information. So I believe it is in our best interest and it is our duty, in fact, to go ahead and pass this legislation. I intend to vote for it.

Let me say a couple words about the line-item veto itself. I am not one who supported the line-item veto legislation. I opposed it for many of the reasons that the Senator from West Virginia has articulated so well here on the Senate floor. First of all, I don't believe it is good policy. I think the Founding Fathers had it right when they determined that this was not a power that should be granted to the President, and so I support the basic structure that was put into our Constitution.

Second, if we were going to try to enact some type of line-item veto and grant that authority to the President, it cannot be done by statute; we would have to amend the Constitution. We would have to go through the very elaborate procedure set up in the Constitution to amend the Constitution. Clearly, that was not done in this legislation.

Let me also say that all the debate over the last several years in the Congress about the line-item veto has been an effort to describe it as something which was needed in order to impose fiscal responsibility on the Government. My experience here in the Congress has led me to conclude that fiscal irresponsibility is just as much a result of action in the executive branch as it is a result of action here in the Congress. There are many instances where those of us in Congress are fiscally irresponsible. I have witnessed that on many occasions. But I have also witnessed many examples where the executive branch and the President in the budget sent to the Congress were also fiscally irresponsible. So I don't think the case has been made that fiscal irresponsibility is just a province of the Congress.

I do believe we should pass this resolution. I believe that the Supreme Court, when it gets the opportunity, will declare the legislation that enacts the line-item veto to be unconstitutional. I believe the issue will be back before us at that time to see whether we want to do a constitutional amendment. I will urge my colleagues not to do a constitutional amendment at that time.

I yield the floor, Mr. President. I appreciate the time.

Mr. STEVENS. How much time remains, Mr. President?

The PRESIDING OFFICER. The majority has 12 minutes 37 seconds, plus 10 minutes to close, which has been allocated separately. The minority has used up all their time, but they still have 10 minutes to close.

Mr. STEVENS. I yield such time to the Senator from Texas, from my 12 minutes, as she wishes to use.

Mrs. HUTCHISON. Mr. President, I ask that I be notified if I go over 5 minutes, which I don't expect to do.

Mr. President, I appreciate Senator STEVENS' putting this bill forward, along with Senator BURNS, because I think this is exactly the way the process should work. I am, frankly, puzzled by some of my colleagues who are arguing that they aren't going to vote for this bill because they voted for the line-item veto. I voted for the line-item veto. This is exactly the way the process should work. The President vetoes, and the Congress does not take away its right to disagree with the President. The Congress has not taken away its right to override. In fact, that is part of the process. That is the way it is supposed to work.

I don't accuse the President of partisanship. I think he has vetoed projects that he probably considers were not worthy in States and districts represented by Republicans and Democrats. But I do think the President is wrong. I think the President did not have the facts straight, and I think he has vetoed essential projects that the military has asked for, and I think we need to override this veto. In fact, the President vetoed these measures that are operational. Let me just read you a couple of examples: A repair of the launch facilities for missile systems in White Sands, NM; to expand ammunition supply facilities at Fort Bliss; consolidation of B–1B squadron operations facilities.

These are projects the military has said are essential. They are in the military 5-year plan. The reason they weren't in the President's budget is because the President always comes in below Congress in the military budget. Congress believes the military has certain needs for our readiness, and Congress has increased the President's budget every year since I have been here. So it is not unusual that the President would not have in his budget some of the needs that Congress believes are essential. In fact, the President left in many military construction projects at NATO facilities that are exactly the same type of facilities that he vetoed on American bases.

So I think this is exactly the kind of override that the process calls for. The President did not have his facts. The Department of Defense admits that their data was not up to date. The military asked for these projects. They are very important for readiness. And I think it is time for us to exercise our rights as Congress to override the President's veto, not because we think he was sinister in what he was trying to do but because we think he was wrong.

It is Congress' prerogative to do this. I think it is important that we stand by the needs for the military that we have studied and that we believe are necessary, and that we stand by what we did and override the President's veto.

Thank you, Mr. President.

I yield the floor.

Mr. STEVENS. Mr. President, I will yield to the Senator from New York when he comes. I know he wants to make a statement.

But the Senator from Texas has just made the point that I have been trying to make. This is the process of the Line-Item Veto Act. It is the first time we have attempted to use it. This is the override mechanism that is provided by that act, and it was provided by Congress because mistakes could be made. In this instance we now know that mistakes were made.

The statement came to us today from the Office of Management and Budget that admits there was erroneous material given to the President on which they matched against the criteria that they had used under the Line-Item Veto Act to determine whether any projects should be eliminated. We asked for the list of those projects.

My staff tells me we still have not received the ones that mistakes were made on. We have no alternative under the circumstances than to include them all. There are two here that are not included because of the specific requests of the States involved not to have their projects involved. But the administration has now clearly said on the record that there were mistakes made.

The veto message, as I said, violates the spirit and intent of the balanced budget amendment.

That again is why the override mechanism is in the act. This action taken by the administration does not comply with the act. We have a way of saying to the Presidency we intended that money be spent, and we want it spent for these projects.

Let's look at this criteria again that the administration used.

It set forth three criteria, one of which was that the project had to be in the President's budget by definition. In this instance, that was an erroneous criteria because the Presidency had agreed to increase the amount of money that was in the President's budget for defense by $2.6 billion. In the budget agreement that was worked out with leadership. Of that $2.6 billion, $800 million of that was allocated to military construction. Nothing came forward from the administration that indicated that it had any desire to decide where that money went.

So our committee allocated the money. In allocating it, we gave money to these 38 projects. Our criteria was they had to be projects that the military supported. We had a hearing after the line-item veto took place. At that hearing the military witnesses stated that every project on the list was supported by the Department of Defense military people. They were essential to the program. And I believe all but five were in the long-range program. The other five were covered by changes in circumstances since the long-range 5-year program was devised. But they were specifically supported by the military witnesses.

The criteria that the Presidency used to determine whether to apply the line-item veto does not stand up to the scrutiny of this Congress.

I am corrected about one thing. One of the criteria was that no design work had been done. The impact of that is that again there were projects where the information was erroneous that was received by the White House. These projects were in fact underway and could be completed in the next fiscal year.

I thank you for telling me about that.

But the problem of the criteria is they were not designed to find projects that were wasteful, or would increase the deficit.

In this instance, I failed to point out that since we obtained the increase in money allocated to our committee for defense we looked into the long-range program, and we brought up into the 1998 year years that are in the long-range program but were specified to commence at a later time. We did that because some money had already been allocated to those projects by the Department of Defense, and those projects could be more efficiently completed if money was available this year.

My point is these are not wasteful projects. No one can claim that there any one of these projects that meets the criteria of the Line-Item Veto Act will increase the deficit. By definition they are within this budget. They are within the amount that the administration agreed could be spent this year for defense. And, second, they are not by definition wasteful.

Those are the two criteria of the Line-Item Veto Act. The President can use the Line-Item Veto Act to eliminate wasteful projects, or projects that would increase the deficit. Neither apply to any one of the 38 projects.

Under the circumstances, Mr. President, having allocated $800 million to military construction, what we find now, as I said just a little while ago, is a line-item veto eliminates $287 million from the $800 million which was part of the $2.6 billion overall increase for defense. The line-item veto eliminated 35 percent of the money we put into projects to use the increased amount which was available for military construction. That means right now that if the administration goes forward with what is stated in this announcement today from OMB that Senator BYRD has read, they will reprogram money from other projects that have already been approved by the Presidency and move it over to the 18 in which the mistakes were made.

What does that do to the rest of the budget? It means that we are paying twice. We have lost the $287 million, if this bill does not pass. And, in addition to that, they are going to take somewhere in the vicinity of $175 million. We believe it will be $450 million not spent for needed projects, if this bill is not passed.

Mr. President, this is the mechanism. That is why I say I will support and, as a matter of fact, introduce a bill to repeal the act, if this mechanism doesn't work. If there is any example where it should work, it is this one. It is admitted that there are 18 projects on which they made mistakes. They refused to tell us which ones.

I don't know how to handle this when people say you can't do this because this violates the spirit of the Line-Item Veto Act. This is the spirit of the Line-Item Veto Act. And I urge Senators who supported the line-item veto to consider that. If this mechanism is ever to work, this is the point where it should work. If it won't work in this one there is no reason to support this act anymore, in my opinion, because this is really the worst example I could think of a situation where information provided to the President leads the President to line-item veto items that were eliminated by mistake.

Another avenue, of course, is for this to go to court. If it goes to court, and the court finds in the final analysis that the line-item veto is unconstitutional, which is what my good friend from West Virginia says, then the money will be restored thereto.

But let's see if the mechanism works. There are already some court challenges. I don't see any reason to have another court challenge to the Line-Item Veto Act. The Senate and the House ought to do its duty on this and the duty is to try to remedy the mistake that was made when the line-item veto was wrongfully exercised in connection with these 38 projects.

Mr. President, I don't see anyone else seeking time.

I ask how much time remains?

The PRESIDING OFFICER. There are 10 minutes for the majority, and there are 10 minutes remaining for the minority prior to the vote.

Mr. STEVENS. I yield the floor.

Mr. BYRD. Mr. President, Senator SARBANES, the distinguished senior Senator from Maryland, is coming to the floor and he wants 5 minutes. I wish to have the Chair alert me when I have remaining 5 minutes. In the meantime, may I address a question to the distinguished Senator from Alaska?

In the statement of administration policy, we are told, and I quote, "The administration strongly opposes this disapproval bill."

Well, if I understand it, the administration is willing to work with the Congress in restoring half of these items; half of the items. I cannot understand how it can disapprove the bill

when it is willing to restore half of the items that are in the disapproval bill.

Also, the statement of administration policy that comes from the Office of Management and Budget says, "The President's action saves $287 million in budget authority in 1998."

In the very next sentence, it says, "* * * we are committed to working with Congress to restore funding for those projects that were canceled as a result of the data provided by the Department of Defense that was out of date."

How much is the President's action really saving? He claims to save $287 million by virtue of the exercise of the line-item veto. But he follows in the next sentence, and says, "* * * we are committed to working with Congress to restore funding * * *"

How much really can the administration claim to have saved?

Mr. STEVENS. It would be very hard, Mr. President, to figure out the net amount. The actual savings would be determined by how much of the projects fall into this year by reprogramming and then how much more money has to be requested next year to pay for the money that is spent for the projects that had been delayed because of the transfer of the money to these projects. I believe that the net will be that there will be $450 million less this year. But I do believe it will increase the cost of defense in later years because of the fact that these projects have been deferred and other projects will be deferred in order to pay for the 18 according to that document.

Mr. BYRD. I thank the distinguished Senator.

I yield the floor.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum, and I ask that it be charged equally to both sides; charge the first 2 minutes to mine, and then bring it down.

I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. 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. STEVENS. Mr. President, I have time remaining. I yield to the Senator from New York such time as he wishes, and I reserve the remainder of the time to be equally divided between the Senator from West Virginia and myself.

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

The Senator from New York.

Mr. MOYNIHAN. Mr. President, I would very much like to thank the senior Senator from Alaska, the Chairman, for the graciousness with which he has yielded to me. I will not take long.

I want to acknowledge that I am a cosponsor of this legislation. And in the interest of full disclosure, I will say there are two small projects in New York State that would be affected. But the proposition to be addressed once again, as the senior Senator from West Virginia has said, is that the Line Item Veto Act is unconstitutional, and we are already beginning to see the constitutional consequences, the extraordinary increase in the power of the Presidency as against the legislature that is implicit in the newly enhanced bargaining position of the President.

If you want to change this power, which is very carefully set forth in article I of the Constitution, then amend the Constitution. But, Senators, listen to Senator BYRD. Listen, if I might just presume to say, to Justice John Paul Stevens. In the course of our challenge, which reached the Supreme Court last June, the Justices simply said, well, they don't have standing. However, in a powerful dissent, Justice Stevens, who was the only Justice to comment directly on the merits of the case, said they surely do have standing. He wrote of the Act:

> If the procedure were valid, it would deny every Senator and every Representative any opportunity to vote for or against the truncated measure that survives the exercise of the President's cancellation authority. Because the opportunity to cast such votes is a right guaranteed by the text of the Constitution, I think it clear that the persons who are deprived of that right by the Act have standing to challenge its constitutionality. Moreover, because the impairment of that constitutional right has an immediate impact on their official powers, in my judgment they need not wait until after the President has exercised his cancellation authority to bring suit. Finally, the same reason that the respondents have standing provides a sufficient basis for concluding that the statute is unconstitutional.

Again, Justice Stevens said, not only do they have standing but the measure is unconstitutional. Two Federal judges have spoken to this issue: Judge Thomas Penfield Jackson of the U.S. District Court for the District of Columbia—who took just 3 weeks from having heard the case to declare it unconstitutional—and then Justice Stevens.

I can report that three new constitutional challenges have recently been filed and now consolidated, I believe is the term, in the District Court, and we will hear from the Supreme Court before this term is out, I should think.

But in the first instance remember that the large issue here is that of the Constitution. We take an oath to uphold and defend the Constitution of the United States against all enemies, foreign and domestic. I had never thought, Mr. President, when I first took that oath that there were any "domestic" enemies to the Constitution, but now as I look about us, I recall that celebrated immortal line from Pogo: "We have met the enemy and he is us."

Now, there will be time to overcome that. For the moment I simply wish to thank the Senator from Alaska, the distinguished chairman, for an opportunity to express my view on this subject.

I yield the floor.

The PRESIDING OFFICER. Each manager has 4½ minutes remaining.

Mr. BYRD. Each side has 4½ minutes.

Mr. SARBANES. Could I get 3 minutes?

Mr. BYRD. Mr. President, I yield 5 minutes. That will leave how much time?

Mr. STEVENS. Two minutes to each side.

Mr. BYRD. Two minutes to each side.

The PRESIDING OFFICER. The Senator is correct. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I rise in very strong support of the pending measure overriding the line-item vetoes of the military construction appropriations bill.

During last year's debate on the line-item veto legislation, I spoke at length—and I do not intend to do that again today—on how giving that authority to the President would strike a major blow against the intricate, carefully conceived system of checks and balances that the Framers of the Constitution crafted over 200 years ago and that has stood the Nation in such good stead ever since.

With the line-item veto authority, the President needs only one-third plus one of either House of Congress, not even both Houses of Congress but either House, to negate legislation that the Congress has passed and the President has signed—I repeat, legislation that the Congress has passed and the President has signed. Then, after that process, the President can go back in and pull out those items he wants to cancel.

In my view, giving such authority to the President cannot be done by statute, and I believe that the measure we passed last year is constitutionally deficient. I trust when it is finally determined by the courts they will agree. In the meantime, of course, we have to deal with the legislation.

Furthermore, I simply want to point out that as a matter of policy, the line-item veto gives the Executive extraordinary power to determine the priorities of the Nation and to use that power, if he chooses to do so, to pressure Members of Congress on a whole range of other legislative issues. In other words, the Member is told, well, here is this item in this bill that is very important to your State, but on other matters on which I need your support—nominations, treaties, you name it.

A Member of Congress is then under tremendous pressure to support the President's priorities. That is clearly not the arrangement the Founding Fathers envisioned when they established

a system based on a sharing of policymaking authority between the legislative and the executive branches of Government.

The Congress of the United States is distinguished amongst legislative branches in the world because it has some real measure of power and authority. This line-item veto approach is, in my judgment, well on its way to eroding that status.

Some asserted during last year's debate that the line-item veto was necessary as a deficit-reduction mechanism. The response from many of us was that to reduce the deficit the Congress need only make the right budget decisions, which in fact we have done as demonstrated by the dramatic decline in the budget deficit.

I am sure that many of my colleagues who voted for the line-item veto last year are having second thoughts after having seen it in action. In fact, the President's use of the line-item veto here does not even track the criteria which the executive branch itself said it was going to use in applying it.

I welcome this opportunity to join in the effort to undo the President's use of that authority. However, my colleagues should realize that as long as this legislation remains on the books, we will be back here time and time again waging an uphill battle against the Chief Executive seeking to impose his set of priorities on the Congress and the Nation.

Mr. President, I yield the floor. I yield back whatever time remains to the distinguished Senator from West Virginia.

Mr. BYRD. Mr. President, how much time remains?

The PRESIDING OFFICER. Five minutes equally divided.

Mr. BYRD. I thank the Chair, and I thank all Senators who have spoken on this important matter. I thank those who take the position contrary to the position I have taken. I appreciate the opportunity to close the debate on this matter along with my dear friend, the Senator from Alaska [Mr. STEVENS].

Mr. President, Cato, the Elder, lived between the years 234 B.C. and 149 B.C. He was a great Roman statesman, and he once went to Carthage and viewed the operations of the Carthaginians and saw the progress they were making in building a prosperous regime and one that had considerable warmaking power. Cato brought back to the Roman Senate some figs that had grown in Carthage just to demonstrate the fact that Carthage was "not very far away, gentlemen. This is a country you had better keep your eye on. You had better watch these people. They are growing stronger every day and they don't live very far away, as evidenced by these fresh figs from Carthage."

And, indeed, that great statesman, Cato, the Elder, henceforth closed every speech, every communication, every letter, with the words, "Carthage must be destroyed!" I shall close this speech now and perhaps some future ones with the words, "The line-item veto must be repealed!"

I yield the floor.

Mr. STEVENS. Mr. President, it is always a pleasure to be in the Chamber with the Senator from West Virginia. But mine is a more mundane task right now, and that is to try to get the Senate to understand that this is the process provided by the Line-Item Veto Act. If it is not followed, the defense budget per se and the military construction budget in general will be lowered. If we pass this act and it becomes law, the President still has control over these projects. He has already reprogrammed money for military projects for Bosnia. Next spring we will face another problem of paying for Bosnia. But should we let $450 million go astray here now because of mistakes? I regret that the mistakes were made, but I hope the Senate doesn't make another one. This bill should be overwhelmingly passed to tell the Presidency the line-item veto is a very discrete mechanism and it must be used with care. Above all, its use cannot be based on mistakes.

I ask for the yeas and nays if they have not been ordered.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Indiana [Mr. COATS] is necessarily absent.

The result was announced—yeas 69, nays 30, as follows:

[Rollcall Vote No. 287 Leg.]

YEAS—69

Akaka	Domenici	Kennedy
Allard	Dorgan	Lautenberg
Baucus	Enzi	Leahy
Bennett	Faircloth	Levin
Biden	Feinstein	Lott
Bingaman	Ford	Lugar
Bond	Frist	Mack
Boxer	Glenn	McConnell
Brownback	Gorton	Mikulski
Burns	Graham	Moseley-Braun
Byrd	Gregg	Moynihan
Campbell	Hagel	Murkowski
Chafee	Harkin	Murray
Cleland	Hatch	Reed
Cochran	Helms	Reid
Collins	Hutchison	Roberts
Coverdell	Inhofe	Rockefeller
Craig	Inouye	Roth
D'Amato	Jeffords	Santorum
DeWine	Kempthorne	Sarbanes
Shelby	Snowe	Thompson
Smith (NH)	Specter	Torricelli
Smith (OR)	Stevens	Warner

NAYS—30

Abraham	Gramm	Landrieu
Ashcroft	Grams	Lieberman
Breaux	Grassley	McCain
Bryan	Hollings	Nickles
Bumpers	Hutchinson	Robb
Conrad	Johnson	Sessions
Daschle	Kerrey	Thomas
Dodd	Kerry	Thurmond
Durbin	Kohl	Wellstone
Feingold	Kyl	Wyden

NOT VOTING—1

Coats

The bill (S. 1292) was passed, as follows:

S. 1292

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress disapproves of cancellations 97-4, 97-5, 97-6, 97-7, 97-8, 97-9, 97-10, 97-11, 97-12, 97-13, 97-14, 97-15, 97-16, 97-17, 97-18, 97-19, 97-20, 97-21, 97-22, 97-23, 97-24, 97-25, 97-26, 97-27, 97-28, 97-29, 97-30, 97-32, 97-33, 97-34, 97-35, 97-36, 97-37, 97-38, 97-39, and 97-40, as transmitted by the President in a special message on October 6, 1997, regarding Public Law 105-45.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, for the information of all Senators, we will not have any further votes tonight. That was the last vote of the night. We do have additional business we are going to do tonight, and we will have somewhere between two and five votes tomorrow morning. I will work with Senator DASCHLE on the timing of those votes, and we will try to get them all in before the noon hour, which is what we have always said we will try to do on Fridays. We may have fewer than that number of votes, but I think a minimum of two. We could have more than that as we deal with procedural motions with regard to the Department of Defense authorization conference report.

I thank Senator DASCHLE for his efforts to work with us on a number of issues, a number of bills that we think we may be able to get some agreement on or get an understanding of how we will proceed. I particularly thank him for his efforts and for the efforts of Senator HARKIN with regard to the Federal Reserve nominees. Therefore, I have a unanimous consent request to make now.

EXECUTIVE SESSION

NOMINATIONS OF EDWARD M. GRAMLICH, OF VIRGINIA, AND ROGER WALTON FERGUSON, OF MASSACHUSETTS, TO BE MEMBERS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to executive session to consider Executive Calendar Nos. 305 and 306. I further ask unanimous consent that the time on the nominations be limited as follows:

Senator HARKIN in control of 90 minutes;

Senator D'AMATO in control of 30 minutes.

I further ask unanimous consent that immediately following the expiration or yielding back of time, the Senate proceed to vote on the confirmation of each of these nominations; that following the two votes, the President be immediately notified of the Senate's action; and that the Senate then return to legislative session. I understand there will not be a necessity for rollcall votes on these nominees.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object, and I will do so only to publicly acknowledge the cooperation of a number of Senators, in particular Senator HARKIN. This has been a matter of great import to him. He has been able to work with us to reach this agreement. He is not on the floor at the moment, but he will be soon. I thank Senator HARKIN and a number of other Senators who have expressed concern.

I am very hopeful, as a result of this agreement, we can finish work on these two important nominations as well.

I thank the majority leader. And I have no objection.

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

Mr. LOTT. Mr. President, while we wait on the Senators to come to the floor, and so that we can discuss other matters, 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. ROBERTS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The clerk will report the two nominations.

The bill clerk read the nominations of Edward M. Gramlich, of Virginia, to be a member of the Board of Governors of the Federal Reserve System, and Roger Walton Ferguson, of Massachusetts, to be a member of the Board of Governors of the Federal Reserve System.

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

The PRESIDING OFFICER. If there is no objection, the time will be deducted equally.

The absence of a quorum is noted.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARKIN. 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. HARKIN. Mr. President, I would like to continue the discussion that I began a few days ago about the monetary policy of the Federal Reserve Board as it pertains to the two nominees that are about to be before the Senate for confirmation. Again, as I said before, I do not take this time in any way to try to keep these two nominees from being on the Board. I have met with both of them. They are fine individuals. I just happen to think, as I will state a little more in depth later, that their economic philosophy and their positions on what the Fed ought to be doing are just too much in line with the present thinking at the Fed. And I think that is going to cost us dearly in the years ahead.

Having said that, I don't intend in any way to try to block their final confirmation. But I wanted to take this time of the Senate to talk a little bit more about the monetary policy of the Fed and what it is doing to this country.

In testimony before the Joint Economic Committee yesterday morning, Mr. Greenspan said he would welcome a debate on whether or not the Federal Reserve should make inflation its sole goal, or whether there should be a balance between lowering unemployment and fighting inflation. Well, I welcome that opportunity. I hope my statements from Monday and today will help begin the debate on this important issue. It is an important issue and it affects every American. It especially affects working Americans and their families. Fed policy—basically the decisions they make—tells every American family how much they are going to have to spend on their car payment or home mortgage payment, or whether or not they are going to be able to put away some money for a college education for their kids. It affects every American family. Yet, we seem to just sort of let monetary go by the way, without ever calling into question the assumptions and reasons behind the decisions of the Fed.

There seems to be this sort of attitude that, well, if the Fed says it, it must be true. What can we do about it? Aren't they independent? Don't they operate independently? That is true. They do. But the Federal Reserve is not a creature of the Constitution. It does not have a constitutional framework in which to operate. The Federal Reserve was set up by Congress; it is a creature of Congress. We represent the people of this country. I don't think Congress ought to be in the position of making monetary policy on a day-to-day basis. Far be it from that. I do believe the Fed ought to have that independence, but I also believe that the Congress ought to exercise judicious oversight over the Federal Reserve and carve out, guide, and direct the Federal Reserve in the area in which we believe it ought to go in setting its monetary policy.

I think the question should be asked, "How independent really is the Fed?" Is it not really made up of the major banks of this country and the major lending institutions? How really independent are they? We do have a Board of Governors and, obviously, they are not all bankers. There are economists, people like Mr. Greenspan, and others not in banking. I believe one of the new nominees was an investment banker prior to his coming on the Federal Reserve Board of Governors. You wonder sometimes really how independent they really are. I think the Congress has every right and responsibility to the people of this country to help set the policy and guidance for the Federal Reserve.

Now, much of the Federal Reserve's policies are driven by what I have now come to believe to be a very arcane concept called NAIRU, the nonaccelerating inflationary rate of unemployment. I doubt that one in a million Americans even knows what that means. But it is a guiding principle of the Fed, and it has determined that interest rates will remain high for working Americans. Because of NAIRU and because of the grip that this arcane concept has on the Fed, we have unduly high interest rates today, higher than our historical averages, higher than what is warranted by the rate of inflation out there.

Well, NAIRU says is that if unemployment goes below a certain level, then inflation will take off—not just increase, but it will accelerate at such a rate that only unusually high interest rates could ever stop it. Well, as I said Monday, NAIRU has been proven to be inaccurate. It was once believed that inflation would accelerate if unemployment went below 6 percent. They said if it goes below 6 percent, look out, inflation is going to take off. Well, it went below 6 percent and inflation didn't take off. Well, the believers in this concept said, we were just wrong, it is really 5.5 percent unemployment. Well, then it went down below that. Then they said it is 5 percent. Surely, if we get to 5 percent unemployment, boy, inflation is going to take off. And because of that, we saw

the Federal Reserve, under Mr. Greenspan, double the interest rates, the Federal funds rate, from 3 percent to 6 percent in 18 months. I believe it was in 1993 and 1994 when they increased those interest rates—or 1994 and 1995. In an 18-month period of time, it went from 3 percent to 6 percent because they said unemployment was getting so low that we are going to have to raise interest rates to keep inflation in check.

Then unemployment went below 5 percent, and still no signs of accelerating inflation. And the Fed admits there are no sings of accelerating inflation. And, despite no signs of this, the Fed is still willing to raise interest rates through the use of its so-called "preemptive strike." I don't understand the justification for an interest rate hike based on an assumption that sometime in the future accelerating inflation may occur. We don't know when but sometime down that road it may happen. So, therefore, we have to jack up interest rates now.

In fact, Alan Greenspan admitted that "economic understanding is imperfect and measurement is imprecise. . . ." If the Fed's measurements are imperfect and they are not precise, how can we assume that the Fed knows what it is doing when it launches one of its preemptive strikes? We don't know, because, first of all, the Federal Reserve Board meetings are kept secret for 5 years. Why? There is no reason to keep their Board meetings secret for 5 years. I would think that at least after 1 year we ought to at least be able to look at their Board meetings and find out why they decided to do what they did.

So we have a Fed that uses an outdated concept to fight inflation when it might not even know how much inflation is actually in the economy.

Again, what we need to understand is that there is a difference between rapidly accelerating inflation and modest inflation. Mild inflation may redistribute income—causing some pain to those who are unemployed—but it doesn't destroy employment, and in fact may even be beneficial in terms of more employment and rising incomes.

To quote James K. Galbraith, a professor of economics at the University of Texas, "It therefore makes little difference, from the standpoint of inflation dangers that matter most, whether one pursues low unemployment or not. The inflation costs of lower unemployment are small, tolerable, and easily reversible, if necessary—and that is using pessimistic assumptions. The dangers of an external supply shock, though much greater, are not closely related to the rate of unemployment, and cannot be reduced by a slow-growth policy. The lesson to be drawn is that there is no benefit in failing to pursue full employment."

To further quote Galbraith, "Therefore, at a minimum, policy should do nothing to slow economic growth. Let the economy grow. And if growth slows, policymakers should react quickly by lowering interest rates in an effort to keep progress going. There is certainly no benefit from slower growth and rising unemployment while the inflationary costs of a stimulative policy in response to evidence of a slowdown are speculative and small."

However, there may be greater risks posed to the economy should the Fed continue its all-out effort to fulfill the bond market's goal of zero inflation.

And that really is what Mr. Greenspan is after. They want zero inflation. But I believe that may pose a very great risk to our country. Last summer, George Akerlof, William Dickens, and George Perry of the Brookings Institution published a study called "The Macroeconomics of Low Inflation." Their study argues that controlled amounts of modest inflation are beneficial to the economy by preventing very high enduring levels of joblessness. In sum, this paper suggests the economic and social costs of getting to zero inflation, otherwise known as "price stability," are far higher than most economists believe.

To quote the study, "The main implication for policymakers is that targeting zero inflation . . . will lead to a large inefficiency in the allocation of resources, as reflected in sustainable rate of unemployment that is unnecessarily high."

I raise this point because zero inflation—"price stability," as it is otherwise known—is the stated goal of Mr. Greenspan and the two nominees to the Federal Reserve Board, Mr. Gramlich and Mr. Ferguson.

Again, to quote Mr. Greenspan in his 1997 Humphrey-Hawkins testimony, "The view that the Federal Reserve's best contribution to growth is to foster price stability has informed both our tactical decisions on the stance of monetary policy. * * *"

Mr. Gramlich stated, "In the long run, the most fundamental of these objectives is stable prices."

Mr. Ferguson said, "Price stability should be a central goal of monetary policy."

What concerns me is that in their blind pursuit inflation based upon this arcane notion of NAIRU, that we are coming very dangerously close to deinflation. It may even be there right now.

Over the past year the core inflation rate, measured by the Consumer Price Index, has increased by approximately 2.2 percent. But Mr. Greenspan and others say the CPI is overstated by as much as 1.5 percent. That means we might have basically zero inflation in our country.

So what happens when you reach zero inflation? Beyond the question of the Federal Reserve's policies on incomes of average people, which I mentioned on Monday and which I will talk about shortly, my concern is about the real possibility that the Fed may send our economy and the world's economy into a serious period of deinflation.

In the United States, expectation of accelerating inflation is shrinking significantly. We brought down our budget deficit to where it is practically nothing. So we have our fiscal house in order. Inflation is very low. Unemployment is going down. But the Federal Reserve and the nominees before us see zero inflation at the end process. But, in fact, zero inflation is a point on a continuum. You can have inflation. You have zero inflation. Then you have deflation.

I believe right now we are on the precipice of risking a destabilizing situation which may push us into a deflationary period.

So I think deinflation to me right now is more scary than modest inflation. I believe that a serious escalation on that side—deinflation—is more likely over the next 5 years than significantly higher inflation. Yet, the Fed is paying no mind at all to that.

The old "pay any price, bear any burden" to battle inflation has prevented the American economy from reaching its full potential. And what it has done is it has said to the middle class that you get less and less of growth of our economic pie.

Before I yield to the Senator from North Dakota, I want to point out what is happening here with the distribution of the economic pie, as we see it. This chart says it all. If you are in the top 20 percent of the income earners of America, you are getting a larger and larger portion of the income in America. But if you are in the bottom 20 percent—actually, if you are in the bottom 80 percent—you are getting less and less. It is the top 20 percent that is getting more and more of the growth in the economic pie of our country. Again, that is because we have kept the inflation rates artificially high.

That seems to make sense when you think about it. Who likes high interest rates? If you have money you like high interest rates. If you do not have money, you are a low-income American, and you are a working family wanting to buy a new car, or new home, or put away some money for your kids' college education, borrowing money for college education, you are hurt by high interest rates.

Again, this chart also spells it out. "Labor and Capital Shares of National Income, 1993–1996." If you look at the percentage share of national income, what we make as a Nation, labor's share since 1993 has gone down, and is continuing down. But if you look at capital's share, from 1993 to 1996, it keeps going up. That is because of the policies of the Federal Reserve System. More money is going into capital; less and less going to labor.

Again, this chart also shows it. This shows the corporate profit rates and median weekly earnings, 1989–1996. If you look at the corporate profit rate since 1993 it has skyrocketed.

Keep in mind that Alan Greenspan and the Federal Reserve jacked up interest rates—doubled the Federal funds rates—in 1994 and 1995. Look at that tremendous increase in corporate profits. Yet, look at median weekly earnings during the same period of time. Down they have come, especially after 1993.

So, again, more and more of our national income is going to corporate profits, and less and less is going to median weekly earnings of the families of this country.

We have all seen what has been happening on the stock market the last few days. One person from the administration called me the other day and alluded to the fact that my holding up these two nominees sent the wrong signals to the financial markets. I said, "What about the signals we are sending to working families?" What about those people out there working hard with maybe two jobs or maybe three jobs with the husband and wife trying to make ends meet, trying to borrow money for a home or a car? What about signals to them? We are not sending any signals. All we are sending to them is higher and higher interest rates all the time.

The high rates of interest, I believe, are slowing the growth of our economy. And, more than that, it is redistributing the growth that we have in such a way that those at the top—the top 20 percent—are getting more and more of national income. The bottom 80 percent are getting less and less.

Again, just before the Federal Reserve began its series of rate hikes in 1994, the Federal funds rate was nearly zero. This chart shows what happened on real interest rates.

They are higher than people think; higher than historical rates. Here they were in 1994. The real Federal funds rate was about one-half percent. Today it is about 3.3 percent. They have come up, and they have stayed up during this entire period of time. So we have higher real rates than we have had before during a period of time when there was absolutely no signs of accelerating inflation in our economy; none whatsoever. Why are these interest rates still high?

It is because the Fed has a misguided policy called NAIRU.

I would like to discuss this chart entitled "Alan Greenspan and Long-Term Interest Rates." It is interesting that every time interest rates, long-term interest rates, start to come down, Mr. Greenspan gives a speech, and interest rates go back up. Back here—this was last year—Mr. Greenspan gave a speech. He called said the stock market was characterized by "irrational exuberance." What happened? Well, interest rates started going up.

Then interest rates started to come down again. Then Mr. Greenspan gave his Humphrey-Hawkins testimony and hints that the Fed may change its interest rate policy. Interest rates go up again.

Then the market forces start to bring interest rates back down again. And then again just this month Mr. Greenspan testifies before the House Budget Committee, again drops subtle hints that in fact the economy is overheated, things are going too fast or maybe there is the specter of inflation. Interest rates start up again. And yet there is absolutely no sign of any inflation. In fact, I think a case can be made that we are right now near zero inflation in our country.

This is the time when labor's share ought to be a little bit better. This line ought to start going up. This line ought to start going up so our working families get a better share of the income of our country, and yet the policies of the Federal Reserve System will not let that happen.

Mr. DORGAN. Mr. President, will the Senator from Iowa yield for a question?

Mr. HARKIN. I yield to my friend from North Dakota, who has been a leader on the subject of fighting for working families and getting the Fed to follow some good, old common sense. I am delighted to yield to my friend from North Dakota.

Mr. DORGAN. If the Senator will allow a discussion here briefly, I appreciate the Senator taking the floor to talk about the Federal Reserve Board and these nominees. I come not so much to talk about these two nominees but to discuss just a bit about where we are and where we are headed with the Federal Reserve Board policies.

If you go back a century or a century and a half ago in this country, you could go from barber shops to barrooms and hear debates about interest rates. All over this country we debated interest rates. In fact, just go 30 or 40 years back, and you will find that Lyndon Johnson called the head of the Federal Reserve Board down to a barbecue at his ranch in Texas and squeezed him, almost broke his bones, I am told, in his shoulder area because the guy was trying to increase interest rates by one-quarter of 1 percent. That was in the 1960s.

Now the Federal Reserve Board has a big concrete edifice downtown with these money-center bankers who sit inside of it and they decide where the interest rates are going to go, and it doesn't matter what the country thinks.

Whose interests do they serve? Well, when they shut the doors down at the Federal Reserve Board and make decisions about interest rates, they call in on a rotating basis the presidents of the regional Fed banks, and they vote on what interest rates ought to be.

Now, who are the regional Fed bank presidents? And who are they responsible to? Were they ever confirmed by the Senate? No. They were hired by a board of directors in their region. Who are the board of directors? Money center bankers. Whose interest do they represent in setting interest rate policy at the Fed? Bankers. It is bankers getting together, meeting with other bankers, to establish the interest rates.

Is that in the interest of the American people? I think not.

I have from time to time come to the floor of the Senate and suggested that my Uncle Joe should be appointed to the Federal Reserve Board. My Uncle Joe is a good guy. He is kind of semiretired now but a good guy, smart guy. He used to fix generators. He knew how to fix things.

There is nobody at the Federal Reserve Board who knows how to fix anything. They all come from the same area. They all look the same. They all wear the same suits. They all have the same educational background. If you put them in a barrel and shake it up, the same person winds up on top—gray suit, Ivy League background. Normally he would have worked for the Federal Reserve Board in the past. They are an economist, which is psychology pumped up with helium, as I said in the past. And they are like the old Roman augurs who used to read the entrails of cattle or the flights of birds in order to portend the economic future. They sit down there now behind this concrete edifice telling us about interest rates and then vote, and they make them stick.

Here, when we talk about taking money out of people's pockets in the form of taxes, we have these extended debates, but when they take money out of people's pockets in the form of higher than are justified interest rates, it is done behind closed doors in secret at the Federal Reserve Board and there is no debate at all and no accountability for it.

The reason I want to pipe up a bit here on this is the Senator from Iowa makes the point interest rates are higher than they should be, and he is absolutely right. There is no historic justification given where inflation is today for interest rates that exist at the Federal Reserve Board. There is no justification for it at all. It means, in terms of where they set short-term interest rates, that the prime rate is too high and every other interest rate paid by every other American business and consumer is too high. It is a tax that is unjustified and enforced against every family.

Now, no one has ever taken me up on the suggestion my Uncle Joe go to the Fed. The reason I suggested Uncle Joe is that my uncle would sit in there, I assume, and say, "Well what's this mean to the person out there on Main Street? What's this mean to the person

who has a little business or who's borrowed some money to start a business? What's it mean to that person?"

That is not discussed. It is just a closed group of people who kind of come from the same background, and they just keep talking and they decide what they are going to do in a closed session.

I know the Senator from Iowa remembers I have brought to the floor of the Senate, just as a public service, a chart from time to time with all the pictures of the Fed Board of Governors, where they came from, what their education background is, how much money they make, along with the regional Fed bank presidents so the American people can see who's voting on interest rates. They need to see that.

Now, I might make one other point. I appreciate so much the indulgence of the Senator from Iowa.

Mr. HARKIN. This is a good discussion.

Mr. DORGAN. This is the last living dinosaur. It truly is. There has been a revolution of sorts in virtually every public institution. We have reformed welfare. We have tackled the budget deficit. We have done a lot of things in town in public policy. But guess what has not changed at all. The Federal Reserve Board. Nothing. No change.

We had the GAO do an investigative analysis of the Federal Reserve Board. What we discovered—and I can put some of this in the RECORD at some point—was that while they were telling everybody that we need more austerity, telling Congress you need to tighten your belts, they were down there overeating, spending more and more each year.

The report, a one-of-a-kind study that took 2 years to assemble, called into question a whole series of practices with respect to the Fed's building accounts, contracts they are involved with. But the interesting part of the report was—it was a large report. The little nub of it, which is the hood ornament on the excesses at the Federal Reserve Board, is that the Federal Reserve Board has squirreled away $4.3 billion, and I will bet most Members of the Senate don't know it's there. When we actually had the report done, it was about $3.7 billion, roughly. But now it has grown to $4.3 billion as of the 15th of this month—$4.3 billion.

Mr. HARKIN. Might I ask the Senator, if he will yield, what is that money used for?

Mr. DORGAN. That is a contingency fund set aside to absorb possible losses or what a family might call a rainy day fund. Now, the Federal Reserve Board has been in existence I guess about 80 years. Roughly 80 years.

Mr. HARKIN. More than that. 1912, I believe—1916.

Mr. DORGAN. For 80 consecutive years the Fed hasn't had a loss and it will and never will have a loss. You can't have a loss if you are the Federal Reserve Board. Your job is to create and make money, and you do it routinely on a guaranteed basis. So the question is this. Why would an institution that will never have a loss in the future, squirrel away $4.3 billion of the taxpayers' money in a rainy day fund?

The GAO, the General Accounting Office, the investigative arm of Congress, asked that question. In fact, they are the ones who discovered it. I did not know it existed.

Mr. HARKIN. I had no idea.

Mr. DORGAN. They asked that question, and the Federal Reserve Board actually gave them three or four different excuses for it. Essentially, when you boil it down, they said we need this for a contingency, for a rainy day fund.

The GAO said simply that money ought to be given back to the American taxpayer; $4.3 billion. I wonder how many Members of the Senate know that sits down there in an account for an agency that will never have a loss. They have squirreled away $4.3 billion.

The GAO says this ought to go back to the taxpayer. What is the Fed's response? No response. It doesn't have to respond to anybody. It is not accountable. It doesn't respond to you, to me, to the Congress, to the GAO. It is its own institution.

It was not supposed to be that way. It was not supposed to be a strong central bank, unaccountable to anyone. It has become the last living American dinosaur: up on a hill, the big fence, locks on the doors. They make decisions behind closed doors. They call in their local bankers and make their decision on interest rates. They serve their constituents, not ours, and that is the public policy.

Mr. HARKIN. I do not know a lot about the Fed's internal operations. The Senator has looked at it a lot closer than I have, and he has given us some information I did not know. But when the Fed Board meets to make its decisions, do they in fact meet behind closed doors?

Mr. DORGAN. Oh, sure.

Mr. HARKIN. Could I go down and sit in on it? I don't know. Can anyone sit in on those meetings?

Mr. DORGAN. Let me suggest the Senator try that. In fact, I might be willing to go with him, and we will find, I assume, a reasonably comfortable chair—since I am told they buy great furniture down there. They will provide us a chair outside the room. Do you think the Chairman of the Federal Reserve Board and his colleagues on the Open Market Committee, the Board of Governors plus five rotating regional Fed bank chairmen who convene to make interest rate policy—do you think they are going to invite you in and say, "Do you want a glass of water or cup of coffee? And, by the way, while you are here, we would like you to sit in this chair because we would really like your advice."

Do you think that is going to happen? The answer is of course it is not going to happen because this is the last American dinosaur. It operates in secret, makes decisions without public debate because there isn't debate inside the Fed except inside a closed room among bankers.

I know there are some of us who very strongly believe we should have some Fed reforms. I won't go on much longer because I know the Senator has other things to do.

Mr. HARKIN. Would the Senator yield? I just asked my staff—I was unaware of this—I am advised there are no small businessmen or businesswomen on the Federal Reserve Board. I understand they are all bankers or economists. I will further look into this, but that is what I was told. I do not think a such an important decision-making body should be comprised of persons representing two select groups of our society. This is also a nation of small businesses and farms. Small businesses are the ones that employ people. They are the backbone of our economy. If that is true, that there is not even one small businessman or woman on the Federal Reserve Board, it is shocking.

Mr. DORGAN. That's why I want my Uncle Joe there. You are right. I pointed out the Federal Reserve Board—I know they won't like to hear me say this—but the Federal Reserve Board has largely been comprised of people you can just cut out with a cookie cutter.

Incidentally, you and I come from the same part of the country. We have had the sum total of three, three people from our part of the country as a member of the Federal Reserve Board of Governors since the beginning of the Federal Reserve Board, over 80 years ago—three.

Mr. HARKIN. They probably don't want to make that mistake again, do they? If people from the Midwest are appointed to the Board, they might question some of the Fed's policies.

Mr. DORGAN. There are some people out in the middle of the country, between the two coasts, who think we are more than just time and space, that we are part of the country and we are producers and we have a significant interest in what the interest rates are, how much economic growth this country enjoys and so on. That is why I really feel, when we talk about who should join the Federal Reserve Board, who we should confirm, I hope in the future we can finally get to some people who are outside the mold, who can say in those meetings, as they sit in those meetings, "Gee, what impact does this have? What are we justified in doing here in monetary policy, not just for the interest of banks but for the interest of businesses on Main Street, for

the interest of manufacturing plants, and for the interests of mom and pop who are at home, borrowing money trying to send kids to school, maybe trying to start a business?'' Those are the questions that I think are not asked because you have a single objective at the Fed at this point and that is they have decided to pursue, as you correctly pointed out, a zero inflation rate.

Mr. HARKIN. Yes.

Mr. DORGAN. We have had twin economic goals in America, generally speaking: Stable prices and full employment. But we don't have twin goals at the Federal Reserve Board.

Mr. HARKIN. It is funny how oftentimes I will talk with people from my State of Iowa about the place of the Federal Reserve Board on monetary policy there seems to be a perception among a lot of people in this country that we have the Federal Reserve Board to not only prevent inflation, but to keep us from going into a depression. I find a lot of times when I tell people that, look, the Federal Reserve Board was in existence for over 20 years prior to the Great Depression of the 1930's, the Federal Reserve Board was in existence, yet they didn't prevent the Great Depression and they did nothing to help us get out of it—that is kind of startling to people, to hear that actually happened. The Federal Reserve Board was in existence when we have had a lot of slowdowns and recessions in our country, yet nothing happened. People are amazed at that.

I think one of the reasons for the Fed's existence is to make sure we don't have those kinds of recessions and deflations in our country about which I have just spoken and which I think we are very dangerously close to right now. So I think a lot of people in this country have a mistaken idea. I think it is because we don't have a good debate on monetary policy.

I just say to the Senator from North Dakota, talking about his cookie-cutter images of people on the Fed, I met with both of the nominees, Mr. Gramlich and Mr. Ferguson. They are nice, nice individuals. They are very pleasant, obviously very smart, very learned individuals. They are successful in their respective careers. But from what they told me and from their statements before the committee, they are just going to sing out of the same hymn book; the same song, second verse, same thing that they hear down at the Fed.

I said I would like to hear some people down at the Fed who would say, ''Wait a minute, let's have a different view on this.'' One of the things I like about the Senate, or the House of Representatives where we, the Senator and I, both served before, is not everyone here believes the same thing. You get good discussions and good debate on almost every issue. Out of that I think you get policies that are better for our country. But if everyone thinks the same, you are not going to get good policies that really benefit our country. That is what I am afraid of. At the Fed you just have one line of thinking and whoever gets nominated by the President and gets put on that Board, they think the same.

Mr. DORGAN. There is an old saying, when everyone in the room is thinking the same thing, no one is thinking very much.

Mr. HARKIN. Yes.

Mr. DORGAN. We had a recent example at the Federal Reserve Board. We sent someone down there who I think had pretty good promise, kind of a different-thinking person. He didn't last too long. At least some of the discussion in the papers about why this fellow left the Federal Reserve Board—I am told it is because he was not accommodated very well. You know, he didn't think the same, so he was sent over to a corner there and wasn't involved in policy very much. The result was that it was not a place he wanted to stay, because it wasn't a place for dissenters or people with opposing views.

I will finish by simply saying—

Mr. HARKIN. I yield further to the Senator.

Mr. DORGAN. By simply saying the Senator from Iowa does an important service, it seems to me, in a Senate that is empty, pretty much, on an issue of monetary policy and Federal Reserve Board issues, when very few people are willing to discuss or debate or advance these issues. The Senator from Iowa is willing to do that. For that, I am enormously appreciative.

I know neither of us is going to be given an award, Man of the Year Award, by the Federal Reserve Board or any of the regional banks, and I accept that. But I do think it would serve this country's better interest to have a significant debate about what kind of monetary policy is good for all of our country, good for working families, good for businesses, good for Main Street and Wall Street—good for banks, yes, because we want banks to do well as well as the rest of the American economy. But we have such a lack of thoughtful debate about monetary policy. The two policies of monetary and fiscal policy are the policies that determine whether we have an economy that is doing well.

The Senator made a very important point. We had recessions and depressions before we had the Federal Reserve Board and we have had recessions and depressions since. Has the Federal Reserve Board done some good things? Yes, I think so. I think in times of difficulty they have made some tough decisions. I think in times of fiscal policy excess they have put the brakes on, in monetary policy. I think there are a number of things that I can point to about the Fed and say, ''Good job, we are glad you were there.'' But there are other circumstances in which I think it is important to say to the Fed, ''You have a responsibility in public policy to do more than just represent bankers' interests, more than just represent your single-minded goal that ignores the needs of a whole lot of the American people.'' I don't stand here saying that I think we ought to do things that advance more inflation in our economy.

Less inflation is better for our economy, and the global economy is what has largely produced a lower rate of inflation. But it is also very important, having the aggressive debates we have in fiscal policy, in monetary policy for us to foster the opportunity for those same debates about what kind of policies benefit whom and how and why. That is what the Senator from Iowa does. I think it is a significant service for him to be here and do that. I am pleased to come out from time to time and be involved in the discussion with him.

Mr. HARKIN. I appreciate what the Senator said, and I appreciate his longtime involvement in this issue. I hope that we will take time in the Senate and the House to really have some more discussions on monetary policy and on the Federal Reserve System.

I hope that sometime soon we might even entertain some legislation to change the operation and the functioning of the Federal Reserve System. As the Senator from North Dakota said, it is a dinosaur; it hasn't changed. We try to change the way we operate around here. The Federal Government is undergoing reorganization. But the Federal Reserve just keeps on the same way it has been doing things year after year, and it never changes.

I think perhaps we would be well advised to think of legislation to perhaps change some of the operations of the Fed and have a good healthy debate on how the Fed is structured, what its responsibilities are, how nominees are selected, how they are approved and whether or not we might want some different voices and different kinds of people periodically on the Fed to take a look at what they are doing.

Should their meetings be secret? Should they be secret for 5 years? I don't know. I tend to think they shouldn't be secret for 5 years. I have said that one year might be an appropriate period of time. Some said why even a year? I had to think, why even a year?

I believe we must have some sort of time limit because you don't want markets to fluctuate drastically due to speculation on the Fed's decisions. But, Mr. President, isn't it true that markets always operate the best when there is transparency? I have served on the Agriculture Committee for many years. I have looked at the commodities markets, and we have always said

that when you have transparency, that is when markets function most efficiently. It is when things are hidden and no one knows what is going on and you have a few people making one decision behind closed doors that affects thousands of others, that is what skews the market.

The market works best when there is transparency, and if you have a Federal Reserve System operating behind closed doors, with secret meetings and their minutes are kept secret for 5 years, I believe that more than anything skews the financial markets. Secrecy does not provide for a more orderly functioning market system.

Mr. President, in all of this debate, we can talk about monetary policy and what it all means. It gets kind of arcane and people's eyes get a little bit heavy. Sometimes we have to bring it home, who and what are we talking about. We are talking about Ken Bishop, a senior records clerk for AT&T in Morristown, NJ. This is an older story but still very appropriate. Mr. Bishop has endured two rounds of layoffs, commutes 110 miles a day, works two jobs, yet his family income remains stuck at $40,000 a year, right where it was 10 years ago. But 10 years ago, he owned his own home; now he rents. His wife works two jobs at times, and he still owes money.

So when AT&T said it would lay off another 40,000 workers, the 48-year-old Bishop said, "You stop and look at this and say, "When is it all going to end?'"

Or it is about Cynthia Pollard. Two years ago, she was making $40,000 a year selling computers. She wore suits and heels to work, lived in a tony Atlanta neighborhood and ate out often. Then the company closed its Government division and Pollard was laid off.

Between jobs without health insurance, she totaled her car and suffered a pinched nerve. Now she is a waitress earning half her former salary, taking the bus to work, too exhausted from 14-hour days to even think about going out.

These are the people we are talking about. We are talking about labor's share, working people's share of the national income.

Since 1993, it has been on a downward track. Capital share of growth in this country keeps going up and up. What that means is a further widening of income and wealth in our Nation. The middle class is being shoved further and further down, and this chart shows it. This chart represents a change in the share of income received by each quintile, each 20 percent of our income earners in America. The top 20 percent of income earners are getting an increasing share—this is a percentage—an increasing share of our national economy at the expense of the other 80 percent.

The lowest 20 percent, that is low income. Obviously, they are getting squeezed the hardest. Up here you have middle-income people and their share of our national income is going down as well.

I believe that spells a great danger for our country, more dangerous than this specter or this fear or this ghost of inflation that the Federal Reserve System keeps saying they want to fight at any price. Well, this is the price we are paying right here, a tearing apart, I believe, of our American middle class.

Why? Why is it that unemployment can come down and inflation won't go up? Why is it that NAIRU is outdated and arcane? It is because we live in a new world where prices can decline because of fierce international competition?

For example, over the past few months, we have heard announcements from most of the major automakers. They are either going to hold their 1998 model prices at the 1997 level or even lower because they are facing competition both domestically and internationally. Companies are more aggressive as they cut costs. There is a spreading anti-inflationary mentality among individual and corporate consumers.

For example, Larson Manufacturing, a storm door manufacturer with operations in my home State of Iowa, raised workers' wages by 4 percent over the past year despite pressures to keep his prices flat. Mr. Jack Welch, the CEO of General Electric, said: "There is absolutely no inflation. There's no pricing power at all."

All of this means we can have fuller employment, higher incomes, a better share of our national income for labor, for working people without having any inflation.

Again, I will quote an article by Greg Jaffe in the July 31 Wall Street Journal:

Many economists are increasingly concluding that with fundamental changes in the world of work—for now at least—the unemployment rate does not mean exactly what they thought it meant: There are far more people than ever before who don't think of themselves as unemployed but will take jobs they find appealing. Far more people are available for employers than the unemployment rate suggests."

How many times do we pick up the paper and see that some company has opened a new division and they put out the hiring notice, and if the wages that they are paying are even modestly over minimum wage, they can advertise for 200 positions and 1,000, 2,000, 3,000 people will show up for jobs that pay just a little bit more than minimum wage? This shows Americans are desperate for higher paying jobs. But to get higher paying jobs, we need a healthy, vigorous, growing economy.

We also have to recognize that more people are entering the work force, that combined with increasing productivity will allow our economy to grow at a faster rate. We have a welfare-to-work program. We have a lot of people on welfare that are now going to be coming into the work force. And, quite frankly, we have a lot of women who have not entered the work force before who may float in and out of the work force.

I will repeat again from the article by Mr. Peter Huber in the Forbes magazine of September 8, 1997. He said:

Officially speaking, America hasn't yet discovered microwave ovens or women's lib. Bone-weary though she may be, the stay-at-home mother doesn't labor at all in the eyes of employment statisticians. But she could, easily enough. With one new mom working at a day care center, three other moms can enter the official work force when they choose. So long as many women remain ambivalent about where to work, in the home or out, the supply of labor will remain far more elastic than the statistics suggest. Memo to Alan Greenspan: Wire roses to Gloria Steinem.

The article goes on to say that:

If the officially audited supply of labor keeps falling and the price doesn't rise—

Which is what has been happening—

then we must either give up on economics completely or conclude that there's more to the supply side of labor markets than meets the official eye. Perhaps it's simply that American women, Mexican men and Intel's progeny have all become good substitutes for what the official statisticians call U.S. labor.

Anyway, Mr. President, I ask unanimous consent that Mr. Huber's article be printed in the RECORD.

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

[From the Forbes, Sept. 8, 1997]

WAGE INFLATION? WHERE? (LABOR STATISTICS LOSE PREDICTIVE VALUE)

(By Peter Huber)

HERE'S WHY STOCK PRICES are really supposed to fall. Employment rates rise above some critical flash point. So wages rise sharply. So prices of goods rise—just as rising wages are boosting demand. Inflation soars. So interest rates go up. Stock prices crash.

This is a perfectly sound theory, but it requires some facts. Where's the critical flash point? Do the employment statistics mean what they used to mean? Do they mean anything at all?

Officially speaking, America hasn't yet discovered microwave ovens or women's lib. Bone-weary though she may be, the stay-at-home mother doesn't labor at all in the eyes of employment statisticians. But she could, easily enough. With one new mom working at a day care center, three other moms can enter the official work force when they choose. So long as many women remain ambivalent about where to work, in the home or out, the supply of labor will remain far more elastic than the statistics suggest. Memo to Alan Greenspan: Wire roses to Gloria Steinem.

Labor markets have stretched into the home; they have also spilled out of the country. A U.S. multinational doesn't raise wages in Maine if it can shift production to a more elastic labor market in Mexico. Even the all-American producer in Kansas can't raise wages or prices much if it competes against imports from a wage-stable Korea. Labor statistics, in short, don't mean much unless they track where goods are produced and

consumed. The more transnational economies become, the worse the tracking gets.

Then there's silicon. It takes a mix of capital and labor to manufacture a mousetrap, and economists have always allowed that the mix can change. In the past, however, the substitution effects were slow. You could hire and fire workers a lot faster than you could acquire or retire machines and buildings. So ready supplies of capital didn't discipline the price of labor in the short run.

Is that still true? Computers are getting easier to deploy, smarter and—because of rapid innovation and falling costs—shorter-lived. Many a manager can now expand production as easily by investing an extra dollar in chips or software as he can by hiring new workers. Technology can have a powerful wage moderating effect long before silicon becomes a complete substitute for sapiens. All it takes is enough substitution at the margin.

The substitution is happening. Productivity, it now appears, has been rising a good bit faster in recent years than government statisticians recognized. Three new working moms with computers produce as much as four old working dads without. Add newly minted Pentiums to the ranks of those in search of useful work, and unemployment statistics look very different.

None of this will tell you whether to go long or short on General Motors next week. It's just that the next release of official labor statistics probably won't, either. Like a drunk searching for his keys under the lamppost rather than in the shadows where he lost them, the government statistician counts where the counting is easy. But the three great economic stories of our times—women in the work force, global trade and information technology—offer no easy counting at all. The counters are good with things that sit still. Women, foreigners and chips keep moving.

This much we do know for sure. If the officially audited supply of labor keeps falling and the price doesn't rise, then we must either give up on economics completely or conclude that there's more to the supply side of labor markets than meets the official eye. Perhaps it's simply that American women, Mexican men and Intel's progeny have all become good substitutes for what the official statisticians call United States labor. Maybe welfare reform is effectively expanding labor pools, too. In any event, running out of old bread creates neither famine nor inflation when there's a glut of new cake.

According to official statistics and economic models, a supply-side crisis in labor markets should have reignited inflation some time ago. Investors may indeed be crazy to ignore this indubitable, though theoretical, truth. But if so, wage earners are crazier still—so crazy they don't raise the price of their labor when they can. Then again, maybe they can't.

Mr. HARKIN. As I pointed out earlier, average economic growth over the past 25 years has been a full percentage point lower than what its average in the previous 100 years. Slow economic growth is a zero sum game. There are going to be winners and there are going to be losers. Unfortunately, more Americans are finding themselves to be on the losing end.

Over the past 2 and a half decades the losers have been hard-working American families. And the winners—the winners have been the top 20 percent income earners in America.

The September 1, 1997, Business Week had an excellent article. It described the plight of workers that I previously read about. There is the story of Ted Oliver, a 27-year veteran of Con-Agra. I know that company well out in the Midwest. He works at the shipping dock of Con-Agra's Batesville, AR plant.

Last March, the employees of the plant got a 17 percent raise over the next five years. While that may sound like a lot, it is not.

I am quoting the article from Business Week.

Even though the 5 percent hike that took effect this year pushed Mr. Oliver's hourly salary up to $8.96 an hour—

And mind you, he is a 27-year veteran of this company. He is now up to making $8.96 an hour—he and his coworkers earn less in real terms than they did in 1988. In fact, he will still be behind his 1988 earnings levels when the entire raise kicks in. Despite his working 9 to 10 hour days, 6 days a week, and his wife working two jobs, Mr. Oliver said, "We've been strapped, and we're not even back to where we were."

Think about that. Think what that does to you as a family. You worked all these years, you think you get a decent raise, and yet you are not even where you were in 1988 in terms of your real income.

It is little wonder why the amount of personal debt keeps going up all the time.

Of course we have a movement afoot to change the bankruptcy laws so people can't declare bankruptcy like they used to. I would suggest, Mr. President, before we go down that road we begin to find out why more and more Americans are going into debt and why they are piling up the debts and why they are declaring bankruptcy to get out from underneath it—rather than us just rushing to pass legislation to make it harder for people to pay off their debts.

I just also point out that Mr. Oliver's grand wages of $8.96 an hour, assuming a base 2,000-hour a year job, is less than $20,000 a year for him and his family.

So the median family household income has not yet returned to its pre-1989 level. That was the last year in which we had a recession. In theory, periods of economic growth are supposed to allow wages and incomes to surpass the levels enjoyed in prior years of economic growth. In a capitalist society, we have periods of growth, and then we have a slowdown, and we have a growth again. In theory, each period of economic growth should lead to an increase in incomes for all Americans. But in this economic expansion incomes for most Americans have not even caught up to the level we had for 1989.

Well, the bill for Alan Greenspan's slow-growth economic policies and high interest rates is coming due. As a recent editorial in the Washington Post said:

The United States is six years into an economic expansion, with low inflation, low unemployment and a famously soaring stock market. Yet the benefits of economic growth are not filtering down as much as might be expected. Median household income remains lower than in 1989, before the last recession.

The number of poor people in the United States did not diminish in 1996 from the previous year, the poverty rate is still higher than in 1989 and the number of those considered very poor—[that is] earning less than one half of the poverty threshold—actually increased in the last year. Wages for men working full-time declined in 1996 by 0.9 percent from the previous year.

Imagine that. Huge stock market boom. This top 20 percent getting more and more money; members of Congress increasing their salaries. And yet wages for people working full-time declined last year by nine-tenths of a percent from the previous year.

The editorial goes on to say:

Beneath these disappointing statistics is a trend of increasing inequality . . . it seems to us that most Americans aren't likely to be comfortable with an economy that leaves one sector further and further behind. It's not a recipe for future steady growth, nor for a healthy society.

We have heard a lot of talk about how the recent records in the stock market are benefiting millions of Americans. But that is not true. Over 80 percent of the American people do not even own stock.

As a U.S. News & World Report article pointed out:

Middle Income Americans have most of their assets in their home and [in] their savings, while the rich keep a higher percentage of their wealth in financial instruments such as stocks and bonds. Housing prices haven't kept pace with the torrid stock market, and the middle class has virtually stopped accumulating savings. While the wealthy have been running up huge gains in the stock market, middle-income Americans have been running up credit card debt to compensate for stagnating wages.

That is what is happening. The solution to reversing these dangerous trends is strong, sustained economic growth. The Federal Reserve has been on a course to try to limit economic growth to around 2.2 percent. Again, we have exceeded that. No thanks to the Fed, but we have exceeded that. Yet the Fed is determined at all costs to keep that growth from increasing, and also at all costs to keep interest rates high.

The Federal Reserve doesn't seem willing to let American workers enjoy even modest gains in wages.

Lower unemployment and rising wages all tie back into this NAIRU concept that I raised earlier in my statement. Again, NAIRU says that when unemployment drops below a certain level, employers will be forced to raise wages. Because of this, we will have inflation accelerate at an uncontrollable pace. That is a view supported at the Fed, and I am sorry to say, including the two nominees before us, Mr. Gramlich and Mr. Ferguson.

Again, Mr. President, even Mr. Greenspan said in his March 5 Humphrey-Hawkins testimony that job insecurity is something to be welcomed, "If heightened job insecurity is the most significant explanation of the break with the past in recent years, then it is important to recognize that * * * suppressed wage cost growth as a consequence of job insecurity can only be carried so far. At some point the tradeoff of subdued wage growth for job security has to come to an end."

Well, I support the opinion of James Galbraith of the University of Texas, who said, "Mr. Greenspan is concerned about the possibility that the American worker might start to demand and receive a slightly bigger share of the economic growth that has occurred over the last several years. Repressing wages is the essential thing, and the way to do that is to slow economic growth, raise unemployment, and make sure that job insecurity that Mr. Greenspan explicitly credits for suppressing wage growth does not diminish nor disappear."

Again, this is what we are confronting. That is why I tried to take this time to talk about monetary policy. We don't talk about it much in the Senate and don't pay much attention to it, but the monetary policy of the Federal Reserve Board is having a devastating impact on American society. What it means is that real interest rates continue at an unnecessarily high level. It means that more and more moderate-income Americans are paying unduly high interest rates for their homes and cars and their kids' college education. The high interest rates mean that more and more income will go into corporate profits and less and less will go into weekly earnings of hard-working Americans. High interest rates mean working Americans will rack up more and more debt, and it means a hidden tax on the American family.

A 1 percent increase in rates raises the average home mortgage by almost $1,000 a year. A mortgage on a $115,000 house goes up $80 per month. A 1 percent increase in rates raises the payments for an average farmer by $1,400 per year. A 1 percent increase in rates raised the payments for the average small business by $1,000 per year. These interest payments amount to nothing more than a hidden tax on hard-working Americans. And unlike a tax, which you can reasonably argue that at least it goes into the Government that is used to build better roads, better bridges, schools, health care and things like that, that doesn't go there. The benefits of higher interest rates go to the top 20 percent of Americans, who increasingly get more and more of the share of our national income. Again, I believe our free-enterprise system and our capitalist system and our capitalist economy will be far better off if, instead of keeping wages low and keeping the bottom 80 percent of our income earners falling lower, if we had a more balanced monetary policy in our nation. I believe our free enterprise system and our economy will be better off if the incomes and wealth of the top 20 percent grow at a proportion equal to the rest of society. If we do that, then I believe we will have a vibrant, growing economy that will be shared by all.

It is not going to happen unless we have a different mindset at the Federal Reserve System. I will continue to talk about this and will continue to fight for these policies as long as I am at least here in the U.S. Senate. I hope we will get people on the Federal Reserve Board who will bring a different view and a different opinion and who will not be afraid to go out and state those opinions and engender a more healthy, public debate.

I have to say, Mr. President, it would do my heart and my mind good, and I think the hearts and minds of the American people a lot of good, if we had a member of the Federal Reserve Board go out and start debating and talking about a different method, a different way of approaching the monetary policies now in place at the Federal Reserve Board.

I think the last time we had that happen some of the powers that be at the Federal Reserve Board came down on that person pretty hard. But I think that debate has to happen, and I am hopeful it will happen there, and it should happen here in the U.S. Senate. But we don't seem to be having that debate. We should have that debate because it means a lot to working Americans.

I sum up my comments by saying I didn't really want to unnecessarily hold up the appointments of Mr. Gramlich and Mr. Ferguson. I know they will go through by voice vote. That is fine with this Senator. But I think more often than we have, we have to debate monetary policy here on the floor of the U.S. Senate and what it means to the American people. Just as war is too important to be left to the generals, so is monetary policy too important just to be left to the bankers. We must also include our small business people, our farmers, our consumers in this debate and in the setting of the policy. That can only be done if we have a good, healthy debate.

Again, to sum up, Mr. President, what we need at the Fed is a policy of lower interest rates that will help our wages go up for our working Americans who have fallen too far behind so that they should get a fair share of our growth. Those lower interest rates will also mean our economy will grow at a faster rate, which I believe it can. I believe the Federal Reserve is saying that the best economic growth we can hope for is the equivalent to a C average. I believe the working people of this country can do a lot better than that. I think our productivity is such and our work force is such that we can do a B+ or an A. Why shouldn't we try for a higher rate of growth?

I also believe that a change in the monetary policy of the Federal Reserve Board will mean that a lot of working Americans will have a little bit better lifestyle. Perhaps they can buy a better home with lower interest rates. Perhaps they can have a more decent car. Perhaps they can take their wife or kids out to a local restaurant to eat once in a while. Nothing wrong with that. Perhaps they can take a nice vacation once a year. Nothing wrong with that, either. Perhaps they can borrow a little bit more money at a better interest rate to put their kids through college. Nothing wrong with that, either.

In sum, the Federal Reserve policies, if they are changed to reduce our interest rates, I believe can mean a better life for working Americans all over our country. On the other hand, if the Fed continues its blind adherence to this arcane concept of NAIRU, if they continue their blind adherence to raising interest rates at merely the ghost of inflation, then I predict, Mr. President, that we are on the precipice of falling into a deflationary period in America. If that deflationary period happens, working Americans are going to be hit a lot harder than they ever would be by a small or modest increase in inflation.

Mr. LEVIN. Mr. President, today I expect that the Senate will give its approval to President Clinton's nomination of Dr. Edward Gramlich. This will bring the career of this distinguished University of Michigan professor full circle. Thirty-two years ago, Dr. Gramlich had his first professional experience with a research job at the Federal Reserve. Shortly, he will be returning to the place where he got his start in 1965, although this time he will not be a researcher but a Member of the Board.

Dr. Gramlich received his BA from Williams College and his MA and Ph.D. from Yale University. Since then he has held positions in a variety of government and academic areas. His academic positions include over 20 years at the University of Michigan as Dean of the School of Public Policy, Chairman of the Economics Department, Director of the Institute of Public Policy Studies and always Professor of Economics and Public Policy. He also held temporary positions at various other universities including Monash, George Washington, Cornell and Stockholm Universities.

Dr. Gramlich's government and research experience covers a wide range of subject areas. In 1970, he was the Director of the Public Research Division at the Office of Economic Opportunity where he studied economically efficient ways of dealing with poverty. In

his capacity as Deputy and later Acting Director of the Congressional Budget Office, he worked to reduce the burgeoning deficits of the mid-1980s. While working on the Quadrennial Advisory Council on Social Security, he proposed a plan to preserve the social protections now built into Social Security while providing for enough total saving so that future retirement benefits can be preserved. In addition, Dr. Gramlich has written dozens of journal articles and reports on issues ranging from Social Security and school finances to Major League Baseball and deficit reduction.

In Dr. Gramlich's testimony before the Banking Committee hearing on his nomination, he said, "I strongly feel that both economic and social goals are important. . . . A good economist should know how to balance both objectives, which is what I have tried to do throughout my career." This philosophy culled from his substantial experience has served his well in many capacities. The Banking Committee showed its full confidence in him in voting to approve the nomination, and I fully expect him to fulfill the expectations that the President and the Senate have placed in him.

Mr. HARKIN. Mr. President, I yield back all the time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

VOTE ON THE NOMINATION OF EDWARD M. GRAMLICH

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Edward M. Gramlich, of Virginia, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1994?

The nomination was confirmed.

VOTE ON THE NOMINATION OF ROGER WALTON FERGUSON

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Roger Walton Ferguson, of Massachusetts, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1986?

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MORNING BUSINESS

The PRESIDING OFFICER. Without objection, there will now be a period for morning business until the hour of 7 p.m., with Senators permitted to speak therein for up to 5 minutes each.

MAJ. GEN. ANSEL M. STROUD, JR.—AMERICAN HERO

Ms. LANDRIEU. Mr. President, I rise today to pay tribute to one of Louisiana's own true American heroes, Major General Ansel M. Stroud, Jr., Adjutant General for the State of Louisiana.

A native of Shreveport, Louisiana, General Stroud began his distinguished career in April of 1944, when he enlisted in the United States Army and was commissioned a second lieutenant following completion of Officer Candidate School in 1946. After serving active duty, he joined the Louisiana National Guard in June of 1947. During his service with the National Guard, he has served as a reconnaissance officer, company commander, regimental supply officer, aide to the commanding general of the 39th Infantry Division, and battalion commander. In 1968, he was assigned as Chief of Staff for the State Emergency Operations Center, and became commander of the 356th Support Center (RAO) in 1971. He was appointed to the position of Assistant Adjutant General on May 9, 1972, and in August 1978 accepted a dual assignment as the commander of the 256th Infantry Brigade (Mechanized). In October 1980, General Stroud accepted his current position of Adjutant General for Louisiana.

When reminiscing about General Stroud's career, one could easily point to his many military decoration and awards: most notably included are the Distinguished Service Medal, the Legion of Merit with two Oak Leaf Clusters, the Meritorious Service Medal with one Oak Leaf Cluster, the Army Commendation Medal, the World War II Victory Medal, the Louisiana Distinguished Service Medal, the Louisiana Cross of Merit and the Louisiana Emergency Service Medal with 19 Fleurs-de-lis just to name a few of the honors bestowed upon him. One can also see the direct impact his time in the Armed Services has made with such works as the "Stroud Study." When General Stroud was selected to conduct a Department of Army study on full-time training and administration for the Guard and Reserve, his Study was accepted as a guideline for requirements of the National Guard and Army Reserve for full-time manning programs and was the basis for launching the AGR program.

In addition to his duties as Adjutant General, there are many other areas of service in which he has fulfilled with great distinction: the Boy Scouts of America in which he earned the Silver Beaver Award and the Distinguished Eagle Scout Award; past-president of the Adjutants General Association of the United States; past-president of the National Guard Association of the United States; and service as a member of the Federal Emergency Management Agency's Advisory Board representing the National Guard Association of the United States.

Mr. President, I would, however, be remiss if I did not mention what I feel has been one of the most important aspects of the General's service to Louisiana: serving as the Director of the Louisiana Office of Emergency Preparedness (LOEP). Throughout the years, Louisianas have become all too familiar with life-threatening dangers presented by mother nature at her worst. General Stroud has certainly taken the motto "be prepared" to heart by ensuring that Louisiana is capable of handling the impact of natural disasters with order and efficiency. Under his supervision, operations at LOEP have undergone state-of-the art advances which have allowed personnel to provide immediate assistance to citizens affected by nature's fury.

Mr. President, many individuals have a calling to serve the public in a variety of ways. They make sacrifices to contribute their talents to the safety, security and well-being of others. These are the individuals whose commitment to excellence and selfless dedication are evident through their leadership and the challenges they choose to accept. On November 8, 1997, General Ansel Stroud will relinquish his present position as Adjutant General, a position he has dutifully held for over seventeen years of his fifty-three years of service to our country. Although he is leaving the realm of public service, the contributions he has made to the greater good of the State of Louisiana will continue to have affect for years to come. It is my most sincere wish that General Stroud and Jane, his wife, will reap all the best which life has to offer, May God bless and God speed.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, October 29, 1997, the Federal debt stood at $5,429,377,880,990.06 (Five trillion, four hundred twenty-nine billion, three hundred seventy-seven million, eight hundred eighty thousand, nine hundred ninety dollars and six cents).

One year ago, October 29, 1996, the Federal debt stood at $5,236,574,000,000 (Five trillion, two hundred thirty-six billion, five hundred seventy-four million).

Five years ago, October 29, 1992, the Federal debt stood at $4,067,523,000,000 (Four trillion, sixty-seven billion, five hundred twenty-three million).

Ten years ago, October 29, 1987, the Federal debt stood at $2,385,077,000,000 (Two trillion, three hundred eighty-five billion, seventy-seven million).

Fifteen years ago, October 29, 1982, the Federal debt stood at

$1,142,825,000,000 (One trillion, one hundred forty-two billion, eight hundred twenty-five million) which reflects a debt increase of more than $4 trillion—$4,286,552,880,990.06 (Four trillion, two hundred eighty-six billion, five hundred fifty-two million, eight hundred eighty thousand, nine hundred ninety dollars and six cents) during the past 15 years.

MRS. LISA D'AMATO MURPHY, COMMUNITY LEADER OF THE YEAR

Mr. LOTT. Mr. President, today I was informed that Mrs. Lisa D'Amato Murphy, daughter of Senator D'AMATO, was chosen as "Community Leader of the Year" by the Island Park Kiwanis Club. Her significant volunteer participation in both civic and church activities is the basis for this distinguished award. It is important to mention that Lisa is the wife of Judge Jerry Murphy of the Island Park Village Court and the mother of five children. Yet, so strong is her commitment to others that she somehow finds the time to serve her community. While so many people bemoan the lack of hours in a day, Lisa clearly demonstrates that time for community service can be found—if it is a priority.

On behalf of the entire Senate family, I extend our sincere congratulations to Mrs. Lisa D'Amato Murphy, Island Park, New York's "Community Leader of the Year."

NOMINATION OF BILL LANN LEE

Mr. LEAHY. Mr. President, this has been an extraordinary week in Washington with the first State visit by the Chinese leadership since 1989. While President Jiang Zemin's visit has resulted in important agreements on economic, environmental and security issues between our two nations, it has not resulted in the hoped for progress on human rights issues in China.

Yesterday, I spoke about Ngawang Choephel, a Tibetan scholar and documentary filmmaker who was a Fulbright scholar at Middlebury College in Vermont. In 1995 he had gone to Tibet to document traditional Tibetan music and dance when he was detained by Chinese authorities and then sentenced to 18 years in prison for allegedly spying on behalf of the Dalai Lama. No evidence to support these claims has ever been produced, despite my persistent inquiries. Nor have the Chinese authorities provided any information about Mr. Choephel's whereabouts or health status over the past two years. I have raised these concerns with President Jiang directly, emphasizing to him that Mr. Choephel's release from prison would be a meaningful step in the right direction on human rights issues. Yesterday and today in meetings with the Chinese President, I raised this human rights issue, again.

The gulf between our two countries can most clearly be seen on the issue of human rights. This week demonstrates the distance between our two countries in another way as the Senate considers President Clinton's nomination of Bill Lann Lee to be the Assistant Attorney General in charge of the Civil Rights Division at the U.S. Department of Justice. When confirmed, Bill Lee will be the principal law enforcement officer of the Federal Government to ensure the civil rights and equal treatment of all Americans. He will also be the first Asian-American to hold this post and exercise such authority.

A meaningful step the Senate should take without delay is to confirm Bill Lee, a Chinese-American whose life story and life's work are quintessentially American. At the same time we are urging the Chinese Government to improve their human rights' record, we should demonstrate through action and not just words our own commitment to human rights and civil rights by proceeding without further delay on this important nomination.

Mr. Lee was born in Harlem to Chinese immigrant parents. His parents ran a laundry in New York. He went on to graduate from Yale College magna cum laude and then Columbia Law School. He testified last week that his childhood experiences, which included hearing racial slurs directed at his parents and his father's inability to rent an apartment after returning from volunteering for military service in World War II, greatly influenced his decision to dedicate his life to civil rights work. Mr. Lee's efforts over the years have ensured Americans of all races and creeds opportunities to advance in their careers, remain in their homes and raise healthy children.

Since July, Senator KENNEDY and I repeatedly urged the committee to hold a hearing on Mr. Lee's nomination before the Columbus Day recess in order to give this important nomination an opportunity to be considered by the Senate this year. Unfortunately that hearing only took place last week. Chairman HATCH has consistently indicated his commitment to getting this nomination considered before adjournment.

At the hearing, Mr. Lee answered hours of questions. The Republican members of the committee and the majority leader also submitted pages of written questions to him, which have also been answered. All members of the committee have met or had the opportunity to meet with the nominee personally. Unfortunately there was no business meeting of the Judiciary Committee this week. I have asked the chairman to report this nomination to the Senate without delay and hope that he will do so.

Bill Lee is a nominee who has impressed everyone with whom he has met. He is a man of integrity who has practiced mainstream civil rights law for 23 years. He is a practical problem solver, as attested to in tributes from opposing counsel and people from both political parties.

Chairman HATCH has clearly indicated that he views Bill Lee as imminently qualified for the Assistant Attorney General position at Department of Justice. At Mr. Lee's nomination hearing last Wednesday, Senator HATCH referred to Bill Lee's "long and distinguished career" and noted his "commitment to improving the lives of many Americans who have felt the sting of invidious discrimination." These comments are encouraging.

Senator HATCH has been stalwart in moving a number of top Justice Department nominees through the committee promptly. As examples, I point to the nomination of Eric Holder to be the Deputy Attorney General, Ray Fisher to be the Associate Attorney General, and Joel Klein to be the Assistant Attorney General for the Antitrust Division.

In connection with the confirmation of Assistant Attorney General Klein, Senator HATCH said:

"I believe it is neither fair nor wise to hold a nominee hostage because of such concerns, especially one as competent and decent as Joel Klein. In my view, sound public policy is best served by bringing this nominee up for a vote, permitting the Justice Department to proceed with a confirmed chief of the Antitrust Division, and for us in Congress to move forward and work with the Department and other involved agencies in the formulation and implementation of telecommunications policies."

"There are times when I disagree with the President, but I have to say when he does a good job and when he does nominate good people . . . then I will support the President.

"I will do what I can to show support for him and to encourage him to continue to pick the highest quality people for these positions."

Adhering to that policy should lead us to a prompt and favorable vote on Mr. Lee.

At the recent nomination hearing of Ray Fisher, Senator HATCH assured the administration that "nominees for the Department of Justice will continue to receive thorough and prompt consideration by the committee." I am hopeful that Senator HATCH will apply this same standard to Mr. Lee's nomination.

I look forward to the vote on Bill Lee, a stellar nominee to head the Office of Civil Rights at Department of Justice. Mr. Lee's recent decision to recuse himself from any involvement in the Proposition 209 case further reflects his integrity and forthrightness on these sorts of matters.

Bill Lee's story is a true American saga. Raised by immigrants, in one

generation he has risen to the top of his profession and is now being considered to head the Nation's civil rights division. Let us make sure the story ends the way it should—with the confirmation of Mr. Lee as Assistant Attorney General before we adjourn this session.

SUPPORTING NANCY-ANN MIN DEPARLE'S NOMINATION

Mr. KENNEDY. In June, the President nominated Nancy-Ann Min DeParle to be Administrator of the Health Care Financing Administration [HCFA]. When confirmed as the head of HCFA, Ms. DeParle will be responsible for running Medicare, Medicaid, and the new children's health program, and provide valuable direction for other important health insurance initiatives. More than 70 million Americans—senior citizens, children, persons with disabilities and others—depend on these programs for lifesaving health care. Leaving this critically important agency without a leader during this challenging time is irresponsible and indefensible, and I urge the Senate to move quickly to confirm her nomination.

It is especially offensive that a Senator is holding this nomination hostage in order to extract a concession from the President on an HCFA-related issue. We all want things from HCFA, and those issues should be resolved as part of the legislative process, not by denying this important Federal agency the leadership it needs.

At this moment, a large number of Medicaid waivers are pending from States that want flexibility to go beyond the current rules. Hundreds, perhaps thousands, of decisions must be made regarding implementation of the Medicare provisions in the Balanced Budget Act—including the establishment of important new preventive benefits. This historic legislation also included the largest health insurance expansion since the creation of Medicare and Medicaid. It provides health insurance to uninsured children in working families who earn too much to qualify for Medicaid but not enough to purchase private health insurance. We all worked hard for this program. All 50 States will be submitting their plans for this coverage in the coming months and HCFA needs to take action.

Ms. DeParle is extremely well-qualified to lead HCFA. She served from 1993 to 1997 as the Associate Director for Health and Personnel at the Office of Management and Budget. In this capacity, she guided the development and implementation of budget and policy matters for all Federal health programs, including Medicare and Medicaid. In addition to other accomplishments, she has extensive experience running a state-level cabinet agency. From 1987 to 1989, she administered a 6,000-employee agency as commissioner of human services in Tennessee.

No significant objection to her nomination was raised at the Finance Committee hearing in September. She was approved unanimously by the committee on September 11, and she has been waiting since that day for the full Senate to act. It is long past time for the Senate to act.

THE CENTER FOR ADVANCED SIMULATION AND TECHNOLOGY

Mr. D'AMATO. Mr. President, I rise to engage the distinguished Chairman of the Senate Transportation Appropriations Subcommittee, Senator SHELBY, in a colloquy.

Mr. SHELBY. I would be pleased to accommodate the Senator from New York.

Mr. D'AMATO. I thank the Senator. I first would like to commend my friend and colleague from Alabama for the fine leadership he has shown in crafting the fiscal year 1998 Transportation Appropriations bill. He has done a wonderful job in allocating scarce federal resources equitably for New York and the entire nation for highway, transit, rail and other infrastructure needs.

I ask my colleague if he is familiar with an intermodal transportation simulation and technology project on Long Island called the Center for Advanced Simulation and Technology (CAST)?

Mr. SHELBY. I am familiar with it. This project is being developed at the National Aviation and Transportation Center on Long Island and is anticipated to provide an intermodal transportation simulation training, education and planning asset for the entire nation. A total of $19.5 million in federal funding over the next five years has been determined by officials at the National Aviation and Transportation Center as needed to help carry out this project. According to these same officials, this level of federal funding is expected to trigger at least $5 million in private sector contributions and up to $7.5 million in funding from New York State.

Mr. D'AMATO. As my friend knows, no specific appropriation was provided in the fiscal year 1998 conference agreement to allow CAST to go forward in this fiscal year. Therefore, I would like to work with the Chairman, the Long Island Congressional delegation and the Department of Transportation in an effort to find a source of funding to continue work on CAST in this fiscal year.

Mr. SHELBY. Mr. President, the Senator from New York has my assurance that I will work with him to try and identify a source of funding that will allow the CAST effort to commence in fiscal year 1998.

Mr. D'AMATO. I thank my friend and colleague.

FTC "MADE IN USA" RULES

Mr. ABRAHAM. Mr. President, as my colleagues no doubt are aware, I joined with Senator HOLLINGS, to submit a concurrent resolution (S. Con. Res. 52) to reaffirm the Senate's support for the traditional, simple, and honest use of the "Made in U.S.A." label. That use was in accordance with the long-standing rule that articles so labelled be made "all or virtually all" in the United States. Over two hundred members have cosponsored a measure similar to the Hollings-Abraham resolution in the House of Representatives, introduced by Representatives BOB FRANKS of New Jersey and JOHN DINGELL of Michigan.

Senator HOLLINGS, Congressman FRANKS and Congressman DINGELL joined me in sending a letter to the Federal Trade Commission urging that agency to maintain the current standard. As we said in that letter, "Any definition or enforcement standard of 'all or virtually all' that would allow more than a de minimis level of foreign content is unacceptable to us and, we strongly believe, would be unacceptable to the Congress."

Mr. President, I ask unanimous consent that the full text of this letter be printed in the RECORD.

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

CONGRESS OF THE UNITED STATES,
Washington, DC, October 20, 1997.

Hon. ROBERT PITOFSKY,
Chairman, Federal Trade Commission,
Washington, DC.

DEAR CHAIRMAN PITOFSKY: We are writing this bicameral and bipartisan letter to reiterate our strong opposition to any weakening of the standard for the use of the "Made in USA" label. In light of recent press reports of possible Commission consideration of a new proposal to lower the "Made in USA" label standard to 89 percent U.S. domestic content, we felt compelled to reiterate what growing numbers of our colleagues in the Congress on both sides of the aisle are saying: neither we nor the American people will tolerate any lowering of the standard for the "Made in USA" label.

In its proposed guidelines issued last May, the Commission itself described the current standard as follows:

"Cases brought by the Commission beginning over 50 years ago established the principle that it was deceptive for a marketer to promote a product with an unqualified 'Made in USA' claim unless that product was wholly of domestic origin. Recently, this standard had been rearticulated to require that a product advertised as 'Made in USA' be 'all or virtually all' made in the United States, i.e., that all or virtually all of the parts are in the U.S. and all or virtually all of the labor is performed in the U.S. In both cases, however, the import has been the same: unqualified claims of domestic origin were deemed to imply to consumers that the product for which the claims were made was in all but de minimis amounts made in the U.S.A."[1]

[1] Federal Trade Commission Request for Public Comment on Proposed Guides for the Use of U.S. Origin Claims, Federal Register, Vol. 62, No. 88, May 7, 1997, p. 25050.

Clearly, an 89 percent U.S. Content standard would allow much more than a de minimis amount of foreign content and therefore would lower the standard for the use of the "Made in USA" label.

We the undersigned introduced legislation in both the House and Senate (H. Con. Res. 80 and S. Con. Res. 52, respectively) to specifically condemn any lowering of the standard for the use of the "Made in USA" label. H. Con. Res. 80 has now been cosponsored by 219 Representatives, a majority of the U.S. House (see enclosed cosponsor list). We note that these Members do not just represent votes against any weakening of the label. But are Members who felt strongly enough about this issue to join with us as cosponsors of this legislation. S. Con. Res. 52, while introduced only recently is receiving the same favorable reception as its companion in the House.

The language of these Resolutions is clear and to the point: "Resolved by the House of Representatives (the Senate concurring), That the Congress (1) maintains that the standard for the "Made in USA" label should continue to be that a product was all or virtually all made in the United States; (2) urges the Federal Trade Commission to refrain from lowering this standard at the expense of consumers and jobs in the United States."

Any definition or enforcement standard of "all or virtually all" that would allow more than a de minimis level of foreign content is unacceptable to us and, we strongly believe, would be unacceptable to the Congress.

We urge you to reject any recommendation to lower the current standard for the use of the "Made in USA" label and to enforce vigorously the current standard.

Thank you very much.

Sincerely,

JOHN DINGELL,
Member of Congress.
ERNEST HOLLINGS,
United States Senate.
BOB FRANKS,
Member of Congress.
SPENCER ABRAHAM,
United States Senate.

Mr. ABRAHAM. I have been informed that the FTC will soon make an announcement regarding the "Made in USA" label, probably next week. I am hopeful that the FTC will maintain the current standard, and urge my colleagues to contact the FTC to add their voices to the chorus calling for that decision.

I believe it is crucial for American workers and the American economy that we maintain the integrity of the "Made in USA" label. For over 50 years, consumer goods have worn this label when, and only when, they were made "all or virtually all" in the United States.

But recently the (FTC) announced plans to soften that rule, allowing companies to use the label any product on which they spent 75% of their total manufacturing costs, provided the product was last "substantially transformed" here in the United States. A product also could be labeled "Made in USA" if that product, and all its significant parts and other inputs, were last substantially transformed in the United States.

In practice, this means that products containing no materials or parts of U.S. origin could nonetheless be labeled "Made in USA."

I believe that would be wrong, These new rules would be a slap in the face to American workers. They also would in effect condone false advertising. Many Americans look specifically for the "Made in USA" label because they want to support American workers. These loyal Americans do not believe that they are purchasing products "mostly" made in the USA, let alone products for which "most manufacturing costs" were incurred in the USA, or which were "substantially transformed" in the USA. Quite rightly, consumers who look for the "Made in USA" label believe that when they purchase a product with that label they are getting something made all or virtually all in the United States.

Perhaps worst of all, Mr. President, these new rules will hurt American workers. Many companies have invested a great deal in plant and equipment, as well as hiring and training, in the United States. These companies have a right to expect that the "Made in USA" label, which they have worked so hard to earn and maintain, will continue to apply only to products made all, or virtually all, in the United States. If they lose that advantage, these companies may well decide to move some or all of their production—and American jobs—overseas.

To dilute the requirement for use of the "Made in USA" label would be to lower the value of that label. It would allow companies operating substantially overseas to deceive American consumers who are attempting to support truly American made products and workers. It would discourage companies from investing in this country by telling them, in effect, that they will no longer receive any benefit for keeping jobs at home. The result would be a loss of American jobs and morale, as well as a critical blow to consumer confidence in the veracity of product labels.

The American people have a right to expect that the "Made in USA" label will mean what it says. For over 50 years they have depended on that label to assure them that they are purchasing products made "all or virtually all" in the United States. I again call on the FTC to maintain the traditional standard for labelling products "Made in USA," and urge my colleagues to do the same.

I yield the floor.

MESSAGE FROM THE PRESIDENT

REPORT CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT—PM 76

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 Foreign Relations:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153 (b), (d)), the text of a proposed Agreement for Cooperation Between the Government of the United States of America and the Government of the Federative Republic of Brazil Concerning Peaceful Uses of Nuclear Energy, with accompanying annex and agreed minute. I am also pleased to transmit my written approval, authorization, and determination concerning the agreement, and the memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views, is also enclosed.

The proposed agreement with Brazil has been negotiated in accordance with the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 and as otherwise amended. In my judgment, the proposed agreement meets all statutory requirements and will advance the nonproliferation and other foreign policy interests of the United States. The agreement provides a comprehensive framework for peaceful nuclear cooperation between the United States and Brazil under appropriate conditions and controls reflecting a strong common commitment to nuclear nonproliferation goals.

The proposed new agreement will replace an existing United States-Brazil agreement for peaceful nuclear cooperation that entered into force on September 20, 1972, and by its terms would expire on September 20, 2002. The United States suspended cooperation with Brazil under the 1972 agreement in the late 1970s because Brazil did not satisfy a provision of section 128 of the Atomic Energy Act (added by the Nuclear Non-Proliferation Act of 1978) that required full-scope International Atomic Energy Agency (IAEA) safeguards in nonnuclear weapon states such as Brazil as a condition for continued significant U.S. nuclear exports.

On December 13, 1991, Brazil, together with Argentina, the Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials (ABAAC) and the IAEA signed a quadrilateral agreement calling for the application of full-scope IAEA safeguards in Brazil and Argentina. This safeguards agreement was brought into force on March 4, 1994. Resumption of cooperation would be possible under the 1972 United

States-Brazil agreement for cooperation. However, both the United States and Brazil believe it is preferable to launch a new era of cooperation with a new agreement that reflects, among other things:

—An updating of terms and conditions to take account of intervening changes in the respective domestic legal and regulatory frameworks of the Parties in the area of peaceful nuclear cooperation;

—Reciprocity in the application of the terms and conditions of cooperation between the Parties; and

—Additional international nonproliferation commitments entered into by the Parties since 1972.

Over the past several years Brazil has made a definitive break with earlier ambivalent nuclear policies and has embraced wholeheartedly a series of important steps demonstrating its firm commitment to the exclusively peaceful uses of nuclear energy. In addition to its full-scope safeguards agreement with the IAEA, Brazil has taken the following important nonproliferation steps:

—It has formally renounced nuclear weapons development in the Foz do Iguazsu declaration with Argentina in 1990;

—It has renounced "peaceful nuclear explosives" in the 1991 Treaty of Guadalajara with Argentina;

—It has brought the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco) into force for itself on May 30, 1994;

—It has instituted more stringent domestic controls on nuclear exports and become a member of the Nuclear Suppliers Group; and

—It has announced its intention, on June 20, 1997, to accede to the Nuclear Non-Proliferation Treaty (NPT).

The proposed new agreement with Brazil permits the transfer of technology, material, equipment (including reactors), and components for nuclear research and nuclear power production. It provides for U.S. consent rights to retransfers, enrichment, and reprocessing as required by U.S. law. It does not permit transfers of any sensitive nuclear technology, restricted data, or sensitive nuclear facilities or major critical components thereof. In the event of termination key conditions and controls continue with respect to material and equipment subject to the agreement.

From the U.S. perspective, the proposed new agreement improves on the 1972 agreement by the addition of a number of important provisions. These include the provisions for full-scope safeguards; perpetuity of safeguards; a ban on "peaceful" nuclear explosives using items subject to the agreement; a right to require the return of items subject to the agreement in all circumstances for which U.S. law requires such a right; a guarantee of adequate physical security; and rights to approve enrichment of uranium subject to the agreement and alteration in form or consent of sensitive nuclear material subject to the agreement.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution and urge that the Congress give it favorable consideration.

Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123 a. of that Act. This transmission shall constitute a submittal for purposes of both sections 123 b. and 123 d. of the Atomic Energy Act. The Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House International Relations Committees as provided in section 123 b. Upon completion of the 30-day continuous session period provided for in section 123 b., the 60-day continuous session provided for in section 123 d. shall commence.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 30, 1997.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 4:03 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 bills:

S. 1227. An act to amend title I of the Employee Retirement Income Security Act of 1974 to clarify treatment of investment managers under such title.

H.R. 2013. An act to designate the facility of the United States Postal Service located at 551 Kingstown Road in South Kingstown, Rhode Island, as the "David B. Campagne Post Office Building".

The enrolled bills were signed subsequently by the President pro tempore [Mr. THURMOND].

REPORTS OF COMMITTEES

The following report of a committee was submitted on October 29, 1997:

By Mr. SPECTER, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 987: A bill to amend title 38, United States Code, to authorize a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and dependency and indemnity compensation for survivors of such veterans and to revise and improve certain veterans compensation, pension, and memorial affairs programs; and for other purposes (Rept. No. 105–120).

The following reports of committees were submitted on October 30, 1997:

By Mr. SPECTER, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 714. A bill to make permanent the Native American Veteran Housing Loan Pilot Program of the Department of Veterans Affairs (Rept. No. 105–123).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1231. A bill to authorize appropriations for fiscal years 1998 and 1999 for the United States Fire Administration, and for other purposes (Rept. No. 105–124).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 799: A bill to direct the Secretary of the Interior to transfer to the personal representative of the estate of Fred Steffens of Big Horn County, Wyoming, certain land comprising the Steffens family property (Rept. No. 105–125).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 814. A bill to direct the Secretary of the Interior to transfer to John R. and Margaret J. Lowe of Big Horn County, Wyoming, certain land so as to correct an error in the patent issued to their predecessors in interest (Rept. No. 105–126).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 1324. A bill to deauthorize a portion of the project for navigation, Biloxi Harbor, Mississippi.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations:

Treaty Doc. 104–30 Taxation Agreement With Turkey (Exec. Rept. 105–6)

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Agreement between the Government of the United States of America and the Government of the Republic of Turkey for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, together with a related Protocol, signed at Washington on March 28, 1996 (Treaty Doc. 104–30) subject to the declaration of subsection (a), and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of

ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Treaty Doc. 104–31 Taxation Convention With Austria (Exec. Rept. 105–7).

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the United States of America and the Republic of Austria for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Vienna on May 31, 1996 (Treaty Doc. 104–31), subject to the understanding of subsection (a), the declaration of subsection (b), and the proviso of subsection (c).

(a) UNDERSTANDING.—The Senate's advice and consent is subject to the following understanding, which shall be included in the instrument of ratification, and shall be binding on the President:

(1) OECD COMMENTARY.—Provisions of the Convention that correspond to provisions of the Organization for Economic Cooperation and Development (OECD) Model Tax Convention on Income and on Capital generally shall be expected to have the same meaning as expressed in the OECD Commentary thereon. The United States understands, however, that the foregoing will not apply with respect to any reservations or observations it enters to the OECD Model or its Commentary and that it may enter such a reservation or observation at any time.

(b) DECLARATIONS.—The Senate's advice and consent is subject to the following two declarations, which shall be binding on the President:

(1) REAL ESTATE INVESTMENT TRUSTS.—The United States shall use its best efforts to negotiate with the Republic of Austria a protocol amending the Convention to provide for the application of subparagraph (b) of paragraph 2 of Article 10 of the Convention to dividends paid by a Real Estate Investment Trust in cases where (i) the beneficial owner of the dividends beneficially holds an interest of 5 percent or less in each class of the stock of the Real Estate Investment Trust and the dividends are paid with respect to a class of stock of the Real Estate Investment Trust that is publicly traded or (ii) the beneficial owner of the dividends beneficially holds an interest of 10 percent or less in the Real Estate Investment Trust and the Real Estate Investment Trust is diversified.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Treaty Doc. 104–33 Taxation Convention With Luxembourg (Exec. Rept. 105–8)

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of the Grand Duchy of Luxembourg for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, signed at Luxembourg on April 3, 1996 (Treaty Doc. 104–33), subject to the reservation of subsection (a), the declarations of subsection (b), and the proviso of subsection (c).

(a) RESERVATION.—The Senate's advice and consent is subject to the following reservation, which shall be included in the instrument of ratification, and shall be binding on the President:

(1) REAL ESTATE INVESTMENT TRUSTS.—Subparagraph (a)(ii) of paragraph 2 of Article 10 of the Convention shall apply to dividends paid by a Real Estate Investment Trust in cases where (i) the beneficial owner of the dividends beneficially holds an interest of 5 percent or less in each class of the stock of the Real Estate Investment Trust and the dividends are paid with respect to a class of stock of the Real Estate Investment Trust that is publicly traded, (ii) the beneficial owner of the dividends beneficially holds an interest of 10 percent or less in the Real Estate Investment Trust and the Real Estate Investment Trust is diversified, or (iii) the beneficial owner of the dividends beneficially held an interest in the Real Estate Investment Trust as of June 30, 1997, the dividends are paid with respect to such interest, and the Real Estate Investment Trust is diversified (provided that such provision shall not apply to dividends paid after December 31, 1999 unless the Real Estate Investment Trust is publicly traded on December 31, 1999 and thereafter).

(b) DECLARATIONS.—The Senate's advice and consent is subject to the following two declarations, which shall be binding on the President:

(1) SIMULTANEOUS EXCHANGE.—The United States shall not exchange the instruments of ratification of this Convention with the Government of the Grand Duchy of Luxembourg until such time as it exchanges the instruments of ratification with respect to the Treaty Between the Government of the United States of America and the Government of the Grand Duchy of Luxembourg on Mutual Legal Assistance in Criminal Matters, signed at Washington on March 13, 1997 (Treaty Doc. 105–11).

(2) TREATY INTERPRETATION.—The Senate affirms the applicability of all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Treaty Doc. 105–2 Taxation Convention With Thailand (Exec. Rept. 105–9)

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of the Kingdom of Thailand for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Bangkok, November 26, 1996 (Treaty Doc. 105–2), subject to the declaration of subsection (a); and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Treaty Doc. 105–8 Tax Convention With Switzerland (Exec. Rept. 105–10)

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention Between the United States of America and the Swiss Confederation for the Avoidance of Double Taxation with Respect to Taxes on Income, signed at Washington, October 2, 1996, together with a Protocol to the Convention (Treaty Doc. 105–8), subject to the declarations of subsection (a), and the proviso of subsection (b).

(a) DECLARATIONS.—The Senate's advice and consent is subject to the following two declarations, which shall be binding on the President:

(1) REAL ESTATE INVESTMENT TRUSTS.—The United States shall use its best efforts to negotiate with the Swiss Confederation a protocol amending the Convention to provide for the application of subparagraph (b) of paragraph 2 of Article 10 of the Convention to dividends paid by a Real Estate Investment Trust in cases where (i) the beneficial owner of the dividends beneficially holds an interest of 5 percent or less in each class of the stock of the Real Estate Investment Trust and the dividends are paid with respect to a class of stock of the Real Estate Investment Trust that is publicly traded or (ii) the beneficial owner of the dividends beneficially holds an interest of 10 percent or less in the

Real Estate Investment Trust and the Real Estate Investment Trust is diversified.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Treaty Doc. 105-9 Tax Convention With South Africa (Exec. Rept. 105-11)

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the United States of America and the Republic of South Africa for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains, signed at Cape Town February 17, 1997 (Treaty Doc. 105-9), subject to the declaration of subsection (a), and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President.

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Treaty Doc. 105-29 Protocol Amending Tax Convention With Canada (Exec. Rept. 105-12)

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol Amending the Convention Between the United States of America and Canada with Respect to Taxes on Income and on Capital Signed at Washington on September 26, 1980 as Amended by the Protocols Signed on June 14, 1983, March 28, 1984 and March 17, 1995, signed at Ottawa on July 29, 1997 (Treaty Doc. 105-29) subject to the declaration of subsection (a), and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Treaty Doc. 105-31 Tax Convention With Ireland (Exec. Rept. 105-13).

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital gains, signed at Dublin on July 28, 1997, together with a Protocol and exchange of notes done on the same date (Treaty Doc. 105-31), subject to the understanding of subsection (a), the declarations of subsection (b), and the proviso of subsection (c).

(a) UNDERSTANDING.—The Senate's advice and consent is subject to the following understanding, which shall be included in the instrument of ratification, and shall be binding on the President:

(1) EXCHANGE OF INFORMATION.—The United States competent authority follows a practice of comity with respect to exchanges of information under all tax conventions.

(b) DECLARATIONS.—The Senate's advice and consent is subject to the following two declarations, which shall be binding on the President:

(1) REAL ESTATE INVESTMENT TRUSTS.—The United States shall use its best efforts to negotiate with the Government of Ireland a protocol amending the Convention to provide for the application of subparagraph (b) of paragraph 2 of Article 10 of the Convention to dividends paid by a Real Estate Investment Trust in cases where (i) the beneficial owner of the dividends beneficially holds an interest of 5 percent or less in each class of the stock of the Real Estate Investment Trust and the dividends are paid with respect to a class of stock of the Real Estate Investment Trust that is publicly traded or (ii) the beneficial owner of the dividends beneficially holds an interest of 10 percent or less in the Real Estate Investment Trust and the Real Estate Investment Trust is diversified.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BROWNBACK (for himself, Mr. SMITH of Oregon, Mr. LUGAR, Mr. HAGEL, Mr. MCCAIN, Mr. HELMS, and Mr. BYRD):

S. 1344. A bill to amend the Foreign Assistance Act of 1961 to target assistance to support the economic and political independence of the countries of South Caucasus and Central Asia; to the Committee on Foreign Relations.

By Mr. ROCKEFELLER (for himself and Ms. COLLINS):

S. 1345. A bill to amend titles XVIII and XIX of the Social Security Act to expand and clarify the requirements regarding advance directives in order to ensure that an individual's health care decisions are complied with, and for other purposes; to the Committee on Finance.

By Mr. TORRICELLI (for himself and Mr. LAUTENBERG):

S. 1346. A bill to amend title 18, United States Code, to increase the penalties for certain offenses in which the victim is a child; to the Committee on the Judiciary.

By Mr. GLENN:

S. 1347. A bill to permit the city of Cleveland, Ohio, to convey certain lands that the United States conveyed to the city; to the Committee on Commerce, Science, and Transportation.

By Mr. LIEBERMAN (for himself, Mr. DASCHLE, Mr. MOYNIHAN, and Mr. KERREY):

S. 1348. A bill to provide for innovative strategies for achieving superior environmental performance, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 1349. 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 PRINCE NOVA, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LEAHY (for himself and Mr. JEFFORDS):

S. 1350. A bill to amend section 332 of the Communications Act of 1934 to preserve State and local authority to regulate the placement, construction, and modification of certain telecommunications facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BURNS:

S. 1351. A bill to amend the Sikes Act to establish a mechanism by which outdoor recreation programs on military installations will be accessible to disabled veterans, military dependents with disabilities, and other persons with disabilities; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRAMS (for himself and Mr. SMITH of Oregon):

S. Con. Res. 58. A concurrent resolution expressing the sense of Congress over Russia's newly passed religion law; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BROWNBACK (for himself, Mr. SMITH of Oregon, Mr. LUGAR, Mr. HAGEL, Mr. MCCAIN, Mr. HELMS, and Mr. BYRD):

S. 1344. A bill to amend the Foreign Assistance Act of 1961 to target assistance to support the economic and political independence of the countries of South Caucasus and Central Asia; to the Committee on Foreign Relations.

THE SILK ROAD STRATEGY ACT OF 1997

Mr. BROWNBACK. Mr. President, I am introducing the Silk Road Strategy Act of 1977. This is an overarching policy between the countries of the South Caucasus and Central Asia, which includes the countries of Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan. Those are not common names to most Americans, but the area of the world that they are around, the Caspian Sea, I think, is going to become far more common knowledge to many Americans, as there is 4 trillion dollars worth of known oil and gas in the region.

The region is reaching out to us. They are seeking to put off the Russian imperialism that has been in the region for years and seeking to get away from Iranian influence in the area.

Thus, we are putting forward this Silk Road strategy as an active and positive role in reviving the economies of this region of the world and to building them as major forces.

I think the United States has a vital political, social and economic interest in the region, and we need to act now rather than later. I don't think our window of opportunity in working with these countries as they seek freedom and yearn to be free and build opportunity for their people is long. Probably within the next 3 years, they are going to be making courses and decisions that will decide the long-term fate of the people of this region.

They seek to be united with the United States. I ask, overall, that my colleagues look at this potential opportunity, at this bill and support the Silk Road Strategy Act of 1997. It is a key interest area for us and our future.

This bill is aimed at focusing the attention of U.S. policy on the need to play an active and positive role in reviving the economies of these parts of the ancient Silk Road which was once the economic lifeline of Central Asia and the South Caucasus and the main transportation corridor to Europe and the West.

The United States has vital political, social, and economic interests there and they need to be acted on now, before it is too late. These countries are at an historic crossroad: They are independent for the first time in almost a century, located at the juncture of many of today's major world forces and they are all rich in natural resources. They are emerging from almost a century of plunder by a Communist regime which, while it actively drained their resources, put little back. They now find themselves free to govern themselves, and they are looking west.

The very fact that they have little experience of independence and that their economies are essentially starting from scratch, leaves them in a precarious situation, which is all the more precarious because of their geographic location: consider this: They are placed between the Empire from which they recently declared independence and an extremist Islamic regime to the south—both of which have a strong interest in exerting economic and political pressure upon them.

These countries are very important to us:

They are a major force in containing the spread northward of anti-western Iranian extremism. Though Iranian activity in the region has been less blatant than elsewhere in the world, they are working very hard to bring the region into their sphere of influence and economic control.

The Caspian Sea basin contains proven oil and gas reserves which, potentially, could rank third in the world after the Middle East and Russia and exceed $4 trillion in value. Investment in this region could ultimately reduce United States dependence on oil imports from the volatile Persian Gulf and could provide regional supplies as an alternative to Iranian sources.

Strong market economies near Russia and China can only help to positively influence these two countries on their rocky path toward freedom.

Finally, this region offers us a historic opportunity to spread freedom and democratic ideals. After years of fighting communism in this region, the doors are open to promote institutions of democratic government and to create the conditions for the growth of pluralistic societies, including religious tolerance.

The single best way to consolidate our goals in the region is to promote regional cooperation and policies which will strengthen the sovereignty of each nation. Each of these countries has its own individual needs; however, many of the problems in the region overlap and are shared, and a number of common solutions and approaches can apply. This bill encourages this goal.

All of the Silk Road countries are currently seeking U.S. investment and encouragement, and they are looking to us to assist them in working out regional political, economic and strategic cooperation. This bill authorizes assistance in all these areas.

Given the correct infrastructure development, this region is and will continue to become, a key transit point that will ultimately link Central Asia with the West—as it did in the time when caravans traveled along these same routes in the Middle Ages.

Opportunities to assist this infrastructure development abound—taking advantage of these opportunities could not only cement political ties, but commercial and economic ones as well.

The United States should do everything possible to promote this sovereignty and independence, as well as encourage solid diplomatic and economic cooperation between these nations.

In order to do this we need to take a number of positive steps: We should be strong and active in helping to resolve local conflicts; we should be providing economic assistance to provide positive incentives for international private investments and increased trade; we should be assisting in the development of infrastructure necessary for communities, transportation, and energy and trade on an East-West axis; we should be providing security assistance to help fight the scourge of narcotics trafficking, the spread of weapons of mass destruction and the spread or organized crime; and—perhaps the most important of all—we should be supplying all the assistance possible to strengthen democracy, tolerance and the development of civil society. These are the best ways to insure these countries remain independent and strong and that they move toward open and free government.

Mr. President, the time to focus and act in this region is now. We have the opportunity to help these countries rebuild from the ground up and to encourage them to continue their strong independent stances, especially in relation to Iran and the spread of extremist, anti-Western fundamentalism, which is one of the most clear and present dangers facing the United States today. I hope my colleagues will join me and support his bill.

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. 1344

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 "Silk Road Strategy Act of 1997".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The ancient Silk Road, once the economic lifeline of Central Asia and the South Caucasus, traversed much of the territory now within the countries of Armenia, Azerbaijan, Georgia, Kazakstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.

(2) Economic interdependence spurred mutual cooperation among the peoples along the Silk Road and restoration of the historic relationships and economic ties between those peoples is an important element of ensuring their sovereignty as well as the success of democratic and market reforms.

(3) The development of strong political and economic ties between countries of the South Caucasus and Central Asia and the West will foster stability in the region.

(4) The development of open market economies and open democratic systems in the countries of the South Caucasus and Central Asia will provide positive incentives for international private investment, increased trade, and other forms of commercial interactions with the rest of the world.

(5) The Caspian Sea Basin, overlapping the territory of the countries of the South Caucasus and Central Asia, contains proven oil and gas reserves that may exceed $4,000,000,000,000 in value.

(6) The region of the South Caucasus and Central Asia will produce oil and gas in sufficient quantities to reduce the dependence of the United States on energy from the volatile Persian Gulf region.

(7) United States foreign policy and international assistance should be narrowly targeted to support the economic and political independence of the countries of the South Caucasus and Central Asia.

SEC. 3. POLICY OF THE UNITED STATES.

It shall be the policy of the United States in the countries of the South Caucasus and Central Asia—

(1) to promote and strengthen independence, sovereignty, and democratic government;

(2) to assist actively in the resolution of regional conflicts;

(3) to promote friendly relations and economic cooperation;

(4) to help promote market-oriented principles and practices;

(5) to assist in the development of the infrastructure necessary for communications, transportation, and energy and trade on an East-West axis in order to build strong international relations and commerce between those countries and the stable, democratic, and market-oriented countries of the Euro-Atlantic Community; and

(6) to support United States business interests and investments in the region.

SEC. 4. UNITED STATES EFFORTS TO RESOLVE CONFLICTS IN GEORGIA, AZERBAIJAN, AND TAJIKISTAN.

It is the sense of Congress that the President should use all diplomatic means practicable, including the engagement of senior United States Government officials, to press for an equitable, fair, and permanent resolution to the conflicts in Georgia and Azerbaijan and the civil war in Tajikistan.

SEC. 5. AMENDMENT OF THE FOREIGN ASSISTANCE ACT OF 1961.

Part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following new chapter:

"Chapter 12—Support for the Economic and Political Independence of the Countries of the South Caucasus and Central Asia

"SEC. 499. UNITED STATES ASSISTANCE TO PROMOTE RECONCILIATION AND RECOVERY FROM REGIONAL CONFLICTS.

"(a) PURPOSE OF ASSISTANCE.—The purposes of assistance under this section are—

"(1) to create the basis for reconciliation between belligerents;

"(2) to promote economic development in areas of the countries of the South Caucasus and Central Asia impacted by civil conflict and war; and

"(3) to encourage broad regional cooperation among countries of the South Caucasus and Central Asia that have been destabilized by internal conflicts.

"(b) AUTHORIZATION FOR ASSISTANCE.—

"(1) IN GENERAL.—To carry out the purposes of subsection (a), the President is authorized to provide humanitarian assistance and economic reconstruction assistance under this Act, and assistance under the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601 et seq.), to the countries of the South Caucasus and Central Asia to support the activities described in subsection (c).

"(2) DEFINITION OF HUMANITARIAN ASSISTANCE.—In this subsection, the term 'humanitarian assistance' means assistance to meet urgent humanitarian needs, in particular meeting needs for food, medicine, medical supplies and equipment, and clothing.

"(c) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under subsection (b) are limited to—

"(1) providing for the essential needs of victims of the conflicts;

"(2) facilitating the return of refugees and internally displaced persons to their homes; and

"(3) assisting in the reconstruction of residential and economic infrastructure destroyed by war.

"(d) POLICY.—It is the sense of Congress that the United States should, where appropriate, support the establishment of neutral, multinational peacekeeping forces to implement peace agreements reached between belligerents in the countries of the South Caucasus and Central Asia.

"SEC. 499A. ECONOMIC ASSISTANCE.

"(a) PURPOSE OF ASSISTANCE.—The purpose of assistance under this section is to foster the conditions necessary for regional economic cooperation in the South Caucasus and Central Asia.

"(b) AUTHORIZATION FOR ASSISTANCE.—To carry out the purpose of subsection (a), the President is authorized to provide technical assistance to the countries of the South Caucasus and Central Asia to support the activities described in subsection (c).

"(c) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under subsection (b) are limited to the development of the structures and means necessary for the growth of private sector economies based upon market principles.

"(d) POLICY.—It is the sense of Congress that the United States should—

"(1) assist the countries of the South Caucasus and Central Asia to develop laws and regulations that would facilitate the ability of those countries to join the World Trade Organization;

"(2) provide permanent nondiscriminatory trade treatment (MFN status) to the countries of the South Caucasus and Central Asia; and

"(3) consider the establishment of zero-to-zero tariffs between the United States and the countries of the South Caucasus and Central Asia.

"SEC. 499B. DEVELOPMENT OF INFRASTRUCTURE.

"(a) PURPOSE OF ASSISTANCE.—The purposes of assistance under this section are—

"(1) to develop the physical infrastructure necessary for regional cooperation among the countries of the South Caucasus and Central Asia; and

"(2) to encourage closer economic relations between those countries and the United States and other developed nations.

"(b) AUTHORIZATION FOR ASSISTANCE.—To carry out the purposes of subsection (a), the following types of assistance to the countries of the South Caucasus and Central Asia are authorized to support the activities described in subsection (c):

"(1) Activities by the Export-Import Bank to complete the review process for eligibility for financing under the Export-Import Bank Act of 1945.

"(2) The provision of insurance, reinsurance, financing, or other assistance by the Overseas Private Investment Corporation.

"(3) Assistance under section 661 of this Act (relating to the Trade and Development Agency).

"(c) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under subsection (b) are limited to promoting actively the participation of United States companies and investors in the planning, financing, and construction of infrastructure for communications, transportation, and energy and trade including highways, railroads, port facilities, shipping, banking, insurance, telecommunications networks, and gas and oil pipelines.

"(d) POLICY.—It is the sense of Congress that the United States representatives at the International Bank for Reconstruction and Development, the International Finance Corporation, and the European Bank for Reconstruction and Development should encourage lending to the countries of the South Caucasus and Central Asia to assist the development of the physical infrastructure necessary for regional economic cooperation.

"SEC. 499C. SECURITY ASSISTANCE.

"(a) PURPOSE OF ASSISTANCE.—The purpose of assistance under this section is to assist countries of the South Caucasus and Central Asia to secure their borders and implement effective controls necessary to prevent the trafficking of illegal narcotics and the proliferation of technology and materials related to weapons of mass destruction (as defined in section 2332a(c)(2) of title 18, United States Code), and to contain and inhibit transnational organized criminal activities.

"(b) AUTHORIZATION FOR ASSISTANCE.—To carry out the purpose of subsection (a), the President is authorized to provide the following types of assistance to the countries of the South Caucasus and Central Asia to support the activities described in subsection (c):

"(1) Assistance under chapter 5 of part II of this Act (relating to international military education and training).

"(2) Assistance under chapter 8 of this part of this Act (relating to international narcotics control assistance).

"(3) The transfer of excess defense articles under section 516 of this Act (22 U.S.C. 2321j).

"(c) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under subsection (b) are limited to assisting those countries of the South Caucasus and Central Asia in developing capabilities to maintain national border guards, coast guard, and customs controls.

"(d) POLICY.—It is the sense of Congress that the United States should encourage and assist the development of regional military cooperation among the countries of the South Caucasus and Central Asia through programs such as the Central Asian Battalion and the Partnership for Peace of the North Atlantic Treaty Organization.

"SEC. 499D. STRENGTHENING DEMOCRACY, TOLERANCE, AND THE DEVELOPMENT OF CIVIL SOCIETY.

"(a) PURPOSE OF ASSISTANCE.—The purpose of assistance under this section is to promote institutions of democratic government and to create the conditions for the growth of pluralistic societies, including religious tolerance.

"(b) AUTHORIZATION FOR ASSISTANCE.—To carry out the purpose of subsection (a), the President is authorized to provide the following types of assistance to the countries of the South Caucasus and Central Asia.

"(1) Technical assistance for democracy building.

"(2) Technical assistance for the development of nongovernmental organizations.

"(3) Technical assistance for development of independent media.

"(4) Technical assistance for the development of the rule of law.

"(5) International exchanges and advanced professional training programs in skill areas central to the development of civil society.

"(c) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under subsection (b) are limited to activities that directly and specifically are designed to advance progress toward the development of democracy.

"(d) POLICY.—It is the sense of Congress that the Voice of America and RFE/RL, Incorporated, should maintain high quality broadcasting for the maximum duration possible in the native languages of the countries of the South Caucasus and Central Asia.

"SEC. 499E. INELIGIBILITY FOR ASSISTANCE.

"(a) IN GENERAL.—Except as provided in subsection (b), assistance may not be provided under this chapter for a country of the South Caucasus or Central Asia if the President determines and certifies to the appropriate congressional committees that the country—

"(1) is engaged in a consistent pattern of gross violations of internationally recognized human rights;

"(2) has, on or after the date of enactment of this chapter, knowingly transferred to another country—

"(A) missiles or missile technology inconsistent with the guidelines and parameters of the Missile Technology Control Regime (as defined in section 11B(c) of the Export Administration Act of 1979 950 U.S.C. App. 2410b(c); or

"(B) any material, equipment, or technology that would contribute significantly to the ability of such country to manufacture any weapon of mass destruction (including nuclear, chemical, and biological weapons) if the President determines that the material, equipment, or technology was to be used by such country in the manufacture of such weapons;

"(3) has supported acts of international terrorism;

"(4) is prohibited from receiving such assistance by chapter 10 of the Arms Export Control Act or section 306(a)(1) and 307 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (22 U.S.C. 5604(a)(1), 5605); or

"(5) has initiated an act of aggression against another state in the region after the date of enactment of the Silk Road Strategy Act of 1997.

"(b) EXCEPTION TO INELIGIBILITY.—Notwithstanding subsection (a), assistance may be provided under this chapter if the President determines and certifies in advance to the appropriate congressional committees that the provision of such assistance is important to the national interest of the United States.

"SEC. 499F. ADMINISTRATIVE AUTHORITIES.

"(a) ASSISTANCE THROUGH GOVERNMENTS AND NONGOVERNMENTAL ORGANIZATIONS.—Assistance under this chapter may be provided to governments or through nongovernmental organizations.

"(b) USE OF ECONOMIC SUPPORT FUNDS.—Except as otherwise provided, any funds that have been allocated under chapter 4 of part II for assistance for the independent states of the former Soviet Union may be used in accordance with the provisions of this chapter.

"(c) TERMS AND CONDITIONS.—Assistance under this chapter shall be provided on such terms and conditions as the President may determine.

"(d) SUPERSEDING EXISTING LAW.—The authority to provide assistance under this chapter supersedes any other provision of law, except for—

"(1) this chapter;

"(2) section 634A of this Act and comparable notification requirements contained in sections of the annual foreign operations, export financing, and related programs Act; and

"(3) section 1341 of title 31, United States Code (commonly referred to as the "Anti-Deficiency Act"), the Congressional Budget and Impoundment Control Act of 1974, the Balanced Budget and Emergency Deficit Control Act of 1985, and the Budget Enforcement Act of 1990.

"SEC. 499G. DEFINITIONS.

"In this chapter:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

"(2) COUNTRIES OF THE SOUTH CAUCASUS AND CENTRAL ASIA.—The term 'countries of the South Caucasus and Central Asia' means Armenia, Azerbaijan, Georgia, Kazakstan, Kyrgystan, Tajikistan, Turkmenistan, and Uzbekistan.".

SEC. 6. ANNUAL REPORT.

Beginning one year after the date of enactment of this Act, and annually thereafter, the President shall submit a report to the appropriate congressional committees—

(1) identifying the progress of United States foreign policy to accomplish the policy identified in section 3;

(2) evaluating the degree to which the assistance authorized by chapter 12 of part I of the Foreign Assistance Act of 1961, as added by section 5 of this Act, was able to accomplish the purposes identified in those sections; and

(3) recommending any additional initiatives that should be undertaken by the United States to implement the policy and purposes contained in this Act.

SEC. 7. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) COUNTRIES OF THE SOUTH CAUCASUS AND CENTRAL ASIA.—The term "countries of the South Caucasus and Central Asia" means Armenia, Azerbaijan, Georgia, Kazakstan, Kyrgystan, Tajikistan, Turkmenistan, and Uzbekistan.

By Mr. ROCKEFELLER (for himself and Ms. COLLINS):

S. 1345. A bill to amend titles XVIII and XIX of the Social Security Act to expand and clarify the requirements regarding advance directives in order to ensure that an individual's health care decisions are complied with, and for other purposes; to the Committee on Finance.

THE ADVANCE PLANNING AND COMPASSIONATE CARE ACT OF 1997

Mr. ROCKEFELLER. Mr. President, I am extremely pleased to be introducing the Advance Planning and Compassionate Care Act of 1997 with my colleague from Maine, Senator COLLINS. I have already had the great pleasure of working with Senator COLLINS on legislation earlier this year to improve the portability of Medigap insurance policies. We were successful in getting a good portion of that legislation enacted this year, so I am very pleased to have another opportunity to work with Senator COLLINS on another set of issues that are so important to millions of Medicare beneficiaries and the rest of America.

We introduce this legislation to ask Congress to take action that responds directly and humanely to the needs of elderly and others during some of their most difficult and often traumatic time of their lives. The United States deserves to be extremely proud of the medical advances and efforts that have extended our people's life expectancy and our ability to overcome disease and medical setbacks. But we need to take some additional, tangible steps to also make progress in the practices and care that affect our citizens when they ultimately face death or the real possibility of death. Our bill provides some of those steps.

While this is a difficult area to discuss, it is a very real area for Americans year in and year out. This is legislation designed to respond to pressing needs of patients, their family members, and their health care providers, and I hope that Congress will adopt these steps in the next year.

In view of the debate this year on physician assisted suicide and from my own personal experiences, I have spent considerable time delving into the concerns and dilemmas that face patients, their family members, and their physicians when confronted with death or the possibility of dying. In almost all such difficult situations, people are not thinking about physician-assisted suicide. The needs and dilemmas that confront them have much more to do with the kind of care and information that they need, often desperately.

The legislation we are introducing today builds on bipartisan legislation enacted in 1990, called the Patient Self-Determination Act. That legislation was championed by my former colleague from Missouri, Senator Danforth. I held a subcommittee hearing on Senator Danforth's legislation and it became very clear that the lack of a national policy on advance directives was not acceptable. As a result of that

bill, hospitals, skilled nursing facilities, home health agencies, hospice programs, and HMO's participating in the Medicaid and Medicare programs must provide every adult receiving medical care with written information concerning patient involvement in their own treatment decisions. The health care institutions must also document in the medical record whether the patient has an advance directive. In addition, States were required to write description of their State laws concerning advance directives.

Mr. President, at the time of that bill's enactment, we realized that it was only the first step toward increasing public awareness and addressing some very difficult issues related to end-of-life care. As a result of that legislation, a growing number of Americans do have advance directives. But recent studies have found that the majority of Americans have not discussed end-of-life issues with their families or their physicians and have not relayed their treatment preferences either verbally or in writing.

There is also an increasing awareness that physicians and many other health care providers are uncomfortable addressing end-of-life issues and are even apparently unwilling to respect their patient's preferences in some cases. Another complicating factor is the great variation that exists among State laws, and the lack of a legal requirement that an advance directive written in one State be respected in another State.

Mr. President, the legislation we are introducing today focuses on the need to improve end-of-life care for Medicare beneficiaries. It addresses the need to develop models of compassionate care and quality measures for end-of-life care in the Medicare Program, and it will encourage individuals to have more open communication with family members and health care providers concerning their preferences for end-of-life care.

The first section of the Advance Planning and Compassionate Care Act strengthens the previously enacted Patient Self Determination Act in the following ways.

First, it requires that every Medicare beneficiary have the opportunity to discuss health care decisionmaking issues with an appropriately trained professional, when he or she makes a request. This measure would help make sure that patients and their families have the ability to discuss and address concerns and issues relating to their care, including end-of-life care, with a trained professional. Many health care institutions already have teams of providers to address difficult health care decisions and some even mediate among patients, families, and providers. In smaller institutions, social workers, chaplains, nurses, or other trained professional could be made available for consultation.

Second, our bill requires that a person's advance directive be placed in a prominent part of the medical record. Often advance directives can not even be found in the medical record, making it more difficult for providers to respect patients' wishes. It is essential that an individual's advance directive be readily available and visible to anyone involved in their health care.

Third, it will assure that an advance directive valid in one State will be valid in another State. At present, portability of advance directives from State to State is not assured. Such portability can only be guaranteed through Federal legislation.

The second part of our bill directs the Secretary of Health and Human Services to advise Congress on an approach to adopting the provisions of the Uniform Health Care Decisions Act for Medicare beneficiaries. The Uniform Health Care Decisions Act was developed by the Uniform Law Commissioners, a group with representation from all States that has been in existence for over 100 years. The Uniform Health Care Decisions Act includes all the important components of model advance directive legislation. A great deal of legal effort went into its development, with input by all the States and approval by the American Bar Association. Medicare beneficiaries deserve a uniform approach to advance directives, especially since many move from one State to another while in the Medicare Program. The tremendous variation in State laws that currently exists only adds to the confusion of health care professionals and their patients.

Just this month, a study done by Dr. Jack Wennberg at Dartmouth University documented the tremendous variation that exists in the medical care that Medicare beneficiaries receive in the last few months of their lives. This sort of analysis highlights that patient preferences have little to do with the sort of care patients receive in their final months of life. Where you live determines the sort of medical care you will receive more so than what you might prefer.

The third part of this legislation would encourage the development of models for end-of-life care for Medicare beneficiaries who do not qualify for the Medicare hospice benefit but still have chronic, debilitating and ultimately fatal illnesses. The tremendous advances in medicine and medical technology over the past 30 to 50 years have resulted in a greatly lengthened life expectancy for Americans, as well as vastly improved functioning and quality of life for the elderly and those with chronic disease. Many of these advances have been made possible by federally financed health care programs, such as the Medicare Program that assures access to high quality health care for all elderly Americans. Medicare has also funded much of the development of technology and a highly skilled physician workforce through support of medical education and academic medical centers. These advances have also created major dilemmas in addressing terminal or potentially terminal disease, as well as a sense of loss of control by many with terminal illness.

I believe it is time for Medicare to help seniors have access to compassionate, supportive, and pain free care during prolonged illnesses and at the end of life. As we begin to discuss restructuring the Medicare Program for the long term, this will be one of my primary goals. Our legislation instructs the Department of Health and Human Services to develop appropriate quality measures and models of care for persons with chronic, debilitating disease, including the very frail elderly who will comprise an increasing number of Medicare beneficiaries. Our bill also sets up a consumer hotline that can provide the American public with information on the legal, medical, and ethical issues related to advance directives and medical decisionmaking.

Mr. President, I am learning more and more about the importance of educating health care providers and the public that chronic, debilitating, terminal disease need not be associated with pain, major discomfort, and loss of control. We can control pain and treat depression, as well as the other causes of suffering during the dying process. We must now apply this knowledge to assure all Americans appropriate end-of-life care. And to make sure that Medicare beneficiaries are able to receive the most effective medicine to control their pain, Medicare's coverage rules would be expanded under our bill to include coverage for self-administered pain medications.

Under current law, Medicare generally does not pay for any outpatient prescription drugs. The only pain medication paid for by the Medicare Program are those drugs that are administered by a portable pump. The pump is covered by Medicare as durable medical equipment and the drugs used with that pump are also covered. Our bill would expand coverage to include self-administered pain medications, for example oral drugs or transdermal patches. These alternatives are as effective in pain relief and, most obviously, a much more comfortable way for patients to receive their pain medication.

Mr. President, much also needs to be done to assure that all health care providers have the appropriate training to use what is already known about supportive care. The public must be educated and empowered to discuss these issues with family members as well as their own physicians so that each individual's wishes can be respected. More research is needed to develop appropriate measures of quality end-of-life

care and incorporate these measures into medical practice in all health care settings. And finally, appropriate financial incentives must be present within Medicare, especially, to allow the elderly and disabled their choice of appropriate care at the end of life. Medicare's coverage policy should not be the sole determinate of the route that pain medication is administered.

To conclude, I am proud to offer this legislation with Senator COLLINS. We hope consideration of this bill will be an opportunity to take notice of the many constructive steps that can be taken to address the needs of patients and family members grappling with great pain and medical difficulties. During this time when physician assisted suicide obtains so many headlines, we are eager to call on Congress to turn to the alternative ways of providing help and relief to seniors and other Americans who only are interested in such alternatives.

I ask unanimous consent that a summary and a copy of the bill be printed in its entirety in the RECORD.

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

S. 1345

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 "Advance Planning and Compassionate Care Act of 1997".

SEC. 2. EXPANSION OF ADVANCE DIRECTIVES.

(a) MEDICARE.—Section 1866(f) of the Social Security Act (42 U.S.C. 1395cc(f)) (as amended by section 4641 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 487)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by inserting "and if presented by the individual, to include the content of such advance directive in a prominent part of such record" before the semicolon;

(B) in subparagraph (D), by striking "and" at the end;

(C) in subparagraph (E), by striking the period and inserting "; and"; and

(D) by inserting after subparagraph (E) the following:

"(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional."; and

(2) by adding at the end the following:

"(4)(A) An advance directive validly executed outside of the State in which such advance directive is presented by an adult individual to a provider of services or a prepaid or eligible organization shall be given the same effect by that provider or organization as an advance directive validly executed under the law of the State in which it is presented would be given effect.

"(B) Nothing in this paragraph shall be construed to authorize the administration, withholding, or withdrawal of health care unless it is consistent with the laws of the State in which an advance directive is presented.

"(C) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient's wishes, or more latitude in determining a patient's wishes.".

(b) MEDICAID.—Section 1902(w) of the Social Security Act (42 U.S.C. 1396a(w)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by striking "in the individual's medical record" and inserting "in a prominent part of the individual's current medical record"; and

(ii) by inserting "and if presented by the individual, to include the content of such advance directive in a prominent part of such record" before the semicolon;

(B) in subparagraph (D), by striking "and" at the end;

(C) in subparagraph (E), by striking the period and inserting "; and"; and

(D) by inserting after subparagraph (E) the following:

"(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional."; and

(2) by adding at the end the following:

"(5)(A) An advance directive validly executed outside of the State in which such advance directive is presented by an adult individual to a provider or organization shall be given the same effect by that provider or organization as an advance directive validly executed under the law of the State in which it is presented would be given effect.

"(B) Nothing in this paragraph shall be construed to authorize the administration, withholding, or withdrawal of health care otherwise prohibited by the laws of the State in which an advance directive is presented.

"(C) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient's wishes, or more latitude in determining a patient's wishes.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsections (a) and (b) shall apply to provider agreements entered into, renewed, or extended under title XVIII of the Social Security Act, and to State plans under title XIX of such Act, on or after such date (not later than 1 year after the date of the enactment of this Act) as the Secretary of Health and Human Services specifies.

(2) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

SEC. 3. STUDY AND RECOMMENDATIONS TO CONGRESS ON ISSUES RELATING TO ADVANCE DIRECTIVE EXPANSION.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a thorough study regarding the implementation of the amendments made by section 2 of this Act.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a report to Congress that contains a detailed statement of the findings and conclusions of the Secretary regarding the study conducted pursuant to subsection (a), together with the Secretary's recommendations for such legislation and administrative actions as the Secretary considers appropriate.

SEC. 4. STUDY AND LEGISLATIVE PROPOSAL TO CONGRESS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a thorough study of all matters relating to the creation of a national, uniform policy on advance directives for individuals receiving items and services under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq., 1396 et seq.).

(2) MATTERS STUDIED.—The matters studied by the Secretary of Health and Human Services shall include issues concerning—

(A) the election or refusal of life-sustaining treatment;

(B) the provision of adequate palliative care including pain management;

(C) the portability of advance directives, including the cases involving the transfer of an individual from one health care setting to another;

(D) immunity for health care providers that follow the instructions in an individual's advance directive;

(E) exemptions for health care providers from following the instructions in an individual's advance directive;

(F) conditions under which an advance directive is operative;

(G) revocation of an advance directive by an individual;

(H) the criteria for determining that an individual is in terminal status; and

(I) surrogate decision making regarding end of life care.

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a report to Congress that contains a detailed description of the results of the study conducted pursuant to subsection (a).

(c) CONSULTATION.—In conducting the study and developing the report under this section, the Secretary of Health and Human Services shall consult with physicians and other health care provider groups, consumer groups, the Uniform Law Commissioners, and other interested parties.

SEC. 5. DEVELOPMENT OF STANDARDS TO ASSESS END-OF-LIFE CARE.

The Secretary of Health and Human Services, through the Administrator of the Health Care Financing Administration, the Director of the National Institutes of Health, and the Administrator of the Agency for Health Care Policy and Research, shall develop outcome standards and measures to evaluate the performance of health care programs and projects that provide end-of-life care to individuals and the quality of such care.

SEC. 6. NATIONAL INFORMATION HOTLINE FOR END-OF-LIFE DECISIONMAKING.

The Secretary of Health and Human Services, through the Administrator of the

Health Care Financing Administration, shall establish and operate directly, or by grant, contract, or interagency agreement, out of funds otherwise appropriated to the Secretary, a clearinghouse and 24-hour toll-free telephone hotline, to provide consumer information about advance directives, as defined in section 1866(f)(3) of the Social Security Act (42 U.S.C. 1395cc(f)(3)), and end-of-life decisionmaking.

SEC. 7. EVALUATION OF AND DEMONSTRATION PROJECTS FOR INNOVATIVE AND NEW APPROACHES TO END-OF-LIFE CARE FOR MEDICARE BENEFICIARIES.

(a) DEFINITIONS.—In this section:

(1) MEDICARE BENEFICIARIES.—The term "medicare beneficiaries" means individuals who are entitled to benefits under part A or eligible for benefits under part B of the medicare program.

(2) MEDICARE PROGRAM.—The term "medicare program" means the health care program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(3) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(b) EVALUATION OF EXISTING PROGRAMS.—

(1) IN GENERAL.—The Secretary, through the Administrator of the Health Care Financing Administration, shall conduct ongoing evaluations of innovative health care programs that provide end-of-life care to medicare beneficiaries who are seriously ill or who suffer from a medical condition that is likely to be fatal.

(2) REQUIREMENTS.—Evaluations conducted under this subsection shall include the following:

(A) Evidence that the evaluated program implements practices or procedures that result in improved patient outcomes, resource utilization, or both.

(B) A definition of the population served by the program and a determination as to how accurately that population reflects the total medicare beneficiaries in the area who are in need of services offered by the program.

(C) A description of the eligibility requirements and enrollment procedures for the program.

(D) A detailed description of the services provided to medicare beneficiaries served by the program and the utilization rates for such services.

(E) A description of the structure for the provision of specific services.

(F) A detailed accounting of the costs of providing specific services under the program.

(G) A description of any procedures for offering medicare beneficiaries a choice of services and how the program responds to the preferences of the medicare beneficiaries served by the program.

(H) An assessment of the quality of care and of the outcomes for medicare beneficiaries and the families of such beneficiaries served by the program.

(I) An assessment of any ethical, cultural, or legal concerns regarding the evaluated program and with the replication of such program in other settings.

(J) Identification of any changes to regulations, or of any additional funding, that would result in more efficient procedures or improved outcomes, for the program.

(3) EXTERNAL EVALUATORS.—The Secretary shall contract with 1 or more external evaluators to coordinate and conduct the evaluations required under this subsection and under subsection (c)(4).

(4) USE OF OUTCOME MEASURES AND STANDARDS.—An evaluation conducted under this subsection and subsection (c)(4) shall use the outcome standards and measures required to be developed under section 5 as soon as those standards and measures are available.

(c) DEMONSTRATION PROJECTS.—

(1) AUTHORITY.—The Secretary, through the Administrator of the Health Care Financing Administration, shall conduct demonstration projects to develop new and innovative approaches to providing end-of-life care to medicare beneficiaries who are seriously ill or who suffer from a medical condition that is likely to be fatal.

(2) APPLICATION.—Any entity seeking to conduct a demonstration project under this subsection shall submit to the Secretary an application in such form and manner as the Secretary may require.

(3) SELECTION CRITERIA.—

(A) IN GENERAL.—In selecting entities to conduct demonstration projects under this subsection, the Secretary shall select entities that will allow for demonstration projects to be conducted in a variety of States, in an array of care settings, and that reflect—

(i) a balance between urban and rural settings;

(ii) cultural diversity; and

(iii) various modes of medical care and insurance, such as fee-for-service, preferred provider organizations, health maintenance organizations, hospice care, home care services, long-term care, and integrated delivery systems.

(B) PREFERENCES.—The Secretary shall give preference to applications for demonstration projects that—

(i) will serve medicare beneficiaries who are dying of illnesses that are most prevalent under the medicare program, including cancer, heart failure, chronic obstructive respiratory disease, dementia, stroke, and progressive multifactorial frailty associated with advanced age; and

(ii) appear capable of sustained service and broad replication at a reasonable cost within commonly available organizational structures.

(4) EVALUATIONS.—Each demonstration project conducted under this subsection shall be evaluated at such regular intervals as the Secretary determines are appropriate. An evaluation of a project conducted under this subsection shall include the items described in subsection (b)(2) and the following:

(A) A comparison of the quality of care and of the outcomes for medicare beneficiaries and the families of such beneficiaries served by the demonstration project to the quality of care and outcomes for such individuals that would have resulted if care had been provided under existing delivery systems.

(B) An analysis of how ongoing measures of quality and accountability for improvement and excellence could be incorporated into the demonstration project.

(C) A comparison of the costs of the care provided to medicare beneficiaries under the demonstration project to the costs of that care if it had been provided under the medicare program.

(5) WAIVER AUTHORITY.—The Secretary may waive compliance with any requirement of titles XI, XVIII, and XIX of the Social Security Act (42 U.S.C. 1301 et seq., 1395 et seq., 1396 et seq.) which, if applied, would prevent a demonstration project carried out under this subsection from effectively achieving the purpose of such a project.

(d) ANNUAL REPORTS TO CONGRESS.—

(1) IN GENERAL.—Beginning 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the quality of end-of-life care under the medicare program, together with any suggestions for legislation to improve the quality of such care under that program.

(2) SUMMARY OF RECENT STUDIES.—A report submitted under this subsection shall include a summary of any recent studies and advice from experts in the health care field regarding the ethical, cultural, and legal issues that may arise when attempting to improve the health care system to meet the needs of individuals with serious and eventually fatal illnesses.

(3) CONTINUATION OR REPLICATION OF DEMONSTRATION PROJECTS.—Beginning 3 years after the date of enactment of this Act, the report required under this subsection shall include recommendations regarding whether the demonstration projects conducted under subsection (c) should be continued and whether broad replication of any of those projects should be initiated.

(e) FUNDING.—The Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) of such sums as are necessary for the costs of conducting evaluations under subsection (b), conducting demonstration projects under subsection (c), and preparing and submitting the annual reports required under subsection (d). Amounts may be transferred under the preceding sentence without regard to amounts appropriated in advance in appropriations Acts.

SEC. 8. MEDICARE COVERAGE OF SELF-ADMINISTERED MEDICATION FOR CERTAIN PATIENTS WITH CHRONIC PAIN.

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) (as amended by section 4557 of the Balanced Budget Act (Public Law 105–33; 111 Stat. 463)) is amended—

(1) by striking "and" at the end of subparagraph (S);

(2) in subparagraph (T), by striking the period at the end and inserting "; and"; and

(3) by inserting after subparagraph (T) the following:

"(U) self-administered drugs which may be dispensed only upon prescription and which are prescribed for the relief of chronic pain in patients with a life-threatening disease or condition;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to items and services furnished on or after June 1, 1998.

ADVANCE PLANNING AND COMPASSIONATE CARE ACT OF 1997—SUMMARY

More than 70 percent of the 2 million Americans expected to die this year will be over the age of 65. The Medicare and Medicaid programs pay for the majority of care at the end of life. Dr. Jack Wennberg, health researcher at Dartmouth University, recently documented the tremendous geographic variation that exists in end of life care provided to Medicare beneficiaries. The type of medical care a patient received in their last month of life was driven more by where a person lived than by personal preferences.

(1) BETTER INFORMATION AND COUNSELING

Current law: This bill builds on federal legislation (Patient Self-Determination Act) enacted in 1990 that requires health care facilities to distribute information on advance directives to their patients. Since passage of that legislation, there has been an increase in the number of individuals who have an advance directive but a recent Robert Wood

Johnson study found that while 20 percent of hospitalized patients had an advance directive less than half had ever talked with any of their doctors about having a directive and only about one-third had their wishes documented in their medical record. Many people do not understand the importance of discussing their advance directives with family members and their health care provider. In addition, a 1994 survey found that only 5 out of 126 medical schools offered a separate, required course in end of life care. Other surveys of doctors and medical residents found little or no experience in discussing care for dying patients.

Proposal: Improves the type and amount of information available to consumers by making sure that when a person enters a hospital, nursing home, or other health care facility, there is a knowledgeable person available to discuss end of life care planning if requested, so that good decisions—decisions based on the patient's own needs and values—can be made. Requires that if a person has an advance directive it must be placed in a prominent part of the medical record where all the doctors and nurses can clearly see it. Establishes a 24-hour hotline and information clearinghouse to provide consumers with information on end of life decision making.

(2) PORTABILITY OF ADVANCE DIRECTIVES

Current law: The specifics of advance directive legislation vary greatly from state to state. Portability from state to state can only be assured through federal legislation.

Proposal: Ensures that an advance directive valid in one state will be honored in another state, as long as the contents of the advance directive do not conflict with the laws of the state. In addition, requires the Secretary of Health and Human Services to gather information and consult with experts on the possibility of an uniform advance directive for all Medicare beneficiaries, regardless of where they live. An uniform advance directive would enable people to document the kind of care they wish to get at the end of their lives in a way that is easily recognizable and understood by everyone.

(3) MEASURES TO IMPROVE THE QUALITY OF END OF LIFE CARE

Current Law: There are few quality measures or standards available to assess the quality of care provided to Medicare beneficiaries at the end of their life. The tremendous geographic variation in medical care that currently exists on end of life care reinforces the notion that most people do not receive care driven by quality concerns but rather by the availability of medical resources in the community and other factors not related to quality care.

Proposal: Requires the Secretary of Health and Human Services, in conjunction with the Health Care Financing Administration, National Institutes of Health, and the Agency for Health Care Policy and Research, to develop outcome standards and other measures to evaluate the quality care provided to dying patients.

(4) PILOT PROJECT FUNDING TO IMPROVE END OF LIFE CARE SERVICES

Current Law: The only Medicare benefit aimed at improving end of life care for Medicare beneficiaries is hospice care which only serves a small minority of beneficiaries. In 1994, the Medicare hospice benefit was provided to 340,000 dying patients for the last few weeks of their lives. The hospice benefit is limited to beneficiaries who have a terminal illness with a life expectancy of 6 months or less. Cancer and AIDS are virtually the only diseases that follow a predictable course of decline near death. Cancer patients are usually referred to hospice care when the individual's functioning declines, usually 3-6 weeks before death. Medicare beneficiaries with other diseases generally do not have access to hospice care because the 6 month life expectancy requirement is often difficult to determine.

A review of studies done by an Institute of Medicine study panel found that 40 to 80 percent of patients with a terminal illness were inadequately treated for pain "despite the availability of effective pharmacological and other options for relieving pain."

Proposal: Provides funding for demonstration projects to develop new and innovative approaches to improving end of life care provided to Medicare beneficiaries, in particular those individuals who do not qualify for, or select, hospice care. Also, includes funding to evaluate existing pilot programs that are providing innovative approaches to end of life care.

(5) IMPROVED COVERAGE OF PAIN MEDICATIONS

Current Law: With a few exceptions, Medicare does not generally pay the cost of self-administered drugs prescribed for outpatient use. The only outpatient pain medications currently covered by Medicare are those that are administered by a portable pump. The pump is covered by Medicare as durable medical equipment, and the drugs associated with that pump are also covered. It is widely recognized among physicians treating patients with cancer and other life-threatening diseases that self-administered pain medications, including oral drug and transdermal patches, offer alternatives that are equally effective at controlling pain, more comfortable for the patient, and much less costly than the pump.

Proposal: Requires Medicare coverage for self-administered pain medications prescribed for outpatient use for patients with life-threatening disease and chronic pain.

Ms. COLLINS. Mr. President, I am pleased to be joining my colleague from West Virginia, Senator ROCKEFELLER, in introducing the Advance Planning and Compassionate Care Act which is intended to improve the way we care for people at the end of their lives.

Noted health economist Uwe Reinhardt once observed that "Americans are the only people on earth who believe that death is negotiable." Advancements in medicine, public health, and technology have enabled more and more of us to live longer and healthier lives. However, when medical treatment can no longer promise a continuation of life, patients and their families should not have to fear that the process of dying will be marked by preventable pain, avoidable distress, or care that is inconsistent with their values or wishes.

The fact is, dying is a universal experience, and it is time to reexamine how we approach death and dying and how we care for people at the end of their lives. Clearly there is more that we can do to relieve suffering, respect personal choice and dignity, and provide opportunities for people to find meaning and comfort at life's conclusion.

Unfortunately, most Medicare patients and their physicians do not currently discuss death or routinely make advance plans for end-of-life care. As a result, about one-fourth of Medicare funds are now spent on care at the end of life that is geared toward expensive, high-technology interventions and rescue care. While four out of five Americans say they would prefer to die at home, studies show that almost 80 percent die in institutions where they may be in pain, and where they are subjected to high-technology treatments that merely prolong suffering.

Moreover, according to a Dartmouth study released earlier this month, where a patient lives has a direct impact on how that patient dies. The study found that the amount of medical treatment Americans receive in their final months varies tremendously in the different parts of the country, and it concluded that the determination of whether or not an older patient dies in the hospital probably has more to do with the supply of hospital beds than the patient's needs or preference.

The Advance Planning and Compassionate Care Act is intended to help us improve the way our health care system serves patients at the end of their lives. Among other provisions, the bill makes a number of changes to the Patient Self-Determination Act of 1990 to facilitate appropriate discussions and individual autonomy in making difficult discussions about end-of-life care. For instance, the legislation requires that every Medicare beneficiary receiving care in a hospital or nursing facility be given the opportunity to discuss end-of-life care and the preparation of an advanced directive with an appropriately trained professional within the institution. The legislation also requires that if a patient has an advanced directive, it must be displayed in a prominent place in the medical record so that all the doctors and nurses can clearly see it.

The legislation will expand access to effective and appropriate pain medications for Medicare beneficiaries at the end of their lives. Severe pain, including breakthrough pain that defies usual methods of pain control, is one of the most debilitating aspects of terminal illness. However, the only pain medication currently covered by Medicare in an outpatient setting is that which is administered by a portable pump.

It is widely recognized among physicians treating patients with cancer and other life-threatening diseases that self-administered pain medications, including oral drugs and transdermal patches, offer alternatives that are equally effective in controlling pain, more comfortable for the patient, and much less costly than the pump. Therefore, the Advance Planning and Compassionate Care Act would expand Medicare to cover self-administered pain medications prescribed for the relief of chronic pain in life-threatening diseases or conditions.

In addition, the legislation authorizes the Department of Health and Human Services to study end-of-life issues for Medicare and Medicaid patients and also to develop demonstration projects to develop models for end-of-life care for Medicare beneficiaries who do not qualify for the hospice benefit, but who still have chronic debilitating and ultimately fatal illnesses. Currently, in order for a Medicare beneficiary to qualify for the hospice benefit, a physician must document that the person has a life expectancy of 6 months or less. With some conditions—like congestive heart failure—it is difficult to project life expectancy with any certainty. However, these patients still need hospice-like services, including advance planning, support services, symptom management, and other services that are not currently available.

Finally, the legislation establishes a telephone hotline to provide consumer information and advice concerning advance directives, end-of-life issues and medical decisionmaking and directs the Agency for Health Care Policy and Research to develop a research agenda for the development of quality measures for end-of-life care.

The legislation we are introducing today is particularly important in light of the current debate on physician-assisted suicide. As the Bangor Daily News pointed out in an editorial published earlier this year, the desire for assisted suicide is generally driven by concerns about the quality of care for the terminally ill; by the fear of prolonged pain, loss of dignity, and emotional strain on family members. Such worries would recede and support for assisted suicide would evaporate if better palliative care and more effective pain management were widely available, and I ask unanimous consent that this editorial be included in the RECORD.

Mr. President, patients and their families should be able to trust that the care they receive at the end of their lives is not only of high quality, but also that it respects their desires for peace, autonomy, and dignity. The Advanced Planning and Compassionate Care Act that Senator ROCKEFELLER and I are introducing today will give us some of the tools that we need to improve care of the dying in this country, and I urge all of my colleagues to join us as cosponsors.

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

LIFE AND DEATH WITH DIGNITY

When Maine legislators consider a bill this session on physician-assisted suicide, they will face a question that the nation's medical community has been unable to settle after long debate. Legislators should respect the enormity of what they are being asked to consider, recognizing that there are many steps between the current state of caring for the terminally ill and hastening their deaths.

Even as the Supreme Court last week was considering constitutional questions surrounding doctor-assisted suicide, a coalition of 40 health care, religious and retiree groups gathered in Washington to find a middle ground to this debate. The coalition—including the American Medical Association, the American Association of Retired Persons, B'nai B'rith and the American Cancer Society—argues that the desire for assisted suicide often is driven by concerns about the quality of care for the terminally ill. Thoughts of doctor-assisted suicide, these groups maintain, are brought about by the fear of prolonged pain, loss of dignity and the emotional strain on family members, among other reasons.

The coalition suggests that the nation's medical system has failed to meet the physical and emotional needs of dying patients. One study from Memorial Sloan-Kettering in New York estimated that 1.6 million terminally ill people a year would be good candidates for hospice care but only about 350,000 receive it. Why not try to solve these problems before codifying doctor-assisted suicide?

The Maine legislation, called the Death With Dignity Act, is narrowly drawn, based on legislative work on a similar bill from last session. It would allow physicians to assist in the suicide of a terminally ill person who makes three oral and one written request to die and has satisfied a counselor that he or she is capable of making the decision. The act goes to some lengths to prevent coercion and to allow the person to back out of the suicide. It is well-crafted and sensitive legislation. But absent advances in the quality of care for the terminally ill, it also may be premature.

And despite the safeguards, doubts about who will be allowed to pursue this process remain. In a friend-of-the-court brief addressed to the cases being considered by the Supreme Court, the America Geriatric Society explains the source of some of these doubts: "The image of an independent, capable person thoughtfully evaluating his or her options, unaffected by biased third parties or other circumstances . . . is so far from the experience of dying as to be fanciful. Dying persons are often very weak, prone to strong emotions and vulnerable to the suggestions, expectations and guidance of others."

The medical community has developed wondrous means for keeping bodies functioning long beyond what could have been expected even a few years ago, perhaps even longer than is desirable. The debate over assisted suicide in state after state demands that physicians go beyond that now in respecting the humanity and mortality that resides within those bodies by providing the terminally ill with the opportunity for less painful, more dignified deaths.

By Mr. TORRICELLI (for himself and Mr. LAUTENBERG):

S. 1346. A bill to amend title 18, United States Code, to increase the penalties for certain offenses in which the victim is a child; to the Committee on the Judiciary.

JOAN'S LAW ACT OF 1997

Mr. TORRICELLI. Mr. President, I am introducing this bill today, along with my colleague from New Jersey Senator LAUTENBERG, on behalf of Rosemarie D'Alessandro, the mother of a young girl murdered some 24 years ago in New Jersey.

Mrs. D'Alessandro's 7-year-old daughter Joan was delivering Girl Scout cookies down the street from her Hillsdale home one day when Joseph McGowan, a high school chemistry teacher, destroyed her life and changed the lives of her family members forever. McGowan raped Joan, killed her, and dumped her broken, battered body in a ravine some 15 miles away—she was not found for 3 full days.

For Joan's mom, Rosemarie, that shattering event was only the beginning of what would become a literal lifetime of trauma, pain and distress. Although the man who murdered Joan was put away for life, he has already had two parole hearings and is scheduled for another in 2003.

And Rosemarie D'Alessandro cannot rest while these hearings go on. To make sure this murderer remains behind bars, Rosemarie must fight each and every day against the system that might free him, and must sit through appeal after appeal when he is denied release.

But rather than becoming consumed with the tragedy that stole her daughter from her, Rosemarie D'Alessandro has used her grief and her anger to accomplish an astonishing goal—Joan's Law is now in the books in New Jersey, and now any child molester who murders a child under 14 in my State must receive life in prison without the possibility of parole. Rosemarie D'Alessandro stood up and told the world "enough is enough." No other family should have to bear the double tragedy of suffering the loss of a child and then being forced to relive it over and over again through parole hearings and appeals. And no other family in New Jersey will ever have to again.

Well, we do not have parole in the Federal system, but we can make sure that anyone who molests or commits a serious, violent crime against a child 14 or under will serve the rest of his life behind bars if that child dies. My bill states that any person who is convicted of a Federal offense defined as a serious violent felony should be sentenced either to death or imprisonment for life when the victim of the crime is under 14 years of age and dies as a result of the offense.

Mr. President, with this bill, we intend to send the strongest possible message to anyone who would dare molest or attack a vulnerable child—do so at your own risk, because we will find you and we will put you behind bars for the rest of your life if that child dies. I hope my colleagues will quickly join me and Senator LAUTENBERG in passing this legislation, so that the inevitable tragedies that happen to children throughout America every day will no longer be compounded upon the families of those victims.

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. 1346

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 "Joan's Law Act of 1997".

SEC. 2. DEATH OR LIFE IN PRISON FOR CERTAIN OFFENSES WHOSE VICTIMS ARE CHILDREN.

Section 3559 of title 18, United States Code, is amended by adding at the end the following:

"(d) DEATH OR LIFE IMPRISONMENT FOR CRIMES AGAINST CHILDREN.—Notwithstanding any other provision of law, a person who is convicted of a Federal offense that is a serious violent felony (as defined in subsection (c)) or a violation of section 2251 shall, unless a sentence of death is imposed, be sentenced to imprisonment for life, if the victim of the offense—

"(1) is less than 14 years of age at the time of the offense; and

"(2) dies as a result of the offense.".

Mr. LAUTENBERG. Mr. President, when a child is murdered, families are devastated and communities are rocked to their very core. When a murderer is prosecuted, grieving parents and siblings are forced to relive the often brutal details of the most profound tragedy imaginable. And, if a conviction is obtained, in too many instances, the families of a young victim must repeatedly relieve the crime every time the murderer goes before a parole board.

The families of murder victims, especially murdered children, need closure. They need to know that they can put the horror and a tragedy behind them. They need to know that they can begin rebuilding their lives. But most importantly, they need to know that the person responsible for the crime will never bring harm and grief to another family.

This is why, Mr. President, I am today joining my colleague from New Jersey, Senator TORRICELLI, in introducing legislation that will significantly increase the penalties on criminals convicted of a Federal crime where a child under the age of 14 is killed during the commission of that crime. I also want to commend and acknowledge Congressman BOB FRANKS, also from New Jersey, who introduced similar legislation in the House.

Mr. President, this legislation is a Federal companion for an important New Jersey law called Joan's Law. Joan's Law was named after a 7-year-old New Jersey girl, Joan D'Alessandro, who was raped and murdered in 1973. Joan's murderer, a man who lived across State lines and actually had the gall to participate in the family's desperate search for their missing daughter, was located, convicted of the crime, and sentenced to 20 years in State prison. He is now eligible for parole, and has twice sought release since his incarceration.

To their horror, frustration, and understandable anger, Joan's family has repeatedly had to fight parole for this cruel killer. They have been forced to relive this tragedy again and again and to beg that others be protected from the brutal individual who ripped apart their family.

The bill we are introducing today will impose a similar, equally severe and necessary penalty—life imprisonment—on anyone convicted of committing a Federal crime where a child, 14 years of age or younger, dies as a result of that crime.

The bill sends a strong message that our society will not tolerate nor forgive the brutal acts of a criminal who takes a young life. This bill sends the message in no uncertain terms that society will take the steps necessary to protect itself from cold-blooded killers who victimize children. This bill will help to protect all of our families and children from the repeat offenders who, all too often, insinuate themselves into our communities and prey on defenseless children.

Mr. President, I urge all of my colleagues to join with Senator TORRICELLI and I in support of this bill and to work for its fast enactment.

By Mr. GLENN:

S. 1347. A bill to permit the city of Cleveland, OH, to convey certain lands that the United States conveyed to the city; to the Committee on Commerce, Science, and Transportation.

THE CLEVELAND AIRPORT EXPANSION ACT OF 1997

Mr. GLENN. Mr. President, I am pleased to introduce legislation to assist in improving air transportation for the people and businesses of northeast Ohio and the Nation.

The city of Cleveland has a major capacity improvement program underway at Cleveland Hopkins International Airport. For some time, Cleveland and the city of Brook Park had been involved in a dispute regarding property crucial to the development project. To their credit, both communities were able to resolve their differences through a comprehensive settlement agreement that will allow the airport's improvement program to move forward. This important settlement agreement includes changing municipal boundaries and the noncontroversial, jurisdictional transfer of property.

Mr. President, Congress has addressed similar restrictions many times by enacting specific provisions allowing the Secretary of Transportation to act in similar cases. As part of the comprehensive settlement agreement this is clearly in the public interest and will allow Cleveland to meet northeast Ohio's increasing requirements for better air transportation.

Mr. President, since the closing of the settlement agreement is to occur before December 31, 1997, this legislation is needed prior to adjournment. I appreciate the support of the leadership of the Committee on Commerce, Science, and Transportation, and I urge my colleagues to support this legislation.

By Mr. LIEBERMAN (for himself, Mr. DASCHLE, Mr. MOYNIHAN, and Mr. KERREY):

S. 1348. A bill to provide for innovative strategies for achieving superior environmental performance, and for other purposes; to the Committee on Environment and Public Works.

THE INNOVATIVE ENVIRONMENTAL STRATEGIES ACT OF 1997

Mr. LIEBERMAN. Mr. President, I am pleased to introduce today The Innovative Environmental Strategies Act of 1997. I'm honored that Senators DASCHLE, MOYNIHAN, and KERREY have joined me as cosponsors, and that the legislation is being introduced in the House by Congressman DOOLEY and Congresswoman TAUSCHER. I'm also very pleased that the legislation has been endorsed by the Clinton administration and has received positive responses from representatives of industry and environmental groups. I look forward to a process of building further consensus on this bill from all affected interests.

The legislation allows companies to propose alternatives to environmental requirements if those alternative proposals will achieve better environmental performance. The legislation provides EPA with the authority to waive or modify regulatory requirements for this purpose. It is designed to encourage more pollution prevention and to promote better, more cost-effective solutions for environmental protection.

This legislation seeks to build on both the work of President Clinton's Project XL—standing for excellence and leadership—and the Aspen Institute which undertook a 3-year effort to reach consensus among a wide group of divergent interests on an alternative path to achieving a cleaner, cheaper way to protect and enhance the environment. The Aspen Institute's work resulted in an excellent report, "The Alternative Path, A Cleaner, Cheaper Way to Protect and Enhance the Environment."

This bill modifies legislation introduced at the end of last Congress. At that time, I indicated that I welcomed all proposals and suggestions on how to alter and improve the bill. I have received a significant number of comments from industry, governmental and environmental group representatives. The new bill attempts to reflect many of those comments, in addition to a new GAO report examining EPA's reinvention efforts, "Challenges Facing

EPA's Efforts to Reinvent Environmental Regulation," and a recently released report by the National Academy of Public Administration, "Resolving the Paradox of Environmental Protection." The National Academy report recommends statutory authorization for EPA's XL program.

There is clearly a wide consensus in this country that our environmental laws have performed remarkably well. As the writer Gregg Easterbrook has pointed out, environmental protection is probably the single greatest success story of American government in the period since World War II.

In many cases, however, we need to do more to provide the level of protection most Americans expect from government. For example, over one third of our rivers and lakes still do not fully meet water quality standards. Health advisories for eating fish have increased. The number of people suffering from asthma has reached epidemic proportions in some communities, particularly among children.

Pollution prevention—preventing pollution before it occurs—is one approach that can help us do both better both in terms of protecting the environment and actually saving companies money. The greater efficiency resulting from less waste disposal and reduced use of toxic chemicals can significantly bolster the competitiveness of companies.

Recently, I listened to a presentation indicating that perhaps the Nation is not doing as well in pollution prevention as we should be. A 1995 report by the research group INFORM, "Toxics Watch 1995," reviewed thousands of documents submitted by industry to EPA to show whether progress was made to further pollution prevention. While 25 percent of the forms indicated some effort in pollution prevention had been made, the remaining 75 percent gave no such indication. And, according to INFORM, while some leading companies have taken major pollution prevention steps, the broader picture is troublesome: total waste generation is increasing.

While these facts show there is clearly a need to improve protection of our environment and pollution prevention, there is just as clearly a need to review our methods of environmental protection in order to find better, more efficient, more innovative ways to achieve greater progress toward meeting our environmental goals. In some cases, the traditional approaches to regulation have hindered companies from doing a better job at pollution prevention.

There is a growing consensus that innovative environmental strategies can form the basis for a new approach to environmental protection that will achieve superior environmental results, including greater pollution prevention, at less cost for regulated industry. This consensus can be seen, for example, in the work of the President's Council on Sustainable Development which brought together leaders from government, environmental, civil rights, labor and native American organizations in an effort to achieve consensus on national environmental, economic and social goals, as well as in the work of the Aspen Institute.

This bill establishes an innovative environmental strategies program at EPA. The Administrator of EPA is authorized to enter into approximately 50 agreements with regulated entities seeking modifications or waivers from environmental requirements if certain criteria are met. The basic premise of the bill is that better environmental performance can be achieved by allowing environmental managers at companies, in partnership with an active group of community stakeholders, to develop their own means of reaching environmental goals. This approach recognizes that the regulated industry is now in an excellent position to experiment and decide what approaches will yield better environmental results than the company is achieving under existing regulations. Allowing flexibility can substantially reduce compliance costs and make industries more competitive, provide for much greater community involvement in the decisions of their neighboring industrial plants, foster more cooperative partnerships, and encourage greater innovation and pollution prevention.

Another key element of this program is incorporating the lessons learned from the innovative environmental strategies into the overall regulatory structure of the Agency, where appropriate.

While the bill authorizes approximately 50 innovative strategy agreements, these individual strategies should have widespread benefits for other companies as the Agency incorporates the lessons learned into its overall approach to environmental protection.

Let me discuss a few specific provisions of the bill.

First, the bill establishes benchmarks from which to determine whether better environmental results will be achieved under the innovative environmental strategy. For existing facilities, the benchmark generally will be either the level of releases of a pollutant into the air, land or water actually being achieved by the facility or the level of releases allowed under the applicable regulatory requirements and reasonably foreseeable future requirements, whichever is lower. The Administrator is given some flexibility in determining the appropriate measurement for the benchmark. For example, measuring releases per unit of production encourages pollution prevention but may result in releases of concern to the community; the Administrator should take both these factors into account in determining whether a per unit measurement is appropriate. The Administrator shall determine whether an innovative environmental strategy achieves better environmental results based on the magnitude of reduction in the level of releases or improvement in pollution prevention relative to each benchmark. In addition, the Administrator shall evaluate other benefits that would result from the strategy. These include whether the strategy results in environmental performance more protective than the best performance practice of comparable facilities or improvement in environmental conditions that are priorities to stakeholders, even if those conditions are not regulated under EPA statutes.

Different types of innovative environmental strategies are possible under this legislation. For example, in some cases, a facility may demonstrate better environmental results by showing a reduction in releases of pollutants and, in exchange, seek a modification of reporting or other paperwork requirements. In other cases, a facility may demonstrate better environmental results by showing a reduction in releases of pollutants, but seek modification of a rule to allow for flexibility with respect to emission levels at different sources within the facility. There may be some cases where the innovative environmental strategy would result in large decreases in some pollutants while resulting in a small increase in another pollutant. But there are a number of specific requirements that must be met under those circumstances. Among other requirements, the Administrator must determine, based on a well-established analytic methodology acceptable both to the Administrator and the stakeholders, that the strategy will achieve better overall environmental results with an adequate margin of safety and will not result in an increase in the risk of adverse effects or shift the risk of adverse effects to the health of an individual, population, or natural resource affected by the strategy. I recognize that it is difficult to make such determinations because we have inadequate information about many chemicals and we often do not know how properly to evaluate cumulative or synergistic effects. The Administrator should pay close attention to these factors in evaluating projects. These examples are only illustrative of a range of potential projects.

The bill also provides that in appropriate cases, the Administrator may establish a benchmark for measuring better environmental performance based on pollution prevention.

The bill requires that the innovative environmental strategy provide a means and level of accountability, monitoring, enforceability and public access to information for all enforceable provisions at least equivalent to

that provided by the rule that is being modified or waived. A related requirement is that adequate information must be made accessible so that any member of the public can verify environmental performance. Other requirements that must be met by the petitioner are set forth in section 7.

Effective stakeholder participation is the second key element of the legislation. Any company submitting a proposal must undertake a stakeholder participation process. One of the criteria for approval of a project by EPA is that the stakeholders have obtained adequate independent technical support for an effective stakeholder process. Under the bill, the stakeholder process is open to anyone, except a business competitor, subject to manageability factors. The stakeholder group should genuinely represent the full range of interests affected by projects and the policies to be shaped by projects. Involving citizens, including workers and members of the local community, in the development of an innovative environmental strategy is absolutely critical. Companies that have formulated successful innovative environmental strategies have told me that without the support of the local community these strategies simply will not work. Empowerment of the local community through stakeholder processes will help build trust and make implementation of the agreement easier. In other words, the innovative environmental strategy should be a partnership between the proponent and the stakeholders.

The bill requires the Administrator to give great weight to the views of the stakeholders. Obtaining broad community support for the strategy, as shown through stakeholder support, is very important. Additionally, the stakeholders and the proponent of the strategy may decide as part of the guidelines setting up the stakeholder process, that the stakeholders as a group or individual stakeholder participants should have a veto right with respect to whether the strategy goes forward. If the proponent still presents a proposal for the strategy even with such objections, the Administrator is required to reject the strategy if the objection has a clear and reasonable foundation and relates to the criteria for approval. The principle here is simple: stakeholders and the facility owner need to come to agreement on the guidelines that will govern the project. This agreement on the guidelines should be reached at the start of the process. It must be followed; if not, the Administrator will not be able to make the finding that the requirements of section 6 of the statute have been met.

The bill also attempts to address the recommendations made in the GAO report of July 1997, "Challenges Facing EPA's Efforts to Reinvent Environmental Regulation", which examined EPA's XL program. First, the GAO concludes that EPA will be limited in its ability to truly reinvent environmental regulation without legislative changes. Second, the GAO recommends that the Agency's reinvention initiatives include an evaluation component measuring the extent to which the initiative has achieved its intended effect. Therefore, the bill requires that, within 18 months after entering into an agreement, the Administrator provide a report evaluating whether the lessons learned from a particular strategy can be incorporated into the overall regulatory or statutory structure of the Agency. The legislation also requires a broader report to Congress within 3 years.

Finally, the GAO proposes that EPA develop a systematic process that would help address problems that come up during reinvention projects in a timely fashion. This process should be set up to identify the kinds of problems that can be resolved at lower levels within the Agency and which should be elevated for management's attention. While the bill does not specifically address this recommendation, I hope that EPA will seriously examine how it can implement this constructive recommendation.

As the GAO report notes, the EPA has undertaken a broad range of reinvention efforts. This legislation in no way affects the ability of EPA to proceed under its appropriate authorities with those efforts, including agreements under XL.

I ask unanimous consent that the full text of the legislation be included in the RECORD.

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

S. 1348

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 "Innovative Environmental Strategies Act of 1997".

SEC. 2. FINDINGS.

Congress finds that—

(1) superior environmental performance can be achieved in some cases by granting regulated entities the flexibility to develop innovative environmental strategies for achieving environmental results in partnership with affected stakeholders;

(2) innovative environmental strategies also have the potential to—

(A) substantially reduce compliance costs;

(B) foster cooperative partnerships among industry, government, public interest groups, and local communities;

(C) encourage regulated entities to meet and exceed environmental obligations through greater innovation and greater pollution prevention; and

(D) increase the involvement of members of the local community and other citizens in decisions relating to the environmental performance goals and priorities of a facility; and

(3) the lessons learned from successful innovative environmental strategies should be incorporated into the broader system of environmental regulation.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) AGENCY.—The term "agency" means the Environmental Protection Agency.

(3) AGENCY RULE.—

(A) IN GENERAL.—The term "agency rule" means a rule (as defined in section 551 of title 5, United States Code) promulgated by the agency.

(B) EXCLUSIONS.—The term "agency rule" does not include—

(i) an emissions reduction requirement under title IV of the Clean Air Act (42 U.S.C. 7651 et seq.); or

(ii) a requirement under subtitle B of the Emergency Planning and Community Right to Know Act of 1986 (42 U.S.C. 11021 et seq.).

(4) PERSON.—The term "person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, Indian tribe, municipality, commission, political subdivision of a State, interstate body, or department, agency, or instrumentality of the United States.

SEC. 4. INNOVATIVE ENVIRONMENTAL STRATEGY AGREEMENTS.

(a) IN GENERAL.—

(1) PROPOSAL.—A person that owns or operates a facility that is subject to an agency rule, requirement, policy, or practice may submit to the Administrator a proposal for an innovative environmental strategy for achieving better environmental results.

(2) AGREEMENT.—If the Administrator finds that the requirements of section 7 are met and approves the proposed strategy, the Administrator may enter into an innovative environmental strategy agreement with respect to the facility.

(3) CONTENTS.—An agreement under paragraph (1)—

(A) may—

(i) modify or waive otherwise applicable agency rules, requirements, policies, or practices;

(ii) establish new environmental standards for a facility; or

(iii) establish new requirements not contained in existing agency rules or existing environmental statutes;

(B) may not contravene the specific terms of a statute; and

(C) should further the purposes of applicable environmental statutes.

(b) COSPONSOR.—

(1) IN GENERAL.—The Administrator shall establish procedures under which a person other than the owner or operator of a facility may cosponsor a proposal.

(2) PRIORITY.—The Administrator shall give priority to proposals co-sponsored by a stakeholder group.

SEC. 5. SUBMISSION OF PROPOSAL.

(a) CONTENTS OF PROPOSAL.—A proposal for an innovative environmental strategy shall be clearly and concisely written and shall—

(1) identify any agency rule, requirement, policy, or practice for which a modification or waiver is sought and any alternative requirement that is proposed;

(2) describe the proposed innovative environmental strategy and the facility to which the strategy would pertain; and

(3) demonstrate the manner in which the innovative environmental strategy is expected to meet the requirements of section 7.

(b) PRELIMINARY REVIEW.—The Administrator shall review the proposal and determine whether, in the Administrator's sole

discretion, the proposed strategy is sufficiently promising that the Administrator is prepared to enter into negotiations toward execution of an innovative environmental strategy agreement.

(c) NOTIFICATION.—The Administrator shall notify the proponent of a determination under subsection (b) not later than 90 days after submission, unless the proponent agrees to a longer review.

SEC. 6. STAKEHOLDER PARTICIPATION PROCESS.

(a) IN GENERAL.—The proponent of a proposal under section 5 shall—

(1) upon approval of the proposal for negotiation toward an agreement, undertake a stakeholder participation process in accordance with this section; and

(2) work to ensure that there is adequate independent technical support for an effective stakeholder process.

(b) DEVELOPMENT OF PROCESS.—

(1) IN GENERAL.—The stakeholder participation process shall be developed by the stakeholders and the proponent, in consultation with the Administrator.

(2) REQUIREMENTS.—The stakeholder participation process shall—

(A) be balanced and representative of interests that may be affected by the proposed strategy;

(B) ensure opportunities for public access to the process and make publicly available in a timely manner the proceedings of the stakeholder participation process, except with respect to confidential business information;

(C) establish procedures for conducting the stakeholder participation process, including open meetings as appropriate;

(D) if necessary, provide for appropriate agreements to protect confidential business information; and

(E) establish guidelines for the role of stakeholders, individually and as a group or subgroup, in the development of the strategy, including whether the stakeholders have an advisory, consultative, decision-making or veto role with respect to the strategy.

(c) FACA.—A stakeholder process satisfying the requirements of this section shall not be subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App.).

(d) PUBLIC NOTICE OF APPLICATION.—After a proposal is approved for negotiation toward an agreement, the proponent shall provide public notice of the proposal in a manner, approved by the Administrator, that is reasonably calculated to reach potentially interested parties including—

(1) community groups;

(2) environmental groups;

(3) potentially affected employees;

(4) persons living near or working in or near the affected facility; and

(5) relevant Federal, State, tribal, and local agencies.

(e) PARTICIPATION.—

(1) IN GENERAL.—A person that, not later than 60 days after the date on which public notice is first given under subsection (c), notifies the proponent of the person's intention to participate in the stakeholder participation process may participate in the process, except that a person that has a business interest in competition with that of the proponent may be excluded.

(2) ADDITIONAL STAKEHOLDERS.—Additional stakeholders may be added by the proponent, the Administrator or the stakeholder group after the stakeholder group is initially constituted in order to ensure full representation of all potentially affected interests throughout the process, including representation with respect to any new issues that may be raised during the process, and to ensure that appropriate expert assistance is available for the stakeholders.

(f) LIMITATION ON NUMBER OF PARTICIPANTS.—

(1) IN GENERAL.—In order to provide for a manageable stakeholder process, the Administrator may limit the number of stakeholder participants if the Administrator determines that the stakeholder participants adequately represent, in a balanced manner, the full range of interests (excluding competitive business interests) that may be affected by the innovative environmental strategy.

(2) NOTICE.—Before approving a limit on the number of stakeholder participants, the Administrator shall ensure that appropriate notice was provided to each of the groups identified in subsection (d).

(3) ADDITIONAL STAKEHOLDERS.—Notwithstanding any limit on the number of stakeholders that may be approved, additional stakeholders may be added to meet the requirements of subsection (e).

(g) NEGOTIATION.—After the stakeholder group has been identified, and procedures for the stakeholder process have been agreed on under subsection (b)(2)(E), the proponent, the stakeholders, and the Administrator shall initiate the process of negotiating toward an innovative environmental strategy agreement.

SEC. 7. REQUIREMENTS FOR APPROVAL.

(a) IN GENERAL.—The Administrator may enter into an innovative environmental strategy agreement if the Administrator determines that—

(1) the strategy is expected to achieve better environmental results (as determined under subsection (c));

(2) the strategy has potential value as a model for future changes in the broader regulatory structure or as a demonstration of new technologies or measures with potential for reducing pollution on a broader scale;

(3) the strategy provides for access to information adequate to enable verification of environmental performance by any interested person;

(4) the strategy provides a means and level of accountability, transparency, monitoring, reporting, and public and agency access to information relating to activities being carried out under an innovative environmental strategy that is at least equivalent to that provided under the agency rule, requirement, policy, or practice that the agreement seeks to modify or waive, including reporting of the benchmarks in the agreement;

(5) no person or populations would be subjected to unjust or disproportionate adverse environmental impacts as a result of implementation of the strategy;

(6) the strategy will ensure worker health and safety protections that are the same or superior to those provided under existing law;

(7) the strategy is not expected to result in adverse transport of a pollutant;

(8) any Federal, State, tribal, or local environmental agencies required to be signatories under section 8(c) are prepared to sign the agreement and the consultation required under section 8(c)(3) has occurred;

(9) the stakeholder participation process met the requirements of section 6, and the stakeholders have obtained adequate independent technical support for an effective process;

(10) there is broad community support for the strategy, as shown by stakeholder support and other relevant factors; and

(11) the strategy is expected to reduce regulatory burdens or provide other social or economic benefits.

(b) OTHER CONSIDERATIONS.—In determining whether to enter into an agreement, or to negotiate toward an agreement, the Administrator shall consider—

(1) whether the facility has a strong record of compliance with environmental and public health regulations and whether the proponent has demonstrated a strong commitment to achieve pollution prevention with respect to the facility;

(2) the extent to which the strategy involves new approaches to environmental protection and multimedia pollution prevention;

(3) the extent to which there is a link between the modification or waiver sought, the better environmental results expected, and other benefits; and

(4) the feasibility of the strategy and the ability of the proponent to carry out the strategy.

(c) BETTER ENVIRONMENTAL RESULTS.—

(1) EVALUATION.—The Administrator shall determine whether a strategy is expected to achieve better environmental results based on the magnitude of reduction in the level of releases or improvement in pollution prevention relative to each benchmark established under paragraphs (4) through (7);

(2) OTHER CONSIDERATIONS.—In addition to making the determination under paragraph (1), the Administrator shall evaluate the extent to which the strategy—

(A) results in environmental performance more protective than the best performance practice of comparable facilities;

(B) relies on pollution prevention;

(C) incorporates continuous improvement toward ambitious quantitative environmental goals;

(D) produces clear reduction of risk, based on a well-accepted analytical method acceptable to the Administrator and the stakeholders;

(E) improves environmental conditions that are priorities to stakeholders, including conditions not regulated under statutes administered by the agency;

(F) reflects historic demonstration of leadership in environmental performance of the facility;

(G) substantially addresses community and public health priorities of concern to stakeholders, including concerns not addressed under statutes administered by the agency;

(H) addresses other factors that the Administrator determines clearly improve environmental performance in the context of a specific strategy; and

(I) includes reductions in releases or improvement in pollution prevention in addition to those considered by the Administrator for purposes of paragraph (1).

(3) FINDINGS.—The Administrator shall provide findings setting forth the basis for the determination that the innovative environmental strategy is expected to achieve better environmental results. If the Administrator determines that the magnitude of reduction in the level of releases or improvement in pollution prevention would be a reduction or improvement, but not a significant reduction or improvement, the Administrator may approve a proposal only if the Administrator determines that the strategy is expected to result in a clear and substantial improvement in environmental protection, considering the other factors in this subsection.

(4) BENCHMARK.—The benchmark for releases of each pollutant into the air, water, or land shall be as follows:

(A) EXISTING FACILITIES.—For existing facilities, the benchmark shall be the lesser of—

(i) the level of releases of each pollutant into the air, water, or and being achieved before the date of submission of the proposal; or

(ii) the level of releases of each pollutant into the air, water, or land allowed under applicable regulatory requirements and any reasonably anticipated future regulatory requirements;

except that the Administrator may, based on extraordinary site-specific circumstances, modify the level under subparagraph (A)(i) on a case by case basis for a facility that has reduced releases significantly below applicable regulatory requirements before the date of submission of the proposal.

(B) NEW OR MODIFIED FACILITIES.—For new or significantly expanded facilities, the benchmark shall be based on the lesser of—

(i) the level of releases of each pollutant into the air, water, or land allowed under applicable regulatory requirements and any reasonably anticipated future regulatory requirements; or

(ii) the level of releases of each pollutant into the air, water, or land based on best industry practices.

(5) POLLUTION PREVENTION.—

(A) NO RELEASE OF A POLLUTANT.—In appropriate circumstances not involving release of a pollutant, the Administrator may establish a pollution prevention benchmark to evaluate changes in inputs to production of materials or substances of potential environmental or public health concern.

(B) RELEASE OF A POLLUTANT.—In circumstances involving a release of a pollutant, the Administrator may establish a pollution prevention benchmark in addition to the benchmark under paragraph (4).

(6) BASIS OF MEASUREMENT.—A benchmark may be established on the basis of total emissions, on a per-unit of production basis, or on a comparable basis of measurement, as determined by the Administrator.

(7) OTHER CONSIDERATIONS.—The Administrator may determine that the requirements of this section are met if a benchmark is not met, if—

(A) with respect to other benchmarks, the strategy achieves a significant increment of reduced level of releases below that permitted by the benchmark;

(B) the strategy, based on a well-established analytic methodology acceptable to the Administrator and the stakeholders—

(i) is expected to achieve overall better environmental results with an adequate margin of safety;

(ii) is not expected to result in an increase in the risk of adverse effects, or shift the risk of adverse effects, to the health of an individual, population, or natural resource affected by the strategy; and

(iii) is expected to achieve clear risk reduction; and

(C) the strategy is not expected to result in an exceedance of an ecological, health, or risk-based environmental standard.

(d) VIEWS OF STAKEHOLDERS.—

(1) IN GENERAL.—The Administrator shall give great weight to the views of individual stakeholders and to the stakeholders as a group in determining whether to approve or disapprove a strategy.

(2) STAKEHOLDERS WITH DECISIONMAKING ROLE.—The Administrator shall deny a proposal if—

(A) the stakeholder group and the proponent have determined under section 6 that the group, any subgroup, or 1 or more individual stakeholders in the group will have the ability to veto a decision by the proponent to go forward with the strategy;

(B) the group or 1 or more stakeholders objects to the strategy; and

(C) the Administrator determines that the objection relates to the criteria stated in section 7 and that the objection has a clear and reasonable foundation.

SEC. 8. FINAL DETERMINATION ON AGREEMENT.

(a) PROPOSAL.—

(1) IN GENERAL.—Not later than 180 days after the date on which negotiations are initiated under section 6(g) or such later date as may be agreed to by the proponent and the stakeholders, the Administrator shall—

(A) provide public notice and opportunity to comment on a proposed innovative environmental strategy agreement; or

(B) notify the proponent and the stakeholder group that the Administrator does not intend to enter into an agreement.

(2) FORM OF NOTICE.—Public notice under paragraph (1) shall be provided by—

(A) publishing a notice in the Federal Register; and

(B) providing public notice to persons potentially interested in the strategy in the manner described in section 6(d).

(3) COMMENT PERIOD.—The public comment period shall be not less than 30 days, and shall be extended by an additional 30 days if an extension is requested by any person not later than 15 days after the beginning of the public comment period.

(b) FINAL DECISION.—

(1) IN GENERAL.—Not later than 60 days after the end of the public comment period, the Administrator shall determine whether to enter into an agreement, and shall give notice of the determination in the same manner as notice was given of the proposed agreement.

(2) RESPONSE.—The Administrator—

(A) shall respond to comments received; and

(B) may modify the agreement in response to the comments.

(c) SIGNATORIES.—

(1) IN GENERAL.—The parties to an innovative environmental strategy agreement—

(A) shall include the Administrator, the proponent, and any Federal, State, or local agency or Indian tribe with jurisdiction over the subject matter of the agreement under this Act; and

(B) may include a stakeholder.

(2) JOINT RULES REQUIREMENTS AND POLICIES.—If an agreement waives or modifies a rule, requirement, or policy issued by the agency jointly with another Federal agency, the other Federal agency shall be a signatory to the agreement.

(3) CONSULTATION.—The Administrator shall consult with and consider the views of any Federal agency with management responsibility or regulatory or enforcement authority over land or natural resources that may be affected by the strategy.

SEC. 9. STATE ROLE.

(a) IN GENERAL.—If a proposed strategy involves waiving or modifying requirements imposed under State, tribal, or local law, the Administrator shall not approve an agreement unless procedures required under those laws for such waiver or modification are followed in addition to the execution of the innovative environmental strategy agreement.

(b) PART OF FEDERAL PROGRAM.—If a proposed strategy involves waiving or modifying requirements of State, tribal, or local law that are part of an authorized or delegated Federal program, execution of an innovative environmental strategy agreement by the Administrator and by the State, Indian tribe, or local government shall be deemed to provide authorization or approval of the program as modified by the agreement.

SEC. 10. ENFORCEABILITY.

(a) SPECIFICATION OF ENFORCEABLE PROVISIONS.—

(1) DEFINITION OF VOLUNTARY COMMITMENT.—In this section, the term "voluntary commitment" means a commitment that the parties to the agreement consider to be a necessary part of the strategy but is not enforceable under this section.

(2) INCLUSION IN AGREEMENT.—An innovative environmental strategy agreement shall include enforceable requirements and may include voluntary commitments.

(3) ENFORCEABLE REQUIREMENTS.—

(A) IDENTIFICATION.—Enforceable requirements shall be clearly identified and distinguished in the agreement from voluntary commitments.

(B) INCLUSION OF ALL NECESSARY ACTIONS.—In all cases, enforceable requirements shall include, at a minimum, all actions necessary to achieve better environmental results relied upon by the Administrator for purposes of section 7(c)(1), and all accountability, monitoring, reporting, and public and agency access requirements mandated by paragraphs (3) and (4) of section 7(a).

(4) VOLUNTARY COMMITMENTS.—Failure to implement a voluntary commitment may constitute a ground for termination of the agreement.

(b) TREATMENT OF AGREEMENT AS PERMIT, CONDITION, OR REQUIREMENT.—

(1) DEFINITION OF OTHERWISE APPLICABLE REQUIREMENT.—In this subsection, the term "otherwise-applicable requirement" means a rule, permit, condition, policy, practice, or other requirement that an innovative environmental strategy agreement modifies, waives, or replaces.

(2) IDENTIFICATION OF ENFORCEABLE REQUIREMENTS.—An innovative environmental strategy agreement shall state in a separate section designated "Enforceable Requirements" all of the enforceable requirements of the agreement.

(3) IDENTIFICATION OF MODIFIED, OTHERWISE WAIVED OR RELOCATED REQUIREMENTS.—An innovative environmental strategy agreement shall identify (including citation to the specific provision of a statute or rule), with respect to each enforceable requirement, each otherwise-applicable requirement that the agreement waives, modifies, or replaces.

(4) TREATMENT.—Each enforceable requirement shall be deemed, for purposes of enforcement, to be a permit issued under, a condition imposed by, or a requirement of the statute or rule under which the otherwise-applicable requirement that the agreement modifies, waives, or replaces was imposed.

(5) ENFORCEABILITY.—Each enforceable requirement shall be enforceable in the same manner and to the same extent (by the United States, by a State or Indian tribe, or by any other person) as the otherwise-applicable requirement would have been enforceable but for the agreement.

(6) NEW ENFORCEABLE REQUIREMENT DERIVED FROM OR IMPOSED UNDER CURRENT LAW.—An enforceable requirement that does not modify, waive, or replace a requirement shall be enforceable in the same manner and to the same extent as a permit, condition, or requirement under the statute or rule from or under which the enforceable requirement derives or is imposed.

(7) ENFORCEABLE REQUIREMENT THAT DOES NOT MODIFY, WAIVE, OR REPLACE ANOTHER REQUIREMENT.—If an enforceable requirement

does not derive from or is not imposed under any statutory or regulatory provision, the agreement shall specify the statute under which the enforceable requirement shall be deemed to be imposed for purposes of enforcement and shall be enforceable (by the United States, a State, Indian tribe, and by other persons) in the same manner and to the same extent as a permit, condition, or requirement under that statute or regulation.

(8) EMERGENCY OR IMMINENT HAZARD AUTHORITY.—Nothing in this Act limits or affects the Administrator's emergency or imminent hazard authorities.

(c) SPECIFICATION OF AFFECTED REQUIREMENTS.—

(1) IN GENERAL.—When the Administrator approves an innovative environmental strategy agreement under subsection (a), the Administrator shall specify in the agreement each rule, requirement, policy, or practice that is modified or waived by the innovative agreement.

(2) NO MODIFICATION OR WAIVER.—Each rule, requirement, policy, or practice not specified pursuant to the preceding sentence is not modified and waived.

(d) TERMINATION OR MODIFICATION OF AGREEMENT.—

(1) IN GENERAL.—The Administrator may terminate or modify an innovative environmental strategy agreement if the Administrator determines that—

(A) the strategy fails or will fail to achieve the better environmental results identified pursuant to section 7;

(B) better environmental results are no longer being achieved by the strategy by reason of the enactment of a new provision of law or promulgation of a new regulation;

(C) there has been noncompliance with the terms of the agreement (including a voluntary commitment);

(D) there has been a change or transfer in ownership or operational control of the facility to which the agreement relates, or a material change, alteration, or addition to the facility; or

(E) any other event specified in the agreement as a ground for termination or modification has occurred.

(2) EFFECT.—On termination of an innovative environmental strategy agreement, the owner or operator of the facility to which the agreement related shall immediately become subject to each otherwise-applicable requirement (as defined in subsection (b)).

(e) TERM OF AGREEMENT.—

(1) IN GENERAL.—The term of an innovative environmental strategy agreement shall not exceed 5 years, unless the Administrator determines, after considering the views of the stakeholders, that—

(A) a longer period of time is required—

(i) to achieve the better environmental results identified under section 7; or

(ii) in a case in which a proponent is making a substantial investment in reliance on the agreement, to ensure a reasonable degree of confidence that the investment will be recovered; and

(B) the requirements of section 7 continue to be met.

(2) EXTENSION OR RENEWAL.—In consultation with the stakeholders and with the concurrence of the signatories to the agreement and after public notice and opportunity for comment consistent with section 8, the Administrator may extend or renew an agreement for an additional term or terms, but the Administrator may not extend or renew an agreement if the extension or renewal would not further the purposes of this Act or the strategy would no longer meet the requirements of section 7.

SEC. 11. JUDICIAL REVIEW.

(a) FAILURE TO PERFORM NONDISCRETIONARY ACT OR DUTY.—

(1) IN GENERAL.—Any person may commence a civil action in the United States District Court for the District of Columbia against the Administrator for failure to perform an act or duty under this Act that is not discretionary with the Administrator.

(2) TIMING.—No action may be commenced under subsection (a) before the date that is 60 days after the date on which the plaintiff gives notice to the Administrator of the act or duty that the Administrator has failed to perform and of the intent of the plaintiff to commence the action.

(b) DECISION TO ENTER INTO AGREEMENT.—

(1) IN GENERAL.—A person other than a signatory to an innovative environmental strategy agreement may seek judicial review of a decision by the Administrator to enter into such an agreement in accordance with chapter 7 of title 5, United States Code.

(2) APPEAL.—A petition on appeal of a judgment in a civil action under this subsection shall be filed in the United States Court of Appeals for the District of Columbia Circuit not later than 90 days after the date on which public notice of the decision to enter into the agreement is published under section 8(b).

(c) NO JUDICIAL REVIEW OF OR RECORD JUSTIFICATION FOR DECISION NOT TO ENTER INTO AGREEMENT.—A decision not to enter into, modify, renew, or enter into negotiations toward an innovative environmental strategy agreement and decisions under section 6 regarding the stakeholder process shall not be subject to judicial review and shall not require record justification by the Administrator.

SEC. 12. LIMITATION ON NUMBER OF AGREEMENTS.

(a) IN GENERAL.—The Administrator shall not enter into more than 50 innovative environmental strategy agreements unless, in the Administrator's sole discretion, and taking into account the full range of the agency's obligations, the Administrator determines that adequate resources exist to enter into a greater number of agreements.

(b) LIMIT.—The Administrator, in the Administrator's sole discretion, may limit the number of agreements to less than 50.

(c) PRIORITY CONSIDERATION DIVERSITY.—The Administrator shall—

(1) give priority consideration to proposals from small businesses; and

(2) seek to ensure that the agreements entered into reflect proposals from a diversity of industrial sectors, particularly from sectors where there is significant potential for environmental improvement.

SEC. 13. SMALL BUSINESS PROPOSALS.

The Administrator shall establish a program to facilitate development of proposals for innovative environmental strategies from small businesses and groups of small businesses and to provide for expedited and tailored review of such proposals.

SEC. 14. SAVINGS CLAUSE.

(a) EFFECT OF DECISIONS BY THE ADMINISTRATOR.—A decision by the Administrator to enter into an agreement under this Act shall not affect the validity or applicability of any rule, requirement, policy, or practice, that is modified or waived in the agreement with respect to any facility other than the facility that is subject to the agreement.

(b) OTHER AGREEMENTS.—Nothing in this Act affects the authority of the Administrator in existence on the date of enactment of this Act to enter into or carry out agreements providing for innovative environmental strategies or affects any other existing authority under which the Administrator may undertake innovative initiatives.

(c) OTHER FEDERAL AGENCIES.—Nothing in this Act affects the regulatory or enforcement authority of any other Federal agency under the laws implemented by the Federal agency except to the extent provided in an agreement to which the other Federal agency is a party.

(d) LIMITS ON PURPOSES AND USES OF AGREEMENTS.—An agreement under this Act—

(1) may not be adopted for the purpose of curing or addressing past or ongoing violations or noncompliance at a participating facility;

(2) may not be used as a legal or equitable defense by any party or facility not party to the agreement, or by a party to the agreement as a defense in an action unrelated to any requirement imposed under the agreement;

(3) shall not limit or affect the Administrator's authority to issue new generally applicable regulations or to apply regulations to the facility that is the subject of the agreement;

(4) shall not give rise to any claim for damages or compensation in the event of a change in statutes or regulations applicable to such facility; and

(5) shall not be admissible for any purpose in any judicial proceeding other than a proceeding to challenge, defend, or enforce the agreement.

(e) APPLICABLE LAW.—

(1) CONTRACT LAW.—An innovative environmental strategy agreement—

(A) shall not be interpreted or applied according to contract law principles; and

(B) shall not be subject to contract or other common law defenses.

(2) OSHA.—For purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), the exercise by the Administrator of any authority under this Act shall not be deemed to constitute or exercise of authority to prescribe or enforce a standard or regulation affecting occupational safety or health.

SEC. 15. EVALUATION AND REPORT.

(a) EVALUATION.—The Administrator shall establish an ongoing process with public participation to—

(1) evaluate lessons learned from innovative environmental strategies; and

(2) determine whether the approaches embodied in an innovative environmental strategy should be proposed for incorporation in an agency rule.

(b) REPORTS.—

(1) INDIVIDUAL STRATEGIES.—Not later than 18 months after entering into an innovative environmental strategy agreement, the Administrator shall submit to Congress a report evaluating whether the approaches embodied in an innovative environmental strategy should be proposed for incorporation in a statute or a regulation.

(2) AGGREGATE EFFECT.—Not later than 3 years after the date of enactment of this Act, the Administrator shall submit to Congress a report on the aggregate effect of the innovative environmental strategy agreements entered into under this Act, including—

(A) the number and characteristics of the agreements;

(B) estimates of the environmental and public health benefits, including any reductions in quantities or types of emissions and wastes generated;

(C) estimates of the effect on compliance costs;

(D) the degree and nature of public participation and accountability;

(E) estimates of nonenvironmental benefits obtained;

(F) conclusions on the functioning of the stakeholder participation process; and

(G) a comparison of effectiveness of the program relative to comparable State programs, using comparable performance measures.

SEC. 16. IMPLEMENTATION AUTHORITY.

The Administrator may issue such regulations as are necessary to carry out the agency's functions under this Act.

SEC. 17. TECHNICAL ASSISTANCE GRANTS.

The Administrator may establish a program to provide grants for technical assistance to stakeholder groups.

SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the agency to carry out this Act $4,000,000 for each of fiscal years 1999 through 2003 (including such sums as are necessary to provide technical assistance to stakeholder groups).

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 1349. 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 *Prince Nova*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE CROSS SOUND FERRY SERVICE ACT OF 1997

Mr. DODD. Mr. President, I rise today to introduce with Senator LIEBERMAN legislation to waive the 1920 Merchant Marine Act, commonly known as the Jones Act, to allow Cross Sound Ferry Services, Inc., to purchase, rebuild, and operate the 1964 Canadian-built vessel *Prince Nova*. Faced with an increased demand for its services and a shortage of suitable U.S.-built ferries, Cross Sound cannot purchase a domestically built vessel.

Cross Sound Ferry Services, a family owned, nonsubsidized operation, provides auto, truck, and high speed passenger service between Orient Point, NY, and New London, CT. According to the proposed waiver, Cross Sound will purchase the *Prince Nova*, and spend more than three times the purchase price, no less than $4.2 million, on the conversion, restoration, repair, rebuilding, or retrofitting of the ferry in a shipyard located in New London.

Cross Sound Ferry Service, a vital link between New England and eastern Long Island, provides an alternative mode of transportation that saves trucks and autos up to 200 miles in each direction, and reduces traffic, congestion, and wear on major roadways. From an environmental standpoint, ferry service reduces fuel consumption and pollution. Currently, the I-95 corridor throughout the Northeast is under a tremendous traffic burden. If the waiver is granted, it is expected that the new and expanded service the *Prince Nova* will provide will save 6 million miles and 360,000 travel hours.

Cross Sound's commitment to service the *Prince Nova* in a United States shipyard will create high-skilled, high-wage jobs. Additionally, this waiver will undoubtably better facilitate commerce and encourage economic development in the region by allowing consumers easier access to goods and services. Furthermore, it will provide businesses with an additional mode to transport their products.

An identical waiver was passed last week in the House of Representatives as part of the Coast Guard Authorization Act of 1997. It is our hope that it will receive the same favorable consideration in the Senate.

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. 1349

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

SECTION 1. DOCUMENTATION OF THE VESSEL PRINCE NOVA.

(a) DOCUMENTATION AUTHORIZED.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel PRINCE NOVA (Canadian registration number 320804).

(b) EXPIRATION OF CERTIFICATE.—A certificate of documentation issued for the vessel under subsection (a) shall expire unless—

(1) the vessel undergoes conversion, reconstruction, repair, rebuilding, or retrofitting in a shipyard located in the United States;

(2) the cost of that conversion, reconstruction, repair, rebuilding, or retrofitting is not less than the greater of—

(A) 3 times the purchase value of the vessel before the conversion, reconstruction, repair, rebuilding, or retrofitting; or

(B) $4,200,000; and

(3) not less than an average of $1,000,000 is spent annually in a shipyard located in the United States for conversion, reconstruction, repair, rebuilding, or retrofitting of the vessel until the total amount of the cost required under paragraph (2) is spent.

By Mr. LEAHY (for himself and Mr. JEFFORDS):

S. 1350. A bill to amend section 332 of the Communications Act of 1934 to preserve State and local authority to regulate the placement, construction, and modification of certain telecommunications facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE TELECOMMUNICATIONS FACILITIES ACT OF 1997

Mr. LEAHY. Mr. President, I ask unanimous consent that a copy of my bill to preserve State and local authority to regulate the placement, construction, and modification of telecommunication facilities be printed in the RECORD.

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

S. 1350

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

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress make the following findings:

(1) The placement of commercial telecommunications, radio, or television towers near homes can greatly reduce the value of such homes, destroy the views from such homes, and reduce substantially the desire to live in such homes.

(2) States and localities should be able to exercise control over the construction and location of such towers through the use of zoning, planned growth, and other controls relating to the protection of the environment and public safety.

(3) There are alternatives to the construction of additional telecommunications towers to meet telecommunications needs, including the co-location of antennae on existing towers and the use of alternative technologies.

(4) On August 19, 1997, the Federal Communications Commission issued a proposed rule, MM Docket No. 97-182, which would preempt the application of State and local zoning and land use ordinances regarding the placement of telecommunications towers. It is in the interest of the Nation that the Commission not adopt this rule.

(5) It is in the interest of the Nation that the second memorandum opinion and order and notice of proposed rule making of the Commission with respect to application of such ordinances to the placement of such towers, WT Docket No. 97-192, ET Docket No. 93-62, and RM-8577, be modified in order to permit State and local governments to exercise their zoning and land use authorities, and their power to protect public health and safety, to regulate the placement of telecommunications towers and to place the burden of proof in civil actions relating to the placement of such towers on the person or entity that seeks to place, construct, or modify such towers.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To repeal the limitations on the exercise of State and local authorities regarding the placement, construction, and modification of personal wireless service facilities that arise under section 332(c)(7) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)).

(2) To permit State and local governments to regulate the placement, construction, and modification of such facilities on the basis of the environmental effects of the operation of such facilities.

(3) To prohibit the Federal Communications Commission from adopting rules which would preempt State and local regulation of the placement of such facilities.

SEC. 2. STATE AND LOCAL AUTHORITY OVER PLACEMENT, CONSTRUCTION, AND MODIFICATION OF CERTAIN TELECOMMUNICATIONS FACILITIES.

(a) REPEAL OF LIMITATIONS.—Section 332(c)(7)(B) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(B)) is amended—

(1) in clause (i), by striking "thereof—" and all that follows through the end and inserting "thereof shall not unreasonably discriminate among providers of functionally equivalent services.";

(2) by striking clause (iv);

(3) by redesignating clause (v) as clause (iv); and

(4) in clause (iv), as so redesignated, by striking the third sentence and inserting the following: "In any such action in which a person seeking to place, construct, or modify a tower facility is a party, such person shall bear the burden of proof.".

(b) PROHIBITION ON ADOPTION OF RULE.—Notwithstanding any other provision of law, the Federal Communications Commission may not adopt as a final rule the proposed rule set forth in "Preemption of State and Local Zoning and Land Use Restrictions on Siting, Placement and Construction of Broadcast Station Transmission Facilities", MM Docket No. 97-182, released August 19, 1997.

Mr. JEFFORDS. Mr. President, I rise today to continue a discussion that my colleague, Senator LEAHY, began earlier, with regard to the Federal Communications Commission proposed rulemaking on regulations for wireless and digital broadcast facilities.

University of Vermont instructor and landscape designer Jean Veissering recently stated "We have a real spiritual connection with hilltops. They tend to be almost sacred ground. Building something jarringly out of character upon them seems almost like a sacrilege." Mr. President, I share Jean's sentiments completely. In addition, it is the beautiful views of the majestic mountain ranges that in many ways defines what Vermont is all about.

Vermonters take great pride in their heritage as a State committed to the ideals of freedom and unity. That heritage goes hand and hand with a unique quality of life and the desire to grow and develop while maintaining Vermont's beauty and character. Ethan Allan and his Green Mountain Boys and countless other independent minded Vermonters helped shape the Nation's 14th State while making outstanding contributions to the independence of this country. Today, that independence still persists in the hills and valleys of Vermont. Vermonters have worked hard over the years to maintain local control over issues that impact them directly.

Throughout my years in Congress, I fought hard to protect the ability of Vermonters to step out of their kitchen doors and see an unobstructed view. Thousands of Americans travel to Vermont each year to take in the splendid nature of the State.

However, Vermont could have looked quite different if it were not for some foresight on behalf of several Vermonters. In the 1960's, the State of Vermont was entering into a period of unchecked development. In response, Governor Dean C. Davis created the Commission on Environmental Control in May of 1969. The commission drafted a set of recommendations to help manage the precious resources of the State.

As the attorney general for the State at that time, I was one of the primary drafters of an environmental land use law which would later become known as Act 250. Act 250 was specifically written to control development, not to stop development, and in turn, this act has led Vermont to economic prosperity through balanced environmental protection.

After reviewing the Commission on Environmental Control's recommendation and the proposed legislation, Governor Davis made one very basic, but important change in the legislation. The proposed legislation had called for a State agency to administer the act. The Governor was adamant in his belief that the control should be as close to the people as possible. It is that control which the FCC's proposed rulemaking is looking to preempt.

Governor Davis' recommendation led to placing the permitting process in the hands of local environmental review boards with appeal rights to the Vermont Environmental Board. Thus, the act is administered by men and women who are directly involved in their communities and thoroughly familiar with local concerns.

When reviewing an application for new development, the local environmental review boards take into account the economic needs of the State along with regional concerns. The review board's underlying goal is to direct the impact of development toward the positive. The positive approach has led to a high priority on preserving the environment, protecting the natural resources, and maintaining the quality of life of all Vermonters.

On October 9, 1997, the State of Vermont Environmental Board filed comments with the Federal Communications Commission that stated: "Far from being an impediment to personal wireless service deployment, Vermont's Act 250 demonstrates that the path to economic prosperity is through balanced environmental protection, not preemption of such protection." I share the board's sentiments and feel that the FCC should take no further steps to preempt Vermont's Act 250 with respect to personal wireless service facilities.

Mr. President, the Green Mountain State has unique topography, dominated by rolling valleys and tall mountains. In turn, the citizens of the State have taken many steps to help preserve the beautiful views and pristine environment. The determination of the location of visible transmission towers should remain within the jurisdiction of local control. I feel that the Telecommunication Act of 1996 recognizes and protects the interest of local and State government in the area of land use regulation.

As the attorney general of the State of Vermont at the time of the enactment of Act 250, I am proud of the role I and many other Vermonters played in the subsequent management of the precious natural resources of the State. I support Act 250 and feel that the placement of communications towers should be left in the hands of the residents of Vermont not by a Federal agency.

I have written to the Chairman of the FCC with regard to my concerns about this proposed rulemaking. In addition, yesterday the Senate confirmed William Kennard to be the next Chairman of the FCC. Upon his confirmation, I wrote a letter to Chairman Kennard personally inviting him to the State of Vermont to see first hand how this proposed rulemaking would impact the State. I hope that he will join me on a tour of the State which will demonstrate to him the importance of local control with respect to the placement of broadcast facilities. Further, I look forward to explaining how Act 250 has allowed for the development of wireless communication in the State while protecting the environment.

Mr. President, in conclusion, I want to commend Mr. LEAHY for introducing this very important legislation for the State of Vermont. I am pleased to be a cosponsor and I look forward to working with him to protect Vermont's interests unique landscape.

By Mr. BURNS:

S. 1351. A bill to amend the Sikes Act to establish a mechanism by which outdoor recreation programs on military installations will be accessible to disabled veterans, military dependents with disabilities, and other persons with disabilities; to the Committee on Armed Services.

THE DISABLED SPORTSMEN'S ACCESS ACT

Mr. BURNS. Madam President, I rise today to introduce the Disabled Sportsmen's Access Act. This legislation will provide new opportunities for sportsmen with disabilities to hunt and fish on the numerous Department of Defense facilities across this Nation. This legislation will also allow the Department of Defense to work with private sector groups to build facilities and operate programs for the benefit of sportsmen with disabilities.

The beginnings of this legislation originate from a program developed at the Marine Corps Base at Quantico, VA. The program, run by Lt. Col. Lewis Deal, is a prime example of the work that can be done to provide new opportunities for people with disabilities. Lieutenant Colonel Deal has combined private sector volunteers work with donations from other people to build permanent disabled accessible blinds for deer hunting, which are used during both gun and bow seasons. These blinds provide people living with disabilities many of the same opportunities for outdoor recreation that we all enjoy.

There are plans underway at this time to construct a fishing pier on the Potomac River for access by people with disabilities. This pier is to be built with lower railings, and stops to provide access and security for disabled persons.

This legislation, uses the current program at Quantico, to allow the Department of the Defense to provide access to it's 30 million acres of wildlands

by disabled individuals, as long as it does not interfere with the primary mission of the military, that of our Nation's defense. The military installations around the Nation offer a number of recreational and outdoor activities for both military and civilian personnel.

This legislation, will encourage the Department of Defense to give access to individuals with disabilities and allow the Department to accept donations or money and materials as well as use volunteers for the construction of facilities accessible to sportsmen with disabilities. The bill would allow this voluntary work to be done without cost to the Federal Government or the taxpayer.

Madam President, this legislation has the support of numerous organizations, including the bipartisan Congressional Sportsmen's Caucus, the Paralyzed Veterans of America, Disabled American Veterans. Among sportsmen's groups the bill has the endorsement of the Wheeling Sportsmen of America, Safari Club International, Wildlife Management Institute, the International Association of Fish and Wildlife Agencies and the Congressional Sportsmen's Foundation. I join today with my friend Congressman DUKE CUNNINGHAM to bring this important legislation to the attention of my colleagues.

I hope that all my colleagues in Congress would join Congressman CUNNINGHAM and myself in supporting this legislation for disabled sportsmen in our country.

ADDITIONAL COSPONSORS

S. 28

At the request of Mr. THURMOND, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 28, a bill to amend title 17, United States Code, with respect to certain exemptions from copyright, and for other purposes.

S. 678

At the request of Mr. LEAHY, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 678, a bill to provide for the appointment of additional Federal circuit and district judges, and for other purposes.

S. 766

At the request of Ms. SNOWE, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 766, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 813

At the request of Mr. THURMOND, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of S. 813, a bill to amend chapter 91 of title 18, United States Code, to provide criminal penalties for theft and willful vandalism at national cemeteries.

S. 1096

At the request of Mr. KERREY, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1096, a bill to restructure the Internal Revenue Service, and for other purposes.

S. 1105

At the request of Mr. COCHRAN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1105, a bill to amend the Internal Revenue Code of 1986 to provide a sound budgetary mechanism for financing health and death benefits of retired coal miners while ensuring the long-term fiscal health and solvency of such benefits, and for other purposes.

S. 1153

At the request of Mr. BAUCUS, the names of the Senator from Nevada [Mr. BRYAN] the Senator from California [Mrs. FEINSTEIN], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 1153, a bill to promote food safety through continuation of the Food Animal Residue Avoidance Database program operated by the Secretary of Agriculture.

S. 1194

At the request of Mr. KYL, the names of the Senator from Tennessee [Mr. FRIST] and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 1194, a bill to amend title XVIII of the Social Security Act to clarify the right of medicare beneficiaries to enter into private contracts with physicians and other health care professionals for the provision of health services for which no payment is sought under the medicare program.

S. 1228

At the request of Mr. CHAFEE, the names of the Senator from West Virginia [Mr. ROCKEFELLER] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 1228, a bill to provide for a 10-year circulating commemorative coin program to commemorate each of the 50 States, and for other purposes.

S. 1251

At the request of Mr. D'AMATO, the names of the Senator from Maryland [Mr. SARBANES] and the Senator from California [Mrs. BOXER] were added as cosponsors of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. GRAHAM, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1260

At the request of Mr. GRAMM, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 1260, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

S. 1283

At the request of Mr. BUMPERS, the names of the Senator from Michigan [Mr. LEVIN] and the Senator from California [Mrs. BOXER] were added as cosponsors of S. 1283, a bill to award Congressional gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred collectively as the "Little Rock Nine" on the occasion of the 40th anniversary of the integration of the Central High School in Little Rock, Arkansas.

S. 1292

At the request of Mr. STEVENS, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Nebraska [Mr. HAGEL], the Senator from Maryland [Ms. MIKULSKI], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. 1292, a bill disapproving the cancellations transmitted by the President on October 6, 1997, regarding Public Law 105–45.

S. 1297

At the request of Mr. COVERDELL, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 1297, a bill to redesignate Washington National Airport as "Ronald Reagan Washington National Airport".

S. 1310

At the request of Mr. FORD, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1310, a bill to provide market transition assistance for tobacco producers, tobacco industry workers, and their communities.

S. 1311

At the request of Mr. LOTT, the names of the Senator from Oklahoma [Mr. INHOFE], the Senator from Colorado [Mr. ALLARD], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Ohio [Mr. DEWINE], the Senator from Texas [Mr. GRAMM], and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of S. 1311, a bill to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles.

S. 1314

At the request of Mrs. HUTCHISON, the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from

Pennsylvania [Mr. SANTORUM], the Senator from Nebraska [Mr. HAGEL], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1314, a bill to amend the Internal Revenue Code of 1986 to provide that married couples may file a combined return under which each spouse is taxed using the rates applicable to unmarried individuals.

S. 1327

At the request of Mr. ROTH, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1327, a bill to grant normal trade relations status to the People's Republic of China on a permanent basis upon the accession of the People's Republic of China to the World Trade Organization.

SENATE RESOLUTION 93

At the request of Mr. GRASSLEY, the names of the Senator from Kansas [Mr. BROWNBACK], the Senator from Indiana [Mr. COATS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Idaho [Mr. CRAIG], the Senator from New Mexico [Mr. DOMENICI], the Senator from Washington [Mr. GORTON], the Senator from Nebraska [Mr. HAGEL], the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Oklahoma [Mr. INHOFE], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Alabama [Mr. SHELBY], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Louisiana [Mr. BREAUX], the Senator from North Dakota [Mr. CONRAD], the Senator from California [Mrs. FEINSTEIN], the Senator from Kentucky [Mr. FORD], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUYE], the Senator from Wisconsin [Mr. KOHL], the Senator from Louisiana [Ms. LANDRIEU], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Michigan [Mr. LEVIN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from New York [Mr. MOYNIHAN], the Senator from New Jersey [Mr. TORRICELLI], the Senator from Missouri [Mr. ASHCROFT], and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of Senate Resolution 93, a resolution designating the week beginning November 23, 1997, and the week beginning on November 22, 1998, as "National Family Week," and for other purposes.

SENATE RESOLUTION 141

At the request of Mrs. MURRAY, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Senate Resolution 141, a resolution expressing the sense of the Senate regarding National Concern About Young People and Gun Violence Day.

SENATE CONCURRENT RESOLUTION 58—EXPRESSING THE CONCERN OF CONGRESS

Mr. GRAMS (for himself and Mr. SMITH of Oregon) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 58

Whereas the Russian legislature approved a bill "On Freedom of Conscience and Religious Association", and Russian President Boris Yeltsin signed it into law on September 26;

Whereas under the new law, the Russian government exercises almost unrestricted control over the activities of both Russian and international religious groups;

Whereas the new law will grant privileged status to some religions while discriminating against others through restrictive reporting and registration requirements;

Whereas the new law jeopardizes religious rights by permitting government officials, in consultation with privileged religious groups, to deny or revoke the registration of minority religions and order their possible disbandment or prohibition, on the basis of such activities as home schooling, nonmedical forms of healing, "hypnotic" sermons, and other vaguely defined offenses;

Whereas the law also restricts foreign missionary work in Russia;

Whereas under the new law, religious organizations or churches that wish to continue their activities in Russia will have to provide confirmation that they have existed at least 15 years, and only those who legally operated 50 years ago may be recognized as national "Russian" religious organizations;

Whereas although Article 14 of the Russian Constitution stipulates that "religious associations are separate from the state and are equal before the law", Article 19 states that restriction of citizens' rights on grounds of religious affiliation are prohibited, and Article 28 stipulates that "each person is guaranteed freedom of conscience and freedom * * * to choose, hold, and disseminate religious and other convictions and to act in accordance with them", the new law clearly violates these provisions of the Russian Constitution;

Whereas the Russian religion law violates accepted international agreements on human rights and religious freedoms to which the Russian Federation is a signatory, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Helsinki Final Act and Madrid and Vienna Concluding Documents, and the European Convention on Human Rights;

Whereas governments have a primary responsibility to promote, encourage, and protect respect for the fundamental and internationally recognized right to freedom of religion; and

Whereas the United States Government is committed to the right to freedom of religion and its policies, and should encourage foreign governments to commit to this principle: Now, therefore, be it—

Resolved by the Senate (the House of Representatives concurring), That Congress hereby—

(1) condemns the newly passed Russian antireligion law restricting freedom of religion, and violating international norms, international treaties to which the Russian Federation is a signatory, and the Constitution of Russia;

(2) recommends that President Clinton make the United States position clear to President Yeltsin and the Russian legislature that this antireligion law may seriously harm United States-Russian relations;

(3) calls upon President Yeltsin and the Russian legislature to uphold their international commitments on human rights, abide by the Russian Constitution's guarantee of freedom of religion, and reconsider their position by amending the new antireligion law and lifting all restrictions on freedom of religion; and

(4) calls upon all governments and legislatures of the independent states of the former Soviet Union to respect religious human rights in accordance with their international commitments and resist efforts to adopt the Russian discriminatory law.

AMENDMENTS SUBMITTED

THE EDUCATION SAVINGS ACT FOR PUBLIC AND PRIVATE SCHOOLS

KOHL AMENDMENT NO. 1528

(Ordered to lie on the table.)

Mr. KOHL submitted an amendment intended to be proposed by him to the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

SEC. ___. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE; FOREIGN TAX CREDIT CARRYOVERS.

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45D. EMPLOYER-PROVIDED CHILD CARE CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to 50 percent of the qualified child care expenditures of the taxpayer for such taxable year.

"(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CHILD CARE EXPENDITURE.—The term 'qualified child care expenditure' means any amount paid or incurred—

"(A) to acquire, construct, rehabilitate, or expand property—

"(i) which is to be used as part of a qualified child care facility of the taxpayer,

"(ii) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

"(iii) which does not constitute part of the principal residence (within the meaning of section 1034) of the taxpayer or any employee of the taxpayer,

"(B) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training,

"(C) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, or

"(D) under a contract to provide child care resource and referral services to employees of the taxpayer.

"(2) QUALIFIED CHILD CARE FACILITY.—

"(A) IN GENERAL.—The term 'qualified child care facility' means a facility—

"(i) the principal use of which is to provide child care assistance, and

"(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 1034) of the operator of the facility.

"(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

"(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

"(ii) the facility is not the principal trade or business of the taxpayer unless at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

"(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

"(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

"(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapture percentage, and

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

"(2) APPLICABLE RECAPTURE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs in:	The applicable recapture percentage is:
Years 1–3	100
Year 4	85
Year 5	70
Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

"(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

"(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

"(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

"(B) CHANGE IN OWNERSHIP.—

"(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

"(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

"(4) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

"(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

"(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(f) NO DOUBLE BENEFIT.—

"(1) REDUCTION IN BASIS.—For purposes of this subtitle—

"(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

"(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

"(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

"(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1999."

(2) CONFORMING AMENDMENTS.—

(A) Section 38(b) of the Internal Revenue Code of 1986 is amended—

(i) by striking out "plus" at the end of paragraph (11),

(ii) by striking out the period at the end of paragraph (12), and inserting a comma and "plus", and

(iii) by adding at the end the following new paragraph:

"(13) the employer-provided child care credit determined under section 45D."

(B) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45D. Employer-provided child care credit."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1996.

(b) MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.—

(1) IN GENERAL.—Subsection (c) of section 904 of the Internal Revenue Code of 1986 (relating to limitation on credit) is amended—

(A) by striking "in the second preceding taxable year,", and

(B) by striking "or fifth" and inserting "fifth, sixth, or seventh".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to credits arising in taxable years beginning after December 31, 1997.

DURBIN AMENDMENT NO. 1529

(Ordered to lie on the table.)

Mr. DURBIN submitted an amendment intended to be proposed by him to the bill, H.R. 2646, surpa; as follows:

Strike section 2 and insert:

SEC. 2. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 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	75
1999	75
2000	75
2001	80
2002	80
2003	80
2004	80
2005	80
2006 and thereafter	100."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

MOYNIHAN AMENDMENT NO. 1530

(Ordered to lie on the table.)

Mr. MOYNIHAN submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

Strike section 2 and insert:

SEC. 2. EXCLUSION FOR EDUCATIONAL ASSISTANCE TO GRADUATE STUDENTS.

(A) IN GENERAL.—The last sentence of section 127(c)(1) of the Internal Revenue Code of

1986 (defining educational assistance) is amended by striking ", and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) small apply with respect to expenses relating to courses beginning after July 31, 1997.

GRAHAM AMENDMENT NO. 1531

(Ordered to lie on the table.)

Mr GRAHAM submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

On page 3, between lines 9 and 10, insert:

"(C) DEPENDENT CARE EMPLOYMENT-RELATED EXPENSES.—Such term shall include employment-related expenses (as defined in section 21(b)(2)) for the care of a designated beneficiary who is a qualifying individual under section 21(b)(1)(A) with respect to the individual incurring such expenses. No credit shall be allowed under section 21 with respect to employment-related expenses paid out of the account to the extent such payment is not included in gross income by reason of subsection (d)(2)."

MOSELEY-BRAUN AMENDMENTS NOS. 1532–1533

(Ordered to lie on the table.)

Ms. MOSELEY-BRAUN submitted two amendments intended to be proposed by her to the bill, H.R. 2646, supra; as follows:

AMENDMENT NO. 1532

Beginning on page 2, strike line 3 and all that follows through page 6, line 10, and insert the following:

SECTION 1. PROVISION OF ASSISTANCE FOR CONSTRUCTION AND RENOVATION OF EDUCATIONAL FACILITIES.

(a) SHORT TITLE.—This section may be cited as the "Educational Facilities Improvement Act".

(b) AMENDMENT.—Title XII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8501 et seq.) is amended—

(1) by repealing sections 12002 and 12003;

(2) by redesignating sections 12001 and 12004 through 12013, as sections 12101 and 12102 through 12111, respectively;

(3) by inserting after the title heading the following:

"SEC. 12001. FINDINGS.

"The Congress finds the following:

"(1) The General Accounting Office performed a comprehensive survey of the Nation's public elementary and secondary school facilities, and found severe levels of disrepair in all areas of the United States.

"(2) The General Accounting Office concluded more than 14,000,000 children attend schools in need of extensive repair or replacement. Seven million children attend schools with life safety code violations. Twelve million children attend schools with leaky roofs.

"(3) The General Accounting Office found the problem of crumbling schools transcends demographic and geographic boundaries. At 38 percent of urban schools, 30 percent of rural schools, and 29 percent of suburban schools, at least one building is in need of extensive repair or should be completely replaced.

"(4) The condition of school facilities has a direct affect on the safety of students and teachers, and on the ability of students to learn.

"(5) Academic research has proven a direct correlation between the condition of school facilities and student achievement. At Georgetown University, researchers found students assigned to schools in poor condition can be expected to fall 10.9 percentage points below those in buildings in excellent condition. Similar studies have demonstrated up to a 20 percent improvement in test scores when students were moved from a poor facility to a new facility.

"(6) The General Accounting Office found most schools are not prepared to incorporate modern technology into the classroom. Forty-six percent of schools lack adequate electrical wiring to support the full-scale use of technology. More than a third of schools lack the requisite electrical power. Fifty-six percent of schools have insufficient phone lines for modems.

"(7) The Department of Education reported that elementary and secondary school enrollment, already at a record high level, will continue to grow during the period between 1996 and 2000, and that in order to accommodate this growth, the United States will need to build an additional 6,000 schools over this time period.

"(8) The General Accounting Office found it will cost $112,000,000,000 just to bring schools up to good, overall condition, not including the cost of modernizing schools so the schools can utilize 21st century technology, nor including the cost of expansion to meet record enrollment levels.

"(9) State and local financing mechanisms have proven inadequate to meet the challenges facing today's aging school facilities. Large numbers of local educational agencies have difficulties securing financing for school facility improvement.

"(10) The Federal Government can support elementary and secondary school facilities, and can leverage additional funds for the improvement of elementary and secondary school facilities.

"SEC. 12002. PURPOSE.

"The purpose of this title is to help State and local authorities improve the quality of education at their public schools through the provision of Federal funds to enable the State and local authorities to meet the cost associated with the improvement of school facilities within their jurisdictions.

"PART A—GENERAL INFRASTRUCTURE IMPROVEMENT GRANT PROGRAM";

and

(4) by adding at the end the following:

"PART B—CONSTRUCTION AND RENOVATION BOND SUBSIDY PROGRAM

"SEC. 12201. DEFINITIONS.

"As used in this part:

"(1) EDUCATIONAL FACILITY.—The term 'educational facility' has the meaning given the term 'school' in section 12110.

"(2) LOCAL AREA.—The term 'local area' means the geographic area served by a local educational agency.

"(3) LOCAL BOND AUTHORITY.—The term 'local bond authority' means—

"(A) a local educational agency with authority to issue a bond for construction or renovation of educational facilities in a local area; and

"(B) a political subdivision of a State with authority to issue such a bond for an area including a local area.

"(4) POVERTY LINE.—The term 'poverty line' means the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2))) applicable to a family of the size involved.

"(5) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 12202. AUTHORIZATION OF PROGRAM.

"(a) PROGRAM AUTHORITY.—Of the amount appropriated under section 12210 for a fiscal year and not reserved under subsection (b), the Secretary shall use—

"(1) 33 percent of such amount to award grants to local bond authorities for not more than 125 eligible local areas as provided for under section 12203; and

"(2) 67 percent of such amount to award grants to States as provided for under section 12204.

"(b) SPECIAL RULE.—The Secretary may reserve—

"(1) not more than 1.5 percent of the amount appropriated under section 12210 to provide assistance to Indian schools in accordance with the purpose of this title;

"(2) not more than 0.5 percent of the amount appropriated under section 12210 to provide assistance to Guam, the United States Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau to carry out the purpose of this title; and

"(3) not more than 0.1 percent of the amount appropriated under section 12210 to carry out section 12209.

"SEC. 12203. DIRECT GRANTS TO LOCAL BOND AUTHORITIES.

"(a) IN GENERAL.—The Secretary shall award a grant under section 12202(a)(1) to eligible local bond authorities to provide assistance for construction or renovation of educational facilities in a local area.

"(b) USE OF FUNDS.—The local bond authority shall use amounts received through a grant made under section 12202(a)(1) to pay a portion of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local area.

"(c) ELIGIBILITY AND DETERMINATION.—

"(1) ELIGIBILITY.—To be eligible to receive a grant under section 12202(a)(1) for a local area, a local bond authority shall demonstrate the capacity to issue a bond for an area that includes 1 of the 125 local areas for which the Secretary has made a determination under paragraph (2).

"(2) DETERMINATION.—

"(A) MANDATORY.—The Secretary shall make a determination of the 100 local areas that have the highest numbers of children who are—

"(i) aged 5 to 17, inclusive; and

"(ii) members of families with incomes that do not exceed 100 percent of the poverty line.

"(B) DISCRETIONARY.—The Secretary may make a determination of 25 local areas, for which the Secretary has not made a determination under subparagraph (A), that have extraordinary needs for construction or renovation of educational facilities that the local bond authority serving the local area is unable to meet.

"(d) APPLICATION.—To be eligible to receive a grant under section 12202(a)(1), a local bond authority shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

"(1) an assurance that the application was developed in consultation with parents and classroom teachers;

"(2) information sufficient to enable the Secretary to make a determination under subsection (c)(2) with respect to such local authority;

"(3) a description of the architectural, civil, structural, mechanical, or electrical construction or renovation to be supported with the assistance provided under this part;

"(4) a cost estimate of the proposed construction or renovation;

"(5) an identification of other resources, such as unused bonding capacity, that are available to carry out the activities for which assistance is requested under this part;

"(6) a description of how activities supported with funds provided under this part will promote energy conservation; and

"(7) such other information and assurances as the Secretary may require.

"(e) AWARD OF GRANTS.—

"(1) IN GENERAL.—In awarding grants under section 12202(a)(1), the Secretary shall give preference to a local bond authority based on—

"(A) the extent to which the local educational agency serving the local area involved or the educational facility for which the authority seeks a grant (as appropriate) meets the criteria described in section 12103(a);

"(B) the extent to which the educational facility is overcrowded; and

"(C) the extent to which assistance provided through the grant will be used to fund construction or renovation that, but for receipt of the grant, would not otherwise be possible to undertake.

"(2) AMOUNT OF ASSISTANCE.—

"(A) IN GENERAL.—In determining the amount of assistance for which local bond authorities are eligible under section 12202(a)(1), the Secretary shall—

"(i) give preference to a local bond authority based on the criteria specified in paragraph (1); and

"(ii) consider—

"(I) the amount of the cost estimate contained in the application of the local bond authority under subsection (d)(4);

"(II) the relative size of the local area several by the local bond authority; and

"(III) any other factors determined to be appropriate by the Secretary.

"(B) MAXIMUM AMOUNT OF ASSISTANCE.—A local bond authority shall be eligible for assistance under section 12202(a)(1) in an amount that does not exceed the appropriate percentage under section 12204(f)(3) of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local area involved.

"SEC. 12204. GRANTS TO STATES.

"(a) IN GENERAL.—The Secretary shall award a grant under section 12202(a)(2) to each eligible State to provide assistance to the State, or local bond authorities in the State, for construction and renovation of educational facilities in local areas.

"(b) USE OF FUNDS.—The State shall use amounts received through a grant made under section 12202(a)(2)—

"(1) to pay a portion of the interest costs applicable to any State bond issued to finance an activity described in section 12205 with respect to the local areas; or

"(2) to provide assistance to local bond authorities in the State to pay a portion of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local areas.

"(c) AMOUNT OF GRANT TO STATE.—

"(1) IN GENERAL.—From the amount available for grants under section 12202(a)(2), the Secretary shall award a grant to each eligible State that is equal to the total of—

"(A) a sum that bears the same relationship to 50 percent of such amount as the total amount of funds made available for all eligible local educational agencies in the State under part A of title I for such year bears to the total amount of funds made available for all eligible local educational agencies in all States under such part for such year; and

"(B) a sum that bears the same relationship to 50 percent of such amount as the total amount of funds made available for all eligible local educational agencies in the State under title VI for such year bears to the total amount of funds made available for all eligible local educational agencies in all States under such title for such year.

"(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—For the purpose of paragraph (1) the term 'eligible local educational agency' means a local educational agency that does not serve a local area for which an eligible local bond authority received a grant under section 12203.

"(d) STATE APPLICATIONS REQUIRED.—To be eligible to receive a grant under section 12202(a)(2), a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require. Such application shall contain—

"(1) a description of the process the State will use to determine which local bond authorities will receive assistance under subsection (b)(2).

"(2) an assurance that grant funds under this section will be used to increase the amount of school construction or renovation in the State for a fiscal year compared to such amount in the State for the preceding fiscal years.

"(e) ADMINISTERING AGENCY.—

"(1) IN GENERAL.—The State agency with authority to issue bonds for the construction or renovation of educational facilities, or with the authority to otherwise finance such construction or renovation, shall administer the amount received through the grant.

"(2) SPECIAL RULE.—If no agency described in paragraph (1) exists, or if there is more than one such agency, then the chief executive officer of the State and the chief State school officer shall designate a State entity or individual to administer the amounts received through the grant.

"(f) ASSISTANCE TO LOCAL BOND AUTHORITIES.—

"(1) IN GENERAL.—To be eligible to receive assistance from a State under this section, a local bond authority shall prepare and submit to the State agency designated under subsection (e) an application at such time, in such manner, and containing such information as the State agency may require, including the information described in section 12203(d).

"(2) CRITERIA.—In awarding grants under this section, the State agency shall give preference to a local bond authority based on—

"(A) the extent to which the local educational agency serving the local area involved or the educational facility for which the authority seeks the grant (as appropriate) meets the criteria described in section 12103(a);

"(B) the extent to which the educational facility is overcrowded; and

"(C) the extent to which assistance provided through the grant will be used to fund construction or renovation that, but for receipt of the grant, would not otherwise be possible to undertake.

"(3) AMOUNT OF ASSISTANCE.—A local bond authority seeking assistance for a local area served by a local educational agency described in—

"(A) clause (i)(I) or clause (ii)(I) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 10 percent;

"(B) clause (i)(II) or clause (ii)(II) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 20 percent;

"(C) clause (i)(III) or clause (ii)(III) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 30 percent;

"(D) clause (i)(IV) or clause (ii)(IV) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 40 percent; and

"(E) clause (i)(V) or clause (ii)(V) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 50 percent;

of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local area.

"(g) ASSISTANCE TO STATE.—

"(1) IN GENERAL.—If a State issues a bond to finance an activity described in section 12205 with respect to local areas, the State shall be eligible for assistance in an amount that does not exceed the percentage calculated under the formula described in paragraph (2) of the interest costs applicable to the State bond with respect to the local areas.

"(2) FORMULA.—The Secretary shall develop a formula for determining the percentage referred to in paragraph (1). The formula shall specify that the percentage shall consist of a weighted average of the percentages referred to in subparagraphs (A) through (E) of subsection (f)(3) for the local areas involved.

"SEC. 12205. AUTHORIZED ACTIVITIES.

"An activity described in this section is a project of significant size and scope that consists of—

"(1) the repair or upgrading of classrooms or structures related to academic learning, including the repair of leaking roofs, crumbling walls, inadequate plumbing, poor ventilation equipment, and inadequate heating or light equipment;

"(2) an activity to increase physical safety at the educational facility involved;

"(3) an activity to enhance the educational facility involved to provide access for students, teachers, and other individuals with disabilities;

"(4) an activity to improve the energy efficiency of the educational facility involved;

"(5) an activity to address environmental hazards at the educational facility involved, such as poor ventilation, indoor air quality, or lighting;

"(6) the provision of basic infrastructure that facilitates educational technology, such as communications outlets, electrical systems, power outlets, or a communication closet;

"(7) the construction of new schools to meet the needs imposed by enrollment growth; and

"(8) any other activity the Secretary determines achieves the purpose of this title.

"SEC. 12206. STATE GRANT WAIVERS.

"(a) WAIVER FOR STATE ISSUANCE OF BOND.—

"(1) IN GENERAL.—A State that issues a bond described in section 12204(b)(1) with respect to a local area may request that the Secretary waive the limits described in section 12204(f)(3) for the local area, in calculating the amount of assistance the State may receive under section 12204(g). The State may request the waiver only if no local entity is able, for one of the reasons described in subparagraphs (A) through (F) of paragraph (2), to issue bonds on behalf of the local area. Under such a waiver, the Secretary may permit the State to use amounts received through a grant made under section 12202(a)(2) to pay for not more than 80 percent of the interest costs applicable to the State bond with respect to the local area.

"(2) DEMONSTRATION BY STATE.—To be eligible to receive a waiver under this subsection, a State shall demonstrate to the satisfaction of the Secretary that—

"(A) the local bond authority serving the local area has reached a limit on its borrowing authority as a result of a debt ceiling or property tax cap;

"(B) the local area has a high percentage of low-income residents, or an unusually high property tax rate;

"(C) the demographic composition of the local area will not support additional school spending;

"(D) the local bond authority has a history of failed attempts to pass bond referenda;

"(E) the local area contains a significant percentage of Federally-owned land that is not subject to local taxation; or

"(F) for another reason, no local entity is able to issue bonds on behalf of the local area.

"(b) WAIVER FOR OTHER FINANCING SOURCES.—

"(1) IN GENERAL.—A State may request that the Secretary waive the use requirements of section 12204(b) for a local bond authority to permit the State to provide assistance to the local bond authority to finance construction or renovation by means other than through the issuance of bonds.

"(2) USE OF FUNDS.—A State that receives a waiver granted under this subsection may provide assistance to a local bond authority in accordance with the criteria described in section 12204(f)(2) to enable the local bond authority to repay the costs incurred by the local bond authority in financing an activity described in section 12205. The local bond authority shall be eligible to receive the amount of such assistance that the Secretary estimates the local bond authority would be eligible to receive under section 12204(f)(3) if the construction or renovation were financed through the issuance of a bond.

"(3) MATCHING REQUIREMENT.—The State shall make available to the local bond authority (directly or through donations from public or private entities) non-Federal contributions in an amount equal to not less than $1 for every $1 of Federal funds provided to the local bond authority through the grant.

"(c) WAIVER FOR OTHER USES.—

"(1) IN GENERAL.—A State may request that the Secretary waive the use requirements of section 12204(b) for a State to permit the State to carry out activities that achieve the purpose of this title.

"(2) DEMONSTRATION BY STATE.—To be eligible to receive a waiver under this subsection, a State shall demonstrate to the satisfaction of the Secretary that the use of assistance provided under the waiver—

"(A) will result in an equal or greater amount of construction or renovation of educational facilities than the provision of assistance to defray the interest costs applicable to a bond for such construction or renovation; and

"(B) will be used to fund activities that are effective in carrying out the activities described in section 12205, such as—

"(i) the capitalization of a revolving loan fund for such construction or renovation;

"(ii) the use of funds for reinsurance or guarantees with respect to the financing of such construction or renovation;

"(iii) the creation of a mechanism to leverage private sector resources for such construction or renovation;

"(iv) the capitalization of authorities similar to State Infrastructure Banks to leverage additional funds for such construction or renovation; or

"(v) any other activity the Secretary determines achieves the purpose of this title.

"(d) LOCAL BOND AUTHORITY WAIVER.—

"(1) IN GENERAL.—A local bond authority may request the Secretary waive the use requirements of section 12203(b) for a local head authority to permit the authority to finance construction or renovation of educational facilities by means other than through use of bonds.

"(2) DEMONSTRATION.—To be eligible to receive a waiver under this subsection, a local bond authority shall demonstrate that the amounts made available through a grant under the waiver will result in an equal or greater amount of construction or renovation of educational facilities than the provision of assistance to defray the interest costs applicable to a bond for such construction or renovation.

"(e) REQUEST FOR WAIVER.—A State or local bond authority that desires a waiver under this section shall submit a waiver request to the Secretary that—

"(1) identifies the type of waiver requested;

"(2) with respect to a waiver described in subsection (a), (c), or (d), makes the demonstration described in subsection (a)(2), (c)(2), or (d)(2), respectively;

"(3) describes the manner in which the waiver will further the purpose of this title; and

"(4) describes the use of assistance provided under such waiver.

"(f) ACTION BY SECRETARY.—The Secretary shall make a determination with respect to a request submitted under subsection (d) not later than 90 days after the date on which such request was submitted.

"(g) GENERAL REQUIREMENTS.—

"(1) STATES.—In the case of a waiver request submitted by a State under this section, the State shall—

"(A) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

"(B) submit the comments to the Secretary; and

"(C) provide notice and information to the public regarding the waiver request in the manner that the applying State customarily provides similar notices and information to the public.

"(2) LOCAL BOND AUTHORITIES.—In the case of a waiver request submitted by a local bond authority under this section, the local bond authority shall—

"(A) provide the affected local educational agency with notice and a reasonable opportunity to comment on the request;

"(B) submit the comments to the Secretary; and

"(C) provide notice and information to the public regarding the waiver request in the manner that the applying local bond authority customarily provides similar notices and information to the public.

"SEC. 12207. GENERAL PROVISIONS.

"(a) FAILURE TO ISSUE BONDS.—

"(1) STATES.—If a State that receives assistance under this part fails to issue a bond for which the assistance is provided, the amount of such assistance shall be made available to the State as provided for under section 12204, during the first fiscal year following the date of repayment.

"(2) LOCAL BOND AUTHORITIES AND LOCAL AREAS.—If a local bond authority that receives assistance under this part fails to issue a bond, or a local area that receives such assistance fails to become the beneficiary of a bond, for which the assistance is provided, the amount of such assistance—

"(A) in the case of assistance received under section 12202(a)(1), shall be repaid to the Secretary and made available as provided for under section 12203; and

"(B) in the case of assistance received under section 12202(a)(2), shall be repaid to the State and made available as provided for under section 12204.

"(b) LIABILITY OF THE FEDERAL GOVERNMENT.—The Secretary shall not be liable for any debt incurred by a State or local bond authority for which assistance is provided under this part. If such assistance is used by a local educational agency to subsidize a debt other than the issuance of a bond, the Secretary shall have no obligation to repay the lending institution to whom the debt is owed if the local educational agency defaults.

"SEC. 12208. FAIR WAGES.

"The provisions of section 12107 shall apply with respect to all laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part using assistance provided under this part.

"SEC. 12209. REPORT.

"From amounts reserved under section 12202(b)(3) for each fiscal year the Secretary shall—

"(1) collect such data as the Secretary determines necessary at the school, local, and State levels;

"(2) conduct studies and evaluations, including national studies and evaluations, in order to—

"(A) monitor the progress of activities supported with funds provided under this part; and

"(B) evaluate the state of United States educational facilities; and

"(3) report to the appropriate committees of Congress regarding the findings of the studies and evaluations described in paragraph (2).

"SEC. 12210. FUNDING.

"(a) IN GENERAL.—There are appropriated to carry out this part $827,000,000 for fiscal year 1998, $1,388,000,000 for fiscal year 1999, $608,000,000 for fiscal year 2000, $141,000,000 for fiscal year 2001, and $148,000,000 for fiscal year 2002.

"(b) ENTITLEMENT.—Subject to subsection (a), each State or local bond authority awarded a grant under this part shall be entitled to payments under the grant.

"(c) AVAILABILITY.—Any amounts appropriated pursuant to the authority of subsection (a) shall remain available until expended.".

(c) CONFORMING AMENDMENTS.—

(1) CROSS REFERENCES.—Part A of title XII of the Elementary and Secondary Education Act of 1965 (as redesignated by subsection (b)(3)) is amended—

(A) in section 12102(a) (as redesignated by subsection (b)(2))—

(i) in paragraph (1)—

(I) by striking "12013" and inserting "12111";

(II) by striking "12005" and inserting "12103"; and

(III) by striking "12007" and inserting "12105"; and

(ii) in paragraph (2), by striking "12013" and inserting "12111"; and

(B) in section 12110(3)(C) (as redesignated by subsection (b)(2)), by striking "12006" and inserting "12104".

(2) CONFORMING AMENDMENTS.—Part A of title XII of the Elementary and Secondary Education Act of 1965 (as redesignated by subsection (b)(3)) (20 U.S.C. 8501 et seq.) is further amended—

(A) in section 12101 (as redesignated by subsection (b)(2)), by striking "This title" and inserting "This part"; and

(B) in sections 12102(a)(2), 12102(b)(1), 12103(a), 12103(b), 12103(b)(2), 12103(c), 12103(d), 12104(a), 12104(b)(2), 12104(b)(3), 12104(b)(4), 12104(b)(6), 12104(b)(7), 12105(a), 12105(b), 12106(a), 12106(b), 12106(c), 12106(c)(1), 12106(c)(7), 12106(e), 12107, 12108(a)(1), 12108(a)(2), 12108(b)(1), 12108(b)(2), 12108(b)(3), 12108(b)(4), 12109(2)(A), and 12110 (as redesignated by subsection (b)(2)), by striking "this title" each place it appears and inserting "this part".

SEC. 2. OVERRULING OF SCHMIDT BAKING COMPANY CASE.

AMENDMENT NO. 1533

Beginning on page 2, line 3, strike all through page 6, line 9, and insert:

SECTION 1. PURPOSE.

It is the purpose of this Act to help school districts to improve their crumbling and overcrowded school facilities through the use of Federal tax credits.

SEC. 2. TAX CREDIT FOR PUBLIC ELEMENTARY AND SECONDARY SCHOOL CONSTRUCTION.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to general business credits) is amended by adding at the end the following new section:

"SEC. 45D. CREDIT FOR PUBLIC ELEMENTARY AND SECONDARY SCHOOL CONSTRUCTION.

"(a) IN GENERAL.—For purposes of section 38, the amount of the school construction credit determined under this section for an eligible taxpayer for any taxable year with respect to an eligible school construction project shall be an amount equal to the lesser of—

"(1) the applicable percentage of the qualified school construction costs, or

"(2) the excess (if any) of—

"(A) the taxpayer's allocable school construction amount with respect to such project under subsection (d), over

"(B) any portion of such allocable amount used under this section for preceding taxable years.

"(b) ELIGIBLE TAXPAYER; ELIGIBLE SCHOOL CONSTRUCTION PROJECT.—For purposes of this section—

"(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means any person which—

"(A) has entered into a contract with a local educational agency for the performance of construction or related activities in connection with an eligible school construction project, and

"(B) has received an allocable school construction amount with respect to such contract under subsection (d).

"(2) ELIGIBLE SCHOOL CONSTRUCTION PROJECT.—

"(A) IN GENERAL.—The term 'eligible school construction project' means any project related to a public elementary school or secondary school that is conducted for 1 or more of the following purposes:

"(i) Construction of school facilities in order to ensure the health and safety of all students, which may include—

"(I) the removal of environmental hazards,

"(II) improvements in air quality, plumbing, lighting, heating and air conditioning, electrical systems, or basic school infrastructure, and

"(III) building improvements that increase school safety.

"(ii) Construction activities needed to meet the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) or of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

"(iii) Construction activities that increase the energy efficiency of school facilities.

"(iv) Construction that facilitates the use of modern educational technologies.

"(v) Construction of new school facilities that are needed to accommodate growth in school enrollments.

"(vi) Such other construction as the Secretary of Education determines appropriate.

"(B) SPECIAL RULES.—For purposes of this paragraph—

"(i) the term 'construction' includes reconstruction, renovation, or other substantial rehabilitation, and

"(ii) an eligible school construction project shall not include the costs of acquiring land (or any costs related to such acquisition).

"(c) QUALIFIED SCHOOL CONSTRUCTION COSTS; APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified school construction costs' means the aggregate amounts paid to an eligible taxpayer during the taxable year under the contract described in subsection (b)(1).

"(2) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means, in the case of an eligible school construction project related to a local educational agency, the higher of the following percentages:

"(A) If the local educational agency has a percentage or number of children described in clause (i)(I) or (ii)(I) of section 1125(c)(2)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6335(c)(2)(A)), the applicable percentage is 10 percent.

"(B) If the local educational agency has a percentage or number of children described in clause (i)(II) or (ii)(II) of such section, the applicable percentage is 15 percent.

"(C) If the local educational agency has a percentage or number of children described in clause (i)(III) or (ii)(III) of such section, the applicable percentage is 20 percent.

"(D) If the local educational agency has a percentage or number of children described in clause (i)(IV) or (ii)(IV) of such section, the applicable percentage is 25 percent.

"(E) If the local educational agency has a percentage or number of children described in clause (i)(V) or (ii)(V) of such section, the applicable percentage is 30 percent.

"(d) ALLOCABLE AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Subject to paragraph (3), a local educational agency may allocate to any person a school construction amount with respect to any eligible school construction project.

"(2) TIME FOR MAKING ALLOCATION.—An allocation shall be taken into account under paragraph (1) only if the allocation is made at the time the contract described in subsection (b)(1) is entered into (or such later time as the Secretary may by regulation allow).

"(3) COORDINATION WITH STATE PROGRAM.—A local educational agency may not allocate school construction amounts for any fiscal year—

"(A) which in the aggregate exceed the amount of the State school construction ceiling allocated to such agency for such fiscal year under subsection (e), or

"(B) if such allocation is inconsistent with any specific allocation required by the State or this section.

"(e) STATE CEILINGS AND ALLOCATION.—

"(1) IN GENERAL.—A State educational agency shall allocate to local educational agencies within the State for any fiscal year a portion of the State school construction ceiling for such year. Such allocations shall be consistent with the State application which has been approved under subsection (f) and with any requirement of this section.

"(2) STATE SCHOOL CONSTRUCTION CEILING.—

"(A) IN GENERAL.—The State school construction ceiling for any State for any fiscal year shall be an amount equal to the State's allocable share of the national school construction amount.

"(B) STATE'S ALLOCABLE SHARE.—The State's allocable share of the national school construction amount for a fiscal year shall bear the same relation to the national school construction amount for the fiscal year as the amount the State received under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the preceding fiscal year bears to the total amount received by all States under such section for such preceding fiscal year.

"(C) NATIONAL SCHOOL CONSTRUCTION AMOUNT.—The national school construction amount for any fiscal year is the lesser of—

"(i) in the case of—

"(I) fiscal year 1998, $827,000,000,

"(II) fiscal year 1999, $1,388,000,000, plus any amount not allocated under this section in any preceding fiscal year,

"(III) fiscal year 2000, $608,000,000, plus any such amount,

"(IV) fiscal year 2001, $141,000,000, plus any such amount, and

"(V) fiscal year 2002, $148,000,000, plus any such amount, or

"(ii) the amount made available for such year under the School Infrastructure Improvement Trust Fund established under section 9512,

reduced by any amount described in paragraph (3).

"(3) SPECIAL ALLOCATIONS FOR INDIAN TRIBES AND TERRITORIES.—

"(A) ALLOCATION TO INDIAN TRIBES.—The national school construction amount under paragraph (2)(C) shall be reduced by 1.5 percent for each fiscal year and the Secretary of Interior shall allocate such amount among Indian tribes according to their respective need for assistance under this section.

"(B) ALLOCATION TO TERRITORIES.—The national school construction amount under paragraph (2)(C) shall be reduced by 0.5 percent for each fiscal year and the Secretary of Education shall allocate such amount among the territories according to their respective need for assistance under this section.

"(4) REALLOCATION.—If the Secretary of Education determines that a State is not making satisfactory progress in carrying out

the State's plan for the use of funds allocated to the State under this section, the Secretary may reallocate all or part of the State school construction ceiling to 1 or more other States that are making satisfactory progress.

"(e) STATE APPLICATION.—

"(1) IN GENERAL.—A State educational agency shall not be eligible to allocate any amount to a local educational agency for any fiscal year unless the agency submits to the Secretary of Education (and the Secretary approves) an application containing such information as the Secretary may require, including—

"(A) an estimate of the overall condition of school facilities in the State, including the projected cost of upgrading schools to adequate condition;

"(B) an estimate of the capacity of the schools in the State to house projected student enrollments, including the projected cost of expanding school capacity to meet rising student enrollment;

"(C) the extent to which the schools in the State have the basic infrastructure elements necessary to incorporate modern technology into their classrooms, including the projected cost of upgrading school infrastructure to enable the use of modern technology in classrooms;

"(D) the extent to which the schools in the State offer the physical infrastructure needed to provide a high-quality education to all students; and

"(E) an identification of the State agency that will allocate credit amounts to local educational agencies within the State.

"(2) SPECIFIC ITEMS IN ALLOCATION.—The State shall include in the State's application the process by which the State will allocate the credits to local educational agencies within the State. The State shall consider in its allocation process the extent to which—

"(A) the school district served by the local educational agency has—

"(i) a high number or percentage of the total number of children aged 5 to 17, inclusive, in the State who are counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)); or

"(ii) a high percentage of the total number of low-income residents in the State;

"(B) the local educational agency lacks the fiscal capacity, including the ability to raise funds through the full use of such agency's bonding capacity and otherwise, to undertake the eligible school construction project without assistance;

"(C) the local area makes an unusually high local tax effort, or has a history of failed attempts to pass bond referenda;

"(D) the local area contains a significant percentage of federally owned land that is not subject to local taxation;

"(E) the threat the condition of the physical facility poses to the safety and well-being of students;

"(F) there is a demonstrated need for the construction, reconstruction, renovation, or rehabilitation based on the condition of the facility;

"(G) the extent to which the facility is overcrowded; and

"(H) the extent to which assistance provided will be used to support eligible school construction projects that would not otherwise be possible to undertake.

"(3) IDENTIFICATION OF AREAS.—The State shall include in the State's application the process by which the State will identify the areas of greatest needs (whether those areas are in large urban centers, pockets of rural poverty, fast-growing suburbs, or elsewhere) and how the State intends to meet the needs of those areas.

"(4) ALLOCATIONS ON BASIS OF APPLICATION.—The Secretary of Education shall evaluate applications submitted under this subsection and shall approve any such application which meets the requirements of this section.

"(g) REQUIRED ALLOCATIONS.—Notwithstanding any process for allocation under a State application under subsection (f), in the case of a State which contains 1 or more of the 100 school districts within the United States which contains the largest number of poor children (as determined by the Secretary of Education), the State shall allocate each fiscal year to the local educational agency serving such districts that portion of the State school construction ceiling which bears the same ratio to such ceiling as the number of children in such district for the preceding fiscal year who are counted for purposes of section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)) bears to the total number of children in such State who are so counted.

"(h) DEFINITIONS.—For purposes of this section—

"(1) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; SECONDARY SCHOOL; STATE EDUCATIONAL AGENCY.—The terms 'elementary school', 'local educational agency', 'secondary school', and 'State educational agency' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

"(2) TERRITORIES.—The term 'territories' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(3) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico."

(b) INCLUSION IN GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Section 38(b) of the Internal Revenue Code of 1986 is amended by striking "plus" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", plus", and by adding at the end the following new paragraph:

"(13) the school construction credit determined under section 45D(a)."

(2) TRANSITION RULE.—Section 39(d) of such Code is amended by adding at the end the following new paragraph:

"(8) NO CARRYBACK OF SECTION 45D CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the school construction credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 45D."

(c) ESTABLISHMENT OF SCHOOL INFRASTRUCTURE IMPROVEMENT TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 9512. SCHOOL INFRASTRUCTURE IMPROVEMENT TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'School Infrastructure Improvement Trust Fund', consisting of such amounts as may be credited or paid to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There is appropriated to the Trust Fund for fiscal year—

"(1) 1998, $827,000,000,

"(2) 1999, $1,388,000,000,

"(3) 2000, $608,000,000,

"(4) 2001, $141,000,000, and

"(5) 2002, $148,000,000.

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Trust Fund shall be transferred to the general fund of the Treasury at such times as the Secretary determines appropriate to offset any decrease in Federal revenues by reason of credits allowed under section 38 which are attributable to the school construction credit determined under section 45D."

(2) CONFORMING AMENDMENT.—The table of section for subchapter A of chapter 98 of such Code is amended by adding at the end the following new item:

"Sec. 9512. School Infrastructure Improvement Trust Fund.

(d) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 45D. Credit for public elementary and secondary school construction."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

LOTT AMENDMENT NO. 1534

(Ordered to lie on the table.)

Mr. LOTT submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

Strike all after "**section**" and insert "**1. short title.**

This Act may be cited as the "Education Savings Act for Public and Private Schools".

SEC. 2. MODIFICATIONS TO EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

(a) TAX-FREE EXPENDITURES FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.—

(1) IN GENERAL.—Section 530(b)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

"(2) QUALIFIED EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified education expenses' means—

"(i) qualified higher education expenses (as defined in section 529(e)(3)), and

"(ii) qualified elementary and secondary education expenses (as defined in paragraph (4)) but only with respect to amounts in the account which are attributable to contributions for any taxable year ending before January 1, 2001, and earnings on such contributions.

Such expenses shall be reduced as provided in section 25A(g)(2).

"(B) QUALIFIED STATE TUITION PROGRAMS.—Such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified State tuition program (as defined in section 529(b)) for the benefit of the beneficiary of the account.".

(2) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—Section 530(b) of such Code is amended by adding at the end the following new paragraph:

"(4) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means tuition, fees, tutoring, special needs

services, books, supplies, computer equipment (including related software and services) and other equipment, transportation, and supplementary expenses required for the enrollment or attendance of the designated beneficiary of the trust at a public, private, or religious school.

"(B) SPECIAL RULE FOR HOMESCHOOLING.—Such term shall include expenses described in subparagraph (A) required for education provided for homeschooling if the requirements of any applicable State or local law are met with respect to such education.

"(C) SCHOOL.—The term 'school' means any school which provides elementary education or secondary education (through grade 12), as determined under State law.".

(3) CONFORMING AMENDMENTS.—Subsections (b)(1) and (d)(2) of section 530 of such Code are each amended by striking "higher" each place it appears in the text and heading thereof.

(b) TEMPORARY INCREASE IN MAXIMUM ANNUAL CONTRIBUTIONS.—

(1) IN GENERAL.—Section 530(b)(1)(A)(iii) of the Internal Revenue Code of 1986 is amended by striking "$500" and inserting "the contribution limit for such taxable year".

(2) CONTRIBUTION LIMIT.—Section 530(b) of such Code is amended by adding at the end the following new paragraph:

"(4) CONTRIBUTION LIMIT.—The term 'contribution limit' means $2,500 ($500 in the case of any taxable year ending after December 31, 2000).".

(3) CONFORMING AMENDMENTS.—

(A) Section 530(d)(4)(C) of such Code is amended by striking "$500" and inserting "the contribution limit for such taxable year".

(B) Section 4973(e)(1)(A) of such Code is amended by striking "$500" and inserting "the contribution limit (as defined in section 530(b)(4)) for such taxable year".

(c) WAIVER OF AGE LIMITATIONS FOR CHILDREN WITH SPECIAL NEEDS.—Paragraph (1) of section 530(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following flush sentence:

"The age limitations in the preceding sentence shall not apply to any designated beneficiary with special needs (as determined under regulations prescribed by the Secretary).".

(d) CORPORATIONS PERMITTED TO CONTRIBUTE TO ACCOUNTS.—Paragraph (1) of section 530(c) of the Internal Revenue Code of 1986 is amended by striking "The maximum amount which a contributor" and inserting "In the case of a contributor who is an individual, the maximum amount the contributor".

(e) EFFECTIVE DATE; REFERENCES.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 213 of the Taxpayer Relief Act of 1997.

(2) REFERENCES.—Any reference in this section to any section of the Internal Revenue Code of 1986 shall be a reference to such section as added by the Taxpayer Relief Act of 1997.

SEC. 3. OVERRULING OF SCHMIDT BAKING COMPANY CASE.

(a) IN GENERAL.—The Internal Revenue Code of 1986 shall be applied without regard to the result reached in the case of Schmidt Baking Company, Inc. v. Commissioner of Internal Revenue, 107 T.C. 271 (1996).

(b) REGULATIONS.—The Secretary of the Treasury or the Secretary's delegate shall prescribe regulations to reflect subsection (a).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subsections (a) and (b) shall apply to taxable years ending after October 8, 1997.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for its first taxable year ending after October 8, 1997—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first taxable year.

McCONNELL (AND GRAHAM) AMENDMENT NO. 1535

(Ordered to lie on the table.)

Mr. McCONNELL (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by them to the bill, H.R. 2646, supra; as follows:

At the appropriate place in the bill, insert the following new sections:

SEC. ___. EXCLUSION FROM GROSS INCOME OF EDUCATION DISTRIBUTIONS FROM QUALIFIED STATE TUITION PROGRAMS.

(a) ALLOWANCE OF EXCLUSION.—

(1) IN GENERAL.—Subparagraph (B) of section 529(c)(3) of the Internal Revenue Code of 1986 (relating to distributions) is amended to read as follows:

"(B) QUALIFIED HIGHER EDUCATION DISTRIBUTIONS.—In the case of a qualified higher education distribution under subsection (f)—

"(i) subparagraph (A) shall not apply, and

"(ii) no amount shall be includible in gross income with respect to such distribution."

(2) QUALIFIED HIGHER EDUCATION DISTRIBUTION DEFINED.—Section 529 of such Code (relating to qualified State tuition programs) is amended by adding at the end the following new subsection:

"(f) QUALIFIED HIGHER EDUCATION DISTRIBUTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified higher education distribution' means any distribution (or portion thereof) which constitutes a payment directly to an eligible educational institution for qualified higher education expenses of the designated beneficiary for enrollment or attendance at such institution.

"(2) ROOM AND BOARD FOR STUDENTS LIVING OFF CAMPUS.—

"(A) IN GENERAL.—The term 'qualified higher education distribution' includes distributions not described in paragraph (1) to the extent that the amount of such distributions for the taxable year does not exceed the amount treated as qualified higher education expenses of the designated beneficiary under subsection (e)(3)(B)(i)(II).

"(B) RESTRICTIONS.—Subparagraph (A) shall only apply with respect to distributions for any academic period if—

"(i) distributions described in paragraph (1) are made for such period for expenses other than room and board, and

"(ii) the designated beneficiary certifies to the qualified State tuition program that the beneficiary resides in a dwelling unit not operated or maintained by an eligible educational institution.

"(3) EXCLUSION ELECTIVE; LIMITATION TO ONE PROGRAM.—

"(A) ELECTION.—This subsection shall apply for a taxable year only if the designated beneficiary elects its application.

"(B) LIMITATION TO ONE PROGRAM.—This subsection shall apply only to distributions from the qualified State tuition program designated by the beneficiary in the first election taking effect under subparagraph (A). Such designation, once made, shall be irrevocable.

"(4) AGGREGATION.—All distributions from the qualified State tuition program designated under paragraph (3)(B) shall be treated as 1 distribution for purposes of this subsection."

(3) ROOM AND BOARD.—Section 529(e)(3)(B) of such Code is amended to read as follows:

"(B) ROOM AND BOARD INCLUDED FOR STUDENTS WHO ARE AT LEAST HALF-TIME.—

"(i) IN GENERAL.—In the case of a designated beneficiary who is an eligible student (as defined in such section 25A(b)(3)) for any academic period, the term 'qualified higher education expenses' shall include—

"(I) amounts paid directly to an eligible educational institution for room and board furnished to the beneficiary during such academic period, or

"(II) if the beneficiary is not residing in a dwelling unit operated or maintained by the eligible educational institution, reasonable costs incurred by the beneficiary for room and board during such academic period.

"(ii) LIMITATIONS ON OFF-CAMPUS ROOM AND BOARD.—

"(I) DOLLAR LIMIT.—The aggregate costs which may be taken into account under clause (i)(II) for any taxable year shall not exceed $4,500.

"(II) NO MORE THAN 4 ACADEMIC YEARS TAKEN INTO ACCOUNT.—Costs may be taken into account under clause (i)(II) only for that number of academic periods as is equivalent to 4 academic years. Such number shall be reduced by the number of academic periods for which amounts were previously taken into account under clause (i)(I)."

(b) LIMIT ON AGGREGATE CONTRIBUTIONS.—

(1) IN GENERAL.—Section 529(b)(7) of the Internal Revenue Code of 1986 is amended to read as follows:

"(7) AGGREGATE LIMIT ON CONTRIBUTIONS.—A program shall not be treated as a qualified State tuition program if it allows aggregate contributions (including rollover contributions) on behalf of a designated beneficiary to exceed $35,200."

(2) TAX ON EXCESS CONTRIBUTIONS.—

(A) IN GENERAL.—Section 4973 of such Code is amended by adding at the end the following new subsection:

"(g) EXCESS CONTRIBUTIONS TO QUALIFIED STATE TUITION PROGRAMS.—

"(1) IN GENERAL.—In the case of a designated beneficiary under 1 or more qualified State tuition programs (as defined in section 529(b)), the amount by which the contributions on behalf of such beneficiary for such taxable year, when added to the aggregate contributions on behalf of such beneficiary for all preceding taxable years, exceeds the dollar limit in effect under section 529(b)(7) for calendar year in which the taxable year begins.

"(2) SPECIAL RULES.—For purposes of paragraph (1), the following contributions shall not be taken into account:

"(A) Any contribution which is distributed out of the qualified State tuition program in a distribution to which section 529(g)(2) applies.

"(B) Any rollover contribution."

(B) CONFORMING AMENDMENTS.—Section 4973(a) is amended—

(i) by striking "or" at the end of paragraph (3), by inserting "or" at the end of paragraph (5), and by inserting after paragraph (4) the following new paragraph:

"(5) a qualified State tuition program (as defined in section 529),",

(ii) by striking "accounts or annuities" and inserting "accounts, annuities, or programs", and

(iii) by striking "account or annuity" and inserting "account, annuity, or program".

(c) COMPLIANCE PROVISIONS.—

(1) ADDITIONAL TAX ON AMOUNTS NOT USED FOR HIGHER EDUCATION EXPENSES.—

(A) IN GENERAL.—Section 529 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(g) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR EDUCATIONAL EXPENSES.—

"(1) IN GENERAL.—The tax imposed by section 530(d)(4) shall apply to payments and distributions from qualified State tuition programs in the same manner as such tax applies to education individual retirement accounts.

"(2) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Subparagraph (A) shall not apply to the distribution to a contributor of any contribution paid during a taxable year to a qualified tuition program to the extent that such contribution exceeds the limitation in section 4973(g) if such distribution (and the net income with respect to such excess contribution) meet requirements comparable to the requirements of section 530(d)(4)(C)."

(B) CONFORMING AMENDMENT.—Section 529(b)(3) of such Code is repealed.

(2) WITHHOLDING OF TAX ON CERTAIN DISTRIBUTIONS.—Section 529(c) is amended by adding at the end the following new paragraph:

"(6) WITHHOLDING OF TAX ON CERTAIN DISTRIBUTIONS.—

"(A) IN GENERAL.—A qualified State tuition program shall withhold from any distribution an amount equal to 15 percent of the portion of such distribution properly allocable to income on the contract (as determined under section 72).

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to a distribution which—

"(i) is a qualified higher education distribution under subsection (f), or

"(ii) is exempt from the payment of the additional tax imposed by subsection (g)."

(3) DISTRIBUTIONS REQUIRED IN CERTAIN CASES.—Subsection (b) of section 529 of such Code is amended by adding at the end the following new paragraph:

"(8) REQUIRED DISTRIBUTIONS.—

"(A) IN GENERAL.—A program shall be treated as a qualified State tuition program only if any balance to the credit of a designated beneficiary (if any) on the account termination date is required to be distributed within 30 days after such date to such beneficiary (or in the case of death, the estate of the beneficiary).

"(B) ACCOUNT TERMINATION DATE.—For purposes of subparagraph (A), the term 'account termination date' means whichever of the following dates is the earliest:

"(i) The date on which the designated beneficiary attains age 30.

"(ii) The date on which the designated beneficiary dies."

(d) COST-OF-LIVING ADJUSTMENTS.—Section 529(e) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(6) COST-OF-LIVING ADJUSTMENTS.—In the case of calendar years beginning after December 31, 1998, the $32,500 amount under subsection (b)(7) and the $4,500 amount under subsection (e)(3)(B)(ii)(I) shall each be increased by an amount equal to—

"(A) such dollar amount, multiplied by,

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting '1997' for '1992' in subparagraph (B) thereof.

If any dollar amount is not a multiple of $100 after being increased under this paragraph, such amount shall be rounded to the next lowest multiple of $100."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to distributions in taxable years beginning after December 31, 1997.

(2) CONTRACT REQUIREMENTS.—The amendments made by subsections (b)(1) and (c)(3) shall apply to contracts issued after December 31, 1997.

SEC. ___. EXTENSION AND MODIFICATION OF SUBSIDIES FOR ALCOHOL FUELS.

(a) EXTENSION.—

(1) The following provisions of the Internal Revenue Code of 1986 are each amended by striking "2000" each place it appears and inserting "2007":

(A) Section 4041(b)(2)(C) (relating to termination).

(B) Section 4041(k)(3) (relating to termination).

(C) Section 4081(c)(8) (relating to termination).

(D) Section 4091(c)(5) (relating to termination).

(2) Section 4041(m)(1)(A) of such Code (relating to certain alcohol fuels), as amended by section 907(b) of the Taxpayer Relief Act of 1997, is amended by striking "1999" both places it appears and inserting "2005".

(3) Section 6427(f)(4) of such Code (relating to termination) is amended by striking "1999" and inserting "2007".

(4) Section 40(e)(1) of such Code (relating to termination) is amended—

(A) by striking "December 31, 2000" and inserting "December 31, 2007", and

(B) by striking subparagraph (B) and inserting the following:

"(B) of any fuel for any period before January 1, 2008, during which the rate of tax under section 4081(a)(2)(A) is 4.3 cents per gallon.".

(5) Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are amended in the effective period column by striking "10/1/2000" each place it appears and inserting "10/1/2007".

(b) MODIFICATION.—

(1) IN GENERAL.—Subsection (h) of section 40 of the Internal Revenue Code of 1986 (relating to alcohol used as fuel) is amended to read as follows:

"(h) REDUCED CREDIT FOR ETHANOL BLENDERS.—

"(1) IN GENERAL.—In the case of any alcohol mixture credit or alcohol credit with respect to any sale or use of alcohol which is ethanol during calendar years 2001 through 2007—

"(A) subsections (b)(1)(A) and (b)(2)(A) shall be applied by substituting 'the blender amount' for '60 cents',

"(B) subsection (b)(3) shall be applied by substituting 'the low-proof blender amount' for '45 cents' and 'the blender amount' for '60 cents', and

"(C) subparagraphs (A) and (B) of subsection (d)(3) shall be applied by substituting 'the blender amount' for '60 cents' and 'the low-proof blender amount' for '45 cents'.

"(2) AMOUNTS.—For purposes of paragraph (1), the blender amount and the low-proof blender amount shall be determined in accordance with the following table:

In the case of any sale or use during calendar year:	The blender amount is:.	The low-proof blender amount is:
2001 or 2002	53 cents	39.26 cents
2003 or 2004	52 cents	38.52 cents
2005, 2006, or 2007.	51 cents	37.78 cents.".

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(b)(2) of such Code is amended—

(i) in subparagraph (A)(i), by striking "5.4 cents" and inserting "the applicable blender rate", and

(ii) by redesignating subparagraph (C), as amended by subsection (a)(2)(A), as subparagraph (D) and by inserting after subparagraph (B) the following:

"(C) APPLICABLE BLENDER RATE.—For purposes of subparagraph (A)(i), the applicable blender rate is—

"(i) except as provided in clause (ii), 5.4 cents, and

"(ii) for sales or uses during calendar years 2001 through 2007, 1/10 of the blender amount applicable under section 40(h)(2) for the calendar year in which the sale or use occurs.".

(B) Subparagraph (A) of section 4081(c)(4) of such Code is amended to read as follows:

"(A) GENERAL RULES.—

"(i) MIXTURES CONTAINING ETHANOL.—Except as provided in clause (ii), in the case of a qualified alcohol mixture which contains gasoline, the alcohol mixture rate is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over—

"(I) in the case of 10 percent gasohol, the applicable blender rate (as defined in section 4041(b)(2)(A)) per gallon,

"(II) in the case of 7.7 percent gasohol, the number of cents per gallon equal to 77 percent of such applicable blender rate, and

"(III) in the case of 5.7 percent gasohol, the number of cents per gallon equal to 57 percent of such applicable blender rate.

"(ii) MIXTURES NOT CONTAINING ETHANOL.—In the case of a qualified alcohol mixture which contains gasoline and none of the alcohol in which consists of ethanol, the alcohol mixture rate is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over—

"(I) in the case of 10 percent gasohol, 6 cents per gallon,

"(II) in the case of 7.7 percent gasohol, 4.62 cents per gallon, and

"(III) in the case of 5.7 percent gasohol, 3.42 cents per gallon.".

(C) Section 4081(c)(5) of such Code is amended by striking "5.4 cents" and inserting "the applicable blender rate (as defined in section 4041(b)(2)(C))".

(D) Section 4091(c)(1) of such Code is amended by striking "13.4 cents" each place it appears and inserting "the applicable blender amount" and by adding at the end the following new sentence: "For purposes of this paragraph, the term 'applicable blender amount' means 13.3 cents in the case of any sale or use during 2001 or 2002, 13.2 cents in the case of any sale or use during 2003 or 2004, 13.1 cents in the case of any sale or use during 2005, 2006, or 2007, and 13.4 cents in the case of any sale or use during 2008 or thereafter.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 2001.

DASCHLE (AND MOYNIHAN) AMENDMENTS NO. 1536–1537

(Ordered to lie on the table.)

Mr. DASCHLE (for himself and Mr. MOYNIHAN) submitted two amendments intended to be proposed by them to the bill, H.R. 2646, supra; as follows:

AMENDMENT NO. 1526

On page 6, line 5, strike "1997." and insert "1997, except that such amendments shall only take effect to the extent that—

(A) contributions to education individual retirement accounts for qualified elementary and secondary education expenses are—

(i) limited to accounts that, at the time the account is created or organized, are designated as solely for the payment of such expenses, and

(ii) not allowed for contributors who have modified adjusted gross income in excess of $75,000 and are ratably reduced to zero for contributors who have modified adjusted gross income between $60,000 and $75,000,

(B) contributions to education individual retirement accounts in excess of $500 for any taxable year may be made only to accounts described in subparagraph (A)(i),

(C) no contributions may be made to accounts described in subparagraph (A)(i) for taxable years ending after December 31, 2002,

(D) the modified adjusted gross income limitation shall apply to all contributors but contributors made by a person other than the taxpayer with respect to whom a deduction is allowable under section 151(c)(1) for a designated beneficiary shall be treated as having been made by such taxpayer, and

(E) expenses for computer and other equipment, transportation, and supplementary items are allowed tax-free only if required or provided by the school."

AMENDMENT NO. 1537

Strike section 2 and insert:

SEC. 2. MODIFICATIONS TO EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

(a) TAX-FREE EXPENDITURES FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.—

(1) IN GENERAL.—Section 530(b)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

"(2) QUALIFIED EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified education expenses' means—

"(i) qualified higher education expenses (as defined in section 529(e)(3)), and

"(ii) qualified elementary and secondary education expenses (as defined in paragraph (4)), but only if the account is, at the time the account is created or organized, designated solely for payment of qualified elementary and secondary education expenses of the designated beneficiary.

Such expenses shall be reduced as provided in section 25A(g)(2).

"(B) QUALIFIED STATE TUITION PROGRAMS.—Except in the case of an account described in subparagraph (A)(ii), such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified State tuition program (as defined in section 529(b)) for the benefit of the beneficiary of the account."

(2) ADJUSTED GROSS INCOME LIMITATION.—Section 530(c) of such Code is amended by redesignating paragraph (2) as paragraph (4) and by inserting after paragraph (1) the following:

"(2) SPECIAL RULE FOR ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—Notwithstanding paragraph (1), in the case of an account designated under subsection (b)(2)(A)(ii), the maximum amount which a contributor could otherwise make to an account under this section shall be reduced by an amount which bears the same ratio to such maximum amount as—

"(A) the excess of—

"(i) the contributor's modified adjusted gross income for such taxable year, over

"(ii) $60,000, bears to

"(B) $15,000.

"(3) CONTRIBUTIONS TREATED AS MADE BY INDIVIDUAL ELIGIBLE FOR DEPENDENCY EXEMPTION.—For purposes of applying this subsection, any contribution by a person other than the taxpayer with respect to whom a deduction is allowable under section 151(c)(1) for a designated beneficiary shall be treated as having been made by such taxpayer."

(3) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—Section 530(b) of such Code is amended by adding at the end the following new paragraph:

"(4) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means—

"(i) tuition, fees, tutoring, special needs services, books, or supplies in connection with the enrollment or attendance of the designated beneficiary of the trust at a public, private, or religious school, or

"(ii) computer equipment (including related software and services) and other equipment, transportation, and supplementary expenses required or provided by a public, private, or religious school in connection with such enrollment or attendance.

"(B) SPECIAL RULE FOR HOME-SCHOOLING.—Such term shall include expenses described in subparagraph (A) required for education provided by homeschooling if the requirements of any applicable State or local law are met with respect to such education.

"(C) SCHOOL.—The term 'school' means any school which provides elementary education or secondary education (through grade 12), as determined under State law."

(4) NO ROLLOVERS BETWEEN COLLEGE ACCOUNTS AND NON-COLLEGE ACCOUNTS.—Section 530(d)(5) of such Code is amended by adding at the end the following: "This paragraph shall not apply to a transfer of an amount between an account not described in subsection (b)(2)(A)(ii) and an account so described."

(5) CONFORMING AMENDMENTS.—Subsections (b)(1) and (d)(2) of section 530 of such Code are each amended by striking "higher" each place it appears in the text and heading thereof.

(b) TEMPORARY INCREASE IN MAXIMUM ANNUAL CONTRIBUTIONS FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.—

(1) IN GENERAL.—Section 530(b)(1)(A)(iii) of the Internal Revenue Code of 1986 is amended by striking "$500" and inserting "the contribution limit for such taxable year".

(2) CONTRIBUTION LIMIT.—Section 530(b) of such Code is amended by adding at the end the following new paragraph:

"(4) CONTRIBUTION LIMIT.—The term 'contribution limit' means—

"(A) except as provided in subparagraph (B), $500, or

"(B) in the case of an account designated under paragraph (2)(A)(ii)—

"(i) $2,500 for any taxable year ending before January 1, 2003, and

"(ii) zero for any taxable year ending on or after such date."

(3) CONFORMING AMENDMENTS.—

(A) Section 530(d)(4)(C) of such Code is amended by striking "$500" and inserting "the contribution limit for such taxable year".

(B) Section 4973(e)(1)(A) of such Code is amended by striking "$500" and inserting "the contribution limit (as defined in section 530(b)(4)) for such taxable year".

(c) WAIVER OF AGE LIMITATIONS FOR CHILDREN WITH SPECIAL NEEDS.—Paragraph (1) of section 530(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following flush sentence:

"The age limitations in the preceding sentence shall not apply to any designated beneficiary with special needs (as determined under regulations prescribed by the Secretary)."

(d) EFFECTIVE DATE; REFERENCES.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 213 of the Taxpayer Relief Act of 1997.

(2) REFERENCES.—Any reference in this section to any section of the Internal Revenue Code of 1986 shall be a reference to such section as added by the Taxpayer Relief Act of 1997.

KERREY AMENDMENT NO. 1538

(Ordered to lie on the table.)

Mr. KERREY submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Internal Revenue Service Restructuring and Reform Act of 1997".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.

(a) The Congress finds the following:

(1) The structure of the Internal Revenue Service should be strengthened to ensure focus and better target its budgeting, staffing, and technology to serve the American taxpayer and collect the Federal revenue.

(2) The American public expects timely, accurate, and respectful service from the Internal Revenue Service.

(3) The job of the Internal Revenue Service is to operate as an efficient financial management organization.

(4) The bulk of the Federal revenue is generated through voluntary compliance. Taxpayer service and education, as well as targeted compliance and enforcement initiatives, increase voluntary compliance.

(5) While the Internal Revenue Service must maintain a strong enforcement presence, its core and the core of the Federal revenue stream lie in a revamped, modern, technologically advanced organization that can track finances, send out clear notices, and assist taxpayers promptly and efficiently.

(6) The Internal Revenue Service governance, management, and oversight structures must: develop and maintain a shared vision with continuity; set and maintain priorities and strategic direction; impose accountability on senior management; provide oversight through a credible board, including members who bring private sector expertise to the Internal Revenue Service; develop appropriate measures of success; align budget

and technology with priorities and strategic direction; and coordinate oversight and identify problems at an early stage.

(7) The Internal Revenue Service must use information technology as an enabler of its strategic objectives.

(8) Electronic filing can increase cost savings and compliance.

(9) In order to ensure that fewer taxpayers are subject to improper treatment by the Internal Revenue Service, Congress and the agency need to focus on preventing problems before they occur.

(10) There currently is no mechanism in place to ensure that Members of Congress have a complete understanding of how tax legislation will affect taxpayers and the Internal Revenue Service and to create incentives to simplify the tax law, and to ensure that Congress hears directly from the Internal Revenue Service during the legislative process.

(b) The purposes of this Act are as follows:

(1) To restructure the Internal Revenue Service, transforming it into a world class service organization.

(2) To establish taxpayer satisfaction as the goal of the Internal Revenue Service, such that the Internal Revenue Service should only initiate contact with a taxpayer if the agency is prepared to devote the resources necessary for a proper and timely resolution of the matter.

(3) To provide for direct accountability to the President for tax administration, an Internal Revenue Service Oversight Board, a strengthened Commissioner of Internal Revenue, and coordinated congressional oversight to ensure that there are clear lines of accountability and that the leadership of the Internal Revenue Service has the continuity and expertise to guide the agency.

(4) To enable the Internal Revenue Service to recruit and train a first-class workforce that will be rewarded for performance and held accountable for working with taxpayers to solve problems.

(5) To establish paperless filing as the preferred and most convenient means of filing tax returns for the vast majority of taxpayers within 10 years of enactment of this Act.

(6) To provide additional taxpayer protections and rights and to ensure that taxpayers receive fair, impartial, timely, and courteous treatment from the Internal Revenue Service.

(7) To establish the resolution of the century date change problem as the highest technology priority of the Internal Revenue Service.

(8) To establish procedures to minimize complexity in the tax law and simplify tax administration, and provide Congress with an independent view of tax administration from the Internal Revenue Service.

TITLE I—EXECUTIVE BRANCH GOVERNANCE AND SENIOR MANAGEMENT OF THE INTERNAL REVENUE SERVICE

Subtitle A—Executive Branch Governance and Senior Management

SEC. 101. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.

(a) IN GENERAL.—Section 7802 (relating to the Commissioner of Internal Revenue) is amended to read as follows:

"SEC. 7802. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.

"(a) ESTABLISHMENT.—There is established within the Department of the Treasury the Internal Revenue Service Oversight Board (in this subchapter referred to as the 'Board').

"(b) MEMBERSHIP.—

"(1) COMPOSITION.—The Board shall be composed of 9 members, of whom—

"(A) 7 shall be individuals who are not full-time Federal officers or employees, who are appointed by the President, by and with the advice and consent of the Senate, and who shall be considered special government employees pursuant to paragraph (2),

"(B) 1 shall be the Secretary of the Treasury or, if the Secretary so designates, the Deputy Secretary of the Treasury, and

"(C) 1 shall be a representative of an organization that represents a substantial number of Internal Revenue Service employees who is appointed by the President, by and with the advice and consent of the Senate.

"(2) SPECIAL GOVERNMENT EMPLOYEES.—

"(A) QUALIFICATIONS.—Members of the Board described in paragraph (1)(A) shall be appointed solely on the basis of their professional experience and expertise in the following areas:

"(i) Management of large service organizations.

"(ii) Customer service.

"(iii) Compliance.

"(iv) Information technology.

"(v) Organization development.

"(vi) The needs and concerns of taxpayers.

In the aggregate, the members of the Board described in paragraph (1)(A) should collectively bring to bear expertise in these enumerated areas.

"(B) TERMS.—Each member who is described in paragraph (1)(A) shall be appointed for a term of 5 years, except that of the members first appointed—

"(i) 1 member shall be appointed for a term of 1 year,

"(ii) 1 member shall be appointed for a term of 2 years,

"(iii) 2 members shall be appointed for a term of 3 years, and

"(iv) 1 member shall be appointed for a term of 4 years.

"(C) REAPPOINTMENT.—An individual who is described in paragraph (1)(A) may be appointed to no more than two 5-year terms on the Board.

"(D) SPECIAL GOVERNMENT EMPLOYEES.—During such periods as they are performing services for the Board, members who are not Federal officers or employees shall be treated as special government employees (as defined in section 202 of title 18, United States Code).

"(E) CLAIMS.—

"(i) IN GENERAL.—Members of the Board who are described in paragraph (1)(A) shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member. The preceding sentence shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious conduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of such member on the Board.

"(ii) EFFECT ON OTHER LAW.—This subparagraph shall not be construed—

"(I) to affect any other immunities and protections that may be available to such member under applicable law with respect to such transactions,

"(II) to affect any other right or remedy against the United States under applicable law, or

"(III) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees not described in this subparagraph.

"(3) VACANCY.—Any vacancy on the Board—

"(A) shall not affect the powers of the Board, and

"(B) shall be filled in the same manner as the original appointment.

"(4) REMOVAL.—

"(A) IN GENERAL.—A member of the Board may be removed at the will of the President.

"(B) SECRETARY OR DELEGATE.—An individual described in subsection (b)(1)(B) shall be removed upon termination of employment.

"(C) REPRESENTATIVE OF INTERNAL REVENUE SERVICE EMPLOYEES.—A member who is from an organization that represents a substantial number of Internal Revenue Service employees shall be removed upon termination of employment, membership, or other affiliation with such organization.

"(c) GENERAL RESPONSIBILITIES.—

"(1) IN GENERAL.—The Board shall oversee the Internal Revenue Service in the administration, management, conduct, direction, and supervision of the executive and application of the Internal revenue laws or related statutes and tax conventions to which the United States is a party.

"(2) EXCEPTIONS.—The Board shall have no responsibilities or authority with respect to—

"(A) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions,

"(B) specific law enforcement activities of the Internal Revenue Service, including compliance activities such as criminal investigations, examinations, and collection activities, or

"(C) specific activities of the Internal Revenue Service delegated to employees of the Internal Revenue Service pursuant to delegation orders in effect as of the date of the enactment of this subsection, including delegation order 106 relating to procurement authority, except to the extent that such delegation orders are modified subsequently by the Secretary.

"(3) RESTRICTION ON DISCLOSURE OF RETURN INFORMATION TO BOARD MEMBERS.—No return, return information, or taxpayer return information (as defined in section 6103(b)) may be disclosed to any member of the Board described in subsection (b)(1)(A) or (C). Any request for information not permitted to be disclosed under the preceding sentence, and any contact relating to a specific taxpayer, made by a member of the Board to an officer or employee of the Internal Revenue Service shall be reported by such officer or employee to the Secretary and the Joint Committee on Taxation.

"(d) SPECIFIC RESPONSIBILITIES.—The Board shall have the following specific responsibilities:

"(1) STRATEGIC PLANS.—To review and approve strategic plans of the Internal Revenue Service, including the establishment of—

"(A) mission and objectives, and standards of performance relative to either, and

"(B) annual and long-range strategic plans.

"(2) OPERATIONAL PLANS.—To review the operational functions of the Internal Revenue Service, including—

"(A) plans for modernization of the tax system,

"(B) plans for outsourcing or managed competition, and

"(C) plans for training and education.

"(3) MANAGEMENT.—To—

"(A) recommend to the President a list of at least 3 candidates for appointment as the Commissioner of Internal Revenue and recommend to the President the removal of the Commissioner,

"(B) review the Commissioner's selection, evaluation, and compensation of senior managers,

"(C) review the Commissioner's plans for reorganization of the Internal Revenue Service, and

"(D) review the performance of the office of Taxpayer Advocate.

"(4) BUDGET.—To—

"(A) review and approve the budget request of the Internal Revenue Service prepared by the Commissioner,

"(B) submit such budget request to the Secretary of the Treasury,

"(C) ensure that the budget request supports the annual and long-range strategic plans, and

"(D) ensure appropriate financial audits of the Internal Revenue Service.

The Secretary shall submit the advisory budget request referred to in subparagraph (B) for any fiscal year to the President who shall submit such advisory budget request, without revision, to Congress together with the President's official budget request for the Internal Revenue Service for such fiscal year.

"(e) BOARD PERSONNEL MATTERS.—

"(1) COMPENSATION OF MEMBERS.—

"(A) IN GENERAL.—Each member of the Board who is described in subsection (b)(1)(A) shall be compensated at a rate of $30,000 per year. All other members of the Board shall serve without compensation for such service.

"(B) CHAIRPERSON.—In lieu of the amount specified in subparagraph (A), the Chairperson of the Board shall be compensated at a rate of $50,000 per year if such Chairperson is described in subsection (b)(1)(A).

"(2) TRAVEL EXPENSES.—The 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.

"(3) STAFF.—On the request of the Chairperson of the Board, the Commissioner shall detail to the Board such personnel as may be necessary to enable the Board to perform its duties. Such detail shall be without interruption or loss of civil service status or privilege.

"(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

"(f) ADMINISTRATIVE MATTERS.—

"(1) CHAIR.—The members of the Board shall elect a chairperson for a 2-year term.

"(2) COMMITTEES.—The Board may establish such committees as the Board determines appropriate.

"(3) MEETINGS.—The Board shall meet at least once each month and at such other times as the Board determines appropriate.

"(4) REPORTS.—The Board shall each year report to the President and the Congress with respect to the conduct of its responsibilities under this title.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4946(c) (relating to definitions and special rules for chapter 42) is amended—

(A) by striking "or" at the end of paragraph (5),

(B) by striking the period at the end of paragraph (6) and inserting ", or", and

(C) by adding at the end the following new paragraph:

"(7) a member of the Internal Revenue Service Oversight Board.".

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7802 and inserting the following new item:

"Sec. 7802. Internal Revenue Service Oversight Board."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 102. COMMISSIONER OF INTERNAL REVENUE; CHIEF COUNSEL; OTHER OFFICIALS.

(a) IN GENERAL.—Section 7803 (relating to other personnel) is amended to read as follows:

"SEC. 7803. COMMISSIONER OF INTERNAL REVENUE; CHIEF COUNSEL; OTHER OFFICIALS.

"(a) COMMISSIONER OF INTERNAL REVENUE.—

"(1) APPOINTMENT.—

"(A) IN GENERAL.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue who shall be appointed by the President, by and with the advice and consent of the Senate, to a 5-year term. The appointment shall be made without regard to political affiliation or activity.

"(B) RECOMMENDATIONS.—The President shall select the Commissioner from among the list of candidates submitted by the Internal Revenue Service Oversight Board pursuant to section 7802(3)(A). In the event that the President rejects all of the candidates submitted by such Board, the Board shall submit additional lists as necessary.

"(2) DUTIES.—The Commissioner shall have such duties and powers as the Secretary may prescribe, including the power to—

"(A) administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party; and

"(B) recommend to the President a candidate for appointment as Chief Counsel for the Internal Revenue Service when a vacancy occurs, and recommend to the President the removal of such Chief Counsel.

If the Secretary determines not to delegate a power specified in subparagraph (A) or (B), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives, the Committees on Finance, Government Operations, and Appropriations of the Senate, and the Joint Committee on Taxation.

"(3) CONSULTATION WITH BOARD.—The Commissioner shall consult with the Board on all matters set forth in paragraphs (2) and (3) (other than subparagraph (A)) of section 7802(d)(2).

"(4) PAY.—The Commissioner is authorized to be paid at an annual rate of basic pay not to exceed the maximum rate of basic pay of level II of the Executive Schedule under section 5311 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304 of such title 5.

"(b) CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE.—

"(1) APPOINTMENT.—There shall be in the Department of the Treasury a Chief Counsel for the Internal Revenue Service who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) DUTIES.—The Chief Counsel shall be the chief law officer for the Internal Revenue Service and shall perform such duties as may be prescribed by the Secretary of the Treasury. To the extent that the Chief Counsel performs duties relating to the development of rules and regulations promulgated under this title, final decision making authority shall remain with the Secretary.

"(3) PAY.—The Chief Counsel is authorized to be paid at an annual rate of basic pay not to exceed the maximum rate of basic pay of level III of the Executive Schedule under section 5311 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304 of such title 5.

"(c) ASSISTANT COMMISSIONER FOR EMPLOYEE PLANS AND EXEMPT ORGANIZATIONS.—

"(1) ESTABLISHMENT OF OFFICE.—There is established within the Internal Revenue Service an office to be known as the 'Office of Employee Plans and Exempt Organizations' to be under the supervision and direction of an Assistant Commissioner of Internal Revenue. As head of the Office, the Assistant Commissioner shall be responsible for carrying out such functions as the Secretary may prescribe with respect to organizations exempt from tax under section 501(a) and with respect to plans to which part I of subchapter D of chapter 1 applies (and with respect to organizations designed to be exempt under such section and plans designed to be plans to which such part applies) and other nonqualified deferred compensation arrangements. The Assistant Commissioner shall report annually to the Commissioner with respect to the Assistant Commissioner's responsibilities under this section.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Internal Revenue Service solely to carry out the functions of the Office an amount equal to the sum of—

"(A) so much of the collection from taxes under section 4940 (relating to excise tax based on investment income) as would have been collected if the rate of tax under such section was 2 percent during the second preceding fiscal year, and

"(B) the greater of—

"(i) an amount equal to the amount described in subparagraph (A), or

"(ii) $30,000,000.

"(3) USER FEES.—All user fees collected by the Office shall be dedicated to carry out the functions of the Office.

"(d) OFFICE OF TAXPAYER ADVOCATE.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayer Advocate'.

"(B) NATIONAL TAXPAYER ADVOCATE.—

"(i) IN GENERAL.—The Office of the Taxpayer Advocate shall be under the supervision and direction of an official to be known as the 'National Taxpayer Advocate.' The National Taxpayer Advocate shall report directly to the Commissioner of Internal Revenue and shall be entitled to compensation at the same rate as the highest level official reporting directly to the Commissioner of the Internal Revenue Service.

"(ii) APPOINTMENT.—The National Taxpayer Advocate shall be appointed by the President, upon recommendation of the Internal Revenue Service Oversight Board, by and with the advice and consent of the Senate, from among individuals with a background in customer service, as well as tax law. No officer or employee of the Internal Revenue Service may be appointed to such position in order to ensure an independent position to represent taxpayers' interests.".

"(2) FUNCTIONS OF OFFICE.—

"(A) IN GENERAL.—It shall be the function of the Office of Taxpayer Advocate to—

"(i) assist taxpayers in resolving problems with the Internal Revenue Service,

"(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service,

"(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii), and

"(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

"(B) ANNUAL REPORTS.—

"(i) OBJECTIVES.—Not later than June 30 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

"(ii) ACTIVITIES.—Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Office of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

"(I) identify the initiatives the Office of the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness,

"(II) contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811,

"(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems,

"(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action,

"(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory,

"(VI) contain an inventory of the items described in subclauses (I), (II), and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction,

"(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b),

"(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers,

"(IX) identify areas of the tax law that impose significant compliance burdens on taxpayers or the Internal Revenue Service, including specific recommendations for remedying these problems,

"(X) identify the 10 most litigated issues for each category of taxpayers, including recommendations for mitigating such disputes, and

"(XI) include such other information as the National Taxpayer Advocate may deem advisable.

"(iii) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subparagraph shall be provided directly to the Committees described in clauses (i) and (ii) without any prior review or comment from the Commissioner, the Secretary of the Treasury, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.

"(C) OTHER RESPONSIBILITIES.—The National Taxpayer Advocate shall—

"(i) monitor the coverage and geographic allocation of local taxpayer advocates,

"(ii) develop guidance to be distributed to all Internal Revenue Service officers and employees outlining the criteria for referral of taxpayer inquiries to local taxpayer advocates,

"(iii) ensure that the local telephone number for the local taxpayer advocate in each Internal Revenue Service district is published and available to taxpayers, and

"(iv) in conjunction with the Commissioner, develop career paths for local taxpayer advocates choosing to make a career in the Office of the Taxpayer Advocate.".

"(D) PERSONNEL ACTIONS.—

"(i) HEADS OF LOCAL OFFICES.—The National Taxpayer Advocate shall have the responsibility to—

"(I) appoint and dismiss the local taxpayer advocate heading the office of the taxpayer advocate at each Internal Revenue Service district office and service center, and

"(II) evaluate and take personnel actions with respect to any employee of an office of the taxpayer advocate described in subclause (I).

"(ii) CONSULTATION.—The National Taxpayer Advocate may consult with the head of any Internal Revenue Service district office or service center in carrying out the National Taxpayer Advocate's responsibilities under this subparagraph.".

"(3) RESPONSIBILITIES OF COMMISSIONER.—The Commissioner shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the Taxpayer Advocate within 3 months after submission to the Commissioner.".

"(4) OPERATION OF LOCAL OFFICES.—

"(A) IN GENERAL.—Each local taxpayer advocate—

"(i) shall report directly to the National Taxpayer Advocate,

"(ii) may consult with the head of the Internal Revenue Service district office or service center which the local taxpayer advocate serves regarding the daily operation of the office of the taxpayer advocate,

"(iii) shall, at the initial meeting with any taxpayer seeking the assistance of the office of the taxpayer advocate, notify such taxpayer that the office operates independently of any Internal Revenue Service district office or service center and reports directly to Congress through the National Taxpayer Advocate, and

"(iv) shall, at the taxpayer advocate's discretion, not disclose to the Internal Revenue Service contact with, or information provided by, such taxpayer.

"(B) MAINTENANCE OF INDEPENDENT COMMUNICATIONS.—Each local office of the taxpayer advocate shall maintain separate phone, facsimile, and other electronic communication access, and a separate post office address from the Internal Revenue Service district office or service center which it serves.".

(b) AMENDMENT OF PRESIDENT'S AUTHORITY TO APPOINT CHIEF COUNSEL FOR INTERNAL REVENUE SERVICE.—

(1) Paragraph (2) of section 7801(b) (relating to the office of General Counsel for the Department) is amended to read as follows:

"(2) ASSISTANT GENERAL COUNSELS.—The Secretary of the Treasury may appoint, without regard to the provisions of the civil service laws, and fix the duties of not to exceed five assistant General Counsels.".

(2)(A) Subsection (f)(2) of section 301 of title 31, United States Code, is amended by striking "an Assistant General Counsel who shall be the" and inserting "a".

(B) Section 301 of such title 31 is amended by adding at the end the following new subsection:

"(h) CROSS REFERENCE.—For provisions relating to the appointment of officers and employees of the Internal Revenue Service, see subchapter A of chapter 80 of the Internal Revenue Code of 1986.".

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7803 and inserting the following new item:

"Sec. 7803. Commissioner of Internal Revenue; Chief Counsel; other officials."

(2) Subsection (b) of section 5109 of title 5, United States Code, is amended by striking "7802(b)" and inserting "7803(c)".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) CURRENT OFFICERS.—

(A) In the case of an individual serving as Commissioner of Internal Revenue on the date of the enactment of this Act who was appointed to such position before such date, the 5-year term required by section 7803(a)(1) of the Internal Revenue Code of 1986, as added by this section, shall begin as of the date of such appointment.

(B) The President shall nominate for appointment the initial National Taxpayer Advocate to serve as head of the Office of the Taxpayer Advocate established under section 7803(d) of the Internal Revenue Code of 1986, as added by this section, not later than 120 days after the date of the enactment of this Act.

(C) Until an individual has taken office under section 7803(d) of the Internal Revenue Code of 1986, as added by this section, the Taxpayer Advocate shall assume the additional powers and duties of the National Taxpayer Advocate under the amendments made by this section.

SEC. 103. OTHER PERSONNEL.

(a) IN GENERAL.—Section 7804 (relating to the effect of reorganization plans) is amended to read as follows:

"SEC. 7804. OTHER PERSONNEL.

"(a) APPOINTMENT AND SUPERVISION.—Unless otherwise prescribed by the Secretary, the Commissioner of Internal Revenue is authorized to employ such number of persons as the Commissioner deems proper for the administration and enforcement of the internal revenue laws, and the Commissioner shall issue all necessary directions, instructions, orders, and rules applicable to such persons.

"(b) POSTS OF DUTY OF EMPLOYEES IN FIELD SERVICE OR TRAVELING.—Unless otherwise prescribed by the Secretary—

"(1) DESIGNATION OF POST OF DUTY.—The Commissioner shall determine and designate the posts of duty of all such persons engaged in field work or traveling on official business outside of the District of Columbia.

"(2) DETAIL OF PERSONNEL FROM FIELD SERVICE.—The Commissioner may order any such person engaged in field work to duty in the District of Columbia, for such periods as

the Commissioner may prescribe, and to any designated post of duty outside the District of Columbia upon the completion of such duty.

"(c) DELINQUENT INTERNAL REVENUE OFFICERS AND EMPLOYEES.—If any officer or employee of the Treasury Department acting in connection with the internal revenue laws fails to account for and pay over any amount of money or property collected or received by him in connection with the internal revenue laws, the Secretary shall issue notice and demand to such officer or employee for payment of the amount which he failed to account for and pay over, and, upon failure to pay the amount demanded within the time specified in such notice, the amount so demanded shall be deemed imposed upon such officer or employee and assessed upon the date of such notice and demand, and the provisions of chapter 64 and all other provisions of law relating to the collection of assessed taxes shall be applicable in respect of such amount.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 6344 is amended by striking "section 7803(d)" and inserting "section 7804(c)".

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7804 and inserting the following new item:

"Sec. 7804. Other personnel."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Personnel Flexibilities

SEC. 111. PERSONNEL FLEXIBILITIES.

(a) IN GENERAL.—Part III of title 5, United States Code, is amended by adding at the end the following new subpart:

"Subpart I—Miscellaneous

"CHAPTER 93—PERSONNEL FLEXIBILITIES RELATING TO THE INTERNAL REVENUE SERVICE

"Sec.
"9301. General requirements.
"9302. Flexibilities relating to performance management.
"9303. Classification and pay flexibilities.
"9304. Staffing flexibilities.
"9305. Flexibilities relating to demonstration projects.

"§ 9301. General requirements

"(a) CONFORMANCE WITH MERIT SYSTEM PRINCIPLES, ETC.—Any flexibilities under this chapter shall be exercised in a manner consistent with—

"(1) chapter 23, relating to merit system principles and prohibited personnel practices; and

"(2) provisions of this title (outside of this subpart) relating to preference eligibles.

"(b) REQUIREMENT RELATING TO UNITS REPRESENTED BY LABOR ORGANIZATIONS.—

"(1) WRITTEN AGREEMENT REQUIRED.—Employees within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to the exercise of any flexibility under section 9302, 9303, 9304, or 9305, unless there is a written agreement between the Internal Revenue Service and the organization permitting such exercise.

"(2) DEFINITION OF A WRITTEN AGREEMENT.—In order to satisfy paragraph (1), a written agreement—

"(A) need not be a collective bargaining agreement within the meaning of section 7103(8); and

"(B) may not be an agreement imposed by the Federal Service Impasses Panel under section 7119.

"(c) FLEXIBILITIES FOR WHICH OPM APPROVAL IS REQUIRED.—

"(1) IN GENERAL.—Except as provided in paragraph (2), flexibilities under this chapter may be exercised by the Internal Revenue Service without prior approval of the Office of Personnel Management.

"(2) EXCEPTIONS.—The flexibilities under subsections (c) through (e) of section 9303 may be exercised by the Internal Revenue Service only after a specific plan describing how those flexibilities are to be exercised has been submitted to and approved, in writing, by the Director of the Office of Personnel Management.

"§ 9302. Flexibilities relating to performance management

"(a) IN GENERAL.—The Commissioner of Internal Revenue shall, within 180 days after the date of the enactment of this chapter, establish a performance management system which—

"(1) subject to section 9301(b), shall cover all employees of the Internal Revenue Service other than—

"(A) the members of the Internal Revenue Service Oversight Board;

"(B) the Commissioner of Internal Revenue; and

"(C) the Chief Counsel for the Internal Revenue Service;

"(2) shall maintain individual accountability by—

"(A) establishing retention standards which—

"(i) shall permit the accurate evaluation of each employee's performance on the basis of criteria relating to the duties and responsibilities of the position held by such employee; and

"(ii) shall be communicated to an employee before the start of any period with respect to which the performance of such employee is to be evaluated using such standards;

"(B) providing for periodic performance evaluations to determine whether retention standards are being met; and

"(C) with respect to any employee whose performance does not meet retention standards, using the results of such employee's performance evaluation as a basis for—

"(i) denying increases in basic pay, promotions, and credit for performance under section 3502; and

"(ii) the taking of other appropriate action, such as a reassignment or an action under chapter 43; and

"(3) shall provide for—

"(A) establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with Internal Revenue Service performance planning procedures, including those established under the Government Performance and Results Act of 1993, the Information Technology Management Reform Act of 1996, Revenue Procedure 64–22 (as in effect on July 30, 1997), and taxpayer service surveys, and communicating such goals or objectives to employees;

"(B) using such goals and objectives to make performance distinctions among employees or groups of employees; and

"(C) using assessments under this paragraph, in combination with performance evaluations under paragraph (2), as a basis for granting employee awards, adjusting an employee's rate of basic pay, and taking such other personnel action as may be appropriate.

For purposes of this title, performance of an employee during any period in which such employee is subject to retention standards under paragraph (2) shall be considered to be 'unacceptable' if the performance of such employee during such period fails to meet any of those standards.

"(b) AWARDS.—

"(1) FOR SUPERIOR ACCOMPLISHMENTS.—In the case of an employee of the Internal Revenue Service, section 4502(b) shall be applied by substituting 'with the approval of the Commissioner of Internal Revenue' for 'with the approval of the Office'.

"(2) FOR EMPLOYEES WHO REPORT DIRECTLY TO THE COMMISSIONER.—

"(A) IN GENERAL.—In the case of an employee of the Internal Revenue Service who reports directly to the Commissioner of Internal Revenue, a cash award in an amount up to 50 percent of such employee's annual rate of basic pay may be made if the Commissioner finds such an award to be warranted based on such employee's performance.

"(B) NATURE OF AN AWARD.—A cash award under this paragraph shall not be considered to be part of basic pay.

"(C) TAX ENFORCEMENT RESULTS.—A cash award under this paragraph may not be based solely on tax enforcement results.

"(D) ELIGIBLE EMPLOYEES. Whether or not an employee is an employee who reports directly to the Commissioner of Internal Revenue shall, for purposes of this paragraph, be determined under regulations which the Commissioner shall prescribe.

"(E) LIMITATION ON COMPENSATION.—For purposes of applying section 5307 to an employee in connection with any calendar year to which an award made under this paragraph to such employee is attributable, subsection (a)(1) of such section shall be applied by substituting 'to equal or exceed the annual rate of compensation for the President for such calendar year' for 'to exceed the annual rate of basic pay payable for level I of the Executive Schedule, as of the end of such calendar year'.

"(3) BASED ON SAVINGS.—

"(A) IN GENERAL.—The Commissioner of Internal Revenue may authorize the payment of cash awards to employees based on documented financial savings achieved by a group or organization which such employees comprise, if such payments are made pursuant to a plan which—

"(i) specifies minimum levels of service and quality to be maintained while achieving such financial savings; and

"(ii) is in conformance with criteria prescribed by the Office of Personnel Management.

"(B) FUNDING.—A cash award under this paragraph may be paid from the fund or appropriation available to the activity primarily benefiting or the various activities benefiting.

"(C) TAX ENFORCEMENT RESULTS.—A cash award under this paragraph may not be based solely on tax enforcement results.

"(c) OTHER PROVISIONS.—

"(1) NOTICE PROVISIONS.—In applying sections 4303(b)(1)(A) and 7513(b)(1) to employees of the Internal Revenue Service, '15 days' shall be substituted for '30 days'.

"(2) APPEALS.—Notwithstanding the second sentence of section 5335(c), an employee of the Internal Revenue Service shall not have a right to appeal the denial of a periodic step increase under section 5335 to the Merit Systems Protection Board.

"§ 9303. Classification and pay flexibilities

"(a) BROAD-BANDED SYSTEMS.—

"(1) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'broad-banded system' means a system under which positions are classified and pay for service in any such position is fixed through the use of pay bands, rather than under—

"(i) chapter 51 and subchapter III of chapter 53; or

"(ii) subchapter IV of chapter 53; and

"(B) the term 'pay band' means, with respect to positions in 1 or more occupational series, a pay range—

"(i) consisting of—

"(I) 2 or more consecutive grades of the General Schedule; or

"(II) 2 or more consecutive pay ranges of such other pay or wage schedule as would otherwise apply (but for this section); and

"(ii) the minimum rate for which is the minimum rate for the lower (or lowest) grade or range in the pay band and the maximum rate for which is the maximum rate for the higher (or highest) grade or range in the pay band, including any locality-based and other similar comparability payments.

"(2) AUTHORITY.—The Commissioner of Internal Revenue may, subject to criteria to be prescribed by the Office of Personnel Management, establish one or more broad-banded systems covering all or any portion of its workforce which would otherwise be subject to the provisions of law cited in clause (i) or (ii) of subsection (a)(1)(A), except for any position classified by statute.

"(3) CRITERIA.—The criteria to be prescribed by the Office shall, at a minimum—

"(A) ensure that the structure of any broad-banded system maintains the principle of equal pay for substantially equal work;

"(B) establish the minimum (but not less than 2) and maximum number of grades or pay ranges that may be combined into pay bands;

"(C) establish requirements for adjusting the pay of an employee within a pay band;

"(D) establish requirements for setting the pay of a supervisory employee whose position is in a pay band or who supervises employees whose positions are in pay bands; and

"(E) establish requirements and methodologies for setting the pay of an employee upon conversion to a broad-banded system, initial appointment, change of position or type of appointment (including promotion, demotion, transfer, reassignment, reinstatement, placement in another pay band, or movement to a different geographic location), and movement between a broad-banded system and another pay system.

"(4) INFORMATION.—The Commissioner of Internal Revenue shall submit to the Office such information relating to its broad-banded systems as the Office may require.

"(5) REVIEW AND REVOCATION AUTHORITY.—The Office may, with respect to any broad-banded system under this subsection, and in accordance with regulations which it shall prescribe, exercise with respect to any broad-banded system under this subsection authorities similar to those available to it under sections 5110 and 5111 with respect to classifications under chapter 51.

"(b) SINGLE PAY-BAND SYSTEM.—

"(1) IN GENERAL.—The Commissioner of Internal Revenue may, with respect to employees who remain subject to chapter 51 and subchapter III of chapter 53 (or subchapter IV of chapter 53), fix rates of pay under a single pay-band system.

"(2) DEFINITION.—For purposes of this subsection, the term 'single pay-band system' means, for pay-setting purposes, a system similar to the pay-setting aspects of a broad-banded system under subsection (a), but consisting of only a single grade or pay range, under which pay may be fixed at any rate not less than the minimum and not more than the maximum rate which (but for this section) would otherwise apply with respect to the grade or pay range involved, including any locality-based and other similar comparability payments.

"(3) SPECIAL RULES.—

"(A) PROMOTION OR TRANSFER.—An employee under this subsection who is promoted or transferred to a position in a higher grade shall be entitled to basic pay at a rate determined under criteria prescribed by the Office of Personnel Management based on section 5334(b).

"(B) PERFORMANCE INCREASES.—In lieu of periodic step-increases under section 5335, an employee under this subsection who meets retention standards under section 9302(a)(2)(A) shall be entitled to performance increases under criteria prescribed by the Office. An increase under this subparagraph shall be equal to one-ninth of the difference between the minimum and maximum rates of pay for the applicable grade or pay range.

"(C) INCREASES FOR EXCEPTIONAL PERFORMANCE.—In lieu of additional step-increases under section 5336, an employee under this subsection who has demonstrated exceptional performance shall be eligible for a pay increase under this subparagraph under criteria prescribed by the Office. An increase under this subparagraph may not exceed the amount of an increase under subparagraph (B).

"(c) ALTERNATIVE CLASSIFICATION SYSTEMS.—

"(1) IN GENERAL.—Subject to section 9301(c), the Commissioner of Internal Revenue may establish 1 or more alternative classification systems that include any positions or groups of positions that the Commissioner determines, for reasons of effective administration—

"(A) should not be classified under chapter 51 or paid under the General Schedule;

"(B) should not be classified or paid under subchapter IV of chapter 53; or

"(C) should not be paid under section 5376.

"(2) LIMITATIONS.—An alternative classification system under this subsection may not—

"(A) with respect to any position that (but for this section) would otherwise be subject to the provisions of law cited in subparagraph (A) or (B) of paragraph (1), establish a rate of basic pay in excess of the maximum rate for grade GS–15 of the General Schedule, including any locality-based and other similar comparability payments; and

"(B) with respect to any position that (but for this section) would otherwise be subject to the provision of law cited in paragraph (1)(C), establish a rate of basic pay in excess of the annual rate of basic pay of the Commissioner of Internal Revenue.

"(d) GRADE AND PAY RETENTION.—Subject to section 9301(c), the Commissioner of Internal Revenue may, with respect to employees who are covered by a broadbanded system under subsection (a) or an alternative classification system under subsection (c), provide for variations from the provisions of subchapter VI of chapter 53.

"(e) RECRUITMENT AND RETENTION BONUSES; RETENTION ALLOWANCES.—Subject to section 9301(c), the Commissioner of Internal Revenue may, with respect to its employees, provide for variations from the provisions of sections 5753 and 5754.

"§ 9304. Staffing flexibilities

"(a) IN GENERAL.—

"(1) PERMANENT APPOINTMENT IN THE COMPETITIVE SERVICE.—Except as otherwise provided by this subsection, an employee of the Internal Revenue Service may be selected for a permanent appointment in the competitive service in the Internal Revenue Service through internal competitive promotion procedures when the following conditions are met:

"(A) The employee has completed 2 years of current continuous service in the competitive service under a term appointment or any combination of term appointments.

"(B) Such term appointment or appointments were made under competitive procedures prescribed for permanent appointments.

"(C) The employee's performance under such term appointment or appointments met established retention standards.

"(D) The vacancy announcement for the term appointment from which the conversion is made stated that there was a potential for subsequent conversion to a permanent appointment.

"(2) CONDITION.—An appointment under this subsection may be made only to a position the duties and responsibilities of which are similar to those of the position held by the employee at the time of conversion (referred to in paragraph (1)(D)).

"(b) RATING SYSTEMS.—

"(1) IN GENERAL.—Notwithstanding subchapter I of chapter 33, the Commissioner of Internal Revenue may establish category rating systems for evaluating job applicants for positions in the competitive service, under which qualified candidates are divided into 2 or more quality categories on the basis of relative degrees of merit, rather than assigned individual numerical ratings. Each applicant who meets the minimum qualification requirements for the position to be filled shall be assigned to an appropriate category based on an evaluation of the applicant's knowledge, skills, and abilities relative to those needed for successful performance in the job to be filled.

"(2) TREATMENT OF PREFERENCE ELIGIBLES.—Within each quality category established under paragraph (1), preference eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at or higher than GS–9 (or equivalent), preference eligibles who have a compensable service-connected disability of 10 percent or more, and who meet the minimum qualification standards, shall be listed in the highest quality category.

"(3) SELECTION PROCESS.—An appointing authority may select any applicant from the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, from a merged category consisting of the highest and second highest quality categories. Notwithstanding the preceding sentence, the appointing authority may not pass over a preference eligible in the same or a higher category from which selection is made, unless the requirements of section 3317(b) or 3318(b), as application, are satisfied, except that in no event may certification of a preference eligible under this subsection be discontinued by the Internal Revenue Service under section 3317(b) before the end of the 6-month period beginning on the date of such employee's first certification.

"(c) MAXIMUM PERIOD FOR WHICH EMPLOYEE MAY BE DETAILED.—The 120-day limitation under section 3341(b)(1) for details and renewals of details shall not apply with respect to the Internal Revenue Service.

"(d) INVOLUNTARY REASSIGNMENTS AND REMOVALS OF CAREER APPOINTEES IN THE SENIOR

EXECUTIVE SERVICE.—Neither section 3395(e)(1) nor section 3592(b)(1) shall apply with respect to the Internal Revenue Service.

"(e) PROBATIONARY PERIODS.—Notwithstanding any other provision of law or regulation, the Commissioner of Internal Revenue may establish a period of probation under section 3321 of up to 3 years for any position if, as determined by the Commissioner, a shorter period would be insufficient for the incumbent to demonstrate complete proficiency in such position.

"(f) PROVISIONS THAT REMAIN APPLICABLE.—No provision of this section exempts the Internal Revenue Service from—

"(1) any employment priorities established under direction of the President for the placement of surplus or displaced employees; or

"(2) its obligations under any court order or decree relating to the employment practices of the Internal Revenue Service.

"§ 9305. Flexibilities relating to demonstration projects

"(a) IN GENERAL.—For purposes of applying section 4703 with respect to the Internal Revenue Service—

"(1) paragraph (1) of subsection (b) of such section shall be deemed to read as follows:

"'(1) develop a plan for such project which describes its purpose, the employees to be covered, the project itself, its anticipated outcomes, and the method of evaluating the project;';

"(2) paragraph (3) of subsection (b) of such section shall be disregarded;

"(3) paragraph (4) of subsection (b) of such section shall be applied by substituting '30 days' for '180 days';

"(4) paragraph (6) of subsection (b) of such section shall be deemed to read as follows:

"'(6) provide each House of the Congress with the final version of the plan.';

"(5) paragraph (1) of subsection (c) of such section shall be deemed to read as follows:

"'(1) subchapter V of chapter 63 or subpart G of part III;'; and

"(6) subsection (d)(1) of such section shall be disregarded.

"(b) NUMERICAL LIMITATION.—For purposes of applying the numerical limitation under subsection (d)(2) of section 4703, a demonstration project shall not be counted if or to the extend that it involves the Internal Revenue Service."

(b) CLERICAL AMENDMENT.—The analysis for part III of title 5, United States Code, is amended by adding at the end the following:

"Subpart I—Miscellaneous

"93. Personnel Flexibilities Relating to the Internal Revenue Service .. 9301".

(c) EFFECTIVE DATE.—this section shall take effect on the date of the enactment of this Act.

TITLE II—ELECTRONIC FILING

SEC. 201. ELECTRONIC FILING OF TAX AND INFORMATION RETURNS.

(a) IN GENERAL.—It is the policy of the Congress that paperless filing should be the preferred and most convenient means of filing tax and information returns, and that by the year 2007, no more than 20 percent of all tax returns should be filed on paper.

(b) STRATEGIC PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate (hereinafter in this section referred to as the "Secretary") shall implement a plan to eliminate barriers, provide incentives, and use competitive market forces to increase electronic filing gradually over the next 10 years while maintaining processing times for paper returns at 40 days.

(2) ELECTRONIC COMMERCE ADVISORY GROUP.—To ensure that the Secretary receives input from the private sector in the development and implementation of the plan required by paragraph (1), the Secretary shall convene an electronic commerce advisory group to include representatives from the tax practitioner, preparer, and computerized tax processor communities and other representatives from the electronic filing industry.

(c) INCENTIVES.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall implement procedures to provide for the payment of incentives to transmitters of qualified electronically filed returns, based on the fair market value of costs to transmit returns electronically.

(2) QUALIFIED ELECTRONICALLY FILED RETURNS.—For purposes of this section, the term "qualified electronically filed return" means a return that—

(A) is transmitted electronically to the Internal Revenue Service,

(B) for which the taxpayer was not charged for the cost of such transmission, and

(C) in the case of returns transmitted after December 31, 2004, was prepared by a paid preparer who does not submit any return after such date to the Internal Revenue Service on paper.

(d) ANNUAL REPORTS.—Not later than June 30 of each calendar year after 1997, the Chairperson of the Internal Revenue Service Oversight Board, the Secretary, and the Chairperson of the electronic commerce advisory group established under subsection (b)(2) shall report to the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, the Committees on Finance, Appropriations, and Government Affairs of the Senate, and the Joint Committee on Taxation, on—

(1) the progress of the Internal Revenue Service in meeting the policy set forth in subsection (a);

(2) the status of the plan required by subsection (b); and

(3) the necessity of action by the Congress to assist the Internal Revenue Service to satisfy the policy set forth in subsection (a).

SEC. 203. PAPERLESS ELECTRONIC FILING.

(a) IN GENERAL.—Section 6061 (relating to signing of returns and other documents) is amended—

(1) by striking "Except as otherwise provided by" and inserting the following:

"(a) GENERAL RULE.—Except as otherwise provided by subsection (b) and", and

(2) by adding at the end the following new subsection:

"(b) ELECTRONIC SIGNATURES.—The Secretary shall develop procedures for the acceptance of signatures in digital or other electronic form. Until such time as such procedures are in place, the Secretary shall accept electronically filed returns and other documents on which the required signature(s) appears in typewritten form, but filers of such documents shall be required to retain a signed paper original of all such filings, to be made available to the Secretary for inspection, until the expiration of the applicable period of limitations set forth in chapter 66.".

(b) DEADLINE FOR ESTABLISHING PROCEDURES.—Not later than December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall establish procedures to accept, in electronic form, any other information, statements, elections, or schedules, from taxpayers filing returns electronically, so that such taxpayers will not be required to file any paper.

(c) PROCEDURES FOR COMMUNICATIONS BETWEEN IRS AND PREPARER OF ELECTRONICALLY-FILED RETURNS.—Such Secretary shall establish procedures for taxpayers to authorize, on electronically filed returns, the preparer of such returns to communicate with the Internal Revenue Service on matters included on such returns.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 304. REGULATION OF PREPARERS.

(a) IN GENERAL.—Subsection (a) of section 330 of title 31, United States Code, is amended—

(1) by striking "Treasury; and" in paragraph (1) and inserting "Treasury and all other persons engaged in the business of preparing returns or otherwise accepting compensation for advising in the preparation of returns,",

(2) by striking the period at the end of paragraph (2) and inserting ", and", and

(3) by adding at the end the following:

"(3) establish uniform procedures for regulating preparers of paper and electronic tax and information returns.

No demonstration shall be required under paragraph (2) for persons solely engaged in the business of preparing returns or otherwise accepting compensation for advising in the preparation of returns."

(b) DIRECTOR OF PRACTICE.—Such section 330 is amended by adding at the end the following new subsection:

"(d) DIRECTOR OF PRACTICE.—There is established within the Department of the Treasury an office to be known as the 'Office of the Director of Practice' to be under the supervision and direction of an official to be known as the 'Director of Practice'. The Director of Practice shall be responsible for regulation of all practice before the Department of the Treasury.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 205. PAPERLESS PAYMENT.

(a) IN GENERAL.—Section 6311 (relating to payment by check or money order) is amended to read as follows:

"SEC. 6311. PAYMENT OF TAX BY COMMERCIALLY ACCEPTABLE MEANS.

"(a) AUTHORITY TO RECEIVE.—It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment of internal revenue stamps) any commercially acceptable means that the Secretary deems appropriate to the extent and under the conditions provided in regulations prescribed by the Secretary.

"(b) ULTIMATE LIABILITY.—If a check, money order, or other method of payment, including payment by credit card, debit card, charge card, or electronic funds transfer so received is not duly paid, or is paid and subsequently charged back to the Secretary, the person by whom such check, money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extend as if such check, money order, or other method of payment had not been tendered.

"(c) LIABILITY OF BANKS AND OTHERS.—If any certified, treasurer's or cashier's check (or other guaranteed draft), or any money order, or any means of payment that has been guaranteed by a financial institution (such as a credit card, debit card, charge

card, or electronic funds transfer transaction which has been guaranteed expressly by a financial institution) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefore, have a lien for—

"(1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,

"(2) the amount of such money order upon all the assets of the issuer therefor,

"(3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

(d) PAYMENT BY OTHER MEANS.—

"(1) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

"(A) specify which methods of payment by commercially acceptable means will be acceptable;

"(B) specify when payment by such means will be considered received;

"(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary; and

"(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

"(2) AUTHORITY TO ENTER INTO CONTRACTS.—Notwithstanding section 3718(f) of title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services relating to receiving payment by other means when cost beneficial to the Government.

"(3) SPECIAL PROVISIONS FOR USE OF CREDIT CARDS.—If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

"(A) a payment of internal revenue taxes (or a payment of internal revenue stamps) by a person by use of a credit card shall not be subject to section 161 of the Truth-in-Lending Act (15 U.S.C. 1666), to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the credit card account such as a computational error or numerical transportation in the credit card transaction or an issue as to whether the person authorized payment by use of the credit card;

"(B) a payment of internal revenue taxes (or a payment for internal revenue stamps) shall not be subject to section 170 of the Truth in Lending Act (15 U.S.C. 1666i), or to any similar provisions of State law;

"(C) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a debit card shall not be subject to section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the debit card account such as a computational error or numerical transposition in the debit card transaction or an issue as to whether the person authorized payment by use of the debit card;

"(D) the term 'creditor' under section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) shall not include the Secretary with respect to credit card transactions in payment of internal revenue taxes (or payment for internal revenue stamps); and

"(E) notwithstanding any other provision of law to the contrary, in the case of payment made by credit card or debit card transaction in an amount owed to a person as a result of the correction of an error under section 161 of the Truth in Lending Act (15 U.S.C. 1666) or section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693(f)), the Secretary is authorized to provide such amount to such person as a credit to that person's credit card or debit card account through the applicable credit card or debit card system.

"(e) CONFIDENTIALITY OF INFORMATION.—

"(1) IN GENERAL.—Except as otherwise authorized by this subsection, no person may use or disclose any information relating to credit or debit card transactions obtained pursuant to section 6103(k)(8) other than for purposes directly related to the processing of such transactions, or the billing or collection of amounts charged or debited pursuant thereto.

"(2) EXCEPTIONS.—

"(A) Debit or credit card issuers or others acting on behalf of such issuers may also use and disclose such information for purposes directly related to servicing an issuer's accounts.

"(B) Debit or credit card issuers or others directly involved in the processing of credit or debit card transactions or the billing or collection of amounts charged or debited thereto may also use and disclose such information for purposes directly related to—

"(i) statistical risk and profitability assessment,

"(ii) transferring receivables, accounts, or interest therein,

"(iii) auditing the account information,

"(iv) complying with Federal, State, or local law, and

"(v) properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities.

"(3) PROCEDURES.—Use and disclosure of information under this paragraph shall be made only to the extent authorized by written procedures promulgated by the Secretary.

"(4) CROSS REFERENCE.—

"For provision providing for civil damages for violation of paragraph (1), see section 7431."

(b) SEPARATE APPROPRIATION REQUIRED FOR PAYMENT OF CREDIT CARD FEES.—No amount may be paid by the United States to a credit card issuer for the right to receive payments of internal revenue taxes by credit card without a separate appropriation therefor.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 64 is amended by striking the item relating to section 6311 and inserting the following:

"Sec. 6311. Payment of tax by commercially acceptable means."

(d) AMENDMENTS TO SECTION 6103 AND 7431 WITH RESPECT TO DISCLOSURE AUTHORIZATION.—

(1) Subsection (k) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph—

"(8) DISCLOSURE OF INFORMATION TO ADMINISTER SECTION 6311.—The Secretary may disclose returns or return information to financial institutions and others to the extent the Secretary deems necessary for the administration of section 6311. Disclosures of information for purposes other than to accept payments by check or money orders shall be made only to the extent authorized by written procedures promulgated by the Secretary.".

(2) Section 7431 (relating to civil damages for unauthorized disclosure of returns and return information) is amended by adding at the end the following new subsection:

"(g) SPECIAL RULE FOR INFORMATION OBTAINED UNDER SECTION 6103(k)(8).—For purposes of this section, any reference to section 6103 shall be treated as including a reference to section 6311(e).".

(3) Section 6103(p)(3)(A) is amended by striking "or (6)" and inserting "(6), or (8)".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day which is 9 months after the date of the enactment of this Act.

SEC. 206. RETURN-FREE TAX SYSTEM.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall develop procedures for the implementation of a return-free tax system under which individuals would be permitted to comply with the Internal Revenue Code of 1986 without making the return required under section 6012 of such Code for taxable years beginning after 2007.

(b) REPORT.—Not later than June 30 of each calendar year after 1999, such Secretary shall report to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on—

(1) the procedures developed pursuant to subsection (a),

(2) the number and classes of taxpayers that would be permitted to use the procedures developed pursuant to subsection (a),

(3) the changes to the Internal Revenue Code of 1986 that could enhance the use of such a system, and

(4) what additional resources the Internal Revenue Service would need to implement such a system.

SEC. 207. ACCESS TO ACCOUNT INFORMATION.

Not later than December 31, 2006, the Secretary of the Treasury or the Secretary's delegate shall develop procedures under which a taxpayer filing returns electronically would be able to review the taxpayer's account electronically, including all necessary safeguards to ensure the privacy of such account information.

TITLE III—TAXPAYER PROTECTION AND RIGHTS

SEC. 301. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.

(a) IN GENERAL.—Section 7811(a) (relating to taxpayer assistance orders) is amended—

(1) by striking "Upon application" and inserting the following:

"(1) IN GENERAL.—Upon application",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) DETERMINATION OF HARDSHIP.—For purposes of determining whether a taxpayer is suffering or about to suffer a significant hardship, the Taxpayer Advocate should consider—

"(A) whether the Internal Revenue Service employee to which such order would issue is following applicable published administrative guidance, including the Internal Revenue Manual,

"(B) whether there is an immediate threat of adverse action,

"(C) whether there has been a delay of more than 30 days in resolving taxpayer account problems, and

"(D) the prospect that the taxpayer will have to pay significant professional fees for representation.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 302. EXPANSION OF AUTHORITY TO AWARD COSTS AND CERTAIN FEES.

(a) AUTHORITY TO AWARD HIGHER ATTORNEY'S FEES BASED ON COMPLEXITY OF ISSUES.—Clause (iii) of section 7430(c)(1)(B) (relating to the award of costs and certain fees) is amended by inserting ", or the difficulty of the issues presented in the case or the local availability of tax expertise," before "justifies a higher rate".

(b) AWARD OF ADMINISTRATIVE COSTS INCURRED AFTER 30-DAY LETTER.—

(1) Paragraph (2) of section 7430(c) is amended by striking the last sentence and insert the following:

"Such term shall only include costs incurred on or after whichever of the following is the earliest: (i) the date of the receipt by the taxpayer of the notice of the decision of the Internal Revenue Service Office of Appeals, (ii) the date of the notice of deficiency, or (iii) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent."

(2) Subparagraph (B) of section 7430(c)(7) is amended by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", or", and by adding at the end the following new clause:

"(iii) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent."

(c) AWARD OF FEES FOR CERTAIN ADDITIONAL SERVICES.—Paragraph (3) of section 7430(c) is amended by adding at the end the following new sentence: "Such term also includes such amounts as the court calculates, based on hours worked and costs expended, for services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court or before the Internal Revenue Service and who represents the taxpayer for no more than a nominal fee."

(d) DETERMINATION OF PREVAILING PARTY.—Paragraph (4) of section 7430(c) is amended—

(A) by inserting at the end of subparagraph (A) the following new flush sentence:

"For purposes of this section, such section 2412(d)(2)(B) shall be applied by substituting '$5,000,000' for the amount otherwise applicable to individuals, and '$35,000,000' for the amount otherwise applicable to businesses.", and

(B) by adding at the end the following new subparagraph:

"(D) SAFE HARBOR.—The position of the United States was not substantially justified if the United States has not prevailed on the same issue in at least 3 United States Courts of Appeal."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings beginning after the date of the enactment of this Act.

SEC. 303. CIVIL DAMAGES FOR NEGLIGENCE IN COLLECTION ACTIONS.

(a) IN GENERAL.—Section 7433 (relating to civil damages for certain unauthorized collection actions) is amended—

(1) in subsection (a), by inserting ", or by reason of negligence," after "recklessly or intentionally", and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting "($100,000, in the case of negligence)" after "$1,000,000", and

(B) in paragraph (1), by inserting "or negligent" after "reckless or intentional".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to actions of officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 304. DISCLOSURE OF CRITERIA FOR EXAMINATION SELECTION.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, incorporate into the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) a statement which sets forth in simple and nontechnical terms the criteria and procedures for selecting taxpayers for examination. Such statement shall not include any information the disclosure of which would be detrimental to law enforcement, but shall specify the general procedures used by the Internal Revenue Service, including the extent to which taxpayers are selected for examination on the basis of information available in the media or on the basis of information provided to the Internal Revenue Service by informants.

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—Such Secretary shall transmit drafts of the statement required under subsection (a) (or proposed revisions to any such statement) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day.

SEC. 305. ARCHIVAL OF RECORDS OF INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Subsection (l) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

"(16) DISCLOSURE TO NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.—The Secretary shall, upon written request from the Archivist of the United States, disclose to the Archivist all records of the Internal Revenue Service for purposes of scheduling such records for destruction or for retention in the National Archives. Any such information that is retained in the National Archives shall not be disclosed without the express written approval of the Secretary."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made by the Archivist after the date of the enactment of this Act.

SEC. 306. TAX RETURN INFORMATION.

The Joint Committee on Taxation shall convene a study of the scope and use of provisions regarding taxpayer confidentiality, and shall report the findings of such study, together with such recommendations as it deems appropriate, to the Congress no later than one year after the date of the enactment of this Act. Such study shall be led by a panel of experts, to be appointed by the Joint Committee on Taxation, which shall examine the present protections for taxpayer privacy, the need for third parties to use tax return information, and the ability to achieve greater levels of voluntary compliance by allowing the public to know who is legally required to do so, but does not file tax returns.

SEC. 307. FREEDOM OF INFORMATION.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, develop procedures under which expedited access will be granted to requests under section 551 of title 5, United States Code, when—

(1) there exists widespread and exceptional media interest in the requested information, and

(2) expedited processing is warranted because the information sought involves possible questions about the government's integrity which affect public confidence.

In addition, such procedures shall require the Internal Revenue Service to provide an explanation to the person making the request if the request is not satisfied within 30 days, including a summary of actions taken to date and the expected completion date. Finally, to the extent that any such request is not satisfied in full within 60 days, such person may seek a determination of whether such request should be granted by the appropriate Federal district court.

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—Such Secretary shall transmit drafts of the procedures required under subsection (a) (or proposed revisions to any such procedures) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day.

SEC. 308. OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Section 7122 (relating to offers-in-compromise) is amended by adding at the end the following new subsection:

"(c) ALLOWANCES.—The Secretary shall develop and publish schedules of national and local allowances to ensure that taxpayers entering into a compromise have an adequate means to provide for basic living expenses."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 309. ELIMINATION OF INTEREST DIFFERENTIAL ON OVERPAYMENTS AND UNDERPAYMENTS.

(a) IN GENERAL.—Subsection (a) of section 6621 (relating to the determination of rate of interest) is amended to read as follows:

"(a) GENERAL RULE.—

"(1) RATE.—The rate established under this section shall be the sum of—

"(A) the Federal short-term rate determined under subsection (b), plus

"(B) the number of percentage points specified by the Secretary.

"(2) DETERMINATION OF PERCENTAGE POINTS.—The number of percentage points specified by the Secretary for purposes of paragraph (1)(B) shall be the number which the Secretary estimates will result in the same net revenue to the Treasury as would have resulted without regard to the amendments made by section 309 of the Internal Revenue Service Restructuring and Reform Act of 1997."

(b) CONFORMING AMENDMENTS.—

(1) Section 6621 is amended by striking subsection (c).

(2) The following provisions are each amended by striking "overpayment rate" and inserting "rate": Sections 42(j)(2)(B), 167(g)(2)(C), 460(b)(2)(C), 6343(c), 6427(i)(3)(B), 6611(a), and 7426(g).

(3) The following provisions are each amended by striking "underpayment rate" and inserting "rate": Sections 42(k)(4)(A)(ii), 148(f)(4)(C)(x)(II), 148(f)(7)(C)(ii), 453A(c)(2)(B), 644(a)(2)(B), 852(e)(3)(A), 4497(c)(2), 6332(d)(1), 6601(a), 6602, 6654(a)(1), 6655(a)(1), and 6655(h)(1).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply for purposes

of determining interests for periods after the date of the enactment of this Act.

SEC. 310. ELIMINATION OF APPLICATION OF FAILURE TO PAY PENALTY DURING PERIOD OF INSTALLMENT AGREEMENT.

(a) IN GENERAL.—Subsection (c) of section 6651 (relating to the penalty for failure to file tax return or to pay tax) is amended by adding at the end the following new paragraph:

"(3) TOLLING DURING PERIOD OF INSTALLMENT AGREEMENT.—If the amount required to be paid is the subject of an agreement for payment of tax liability in installments made pursuant to section 6159, the additions imposed under subsection (a) shall not apply so long as such agreement remains in effect."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 311. SAFE HARBOR FOR QUALIFICATION FOR INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—Subsection (a) of section 6159 (relating to agreements for payment of tax liability in installments) is amended—

(1) by striking "The Secretary is" and inserting the following:

"(1) IN GENERAL.—The Secretary is",

(2) by moving the test 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) SAFE HARBOR.—The Secretary shall enter into an agreement to accept the payment of a tax liability in installments if—

"(A) the amount of such liability does not exceed $10,000,

"(B) the taxpayer has not failed to file any tax return or pay any tax required to be shown thereon during the immediately preceding 5 years, and

"(C) the taxpayer has not entered into any prior installment agreement under this paragraph."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 312. PAYMENT OF TAXES.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall establish such rules, regulations, and procedures as are necessary to require payment of taxes by check or money order to be made payable to the Treasurer, United States of America.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 313. LOW INCOME TAXPAYER CLINICS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7525. LOW INCOME TAXPAYER CLINICS.

"(a) IN GENERAL.—The Secretary shall make grants to provide matching funds for the development, expansion, or continuation of qualified low income taxpayer clinics.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED LOW INCOME TAXPAYER CLINIC.—

"(A) IN GENERAL.—The term 'qualified low income taxpayer clinic' means a clinic that—

"(i) represents low income taxpayers in controversies with the Internal Revenue Service,

"(ii) operates programs to inform individuals for whom English is a second language about their rights and responsibilities under this title, and

"(iii) does not charge more than a nominal fee for its services except for reimbursement of actual costs incurred.

"(B) REPRESENTATION OF LOW INCOME TAXPAYERS.—A clinic meets the requirements of subparagraph (A)(i) if—

"(i) at least 90 percent of the taxpayers represented by the clinic have income which does not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget, and

"(ii) the amount in controversy for any taxable year generally does not exceed the amount specified in section 7463.

"(2) CLINIC.—The term 'clinic' includes—

"(A) a clinical program at an accredited law school in which students represent low income taxpayers in controversies arising under this title, and

"(B) an organization exempt from tax under section 501(c) which satisfies the requirements of paragraph (1) through representation of taxpayers or referral of taxpayers to qualified representatives.

"(3) QUALIFIED REPRESENTATIVE.—The term 'qualified representative' means any individual (whether or not an attorney) who is authorized to practice before the Internal Revenue Service or the applicable court.

"(c) SPECIAL RULES AND LIMITATIONS.—

"(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $3,000,000 per year (exclusive of costs of administering the program) to grants under this section.

"(2) LIMITATION ON INDIVIDUAL GRANTS.—A grant under this section shall not exceed $100,000 per year.

"(3) MULTI-YEAR GRANTS.—Upon application of a qualified low income taxpayer clinic, the Secretary is authorized to award a multi-year grant not to exceed 3 years.

"(4) CRITERIA FOR AWARDS.—In determining whether to make a grant under this section, the Secretary shall consider—

"(A) the numbers of taxpayers who will be served by the clinic, including the number of taxpayers in the geographical area for whom English is a second language,

"(B) the existence of other low income taxpayer clinics serving the same population,

"(C) the quality of the program offered by the low income taxpayer clinic, including the qualifications of its administrators and qualified representatives, and its track record, if any, in providing service to low income taxpayers, and

"(D) alternative funding sources available to the clinic, including amounts received from other grants and contributions, and the endowment and resources of the educational institution sponsoring the clinic.

"(5) REQUIREMENT OF MATCHING FUNDS.—A low income taxpayer clinic must provide matching funds on a dollar for dollar basis for all grants provided under this section. Matching funds may include—

"(A) the salary (including fringe benefits) of a faculty member at an educational institution who is teaching in the clinic;

"(B) the salaries of administrative personnel employed in the clinic; and

"(C) the cost of equipment used in the clinic.

Indirect expenses, including general overhead of the educational institution sponsoring the clinic, shall not be counted as matching funds.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new section:

"Sec. 7525. Low income taxpayer clinics."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 314. JURISDICTION OF THE TAX COURT.

(a) INTEREST DETERMINATIONS.—Subsection (c) of section 7481 (relating to the date when Tax Court decisions become final) is amended—

(1) by inserting "or underpayment" after "overpayment" each place it appears, and

(2) by striking "petition" in paragraph (3) and inserting "motion".

(b) EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX.—Section 6166 (relating to the extension of time for payment of estate tax) is amended—

(1) by redesignating subsection (k) as subsection (l), and

(2) by inserting after subsection (j) the following new subsection:

"(k) JUDICIAL REVIEW.—The Tax Court shall have jurisdiction to review disputes regarding initial or continuing eligibility for extensions of time for payment under this section, including disputes regarding the proper amount of installment payments required herein."

(c) SMALL CASE CALENDAR.—

(1) Subsection (a) of section 7463 (relating to disputes involving $10,000 or less) is amended by striking "$10,000" each place it appears and inserting "$25,000".

(2) The section hearing for section 7463 is amended by striking "**$10,000**" and inserting "**$25,000**".

(3) The item relating to section 7463 in the table of sections for part II of subchapter C of chapter 76 is amended by striking "$10,000" and inserting "$25,000".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings commencing after the date of the enactment of this Act.

SEC. 315. CATALOGING COMPLAINTS.

(a) IN GENERAL.—The Commissioner of Internal Revenue shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, develop procedures to catalog and review taxpayer complaints of misconduct by Internal Revenue Service employees. Such procedures should include guidelines for internal review and discipline of employees, as warranted by the scope of such complaints.

(b) HOTLINE.—The Commissioner for Internal Revenue shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, establish a toll-free telephone number for taxpayers to register complaints of misconduct by Internal Revenue Service employees, and shall publish such number in Publication 1.

SEC. 316. PROCEDURES INVOLVING TAXPAYER INTERVIEWS.

(a) IN GENERAL.—Paragraph (1) of section 7521(b) (relating to procedures involving taxpayer interviews) is amended to read as follows:

"(1) EXPLANATION OF PROCESSES.—An officer or employee of the Internal Revenue Service shall—

"(A) before or at an initial interview, provide to the taxpayer—

"(i) in the case of an in-person interview with the taxpayer relating to the determination of any tax, an explanation of the audit process and the taxpayer's rights under such process, or

"(ii) in the case of an in-person interview with the taxpayer relating to the collection of any tax, an explanation of the collection process and the taxpayer's rights under such process, and

"(B) before an in-person initial interview with the taxpayer relating to the determination of any tax—

"(i) inquire whether the taxpayer is represented by an individual described in subsection (c),

"(2) explain that the taxpayer has the right to have the interview take place in a reasonable place and that such place does not have to be the taxpayer's home,

"(iii) explain the reasons for the selection of the taxpayer's return for examination, and

"(iv) provide the taxpayer with a written explanation of the applicable burdens of proof on taxpayers and the Internal Revenue Service.

If the taxpayer is represented by an individual described in subsection (c), the interview may not proceed without the presence of such individual unless the taxpayer consents."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to interviews and examinations taking place after the date of the enactment of this Act.

SEC. 317. EXPLANATION OF JOINT AND SEVERAL LIABILITY.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, establish procedures to clearly alert taxpayers of their joint and several liabilities on all tax forms, publications, and instructions. Such procedures shall include explanations of the possible consequences of joint and several liability.

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—Such Secretary shall transmit drafts of the procedures required under subsection (a) (or proposed revisions to any such procedures) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day.

SEC. 318. PROCEDURES RELATING TO EXTENSIONS OF STATUTE OF LIMITATIONS BY AGREEMENT.

(a) IN GENERAL.—Paragraph (4) of section 6501(c) (relating to the period for limitations on assessment and collection) is amended—

(1) by striking "Where" and inserting the following:

"(A) IN GENERAL.—Where",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new subparagraph:

"(B) NOTICE TO TAXPAYER OF RIGHT TO REFUSE OR LIMIT EXTENSION.—The Secretary shall notify the taxpayer of the taxpayer's right to refuse to extend the period of limitations, or to limit such extension to particular issues, on each occasion when the taxpayer is requested to provide such consent."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to requests to extend the period of limitations made after the date of the enactment of this Act.

SEC. 319. REVIEW OF PENALTY ADMINISTRATION.

The Taxpayer Advocate shall prepare a study and provide an independent report to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation, no later than July 30, 1998, reviewing the administration and implementation by the Internal Revenue Service of the penalty reform recommendations made in the Omnibus Budget Reconciliation Act of 1989, including legislative and administrative recommendations to simplify penalty administration and reduce taxpayer burden.

SEC. 320. STUDY OF TREATMENT OF ALL TAXPAYERS AS SEPARATE FILING UNITS.

The Secretary of the Treasury or his delegate and the Comptroller General of the United States shall each conduct separate studies on the feasibility of treating each individual separately for purposes of the Internal Revenue Code of 1986, including recommendations for eliminating the marriage penalty, addressing community property issues, and reducing burden for divorced and separated taxpayers. The reports of each study shall be delivered to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation no later than 180 days after the date of the enactment of this Act.

SEC. 321. STUDY OF BURDEN OF PROOF.

The Comptroller General of the United States shall prepare a report on the burdens of proof for taxpayers and the Internal Revenue Service for controversies arising under the Internal Revenue Code of 1986, which shall be delivered to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation no later than 180 days after the date of the enactment of this Act. Such report shall highlight the differences between these burdens and the burdens imposed in other disputes with the Federal Government, and should comment on the impact of changing these burdens on tax administration and taxpayer rights.

SEC. 322. NOTICE OF DEFICIENCY TO SPECIFY RIGHT TO CONTACT TAXPAYER ADVOCATE

(a) IN GENERAL.—Section 6212(a) (relating to notice of deficiency) is amended by adding at the end the following: "Such notice shall include a notice to the taxpayer of the taxpayer's right to contact a local office of the taxpayer advocate and the location and telephone number of the nearest such office.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of the enactment of this act.

TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE

Subtitle A—Oversight

SEC. 401. COORDINATED OVERSIGHT HEARINGS.

(a) Subchapter A of chapter 80 (relating to application of internal revenue laws) is amended by adding after section 7811 the following new section:

"SEC. 7821. COORDINATED OVERSIGHT HEARINGS.

"(a) JOINT HEARINGS.—On or before April 1 of each calendar year after 1997, there shall be a joint hearing of two members of the majority and one member of the minority from each of the Committees on Finance, Appropriations, and Government Affairs of the Senate, and the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, to review the strategic plans and budget for the Internal Revenue Service. After the conclusion of the annual filing season, there shall be a second annual joint hearing to review other matters outlined in subsection (b).

"(b) In preparation for the annual joint hearings provided for under subsection (a), the staffs of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, shall, on an annual rotating basis, prepare reports with respect to—

(1) strategic and business plans for the Internal Revenue Service;

(2) progress of the Internal Revenue Service in meeting its objectives;

(3) the budget for the Internal Revenue Service and whether it supports its strategic objectives;

(4) progress of the Internal Revenue Service in improving taxpayer service and compliance;

(5) progress of the Internal Revenue Service on technology modernization; and

(6) the annual filing season.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Budget

SEC. 412. FUNDING FOR CENTURY DATE CHANGE.

it is the sense of Congress that funding for the Internal Revenue Service efforts to resolve the century date change computing problems should be funded fully to provide for certain resolution of such problems.

SEC. 413. FINANCIAL MANAGEMENT ADVISORY GROUP.

The Commissioner shall convene a financial management advisory group consisting of individuals with expertise in governmental accounting and auditing from both the private sector and the Government to advise the Commissioner on financial management issues, including—

(1) the continued partnership between the Internal Revenue Service and the General Accounting Office;

(2) the financial accounting aspects of the Internal Revenue Service's system modernization;

(3) the necessity and utility of year-round auditing; and

(4) the Commissioner's plans for improving its financial management system.

Subtitle C—Tax Law Complexity

SEC. 421. ROLE OF THE INTERNAL REVENUE SERVICE.

It is the sense of Congress that the Internal Revenue Service should provide the Congress with an independent view of tax administration, and that during the legislative process, the tax writing committees of the Congress should hear from front-line technical experts at the Internal Revenue Service with respect to the administrability of pending amendments to the Internal Revenue Code of 1986.

SEC. 422. TAX COMPLEXITY ANALYSIS.

(a) IN GENERAL.—Chapter 92 (relating to powers and duties of the Joint Committee on Taxation) is amended by adding at the end the following new section:

"SEC. 8024. TAX COMPLEXITY ANALYSIS.

"(a) IN GENERAL.—

"(1) REPORTED BILLS AND RESOLUTIONS.—When a committee of the Senate or House of Representatives reports a bill or joint resolution that includes any provision amending the Internal Revenue Code of 1986, the report for such bill or joint resolution shall contain a Tax Complexity Analysis prepared by the Joint Committee on Taxation for each provision therein.

"(2) AMENDED BILLS AND JOINT RESOLUTIONS; CONFERENCE REPORTS.—If a bill or joint resolution is passed in an amended form (including if passed by one House as an amendment in the nature of a substitute for the text of a bill or joint resolution from the other House) or is reported by a committee of conference in amended form, and the amended form contains an amendment to the Internal Revenue Code of 1986 not previously considered by either House, then the committee of conference shall ensure that the

Joint Committee on Taxation prepares a Tax Complexity Analysis for each provision therein.

"(b) CONTENT OF COMPLEXITY ANALYSIS.—Each Tax Complexity Analysis must address—

"(1) whether the provision is new, modifies or replaces existing law, and whether hearings were held to discuss the proposal and whether the Internal Revenue Service provided input as to its administrability;

"(2) when the provision becomes effective, and corresponding compliance requirements on taxpayers (e.g., effective on date of enactment, phased in, or retroactive);

"(3) whether new Internal Revenue Service forms or worksheets are needed, whether existing forms or worksheets must be modified, and whether the effective date allows sufficient time for the Internal Revenue Service to prepare such forms and educate taxpayers;

"(4) necessity of additional interpretive guidance (e.g., regulations, rulings, and notices);

"(5) the extent to which the proposal relies on concepts contained in existing law, including definitions;

"(6) effect on existing record keeping requirements and the activities of taxpayers, complexity of calculations and likely behavioral responses, and standard business practices and resource requirements;

"(7) number, type, and sophistication of affected taxpayers; and

"(8) whether the proposal requires the Internal Revenue Service to assume responsibilities not directly related to raising revenue which could be handled through another Federal agency.

"(c) LEGISLATION SUBJECT TO POINT OF ORDER.—

"(1) IN GENERAL.—It shall not be in order in the Senate or the House of Representatives to consider any bill, joint resolution, amendment, motion, or conference report that is not accompanied by a Tax Complexity Analysis for each provision therein.

"(2) IN THE SENATE.—Upon a point of order being made by any Senator against any provision under this section, and the point of order being sustained by the Chair, such specific provision shall be deemed stricken from the bill, resolution, amendment, amendment in disagreement, or conference report, and may not be offered as an amendment from the floor.

"(3) IN THE HOUSE OF REPRESENTATIVES.—

"(A) It shall not be in order in the House of Representatives to consider a rule or order that waives the application of paragraph (1).

"(B) In order to be cognizable by the Chair, a point of order under this section must specify the precise language on which it is premised.

"(C) As disposition of points of order under this section, the Chair shall put the question of consideration with respect to the proposition that is the subject of the points of order.

"(D) A question of consideration under this section shall be debatable for 10 minutes by each Member initiating a point of order and for 10 minutes by an opponent on each point of order, but shall otherwise be decided without intervening motion except one that the House adjourn or that the Committee of the Whole rise, as the case may be.

"(E) The disposition of the question of consideration under this subsection with respect to a bill or joint resolution shall be considered also to determine the question of consideration under this subsection with respect to an amendment made in order as original text.

"(d) RESPONSIBILITIES OF THE COMMISSIONER.—The Commissioner shall provide the Joint Committee on Taxation with such information as is necessary to prepare a Tax Complexity Analysis on each instance in which such an analysis is required."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 92 is amended by adding at the end the following new item:

"Sec. 8024. Tax complexity analysis."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to legislation considered on or after the earlier of January 1, 1998, or the 90th day after the date of the enactment of an additional appropriation to carry out section 8024 of the Internal Revenue Code of 1986, as added by this section.

SEC. 423. SIMPLIFIED TAX AND WAGE REPORTING SYSTEM.

(a) POLICY.—It is the policy of the Congress that employers should have a single point of filing tax and wage reporting information.

(b) ELECTRONIC FILING OF INFORMATION RETURNS.—The Social Security Administration shall establish procedures no later than December 31, 1998, to accept electronic submissions of tax and wage reporting information from employers, and to forward such information to the Internal Revenue Service, and to the tax administrators of the States, upon request and reimbursement of expenses. For purposes of this paragraph, recipients of tax and wage reporting information from the Social Security Administration shall reimburse the Social Security Administration for its incremental expenses associated with accepting and furnishing such information.

SEC. 424. COMPLIANCE BURDEN ESTIMATES.

The Joint Committee on Taxation shall prepare a study of the feasibility of developing a baseline estimate of taxpayers' compliance burdens against which future legislative proposals could be measured.

TITLE V—CLARIFICATION OF DEDUCTION FOR DEFERRED COMPENSATION

SEC. 501. CLARIFICATION OF DEDUCTION FOR DEFERRED COMPENSATION.

(a) IN GENERAL.—Subsection (a) of section 404 is amended by adding at the end the following new paragraph:

"(11) DETERMINATIONS RELATING TO DEFERRED COMPENSATION.—

"(A) IN GENERAL.—For purposes of determining under this section—

"(i) whether compensation of an employee is deferred compensation, and

"(ii) when deferred compensation is paid,

no amount shall be treated as received by the employee, or paid, until it is actually received by the employee.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to severance pay."

(b) SICK LEAVE PAY TREATED LIKE VACATION PAY.—Paragraph (5) of section 404(a) is amended by inserting "or sick leave pay" after "vacation pay".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after October 8, 1997.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for its first taxable year ending after October 8, 1997—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first taxable year.

BOXER AMENDMENTS NOS. 1539–1540

(Ordered to lie on the table.)

Mrs. BOXER submitted two amendments intended to be proposed by her to the bill, H.R. 2646, supra; as follows:

AMENDMENT NO. 1539

At the end of the bill, add the following:

SEC. 4. INCENTIVES FOR AFTERSCHOOL PROGRAMS.

Section 226(d)(5) of Public Law 105–34 (The Taxpayer Relief Act of 1997) is amended by adding the following:

"(E) providing productive activities during after school hours, including, but not limited to, mentoring programs, tutoring, recreational activities, and technology training."

AMENDMENT NO. 1540

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "After School Education and Safety Act of 1997".

SEC. 2. PURPOSE.

The purpose of this Act is to improve academic and social outcomes for students by providing productive activities during after school hours.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) Today's youth face far greater social risks than did their parents and grandparents.

(2) Students spend more of their waking hours along, without supervision, companionship, or activity than the students spend in school.

(3) Law enforcement statistics show that youth who are ages 12 through 17 are most at risk of committing violent acts and being victims of violent acts between 3 p.m. and 6 p.m.

(4) Greater numbers of students are failing in school and the consequences of academic failure are more dire in 1997 than ever before.

SEC. 4. GOALS.

The goals of this Act are as follows:

(1) To increase the academic success of students.

(2) To improve the intellectual, social, physical, and cultural skills of students.

(3) To promote safe and healthy environments for students.

(4) To prepare students for workforce participation.

(5) To provide alternatives to drug, alcohol, tobacco, and gang activity.

SEC. 5. DEFINITIONS.

In this Act:

(1) SCHOOL.—The term "school" means a public kindergarten, or a public elementary school or secondary school, as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) SECRETARY.—The term "Secretary" means the Secretary of Education.

SEC. 6. PROGRAM AUTHORIZED.

The Secretary is authorized to carry out a program under which the Secretary awards grants to schools to enable the schools to carry out the activities described in section 7(a).

SEC. 7. AUTHORIZED ACTIVITIES; REQUIREMENTS.

(a) AUTHORIZED ACTIVITIES.—

(1) REQUIRED.—Each school receiving a grant under this Act shall carry out at least 2 of the following activities:

(A) Mentoring programs.

(B) Academic assistance.

(C) Recreational activities.

(D) Technology training.

(2) PERMISSIVE.—Each school receiving a grant under this Act may carry out any of the following activities:

(A) Drug, alcohol, and gang, prevention activities.

(B) Health and nutrition counseling.

(C) Job skills preparation activities.

(b) TIME.—A school shall provide the activities described in subsection (a) only after regular school hours during the school year.

(c) SPECIAL RULE.—Each school receiving a grant under this Act shall carry out activities described in subsection (a) in a manner that reflects the specific needs of the population, students, and community to be served.

(d) LOCATION.—A school shall carry out the activities described in subsection (a) in a school building or other public facility designated by the school.

(e) ADMINISTRATION.—In carrying out the activities described in subsection (a), a school is encouraged—

(1) to request volunteers from the business and academic communities to serve as mentors or to assist in other ways;

(2) to request donations of computer equipment; and

(3) to work with State and local park and recreation agencies so that activities that are described in subsection (a) and carried out prior to the date of enactment of this Act are not duplicated by activities assisted under this Act.

SEC. 8. APPLICATIONS.

Each school desiring a grant under this Act shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall—

(1) identify how the goals set forth in section 4 shall be met by the activities assisted under this Act;

(2) provide evidence of collaborative efforts by students, parents, teachers, site administrators, and community members in the planning and administration of the activities;

(3) contain a description of how the activities will be administered;

(4) demonstrate how the activities will utilize or cooperate with publicly or privately funded programs in order to avoid duplication of activities in the community to be served;

(5) contain a description of the funding sources and in-kind contributions that will support the activities; and

(6) contain a plan for obtaining non-Federal funding for the activities.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $50,000,000 for each of the fiscal years 1998 through 2002.

TECHNICAL CORRECTIONS TO COPYRIGHT LAW

HATCH AMENDMENT NO. 1541

Mr. GRASSLEY (for Mr. HATCH) proposed an amendment to the bill, H.R. 672, to make technical amendments to certain provisions of title 17, United States Code; as follows:

On page 15, insert the following after line 8 and redesignate the succeeding sections, and references thereto, accordingly:

SEC. 11. DISTRIBUTION OF PHONORECORDS.

Section 303 of title 17, United States Code, is amended—

(1) by striking "Copyright" and inserting "(a) Copyright"; and

(2) by inserting at the end the following:

"(b) The distribution before January 1, 1978, of a phonorecord shall not for any purpose constitute a publication of the musical work embodied therein.".

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will meet during the session of the Senate on Friday, October 31, 1997, after the first rollcall vote in the President's room of the Capitol, S–216, to mark up the nominations of Ms. Sally Thompson to be Chief Financial Officer of the U.S. Department of Agriculture and Mr. Joe Dial to be Commissioner of the Commodity Futures Trading Commission.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet on Monday, November 3, 1997, at 10 a.m. in room 485 of the Russell Senate Office Building, to conduct a markup on H.R. 976, the Mississippi Sioux Tribe Judgment Fund Distribution Act of 1997, followed by a hearing on H.R. 1604, to provide for the division, use, and distribution of judgment funds of the Ottawa and Chippewa Indians of Michigan.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, October 30, 1997, at 9:15 a.m. in SR–328A to mark up the nominations of Ms. Sally Thompson to be Chief Financial Officer of the U.S. Department of Agriculture and Mr. Joe Dial to be Commissioner of the Commodity Futures Trading Commission.

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

COMMITTEE ON ARMED SERVICES

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, October 30, 1997, at 10:30 a.m. in open session, to consider the nominations of Hon. Robert M. Walker, to be Under Secretary of the Army; Mr. Jerry MacArthur Hultin, to be Under Secretary of the Navy; and Mr. F. Whitten Peters, to be Under Secretary of the Air Force.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BURNS. 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, October 30, 1997, to conduct a hearing on the Iran-Libya Sanctions Act.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, October 30, 1997, at 9:30 a.m. on the nomination of William Clyburn, Jr., to be a member of the Surface Transportation Safety Board, Duncan Moore and Arthur Bienenstock to be members of Office of Science and Technology Policy.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BURNS. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Thursday, October 30, 9:30 a.m., in hearing room SD–406 on evidentiary privileges or immunity from prosecution for voluntary environmental audits.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 30, 1997, at 9:30 a.m. and 2 p.m. to hold two hearings.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BURNS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, October 30, at 9 a.m. for a nomination hearing for John M. Campbell and Anita M. Josey, nominees to the District of Columbia courts.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BURNS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee Subcommittee on Special Investigations to meet on Thursday, October 30, at 10

a.m. for a hearing on campaign financing issues.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. BURNS. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, October 30, 1997, at 9:30 a.m. in room 485 of the Russell Senate Building, to conduct a hearing on the nomination of B. Kevin Gover to be Assistant Secretary for Indian Affairs, Department of the Interior.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on HIV/AIDS: Recent Developments and Future Opportunities, during the session of the Senate on Thursday, October 30, 1997, at 10 a.m.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, October 30, 1997, beginning at 9 a.m. until business is completed, to hold a hearing on the Senate Strategic Planning Process for Infrastructure Support. A business meeting to consider pending legislative and administrative matters will immediately follow.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. BURNS. The Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on the following nominations: Richard J. Griffin, to be Inspector General, Department of Veterans Affairs; William P. Greene, Jr., to be Associate Judge, Court of Veterans Appeals; Joseph Thompson to be Under Secretary for Benefits, Department of Veterans Affairs; and Espiridion A. Borrego to be Assistant Secretary for Veterans Employment and Training, Department of Labor. The hearing will take place on Thursday, October 30, 1997, at 5 p.m., in room 418 of the Russell Senate Office Building.

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

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. BURNS. Mr. President, I ask unanimous consent that the Subcommittee on Administrative Oversight and the Courts, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Thursday, October 30, 1997, at 2 p.m. to hold a hearing in room 226, Senate Dirksen Building, on class action lawsuits: examining victim compensation and attorneys' fees.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. BURNS. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, October 30, for purposes of conducting a subcommittee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on S. 1253, the Public Land Management Improvement Act of 1997.

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

SUBCOMMITTEE ON WATER AND POWER

Mr. BURNS. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, October 30, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this oversight hearing is to receive testimony to review the Federal Energy Regulatory Commission's hydroelectric relicensing procedures.

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

CELEBRATING FLORENCE G. HEDKE'S 100TH BIRTHDAY

• Ms. MOSELEY-BRAUN. Mr. President, it is my pleasure and privilege to join the friends and family in celebrating the 100th birthday of a distinguished citizen of Riverdale, IL, Miss Florence G. Hedke, on November 11, 1997.

Miss Hedke is a testament to Riverdale's heritage. She began teaching at the Bowen School in 1919, and later became the school's principal before retiring in 1964. Miss Hedke cherished her experiences at the Bowen School so much that she now lives in the building that was once home to the original Bowen School.

As an educator, Miss Hedke inspired her students to dream, encouraged excellence and showed them the many avenues of opportunity made available through learning. She gave her students the foundation for their dreams. Her influence on the many students she touched has enriched their lives, and ours, in ways too numerous to calculate. She gave young people the confidence in themselves and hope for the future.

The Village of Riverdale, the State of Illinois, and our nation are all better as a result of Florence Hedke's talent, love and commitment to education. She is truly one of Illinois' special treasures, and I am honored to join in the celebration of her 100th birthday.•

CHRISTIANITY IN PUBLIC LIFE TODAY

• Mr. BROWNBACK. Mr. President, I rise to submit for the record an address delivered by my colleague, Senator ABRAHAM from Michigan, to Legatus, a group of Catholic business leaders concerned to bring their faith into their economic and public lives.

We live in an era, Mr. President, in which religious Americans are faced with a number of obstacles as they seek to live their faith in our public square. I believe that Senator ABRAHAM well states the dilemma faced by people of faith and I hope our citizens, and Members of this body in particular, will heed his call for greater understanding and accommodation for religious principles and beliefs.

As we face a continuing breakdown of our families and communities, I believe it is essential that we return to the fundamental institutions, beliefs and practices on which our society was founded. And to do that we must recognize the central role religion has and must continue to play in shaping our character and our community.

The address follows:

CHRISTIANITY IN AMERICA TODAY

An address delivered to the Legatus Regional Conference on October 11, 1997 by Senator Spencer Abraham

First I would like to thank Tom Monahan and all the members of Legatus for having me here. Your work, bringing your faith to bear on your daily lives as business people and citizens, is crucial, in my view, to the health of our republic and the souls of our people.

Because I am speaking today about Christianity in America, I first must point out the standpoint from which I speak: I am both a Christian and a United States Senator. Now, some people might say that "Christian Senator" is an oxymoron, right up there with "political ethics" or "military intelligence." And it certainly can be difficult to stand up for what is right, for what Christ demands, if you listen too closely to the Washington wisdom. But I think those of you here today know full well how difficult it can be to bring your private beliefs into your public life. Indeed, I think our country as a whole suffers from the fact that we tend to seek a Christian private life while the government too often discourages Christian conduct.

Christianity in America and Christianity in Washington and our state capitals seem to be different things. The good news, of course, is that Christianity in America is in many ways thriving.

For example, by now most Americans have heard of the Promise Keepers. This organization was founded in 1990 by former University of Colorado football coach Bill McCartney. Since its inception over two and a half million men have been to Promise Keepers conferences.

Here they promise to:

(1) Honor Jesus Christ through worship, prayer and obedience to God's word.

(2) Pursue friendships with men who will help them keep their promises.

(3) Practice spiritual, moral, ethical and sexual purity.

(4) Strengthen their commitment to their wives and children through love, protection and devotion to the Bible.

(5) Become more involved in their churches.

(6) Seek racial harmony, and

(7) Follow the Golden Rule by loving God and loving their neighbors as themselves.

That's an unfashionable set of promises to ask men to keep. Yet hundreds of thousands of them came to Washington on October 4, pledging to keep these promises in their daily lives.

And there are a number of other important groups working to bring Christianity back into people's lives. Just a couple of weeks ago in Washington there was an "Emerging Urban Leaders Conference." Dozens of young people—so-called "Generation Xers" —from all over the country came together. At this conference they discussed ways to cooperate and learn from one another as they worked in faith-based groups struggling for community renewal.

The conference was held in a spirit of optimism because of the new organizations and networks that are forming around the idea that faith-based programs can save our inner cities, and those who live in them.

And the statistics from a Gallup poll conducted just this year show that Christianity is very much alive among the American people.

Despite what you may hear in the press, less than 1% of the American people are atheists. Meanwhile, 9 out of 10 Americans give a religious identification. 7 out of 10 say they are a member of a church or synagogue. 6 out of 10 say religion is an important part of their daily life. 77% believe the Bible is the inspired word of God. 40% attend church on a weekly basis—a rate that has held steady for almost 40 years. 66% report that prayer is an important part of their daily life. And 61% believe religion can answer all or most of today's problems.

Unfortunately, despite this common religious attitude among the people, in Washington and many state capitals Christianity is having to struggle.

Let me give some examples.

First, one of the fundamental bases of our moral order, recognized by Judaism, Christianity and Islam alike, is the Ten Commandments. The moral principles laid out in these commandments, including love of God as well as rules against murder and perjury, literally gave birth to our society. We ignore them at our peril. Unfortunately, at least one judge has sought to bar expression of these principles from our public square.

Recently, an Alabama judge ordered his colleague, Judge Roy S. Moore, to stop displaying the Ten Commandments in his courtroom. This ruling, now on hold, rests on the mistaken belief that the Constitution's religion clause forbids such displays. It also rests on hostility toward public affirmations of our religious heritage. It can only undermine our adherence to the principles underlying our moral order.

A resolution introduced by my colleague, JEFF SESSIONS, would state that Judge Moore should be allowed to continue displaying the Ten Commandments in his courtroom. I believe that this is the appropriate response.

Unfortunately, activist judges have not been the only ones opposing any role for religion in our public life. Our elected officials too often undermine worthy projects out of hostility or fear toward religion.

For example, my colleague, Georgia Senator Paul COVERDELL, has proposed education legislation establishing "A-Plus Accounts." These accounts would allow parents to use the tax-free education savings accounts provided in the recent Taxpayer Relief Act for their children's elementary and secondary schooling, rather than just for college.

This would give parents greater control over their children's education. With help from these accounts, parents could buy a home computer to enable their child to explore the internet; pay for tutoring for a child having trouble with math; get occupational therapy for a child with special needs, or save for tuition payments and home schooling.

The interest on these savings accounts would not be taxed so long as it was used for educational expenses. And the cost to the federal government and taxpayer? Zero. A+ Accounts would simply allow parents to spend more of their own money on their children's education.

Unfortunately, the President has vowed to veto any bill containing these provisions. This administration does not want parents to control their own children's educations. Simply giving parents the choice of saving their money for nonpublic and parochial schools for this administration is unacceptable. That is wrong, and it should be put right.

Another wrong we need to put right is abortion. I will do everything I can as a United States Senator to protect unborn life. Here I must point in admiration to my wife Jane. Through the Susan B. Anthony List, which works to elect pro-life women to Congress, and through her many personal efforts, she has done a great deal to improve our ability to correct the great tragedy of abortion.

Unfortunately, the pro-life cause is subjected to a great deal of unfair derision. The press focuses almost exclusively on the few bad apples who resort to violence, and tar us all as extremists. Meanwhile the terrible facts about partial birth abortion have been denied repeatedly, despite massive evidence. Even limited efforts to protect the unborn, like parental notification, have consistently failed to make it into law. In Washington, whether on the Senate floor or in the papers, it is considered "bad form" to even bring up the rights of the unborn.

Indeed, it seems to be bad form to bring up any issue of principle or morality, let alone religion, in Washington. Nor is Congress the only place in Washington where religion and traditional values are being undermined. The Executive branch has played its own, destructive role.

Recently President Clinton revoked Ronald Reagan's Executive Order, decreeing that federal bureaucrats consider their actions' effects on the families of this nation. As stated in its preamble, President Reagan's Executive Order was intended "to ensure that the autonomy and rights of the family are considered in the formulation and implementation of policies by Executive departments and agencies."

More than any government program, America's children are protected, nurtured and given the means they need to lead good lives by their families. No national "village" can replace the constant care and attention of parents. But all too often federal regulations interfere with parents as they try to teach, protect and nurture them.

For example, the Family Research Council reports that the Food and Drug Administration has classified home drug tests as a "Class 3 Medical Device," placing them in the same category as heart pace makers. In effect, the FDA has barred parents from using these tests in their homes—despite the fact that the drug tests work in the same, simple manner as home pregnancy tests.

The irony is that the federal government is using taxpayer dollars to promote the use of other medical devices, namely condoms. Condoms are the subject of a $400,000 federal advertising effort, featuring rock music and sexually suggestive imagery, carried out under federal Department of Health and Human Services regulations.

It seems that, according to the federal government, bureaucrats in Washington are the only ones qualified to make certain that our children are not using drugs, and to educate them concerning sexuality and contraception—matters of deep importance to their spiritual lives.

In these and other ways, Washington seems to go out of its way to show contempt for traditional values. For example, the federally funded Smithsonian Institution, our premier teaching museum, recently refused to allow the Boy Scouts to hold an Honor Court ceremony at the National Zoo. Why? Because the Boy Scouts "discriminate" against atheists.

I found it deeply disturbing that the Boy Scouts, one of America's most important private organizations, which has helped literally millions of American boys reach responsible manhood, should be denied access to a federally supported institution because it exercises its Constitutional right to free exercise of religion.

I also was disturbed that the Smithsonian Institution, the repository of so many objects central to our heritage as a people, should enforce a policy diametrically opposed to the principles on which our nation was founded.

Luckily, after I brought this travesty to the attention of my colleagues in the Senate, enough pressure was applied to the Smithsonian's secretary that he rescinded the order and apologized for this obvious instance of intolerance for religion.

I think it is important that we remember victories like this. And there have been others.

For example, the last welfare reform bill finally eliminated a destructive, ill-considered provision. That provision prohibited faith-based organizations from contracting with local governments to provide social services. Under this provision, faith-based organizations had to give up their religious character in order to provide social services with public assistance. The results have been tragic.

In the late 1980's, when the homeless population was rising, state and local officials in Michigan discovered large inner-city churches with plenty of space. But the federal government would not give any money to cities seeking to use the churches for homeless shelters. The problem? All religious references in the churches, from crucifixes to Bible scriptures carved into the walls, had to be removed or covered if government funds were to be spent.

The same situation confronted the people of Flint, where Catholic Social Services runs the North End Soup Kitchen in a building owned by Sacred Heart church. In order to receive government help, from what I am told, they were required to cover up their crucifixes and religious icons and literally hide the bibles. They even were required to create a separate legal entity to accept the aid.

This is wrong. It keeps many good organizations from getting more involved in their communities. It saps our religious spirit and denies people assistance they need.

Fortunately for our communities, this has changed. The charitable choice provision will see to it that states consider religious organizations on an equal, nondiscriminatory basis with private institutions. Faith based organizations are no longer required to remove "religious art, icons or other symbols" to receive federal funds. They also are no longer required to change hiring practices or create separate corporations in order to receive government contracts. The only requirement these organizations must meet is that they cannot use government money for sectarian worship, instruction or proselytizing activities.

These reforms already have produced miraculous results. Ottawa County recently was the subject of front page stories in both the Washington Post and USA Today. Why? Because that county's conservative, churchgoing communities have done what no one else had seemed able to do: get every one of its able-bodied welfare recipients into a paying job. Every one.

Governor Engler's innovative "Project Zero" deserves a great deal of credit for these results. But even more important, in my view, has been the participation of local churches and parishioners.

Faith-based organizations and individuals have served as mentors, helping people in trouble get their lives back on track. Whether by volunteering to babysit, by helping out with a loan, or by offering friendship and spiritual guidance, these people gave of themselves in ways that have changed lives for the better—in ways that until recently were considered illegal.

I think the Ottawa County experience shows that welfare reform is a solid step forward. We need to build on it, and try to move public policy in a way that recognizes the fundamental role of religion in our lives, and the fundamental principles religion gives us to guide our lives.

Most important, of course, is our duty to protect our children, born and unborn. And, on that front, I am hopeful that we will finally make some progress in the battle against abortion.

The House of Representatives has finally joined the Senate by voting to ban partial birth abortion. I know I, and thousands upon thousands of other people, was deeply disturbed by the tactics of some proponents of abortion in defending this practice. But I think the word is finally out: Partial birth abortion is dangerous, unnecessary, and simply unacceptable. And I am confident that, despite the President's veto, we will finally bring this inexcusable practice to a halt, once and for all.

But this struggle, over the most fundamental principle of all—the sanctity of human life—shows why we can't let liberals have their way.

I want to encourage all of you to get involved and stay involved in public life. Of course, you already are involved by being here in Legatus. But I think America needs you to do even more.

Frankly, there are plenty of groups organized on the other side who have a far different and far more radical agenda than those of us who want to restore traditional religious values. They want abortion on demand, fully-funded by taxpayer dollars up to and including the ninth month. They want government-paid physician assisted suicide, paid for by the Medicare and Medicaid plans to which you are forced to contribute. They want to push religion all the way out of our public life, from our schools, from our courthouses, and from our communities.

But there is no reason to despair. In fact, I think it would show an inappropriate lack of faith to despair for our country. With God's help, you and I can make a difference. We can stand up for the unborn. We can defend our families and the sanctity of marriage against deluded lawmakers and the smut put out by so-called "entertainers." We can fight to bring God back into the classroom and the courtroom. We can make America beautiful again by reminding her that, whatever Washington might say, we are a nation Under God and answerable to Him for our actions.

I am not here to tell you that this task will be easy. But I believe I share with you the conviction that God calls us to work for a more humane public square, in which the voice of faith can be heard. I believe I share with you also the conviction that God is calling all of us, in and out of Washington and Lansing, to renew our public life, to restore it to spiritual health by fighting for the same principles for which Christ died.

The cross may be heavy, but surely not so heavy as His. And we owe it to ourselves, our children and our God to work, in our homes, in our parishes and local communities, in our private lives and in our public lives, to make our society recognize the value of unborn life, the value of the lives of those who are old, ill or simply inconvenient, the value of a life not lived for the pleasure of the moment, but for the glory of God.•

IN RECOGNITION OF ROBERT McNAMARA

• Mr. HOLLINGS. Mr. President, I rise today to recognize a man who exemplifies the American dream. Dr. Robert McNamara, an assistant professor of sociology at Furman University, rose from a childhood of Dickensian poverty and violence to become a successful writer, prodigious researcher, and beloved teacher. In addition to devoting much time to instructing and advising his students, he has published nine books; his most recent, "Beating the Odds: Crime, Poverty, and Life in the Inner City," has just been released.

In "Beating the Odds," Dr. McNamara addresses some of our society's fundamental problems while relating them to the trials of his own impoverished childhood. Though it is unusual for an academic to intertwine memoir with analysis, Dr. McNamara's style makes his book all the more compelling.

Bob McNamara was born in New Haven, CT, in 1960, the youngest of four boys. He and his family—"dirty, unkempt, and unruly"—lived a tenuous existence in a squalid section of the city. His abusive and alcoholic father was a compulsive gambler. McNamara's parents divorced when he was 10 years old. Neither wanted to raise him; after a time, they began paying other people to care for him.

As an adolescent, Bob McNamara was sent to live with 19 different families. His abuse and exploitation at the hands of these so-called foster parents convinced him that "being a foster child is one of the most frightening things that could ever happen to a young person." It was not until one of his high school football coaches realized his potential and decided to become his foster parent that McNamara gained a stable and nurturing home.

With the help of supportive teachers and his new foster family, Bob McNamara turned his life around. He worked two jobs to pay for classes at the local community college. After succeeding there, he enrolled in the State university and commuted 60 miles each way to attend classes. He made outstanding grades and won a scholarship to Yale University, where he obtained his doctorate. While at Yale, he met another graduate student, Kristie Maher, whom he would later marry and who also teaches sociology at Furman University.

Dr. Robert McNamara is a living example of the promise of American life. He was born into an abysmally poor and dysfunctional family, with no role models or guidance. He spent much of his childhood stealing for food and running with gangs. But he found purpose in the pursuit of knowledge and nurturing from his teachers, and went on to excell at one of America's elite universities. Today, he is an admired teacher and respected scholar.

Mr. President, "Beating the Odds" is not just the title of Prof. Robert McNamara's latest and most inspiring book; it is the story of his life. In fact, beating the odds is what the American dream is all about.•

THE 75TH ANNIVERSARY OF WALSH COLLEGE

• Mr. ABRAHAM. Mr. President, today I rise to pay tribute to Walsh College on the occasion of their 75th anniversary. Since 1922, Walsh College has been highly instrumental in turning business leaders of tomorrow into business leaders of today. Michiganites, and many others across America, have benefited immensely by the quality of education and rich tradition bestowed upon its students.

Over 11,000 Walsh College alumni have worked to improve Michigan's economy and bring about a better quality of life for those near to them. With over 3,000 students and 4 campuses—soon to be 5 campuses—Walsh College continues to enlarge its positive impact on Michigan's southeastern communities.

It is well known by businesses in Michigan that Walsh students excel in their work. For example, 10 have received the Paton Award for achieving the highest Michigan score on the CPA exam, and 13 have received the Sells Award for placing in the top 100 of those taking the test nationwide. Through its six undergraduate degree

programs and five graduate programs, Walsh College brings to Michigan an unparalleled excellence in education.

Again, congratulations for 75 great years in business education and, on behalf of the U.S. Senate, I offer my highest appreciation and praise to all who have made the past 75 years a great success.•

AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1997

• Mr. HARKIN. Mr. President, yesterday, the Senate has passed one of the most important agriculture bills it will consider this session. The Agricultural Research, Extension and Education Reform Act of 1997 not only represents a strong statement by the Senate on the importance of research to the future of American agriculture but also a substantive improvement in USDA's research efforts. I am pleased that both sides of the aisle have come together to invest in the future of agriculture and rural communities in this country. I am especially pleased with the cooperation I have enjoyed with the chairman of the Agriculture Committee, Senator LUGAR, and his staff throughout the development of this important legislation.

This bill ensures that our farmers and ranchers have the world's best science and technology to produce food and fiber, protect the environment upon which agriculture depends, and create rural economic opportunities. We are devoting over $1 billion in new funds over the next 5 years to advance the science and technology underlying our agricultural system. I am also pleased that we were able to find the resources to improve the nutrition of our Nation's poorest children.

We have also extended the fund for rural America through 2002 and reaffirmed and enlarged our commitment to the pressing development needs of our rural communities. The fund was a key component of the 1996 Farm bill, created to provide funds to help farmers and rural communities to transition into the new farm policy environment. I am pleased we have allocated an additional $300 million to these purposes so the fund will continue to emphasize creative research and rural development efforts.

This bill contains substantial new initiatives for research and development of new uses for agricultural commodities. I believe that the most important way to increase farm income is to find new nonfood markets for agricultural commodities. New uses activities at the USDA will be conducted in a coordinated manner to garner the maximum benefit from the various research programs. We have authorized the USDA to use its resources to conduct research on lowering the cost of production of alternative agricultural products in cooperation with startup companies, including AARCC companies. Finally, AARCC is a priority for the new research initiative included in this bill.

This bill also contains significant reforms in the current research programs. We have increased the accountability of the research and extension formula funds. We require the Secretary to consult with producers, industry and consumers in setting research priorities. We require external scientific peer-review of ARS research.

Finally, we have taken the first steps in encouraging the inter-State cooperation on research and extension problems. States are required to dedicate a portion of research and extension funds to problems of national or multi-State significance. In the process I believe we are making our research system more responsive to critical issues and we hopefully will eliminate unnecessary duplication of efforts.

Mr. President, we have increased the funding, competitiveness, accountability and credibility of U.S. agricultural research. We have let the world know that we are serious about equipping American agriculture for future food production changes. We also take steps to assure the taxpayer that research dollars are expended in the most efficient manner. We have done all this in a strong bipartisan manner. I think we can all take pride in the fact that today we have made a significant investment in a better future for not only the U.S. farmer and rancher but also in a better future for an increasingly crowded and hungry world.•

TRIBUTE TO DR. MARY LYNN TISCHER

• Mr. WARNER. Mr. President, I rise today to thank Dr. Mary Lynn Tischer, who leaves my Washington office after almost a year of ceaseless effort as a Transportation Fellow. As we sought to develop consensus on the ISTEA II legislation, Mary Lynn provided superior analysis and assistance, working extensively with her counterparts to gather a large coalition of support for this complex piece of legislation.

Mary Lynn worked with Virginia Secretary of Transportation Robert Martinez and Virginia Governor George Allen as they sought to steer the Step 21 legislation at the State level. In her role as the Administrator of the Office of Policy Analysis, Evaluation, and Intergovernmental Relations at the Virginia Department of Transportation [VDOT], Mary Lynn served the Commonwealth of Virginia admirably. She has worked on travel forecasting, analysis of travel behavior and mode choice, model development, goods movement, and trucking issues. Mary Lynn was chosen to manage the congressionally mandated Heavy Vehicle Cost Allocation Study, the Study of the Feasibility of Designating the Interstate for Larger and Heavier Vehicles, and several studies on state regulation of motor carriers.

Mary Lynn received her Ph.D. in political science from the University of Maryland, with an interdisciplinary major in social psychology as well as a specialty in American government and public policy. Dr. Tischer also serves on the Group I Council of the Transportation Research Board, and is active on several committees and task forces of TRB and AASHTO, including the Reauthorization Task Force.

Mary Lynn is widely recognized as an expert in her field. She was chairman of the International Association of Travel Behavior, editor of Transport Reviews, and on the editorial board of Transportation. Her proficiency has led to her participation on steering committees for national and international conferences, most recently for Household Travel Surveys and Uses of the Decennial Census. She has given numerous papers, and is extensively published in the transportation and marketing fields.

Mary Lynn has been tireless in her work here in my Washington office. Her cheerful demeanor, quick wit, and skillful assistance and intelligence will be sorely missed. I extend my warmest regards to Mary Lynn, and wish her all good luck in her future endeavors.•

EDUCATION SAVINGS ACCOUNTS

• Mr. KENNEDY. Mr. President, I oppose the Coverdell bill because it uses regressive tax policy to subsidize vouchers for private schools. It does not give any real financial help to low-income, working and middle-class families, and it does not help children in the nation's classrooms. What it does is provide yet another tax give-away for the wealthy.

Public education is one of the great successes of American democracy. It makes no sense for Congress to undermine it. This bill turns its back on the nation's long-standing support of public schools and earmarks tax dollars for private schools. This is a fundamental step in the wrong direction for education and for the nation's children.

Proponents of the bill argue that assistance is available for families to send their children to any school, public or private. But that argument is false. The fact is that public schools do not charge tuition. Therefore, the 90% of the nation's children who attend public schools do not need help in paying tuition. Even worse, the people helped most by this proposal are families in high income brackets—and these families can already afford to send their children to private school.

The nation's children deserve good public schools, safe public schools, well-trained teachers, and a good education. Private school vouchers disguised as IRAs will undermine all of

those essential goals by undermining the public schools, not helping them.

We all want the nation's children to get the best possible education. We should be doing more—much more—to support efforts to improve local schools. We should oppose any plan that would undermine those efforts.

Scarce tax dollars should be targeted to public schools. They don't have the luxury of closing their doors to students who pose special challenges, such as children with disabilities, limited English-proficient children, or homeless students. Vouchers will not help children who need help the most.

Proponents of the bill argue that vouchers increase choice for parents. But parental choice is a mirage. Private schools apply different rules than public schools. Public schools must accept all children. Private schools can decide whether to accept a child or not. The real choice goes to the schools, not the parents. The better the private school, the more parents and students are turned away.

In fact, many private schools require children to take rigorous achievement tests, at the parents' expense, as a basis for admission to the private schools. Lengthy interviews and complex selection processes are often mandatory. Private schools impose many barriers to admission. Few parents can even get to the schoolhouse door to find out if it is open to their child. For the vast majority of families with children in public schools, the so-called "school choice" offered by the voucher scheme is a hollow choice.

Public schools must take all children, and build a program to meet each of their needs. Private schools only take children who fit the guidelines of their existing programs. We should not use public tax dollars to support schools that select some children, and reject others.

Senator COVERDELL's proposal would spend 2.5 billion dollars over the next five years on subsidies to help wealthy people pay the private school expenses they already pay, and do nothing to help children in public schools get a better education.

It is important to continue the national investment in children and their future. We should invest more in improving public schools by fixing leaky roofs and crumbling buildings, by recruiting and preparing excellent teachers, and by taking many other steps. We should not invest in bad education policy and bad tax policy.

We know that at the current time, 14 million children in one-third of the nation's schools are learning in substandard facilities. Over half of all schools report at least one major building in disrepair, with cracked foundations, or leaking roofs, or other major problems. If we have 2.5 billion more dollars to spend on elementary and secondary education, we should spend it to deal with these problems.

During the next decade, because of rising student enrollments and rising teacher retirements, the nation will need over 2 million new teachers. Yet today, more than 50,000 underprepared teachers enter the classroom every year. Students in inner-city schools have only a 50% chance of being taught by a qualified science or math teacher. We should support teachers and rebuild our schools—not build tax shelters for the wealthy.

It is clear that this proposal disproportionately benefits wealthy families. The majority of the tax benefits would go to families in high income brackets. These families can already afford to send their children to private school.

Working families and low-income families do not have enough assets and savings to participate in this IRA scheme. This regressive bill does not help working families struggling to pay day to day expenses during their children's school years.

The majority of families will get almost no tax break from this legislation. 70 percent of the benefit goes to families in the top 20 percent of the income bracket. Families earning less than $50,000 a year will get a tax cut of $2.50 from this legislation—$2.50. You can't even buy a good box of crayons for that amount. Families in the lowest income brackets—those making less than $17,000 a year—will get a tax cut of all of $1—$1. But, a family earning over $100,000 will get $97.

Even many families who can save enough to be able to participate in this IRA scheme will receive little benefit. IRAs work best when the investment is long-term. But in this scheme, money will be taken out each year of a child's education. Only the wealthiest families will be able to take advantage of this tax-free savings account.

In addition, "qualified expenses" are defined so broadly in this bill, that parents could justify almost any expense even remotely connected to the costs of elementary and secondary education, creating a large loophole for people to spend funds in ways not intended.

In order to guard against fraud and abuse, the IRS would have to take on more tax audits of families that establish these accounts. The IRS will have to ask what school a child attends, what expenses the parents actually incurred, and whether the accounts were properly set up and used.

This bill is bad tax policy and bad education policy. It does not improve public education for the 90 percent of children who go to public schools. It is a waste of scarce tax dollars.

Education reform should help education, not undermine it. Students need to master the basics, meet high standards, and be taught by well-trained teachers. We need to hold schools accountable for results, and create safe buildings and learning environments.

This bill is simply private school vouchers under another name. It is wrong for Congress to subsidize private schools. We should improve our public schools—not abandon them.•

A FITTING NEW HAMPSHIRE TRIBUTE FOR FALLEN AMERICAN HERO

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to the memory of Sgt. William Roy Pearson, USAF. Earlier today, his remains were returned to his native town of Webster, New Hampshire where he will finally be properly laid to rest with full military honors this weekend, more than 25 years following his tragic loss in Vietnam.

Sergeant Pearson was the all American boy who grew up in a small, New Hampshire town, played varsity baseball and soccer all four years at Merrimack Valley High School, and then, like his father before him, went off to serve his country in time of war. As an Air Force Pararescue "Maroon Beret", he was awarded a Silver Star, Purple Heart, two Distinguished Flying Crosses, and five air medals for his actions. To Sergeant Pearson, living up to the USAF Pararescuemen motto—"that others may live"—was a daily routine in the jungles of Vietnam.

Then came the tragic day on April 6, 1972 when once again his unit was called upon to rescue a downed U.S. Air Force pilot whose rescue story was later depicted in the movie, BAT-21. During the rescue attempt conducted by Sergeant Pearson and his crewmembers, the Jolly Green was shot down by enemy fire, killing those on board. Sergeant Pearson was only 20 years old.

But it was not until two decades later that U.S. personnel were finally permitted by Vietnam to fully investigate and excavate what remained of the crash site. Despite the passage of time, the recovery team was able to identify and repatriate the remains of Sergeant Pearson, and we are grateful to our military for their efforts in this regard.

Sergeant Pearson was a hero, not only for his commitment to freedom and the sacrifices he made by serving in Vietnam, but also for his courage in trying to save a comrade, who, I might add, was eventually rescued six days later. His heroic deeds were exemplary of the New Hampshire spirit of duty, honor, and valor, and his story will be an inspiring and moving one in the history of United States Air Force Pararescue for all generations that follow in his footsteps.

As a fellow Vietnam veteran and a long-time advocate for the families of our POWs and MIAs who have suffered uncertainty for far too many years, my

thoughts and prayers are with Sergeant Pearson's parents, siblings, family members, fellow comrades, and friends. I know they are all very proud of his service, as they now close this long, sad chapter in their lives.

Finally, Mr. President, I also want to publicly thank the United States Air Force, including personnel at Hanscom Air Force Base in Massachusetts, and Sergeant Pearson's fellow Maroon Berets for the special care they have taken to honor their own, and to bid Sergeant Pearson a fitting farewell in a such a dignified manner. I know that the honors bestowed on Sergeant Pearson by the Air Force during this difficult weekend ahead will help to console those who have suffered the most from his loss. It has been a long wait, but we are grateful he has now returned home for this fitting final goodbye in New Hampshire.•

DELTA TEACHERS' ACADEMY

• Mr. BUMPERS. Mr. President, The Agricultural Research, Extension, and Education Reform Act of 1997, which the Senate passed yesterday, includes a provision which authorizes the Secretary to provide funds to a national organization which promotes educational opportunities at the primary and secondary levels in rural areas with a historic incidence of poverty and low academic achievement.

The 1990 Report of the Lower Mississippi Delta Development Commission identified quality of education as one if its 68 issues to be addressed through State and/or Congressional action. One of several recommendations offered by the Commission was that educational agencies in the Delta establish cooperative partnerships with institutions of higher education. In 1992, the Delta Teachers' Academy was launched as one of the first large-scale, federally funded responses to the Delta Development Commission. Since that time, the Delta Teachers' Academy has offered outstanding opportunities for elementary and high school teachers to increase their academic proficiency and has become the largest professional development program operated by the National Faculty. Acting under the assumption that well-prepared teachers beget well-educated students, Congress has continued to provide funding for the Delta Teachers' Academy. Giving teachers the resources, knowledge, and support they need to achieve the goals set for them should reside at the heart of educational improvement efforts.

The importance of preparing young people for the challenges and realities of the 21st Century is indisputable. The region of the United States known as the Lower Mississippi Delta—Eastern Arkansas, Southeast Missouri, Southern Illinois, Western Kentucky, Western Tennessee, Mississippi, and Louisiana—has lagged behind the rest of the country in economic growth and prosperity. This area suffers from a greater amount of measurable poverty and unemployment than any other region of the country. It is inhibited by people who have used their sense of place to develop a cultural and historical heritage that is rich and unique. A letter from then-Governor Bill Clinton which accompanied the Delta Commission's 1990 report identified the region as "an enormous untapped resource for America" that "can and should be saved." The Delta Teachers' Academy has endeavored to do just that.

The Delta Teachers' Academy, the National Faculty's single largest program, unites teachers from largely poor and isolated districts for long-term study in core disciplines. The three-year program combines intensive summer institutes with on-site sessions during the school year. Each teacher team works in collaboration with college and university scholars in one or more of five core disciplines—English, geography, history, math, and science. As teachers improve their mastery of these subject areas and gain confidence in their professional development, they are able to pass their knowledge along to the students with whom they come in contact. In 1995, the program served 600 teachers in 43 program sites. The Academy has continued to expand its outreach efforts and currently serves over 1000 teachers in the 219 counties and parishes comprising the Lower Mississippi Delta.

Positive outcomes have been reported for the Delta Teachers' Academy by the General Accounting office in June of 1995 and as recently as August of this year by Westat, an independent entity commissioned to evaluate the effectiveness of the program. Both determined that the Delta Teachers' Academy is effective in fulfilling its two primary goals—increasing understanding of academic subjects and providing new and useful teaching skills. The GAO report specifically noted the Academy's success in helping teachers' institute changes in their curricula and classroom practice.

I feel that the Delta Teachers' Academy represents community partnership at its very best. I am pleased that Congress has agreed to provide a special authorization for this incredibly worthwhile program. This makes clear Congress' commitment to improving educational opportunity and the overall quality of life for people living in the Lower Mississippi Delta and the need to continue our support such as the Delta Teachers' Academy.•

MEDICARE FRONTIER HEALTH CLINIC AND CENTER ACT OF 1997

• Mr. THOMAS. Mr. President, I am pleased to join my colleague from Alaska, Senator FRANK MURKOWSKI (R-AK), in introducing the "Medicare Frontier Health Clinic and Center Act of 1997." This bill will go a long way in assuring rural families have access to emergency medical care on a 24-hour basis.

As cochairman of the Senate Rural Health Caucus, it has been my priority to put rural health care at the forefront of any legislative package. Included in this year's "Balanced Budget Act of 1997," is a comprehensive set of reforms that increases Medicare reimbursement rates to midlevel practitioners, improves payment levels to rural health plans contracting with Medicare and permits small hospitals to stay open even if they do not meet all of the requirements stipulated under Medicare's conditions of participation.

It is this last provision that is particularly beneficial to Wyoming's health care community. For the first time, our hospitals will be able reconfigure their services and reduce excess bed capacity. The new entities will be called "Critical Access Hospitals" [CAH's]. They will be excused from some of the onerous staffing regulations designed with big cities in mind. In addition, they will be reimbursed on a reasonable-cost basis, which provides the extra payment needed to remain open.

While the newly established CAH Program goes to great lengths to expand medical care in rural America, there is still more to do. That is where our bill steps in. The "Medicare Frontier Health Clinic and Center Act," permits state certified health clinics in the most frontier areas to upgrade to CAH status. This will ensure that remote areas of the country will finally have access to hospital services.

Too often, health care providers are forced to close their doors because they cannot contend with low utilization rates, costly regulations and inadequate Medicare reimbursement payments. But closing a hospital or a medical clinic is not an acceptable option in Wyoming. In my State, if a town loses its most important point of service—the emergency room—it is typical for patients to drive 100 miles or more to the closest tertiary care center. An alternative must be available.

Mr. President, our bill presents communities with a viable option. It accommodates different levels of medical care throughout a state while providing stabilization services needed in remote areas. It is one in a series of measures that the Rural Health Caucus is working on designed to improve quality medical care in rural America, and I look forward to working with my colleague from Alaska to pass this important piece of legislation.•

STUDY OF THE IMPACT OF THE NORTHEAST INTERSTATE DAIRY COMPACT

• Mr. FEINGOLD. Mr. President, the Agriculture appropriations bill, H.R. 2160, which the Senate has approved today contains a provision, section 732, requiring the director of the Office of Management and Budget to conduct a comprehensive economic evaluation of the direct and indirect economic impacts of the Northeast Interstate Dairy Compact on consumers within the six-state compact region and on producers outside of the region. The Senator from Minnesota [Mr. GRAMS] and I offered this amendment with Senators KOHL, LEVIN, ABRAHAM, and WELLSTONE during Senate consideration of the bill, because, to date, there has been no comprehensive analysis of the short and long-term impacts of the Compact from this perspective.

Wisconsin farmers, and many farmers throughout the nation, are extremely concerned that the artificially high milk prices under the Northeast Dairy Compact will place nonCompact farmers at an unfair competitive disadvantage. Compact producers, who on July 1 of this year began receiving a Class I price of $16.94, have been insulated from the market prices which farmers throughout the country have faced in 1997.

Wisconsin farmers are concerned about surplus production the inflated Compact price is likely to generate about the impact of potential milk surpluses on national milk prices. Furthermore, there is concern that this Compact, while ostensibly affecting only Class I milk, will result in surplus Class I milk being processed into cheese, butter and other products which are sold nationally. If the supply of manufactured dairy products rises due to increased manufacturing in the Northeast, national markets for manufactured products will be negatively affected and milk prices to producers may fall nationally. In addition, if milk production rises in the Compact region due to artificial production incentives, excess milk may be shipped out of the Compact region to fill cheese vats elsewhere, further depressing cheese and milk prices. So these secondary effects of the Compact must be examined.

Section 732 of this bill is very specific. It directs OMB to carefully examine changes and projected changes in levels of milk production, the number of cows, the number of dairy farms and milk utilization in the Compact region due to the Compact. OMB must compare changes in those factors resulting from the Compact to levels of production, cow numbers, dairy farms, milk utilization and disposition of milk that would have occurred in the absence of the Compact. It is extremely important that OMB compare Compact effects not with national averages, but rather with production, cow numbers, and other effects that would have occurred had Compact producers been subject to the market conditions facing dairy farmers nationally.

Section 732 also directs OMB to look at a number of economic indicators, such as changes in disposition of milk produced in the Compact region and changes in utilization of Compact milk, that will aid them in determining the impacts of the Compact on farmers outside of the Northeast.

There is also substantial concern about the consumer impacts of the Northeast Interstate Dairy Compact which taxes 14 million Northeast consumers to benefit just over 4000 dairy farmers in the six states. It is not surprising that consumer prices for fluid milk have risen since the Compact price has been in effect. The Compact raises Class I prices specifically because demand for Class I milk is less responsive to price than other dairy products and more revenue can be extracted from the consumer's pocket. OMB must examine the effects of milk price increases on consumers and, in particular, on low-income consumers.

The study must also examine the impacts of the Compact on USDA's vital nutrition programs that provide milk and dairy products to low-income women, children, infants and the elderly. OMB is directed by section 732 to study the impact of the Compact on both actual and projected changes in program participation, on the value of benefits offered under these programs and on the financial status of the institutions offering the programs. Will the purchasing power of food stamps fall because of the higher milk prices? Will schools offering school lunch and breakfast suffer from an effective lower per meal reimbursement rate? Will participation in the WIC program offered by the six northeastern states fall due to increased milk prices? Is the reimbursement scheme established by the Compact Commission adequate to compensate WIC for increased milk costs? These questions should be answered by OMB's analysis.

Finally, OMB must evaluate the impact of adding additional states to the Northeast Dairy Compact on all of the factors mentioned above. The Northeast Dairy Compact allows Delaware, New Jersey, New York, Pennsylvania, Maryland, Virginia, and any additional states contiguous to participating states, to join the Compact and benefit from inflated Class I milk prices. If that happens, a much larger volume of milk, perhaps over 20 percent of national production, will be priced under the Compact and a much larger number of farmers will have artificial incentives to increase milk production. Congress must have information about the potential economic impact of adding more states to the Compact on farmers in Wisconsin, Minnesota, Idaho, California, New Mexico and other major milk producing states. Furthermore, consumer impacts will be magnified if additional states are added and we need to be able to quantify that impact.

Mr. President, the amendment which Senator GRAMS and I offered, which was adopted by the Senate and included in the final bill by the Conference Committee, lays out very clear direction for OMB on the issues they should evaluate regarding the Northeast Interstate Diary Compact.

However, the Senator from Vermont [Senator LEAHY] made a statement shortly after this provision was adopted as part of the Senate FY 1998 Agricultural Appropriations Bill that implied that OMB should study issues much broader than stipulated by section 732. The Senator from Vermont [Mr. LEAHY] was not a cosponsor of the amendment adopted in the Senate and he is incorrect with respect to the issues the bill directs OMB to evaluate. There was no agreement between the authors of section 732 of this bill and the Senator from Vermont, or any other Senators, that any of the items he mentioned in floor statements subsequent to the passage of the amendment were to be included in the study. OMB should look at the requirements of section 732 and at the statements made by the amendment authors in setting the parameters of this study and the intent of Congress.

As a principal coauthor of the provision requiring OMB to study the impact of the Northeast Dairy Compact, I want to make clear what the Agriculture Appropriations Bill requires and what it does not require of OMB's evaluation.

The study does not require that OMB conduct a comprehensive evaluation of retail, wholesale, and processor milk pricing in New England and OMB should not include such a broad analysis in their study. The authors of the study provision did not intend for OMB to examine farm-retail asymmetry issues. OMB's study should not address whether those in the marketing chain should be passing on all or a portion of the increase in farm level milk costs to consumers. This study should provide an objective analysis of the direct impacts of the Northeast Compact on the wholesale and retail cost of fluid milk not a subjective review of how Compact associated price increases compare to price increases or decreases resulting from market conditions in the past.

OMB should not evaluate broader issues of what the appropriate profit margin for those in the marketing chain could or should be or what level of price increase is justifiable or appropriate. That is a question far exceeding the scope of this study. OMB should not look at regional variations in pricing as they have little relevance to the impact of price increases in New England. OMB should not examine all the

factors that affect the price of milk. The amendment offered by Senator Grams, myself and others directs OMB to examine only the impact of the Compact on consumer prices, not the price of feeds, transportation costs or other factors. In the absence of the Compact, those factors would not have changed, and have no bearing on this study. The only change in the status quo is the Compact milk price increase and that is what the study directs OMB to evaluate. The study requirement in this bill merely requires the OMB to report on what impact the inflated Compact Class I price has had on wholesale and retail prices and on consumers generally.

OMB cannot and should not, based on the directive of the study provision in this bill, compare increases in retail milk prices to consumers resulting from the Compact to benefits they might receive by using coupons, shopping at discount stores, or other methods consumers use to reduce overall food bills. Consumers should not have to utilize coupons or other methods to reduce food costs in order to offset milk price increases caused by the Compact as the Senator from Vermont has suggested.

OMB should not compare the impact of the Compact on USDA nutrition programs to the impact of the recently passed welfare reform bill on these same programs. Welfare reform is being implemented differently by each state. It would divert OMB resources to undertake a comprehensive review of the impact of welfare reform on each of these programs in each of the Compact states relative to the overall impact of the Compact on consumers. That issue is well beyond the scope of this study.

OMB should focus their evaluation on the impact of increased Compact milk prices on the purchasing power of USDA's nutrition programs, the number of recipients served, and the institutions offering the programs in terms of increased costs or financial burdens.

Lastly, OMB should not evaluate the supposed direct and indirect "positive benefits" the Compact may bring to farmers, land use patterns and tourism in participating Northeastern states. There is no mention of this in the study provision in this bill and OMB should not evaluate these issues. Presumably, the Secretary of Agriculture and policy makers in the Northeast have already examined these factors and duplicating such efforts will be a waste of taxpayer dollars.

Section 732 of FY 1998 Agriculture appropriations bill requiring OMB to study the impact of the Northeast Interstate Dairy Compact on Compact-consumers and on non-Compact dairy farmers and manufacturers is very specific. OMB should stick to the directives of this Section and provide Congress with an objective and unbiased analysis of the Northeast Dairy Compact's impact on these stakeholders.

Mr. President, there will likely be efforts to politicize this study and I will work with OMB and the analysts conducting this analysis to be sure that doesn't happen. I plan to meet with OMB Director Franklin Raines on this subject. Consumers and non-Compact farmers and manufacturers have a right to know how the Compact will impact them without interference by Compact proponents who wish to downplay the negative impacts of this price fixing scheme. This is especially critical given that farmers outside of the Compact region have suffered from extremely low milk prices throughout this year. If the Compact will further drive down milk prices nationally and increase milk supplies, farmers, consumers and taxpayers have a right to know. I, and the other cosponsors of section 732, will hold OMB accountable for the accuracy and objectivity of this study.•

PETER J. McCLOSKEY POSTAL FACILITY LEGISLATION

• Mr. SPECTER. Mr. President, this legislation designates the U.S. Post Office in Pottsville, PA as the Peter J. McCloskey Postal Facility. This measure is cosponsored by my distinguished colleague, Senator SANTORUM. A companion measure, H.R. 2564, passed the House last week and was cosponsored by all 21 members of the Pennsylvania delegation.

Following service in the U.S. Army Air Corps during World War II, where he served with distinction as an aerial gunner instructor in the European Theater, Peter McCloskey worked for the Metropolitan Life Insurance Co. and was later appointed as the supervisor for the Pennsylvania Bureau of School Audits, where he served until 1967.

In 1968, he was appointed postmaster of the Pottsville, PA, post office and served in that capacity for 23 years until his retirement. During that time he earned the respect and admiration of not only the employees he supervised over the years, but the entire community as well. Since leaving the Postal Service, Mr. McCloskey continues to be active in his community, having served on the Pottsville Housing Authority Board of Directors.

The legislation will serve as a fitting tribute to an individual who has given so much to the cause of public service.•

IN MEMORIAM—DAVID H. KRAUS

• Mr. BIDEN. Mr. President, David H. Kraus, assistant chief of the European Division of the Library of Congress, died on October 27 in Lanham, MD. In a career at the Library of Congress that spanned a quarter-century, Mr. Kraus played a pivotal role in developing the library's unparalleled European collections and in advising the Congress in a variety of ways, most recently in the training of parliamentarians and librarians from the newly independent, former Communist States of Europe.

A native of Minnesota, Mr. Kraus received his undergraduate education at the University of Wisconsin and did graduate work at Harvard University. A consummate bibliographer and administrator, he was also a remarkable linguist who attained reading fluency in most of the major languages of Eastern and Western Europe. Mr. Kraus was nationally prominent in library circles and ably represented the Congress at scores of professional meetings.

David Kraus was a wise and gentleman, possessed with a ready wit to go with his enormous erudition. He served the Congress long and faithfully, and he leaves many friends on Capitol Hill where he will be sorely missed.•

NATIONAL DEFENSE AUTHORIZATION ACT

• Mr. COATS. Mr. President, I support the National Defense Authorization Act for fiscal year 1998. I congratulate the chairman, Senator THURMOND, and the ranking member, Senator LEVIN, for their leadership in the bipartisan effort which attained this substantive and far reaching conference agreement. And they reached this agreement with the unanimous support of the Senate Armed Services Committee, all 18 committee members signed the conference report. Most importantly, this agreement was able to produce significant compromise in policy on key issues related to Bosnia, the B–2 bomber, and depot provisions.

DEPOT PROVISIONS

I would like to take a few moments to elaborate on the great accomplishment of this depot compromise. This is a compromise that was very difficult to achieve and I appreciate the very strong views of Senators on both sides of this issue. Earlier in this authorization conference process, I opposed the depot provisions which were originally recommended by the readiness panel because they explicitly precluded competition for the resolution of workloads at Kelly and McClellan Air Logistics Center. So we went back to work and through the significant efforts of many members with key interests in this depot issue, we were able to develop a substantive set of provisions that promote competition, and I support them. This compromise protects the integrity of the BRAC process and will serve the best interests of the Department of Defense and the U.S. taxpayer.

First, this bill provides for an open and fair competition for the workloads at Kelly and McClellan Air Force Base by ensuring that consistent practices are used to value the bids of private and public sector entities. Furthermore, we have been able to incorporate

a major initiative in public-private partnerships. This provision enables the Department of Defense to leverage the core competencies of our public sector depots with those of private industry in building the most effective and the most efficient team for maintaining our military's equipment. And it does so in a way that keeps competitive pressures on both the private and the public sector that will ensure that the Pentagon and the U.S. taxpayer continue to get the best value for their defense dollar. The Pentagon has indicated that this is a workable approach to resolving the highly charged issue surrounding Kelly and McClellan Air Logistics Centers.

Second, the depot package amends the 60–40 public-private workload split to 50–50. This provision, in addition to codifying the definition of depot maintenance in a way that protects procurement of upgrades and major modifications for private industry while retaining a core public sector capability, gives the Department of Defense much more flexibility in undertaking maintenance functions. In short, it allows them a significant increase in headroom to prudently shift depot workloads across the private and the public sectors to achieve efficiencies.

Most importantly, this depot provision gives us a window of opportunity to get defense infrastructure reform on track. From my perspective as chairman of the Airland Subcommittee, I see the impact of the Pentagon's procurement shortfall which measures approximately $10 to $15 billion per year. This shortfall is due to this administration's spending too much on defense infrastructure and operations, and too little on vital modernization. I see it in terms of dozens and dozens of broken programs which are not funded at sustainable rates. Consequently, contractors are required to start and stop development and production of major assemblies, if not final products such as in digital communications, ballistic missile defense, tactical vehicles, and the list goes on and on. I also see it in areas where key Pentagon requirements simply are not being addressed because funding is unavailable such as in the Comanche armed reconnaissance helicopter or the Marine Corps advanced amphibious armored vehicle.

In conclusion, I am encouraged that this depot compromise sets the stage for gaining efficiencies in our infrastructure so that we can retain the readiness levels required in the near term, while at the same time providing the means to boost our procurement programs to help ensure the preparedness of our future forces to dominate the uncertain threats of the 21st Century.

AIRLAND

And now I would like to provide a few comments on the Airland aspects of this bill. First, this National Defense Authorization supports the Army's commendable Force XXI effort which significantly enhances the situational awareness and combat effectiveness of our land forces through information technology. Yet, we need to do much more to get the spectrum of digitization efforts which were strongly endorsed by the Pentagon's Quadrennial Defense Review adequately funded. But at least this is a fair start. We also were able to provide significant enhancements in the military's tactical and operational mobility through increases in tactical trucks, the establishment of multi-year procurement for the Family of Medium Tactical Vehicles [FMTV], and increases in V–22 procurement. We also added increases for tactical air and missile defense capabilities such as with the Sentinel Radar, the Avenger Slew-to-Cue modifications, and enhancements to Stinger missile modifications and the Patriot anticruise missile program.

I spoke at length about my concerns with F–22 cost overruns and technology risks during our deliberations over Defense Appropriations. This National Defense Authorization provides the same F–22 funding levels, but goes the very important further step to put key oversight provisions in place that will help Congress and the administration keep this program on track. First, this bill includes the Senate's total cost cap provisions which limits the level of engineering and manufacturing development to approximately $18.7 billion, and production to $43.4B. Second, it require the General Accounting Office to conduct an annual F-22 review that addresses whether the program is meeting established goals in performance, cost, and schedule.

CONCLUSION

This National Defense Authorization makes great strides in supporting the defense strategy of Shape, Respond, and Prepare Now. It provides significant increases in our readiness accounts. It also takes better care of our military servicmembers and their quality of life through a 2.8 percent payraise and a reformed approach to quarters allowances. And it accelerates procurement to address shortfalls in key mission capabilities. Finally, this National Defense Authorization provides a reasonable compromise to the depot issue through a fair and open competition which serves the best interests of the military and the American taxpayer. In short, this bill provides the policy and fiscal provisions representative of the prudent oversight from our Senate authorization process. It provides the framework for setting a course which ensures U.S. military dominance into the 21st Century.

This National Defense Authorization has my full support, and I strongly encourage all members to vote for it.●

CBO ESTIMATE ON S. 967

● Mr. MURKOWSKI. Mr. President, on October 29, 1997, I filed Report 105–119 to accompany S. 967, a bill to amend the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act to benefit Alaska Natives and rural residents, and for other purposes. At the time the report was filed, the estimates by Congressional Budget Office were not available. The estimate is now available and concludes that enactment of S. 967 would "increase direct spending by about $10 million over the 1998–2002 period." I ask that a complete copy of the CBO estimate be printed in the RECORD.

The estimate follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 29, 1997.

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. 967, a bill to amend the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act to benefit Alaska Natives and rural residents, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Victoria V. Heid (for federal costs) and Marjorie Miller (for the impact on state, local and tribal governments).

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

S. 967—A bill to amend the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act to benefit Alaska Natives and rural residents, and for other purposes

Summary: CBO estimates that enacting S. 967 would increase direct spending by about $10 million over the 1998–2002 period. Because the bill would affect direct spending, pay-as-you-go procedures would apply. Assuming appropriation of the authorized amount, implementing S. 967 also would result in discretionary spending of about $1 million over the next five years.

S. 967 contains at least one intergovernmental mandate as defined in the Unfunded Mandates Reform Act of 1995 (UMRA), but CBO estimates that any costs imposed on state, local, and tribal governments would be minimal and would not exceed the threshold established in that act ($50 million in 1996, adjusted annually for inflation). The bill contains no private-sector mandates as defined in UMRA.

Description of the bill's major provisions: S. 967 would affect the terms and conditions of various property transactions involving Alaska native corporations. Several provisions would affect the property rights of specific native corporations.

S. 967 would amend existing law by assigning a value of $39 million to properties to be conveyed by the Calista Corporation in exchange for monetary credits to certain federal properties if the Department of the Interior (DOI) and the corporation have not agreed on the value of the exchange by January 1, 1998. The bill would allow the Doyon, Limited, native corporation to obtain the

subsurface rights retained by the federal government in up to 12,000 acres of public lands surrounded by or contiguous to corporation-owned properties. Another provision would expand the entitlement of the Cook Inlet Region Incorporated (CIRI) to include subsurface rights to an additional 3,520 acres.

S. 967 would amend the Alaska Native Claims Settlement Act to allow the native residents of five native villages in southeast Alaska to organize as native corporations. The bill would authorize the appropriation of $1 million for planning grants to the five villages.

The bill would permit individual natives to exclude bonds issued by a native corporation from the assets used for determining financial eligibility for federal need-based assistance or benefits.

The bill would extend certain protections to lands exchanged among corporations, clarify the status of applications involving land allotments, and exempt a corporation's revenues from sand, gravel, and certain other resources from the income distribution requirements that apply to regional corporations' development of subsurface property. The bill would specify the method of distributing mining claim revenues related to the Haida Corporation or Haida Traditional Use sites.

Finally, the bill includes administrative provisions affecting training of federal land managers, subsistence uses in Glacier Bay National Park, certain access rights to federal land, contracting preferences for visitor services, and a status report by the Secretary of the Interior on implementing current laws on local hiring and contracting with regard to public lands.

Estimated cost to the Federal Government: CBO estimates that enacting this bill would increase direct spending by about $10 million over the 1998–2002 period and about $17 million over the 1998–2007 period. This bill also would authorize to be appropriated about $1 million for planning grants to certain native villages. The estimated budgetary impact of enacting S. 967 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal years in millions of dollars—				
	1998	1999	2000	2001	2002
Spending Under Current Law:					
Estimated Budget Authority	5	0	−1	−1	−1
Estimated Outlays	5	0	−1	−1	−1
Proposed Changes:					
Estimated Budget Authority	21	0	−4	−4	−4
Estimated Outlays	21	0	−4	−4	−4
Spending Under S. 967:					
Estimated Budget Authority	26	0	−5	−5	−5
Estimated Outlays	26	0	−5	−5	−5
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level	0	1	0	0	0
Estimated Outlays	0	1	0	0	0

Basis of estimate

Direct spending

CBO estimates that enacting S. 967 would increase direct spending because of provisions that would result in a loss of federal receipts from property sales.

Calista Corporation property account. The costs of this bill would result primarily from section 5, which prescribes the value of the Calista Corporation's properties to be exchanged for monetary credits with the Department of the Interior to complete a land exchange between the two parties. Under current law, the Calista Corporation is to receive monetary credits equal to the value of the lands to be conveyed, and the corporation is authorized to use these monetary credits to purchase other federal properties. The value of monetary credits counts as direct spending in the year they are issued and as receipts in the years in which they are redeemed. If the credits are used to acquire property that otherwise would have been sold by the government, the use of the credits results in a corresponding loss of receipts from such sales. So far no monetary credits have been awarded because DOI and Calista disagree on the valuation of the properties.

The gap between the valuations is substantial: the department's appraisal assigned a value of about $5 million to the properties, while the corporation asserts that the property is worth significantly more. Given the differences in methodologies and values, this impasse could last for some time. Because the department will not award monetary credits until there is an agreement, it is possible that, under current law, Calista would not receive any monetary credits for several years. For the purpose of this estimate, however, we assume an agreement will be reached in fiscal year 1998, because of Calista's interest in acquiring property with the credits. Although a negotiated valuation could exceed DOI's $5 million appraisal, CBO has no basis for estimating whether and to what extent the Secretary would agree to a higher value. Hence, we assume for this estimate that Calista would receive monetary credits of about $5 million in fiscal year 1998 in the absence of this legislation.

S. 967 provides that if the parties do not agree on a value of the Calista properties to be exchanged, the value would be established at $39 million. If the exchange does not occur before January 1, 1998, the bill directs the Secretary of the Treasury to credit the Calista property account with two-thirds of the established value of the Calista property ($26 million) in monetary credits in fiscal year 1998. The corporation would be permitted to use up to one-half of that amount in fiscal year 1998 and the remaining one-half of the amount credited in fiscal year 1999. If the two parties have not completed the exchange by October 1, 2002, the bill directs the Secretary of the Treasury to credit the account with monetary credits equal to the remaining $13 million. These actions would result in a net increase of $34 million in the amount of credits issued.

Increasing the amount of the credits would increase the budgetary cost of the exchange if Calista's use of the credits in a loss of cash receipts from the sale of federal property. The bill provides that only that federal property which is not scheduled for disposition by sale prior to fiscal year 2003 may be transferred to the Secretary of the Interior for use in the Calista land exchange. Therefore, Calista's use of monetary credits would not result in a loss of receipts to the federal government before fiscal year 2003. Assuming that Calista would use half of its monetary credits to acquire properties that the federal government would have sold anyway, CBO estimates that the bill would increase the net cost of the Calista exchange by about $17 million over the 1998–2007 period. The net increase in outlays over the 1998–2002 period would be $10 million.

Subsurface conveyance to the Doyon Corporation. Section 2 would allow Doyon, Limited, a regional corporation, to acquire up to 12,000 acres of federally owned mineral estate surrounded by or contiguous to subsurface lands owned by that corporation. According to DOI, the federally-owned mineral estate that Doyon, Limited, could acquire under the bill currently has no mineral development. Based on information from the agency, we estimate that although the federal land to be conveyed has some potential for future development, any forgone receipts from the conveyance would total less than $500,000 per year.

Change in eligibility for certain federal assistance. Section 3 would permit Alaska natives to exclude bonds issued by a native corporation from the assets and resources used to determine financial eligibility for federal need-based assistance or benefits. Under current law, natives may exclude certain assets, including stocks issued or distributed by a native corporation as a dividend, from federal financial eligibility tests. This provision would expand the permitted exclusions to include bonds issued by native corporations. Enacting this provision could have limited effects on the federal budget in certain situations. For example, according to a representative of Cook Inlet Region Incorporated (CIRI), this provision would give CIRI greater flexibility in financing a corporate buyback of its shares, which it seeks in order to keep shares in native ownership. (Because CIRI is the only native corporation currently authorized (under Public Law 104–10) to purchase stock from its shareholders, natives in other native corporations would not be affected in this case.) Enacting the provision could increase federal spending by allowing CIRI shareholders, who had planned to sell their shares to CIRI in exchange for a bond and would have stopped receiving federal assistance payments once their assets exceeded financial eligibility tests, to continue to receive federal assistance. We estimate that any such increase in federal assistance payments would total less than $500,000 per year.

Change in CIRI's subsurface rights. Section 4 would increase the entitlement of CIRI to include subsurface rights to an additional 3,520 acres of federal land. Based on information from CIRI representatives and DOI, it seems likely that the corporation would choose properties in the Talkeetna Mountains area. According to DOI, the federal government currently generates no offsetting receipts from that land and does not expect any significant income from it over the next ten years. Therefore, we estimate that any budgetary effect of enacting this provision would be negligible.

Spending subject to appropriation

Section 8 would amend the Alaska Native Claims Settlement Act to allow native residents of five native villages in Southeast Alaska to organize as native corporations. The bill would direct the Secretaries of the Interior and Agriculture to recommend to the Congress the land conveyances and other compensation that should be conveyed to those native corporations; however, it would not entitle those corporations to any federal lands without further Congressional action. This section would authorize the appropriation of about $1 million for planning grants to the five villages.

Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. As shown in the following table, CBO estimates that enacting S. 967 would affect direct spending by increasing the amount of monetary credits issued to the Calista Corporation by $34 million over the 1998–2007 period, and that the net increase in direct spending over the 10-year period would total about $17 million. Other provisions could also affect direct spending by giving various native corporations the

rights to income-producing federal lands, but we estimate that any such additional effects would be negligible. For the purposes of enforcing pay-as-you-go procedures, only the effects in the budget year and the subsequent four years are counted.

SUMMARY OF EFFECTS ON DIRECT SPENDING AND RECEIPTS

	By fiscal year in millions of dollars—									
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Change in outlays	21	0	−4	−4	−4	14	−2	−2	−2	−2
Change in receipts	Not applicable									

Estimated impact on State, local, and tribal governments: S. 967 contains at least one intergovernmental mandate as defined in UMRA, but CBO estimates that any costs imposed on state, local, and tribal governments would be minimal and would not exceed the threshold established in that act ($50 million in 1996, adjusted annually for inflation).

Mandates

Section 1 of this bill would amend the Alaska National Interest Lands Conservation Act to clarify what lands are eligible for automatic land protections, including exemption from property taxes. This provision would impose a mandate on the state of Alaska and its constituent local governments because it could increase the amount of land exempt from state and local property taxes. (UMRA defines the direct costs of mandates to include revenues that state, local, or tribal governments would be prohibited from collecting.) Based on information provided by Alaska state officials, we estimate that the impact would be negligible, because Alaska has no state property tax and most of the land affected would be in areas of the state and no local property taxes.

By exempting the bonds of native corporations and the income from those bonds from the determination of eligibility for some means-tested federal assistance programs, Section 3 would increase spending for those programs. Because states share these costs, this provision would impose costs on state governments. CBO cannot determine whether some of these costs would result from an intergovernmental mandate, as defined in UMRA. In any event, CBO estimates that any additional costs of states would be minimal.

Other impacts

Other sections of the bill would result in both costs and benefits for state, local, and tribal governments. Several sections of the bill would benefit specific Alaska native corporations, but some of these provisions could affect the distribution of land and other resources among the corporations. For example, section 7 would allow regional corporations to dispose of sand, gravel, and similar materials without distributing part of the proceeds among the other regional corporations, as required by current law. This change would allow village corporations to gain greater access to these resources.

Other provisions would benefit Alaska native corporations by expanding their rights to property and resources currently held by the federal government. Section 5 would specify the value of the properties to be exchanged by the Calista Corporation for other federal properties. This section would effectively increase the amount of property that the corporation could obtain. Section 2 would allow Doyon, Ltd., a regional native corporation, to obtain additional subsurface rights now retained by the federal government. Section 4 would give CIRI subsurface rights to an additional 3,520 acres.

Section 8 would authorize the creation of five additional native corporations. This section would authorize the appropriation of $1 million for planning grants for the new corporations, but would not give them any entitlement to federal land. This provision would not affect the entitlements of any other native corporations.

Estimated impact on the private sector: This bill would impose no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Victoria V. Heid. Impact on State, Local, and Tribal Governments: Marjorie Miller.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

ORDER OF BUSINESS

Mr. HARKIN. 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 (Mr. BENNETT). Without objection, it is so ordered.

TECHNICAL CORRECTIONS TO THE SATELLITE HOME VIEWER ACT OF 1994

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 672, and further that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 672) to make technical amendments to certain provisions of title 17 of the United States Code.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1541

(Purpose: To make clarifying amendments to section 303 of title 17, United States Code)

Mr. GRASSLEY. Mr. President, Senator HATCH has an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. HATCH, proposes an amendment numbered 1541.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 15, insert the following after line 8 and redesignate the succeeding sections, and references thereto, accordingly:

SEC. 11. DISTRIBUTION OF PHONORECORDS.

Section 303 of title 17, United States Code, is amended—

(1) by striking "Copyright" and inserting "(a) Copyright"; and

(2) by inserting at the end the following:

"(b) The distribution before January 1, 1978, of a phonorecord shall not for any purpose constitute a publication of the musical work embodied therein.".

Mr. HATCH. Mr. President, I rise today to laud the Senate passage of H.R. 672. This legislation, which was introduced by Congressman COBLE in the House of Representatives, is the counterpart to legislation I introduced in the Senate on March 20 of this year—the Copyright Clarification Act of 1997, S. 506. The Copyright Clarification Act was reported unanimously by the Senate Judiciary Committee on April 17.

The purpose of these bills is to make technical but needed changes to our Nation's copyright laws in order to ensure the effective administration of our copyright system and the U.S. Copyright Office. The need for these changes was first brought to my attention by the Register of Copyrights, Marybeth Peters, and I want to thank her for her outstanding work.

Among the most important amendments made by H.R. 672 is a clarification of the Copyright Office's authority to increase its fees for the first time since 1990 in order to help cover its costs and to reduce the impact of its services on the Federal budget and the American taxpayer. This clarification is needed because of ambiguities in the Copyright Fees and Technical Amendments Act of 1989, which authorized the Copyright Office to increase fees in 1995, and every fifth year thereafter. Because the Copyright Office did not raise its fees in 1995, as anticipated, there has been some uncertainty as to whether the Copyright Office may increase its fees again before 2000 and whether the baseline for calculating the increase in the consumer price index is the date of the last actual fees settlement—1990—or the date of the last authorized fees settlement—1995. H.R. 672 clarifies that the Copyright Office may increase its fees in any calendar year, provided it has not done so

within the last 5 years, and that the fees may be increased up to the amount required to cover the reasonable costs incurred by the Copyright Office.

Although H.R. 672 does not require the Copyright Office to increase its fees to cover all its costs, I believe it is important in that it provides the Copyright Office the statutory tools to become self-sustaining—a concept that I promoted in the last Congress. Currently the Copyright Office does not recover the full costs of its services through fees, but instead receives some $10 million in annual appropriations.

Several studies have supported full-cost recovery for the Copyright Office. For example, a 1996 Booz-Allen & Hamilton management review of the Library of Congress recommended that the Copyright Office pursue full-cost recovery, noting that the Copyright Office has been subject to full-cost recovery in the past and that the potential revenues to be derived from pursuing a fee-based service was significant. A 1996 internal Copyright Office management report prepared by the Library of Congress also recommended full-cost recovery for copyright services. The Congressional Budget Office has also suggested full-cost recovery for the Copyright Office as a means of achieving deficit reduction. These recommendations were endorsed by the General Accounting Office in its recent report, "Intellectual Property, Fees Are Not Always Commensurate with the Costs of Services."

It is my understanding that the Copyright Office has embraced the goal of achieving full-cost recovery for its copyright services. H.R. 672 will provide the authority to achieve that goal, and by passing this legislation this year, the Copyright Office will be able to move expeditiously to adjust their fees for the coming year.

I also want to note the importance of the amendment which the Senate has adopted to H.R. 672 to overturn the ninth circuit's decision in *La Cienega Music Co.* v. *ZZ Top*, 53 F.3d 950 (9th Cir. 1995), *cert denied*, 116 S. Ct. 331 (1995). My colleagues will recall that Senator LEAHY and I introduced this legislation in March of this year as a provision of S. 505, the Copyright Term Extension Act of 1997.

In general, LaCienega held that distributing a sound recording to the public—by sale, for example—is a "publication" of the music recorded on it under the 1909 Copyright Act. Under the 1909 Act, publication without copyright notice caused loss of copyright protection. Almost all music that was first published on recording did not contain copyright notice, because publishers believed that it was not technically a publication. The Copyright Office also considered these musical compositions to be unpublished. The effect of La Cienega, however, is that virtually all music before 1978 that was first distributed to the public on recording has no copyright protection—at least in the ninth circuit.

By contrast, the second circuit in *Rosette* v. *Rainbo Record Manufacturing Corp.* 546 F.2d 461 (2d Cir. 1975), aff'd per curiam, 546 F.2d 461 (2d Cir. 1976) has held the opposite—that public distribution of recordings was not a publication of the music contained on them. As I have noted, Rosette comports with the nearly universal understanding of the music and sound recording industries and of the Copyright Office.

Since the Supreme Court has denied cert in La Cienega, whether one has copyright in thousands of musical compositions depends on whether the case is brought in the second or ninth circuits. This situation is intolerable. Overturning the La Cienega decision will restore national uniformity on this important issue by confirming the wisdom of the custom and usage of the affected industries and of the Copyright Office for nearly 100 years.

In addition to these two important provisions, H.R. 672 will:

First, correct drafting errors in the Satellite Home Viewer Act of 1994, which resulted from the failure to take into account the recent changes made by the Copyright Tribunal Reform Act of 1993, and which mistakingly reversed the rates set by a 1992 Copyright Arbitration Royalty Panel for Satellite carriers;

Second, clarify ambiguities in the Copyright Restoration Act dealing with the restoration of copyright protection for certain works under the 1994 Uruguay Round Agreements Act;

Third, ensure that rates established in 1996 under the Digital Performance Rights in Sound Recordings Act will not lapse in the event that the Copyright Arbitration Royalty Panel does not conclude rate-setting proceedings prior to Dec. 31, 2000.

Fourth, restore definition of "jukebox" and "jukebox operator," which were mistakingly omitted when the old jukebox compulsory license was replaced with the current negotiated jukebox license;

Fifth, revise the currently unworkable requirement of a 20-day advanced notice of intent to copy right the fixation of live performances, such as sporting events;

Sixth, clarify administrative issues regarding the operation of the Copyright Arbitration Royalty Panels;

Seventh, provide needed flexibility for the Librarian of Congress in setting the negotiation period for the distribution of digital audio recording technology [DART] royalties; and,

Eighth, make miscellaneous spelling, grammatical, capitalization and other corrections to the Copyright Act.

Mr. President, this is important legislation, and I am pleased the Senate has acted and approved it prior to adjourning this fall. I wish to thank my colleagues and to encourage the House to accept the Senate amendment and to forward H.R. 672 to the President for his signature without delay.

Mr. LEAHY. Mr. President, in March, the House passed H.R. 672. On April 17, the Senate Judiciary Committee reported our companion bill, S. 506.

The only substantive difference between the two bills is that S. 506 provides that the reasonable costs of a ratemaking proceeding conducted by a copyright arbitration royalty panel will be split 50–50 between the parties who would receive royalties from the royalty rate adopted in the proceeding and the parties who would pay the royalty rate so adopted. H.R. 672 provides that the costs shall be borne by the parties in direct proportion to their share of the distribution. The Copyright Office believes that the House version provides the copyright arbitration royalty panels with greater flexibility in certain circumstances. It is for this reason that the Senate is taking up the House version of the bill.

Last year, when the House considered and passed a similar bill, H.R. 1861, it included another section clarifying that the distribution of phonorecords prior to 1978 did not constitute action divesting copyright for the musical composition. This section was intended to clarify the Copyright Law of 1909 on an issue that has become a matter of increasing litigation in a number of Federal Circuits since the Ninth Circuit decision in the ZZ Top case. I was disappointed last year that the Senate did not proceed to consider and pass that bill.

We now have that opportunity. The amendment to H.R. 672 adds back into the bill clarifications, which Chairman Hatch and I have cosponsored as part of another measure this year. This improvement will clarify an esoteric but increasingly important point of copyright law under the 1909 Act with respect to copyrights of musical compositions created more than 20 years ago.

I therefore urge the adoption of the amendment to H.R. 672 and the immediate passage of the bill.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the amendment be considered read, agreed to, the bill be considered read for a third time, and passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

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

The amendment (No. 1541) was agreed to.

The bill (H.R. 672), as amended, was deemed read a third time, and passed.

FAMILY FARMER PROTECTION ACT OF 1997

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate

now provide to the consideration of calendar No. 202, S. 1024.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1024) to make chapter 12 of title 11 of the United States Code permanent, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the bill be considered read a third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

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

The bill (S. 1024) was deemed read a third time, and passed, as follows:

S. 1024

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 "Family Farmer Protection Act of 1997".

SEC. 2. REPEAL OF SUNSET PROVISION.

Section 302 of the Bankruptcy Judges, United Stats Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

SEC. 3. CLARIFICATION OF RIGHTS OF FAMILY FARMERS AFTER SUCCESSFUL COMPLETION OF A PLAN.

Section 2008h(b)(2), of title 7, United States Code is amended by adding "or has successfully completed a reorganization plan under Chapter 12 of title 11, United States Code (the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986, Public Law No. 99-554, as amended)" after "title".

INVESTMENT IN EDUCATION ACT OF 1997

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 205, S. 1149.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1149) to amend title 11, United States Code, to provide for increased education funding, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Investment in Education Act of 1997".

SEC. 2. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting "(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)" after "under this title";

(2) in subsection (b)(2), after "507(a)(1)", insert "(except that such expenses, other than claims for wages, salaries, or commissions which arise after the filing of a petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)"; and

(3) by adding at the end the following:

"(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

"(1) exhaust the unencumbered assets of the estate; and

"(2) in a manner consistent with section 506(c) of this title, recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of that property.

"(f) Notwithstanding the exclusion of ad valorem tax liens set forth in this section and subject to the requirements of subsection (e)—

"(1) claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(3) of this title; or

"(2) claims for contributions to an employee benefit plan entitled to priority under section 507(a)(4) of this title,

may be paid from property of the estate which secures a tax lien, or the proceeds of such property.".

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.".

SEC. 3. ENFORCEMENT OF CHILD AND SPOUSAL SUPPORT.

Section 522(c)(1) of title 11, United States Code, is amended by inserting ", except that, notwithstanding any other Federal law or State law relating to exempted property, exempt property shall be liable for debts of a kind specified in section 523(a) (1) or (5) of this title" before the semicolon at the end of the paragraph.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be considered read a third time, and passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

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

The committee substitute was agreed to.

The bill (S. 1149), as amended, was read a third time, and passed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: No. 335, Nos. 345 through 349, Nos. 353 through 359, and Nos. 361 through 369, and all nominations on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy. And I further ask unanimous consent that the nominations be confirmed, the motion to reconsider be laid upon the table, and any statements relating to the nominations appear at this point 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:

DEPARTMENT OF LABOR

Charles N. Jeffress, of North Carolina, to be an Assistant Secretary of Labor.

DEPARTMENT OF TRANSPORTATION

Kenneth R. Wykle, of Virginia, to be Administrator of the Federal Highway Administration.

THE JUDICIARY

Mary Ann Cohen, of California, to be a Judge of the United States Tax Court for a term of fifteen years after she takes office.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Margaret Ann Hamburg, of New York, to be an Assistant Secretary of Health and Human Services.

SOCIAL SECURITY ADMINISTRATION

Stanford G. Ross, of the District of Columbia, to be a Member of the Social Security Advisory Board for a term expiring September 30, 2002.

DEPARTMENT OF THE TREASURY

David W. Wilcox, of Virginia, to be an Assistant Secretary of the Treasury.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

John E. Mansfield, of Virginia, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 2001.

AIR FORCE

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Stewart E. Cranston, xx...

The following-named officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, United States Code, section 12203:

To be brigadier general

Col. James P. Czekanski, xx...

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force, to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig. Gen. Rendell F. Clark, Jr., xx...
Brig. Gen. Wilfred Hessert, xx...
Brig. Gen. Theodore F. Mallory, xx...
Brig. Gen. Loran C. Schnaidt, xx...
Brig. Gen. James E. Whinnery, xx...

To be brigadier general

Col. Garry S. Bahling, xx...

Col. David A. Beasley, xx...
Col. Jackson L. Davis III, xx...
Col. David R. Hudlet, xx...
Col. Karl W. Kristoff, xx...
Col. John A. Love, xx...
Col. Clark M. Martin, xx...
Col. Robert P. Meyer, Jr., xx...
Col. John H. Oldfield, Jr., xx...
Col. Eugene A. Schmitz, xx...
Col. Joseph K. Simeone, xx...
Col. Dale K. Snider, Jr., xx...
Col. Emmett R. Titshaw, xx...
Col. Edward W. Tonini, xx...
Col. Giles E. Vanderhoof, xx...

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Lt. Gen. John A. Gordon, xx...

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force, to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig. Gen. Paul A. Weaver, Jr., xx...

To be brigadier general

Col. Craig R. McKinley, xx...
Col. Kenneth J. Stromquist, Jr., xx...
Col. Jay W. Van Pelt, xx...

ARMY

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Lt. Gen. Peter J. Schoomaker, xx...

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Larry R. Jordan, xx...

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig. Gen. Fletcher C. Coker, Jr., xx...

NAVY

The following-named officers for appointment in the U.S. Navy to the grade indicated under title 10, United States Code, section 624:

To be rear admiral (lower half)

Capt. Phillip M. Balisle, xx...
Capt. Kenneth E. Barbor, xx...
Capt. Larry C. Baucom, xx...
Capt. Robert E. Besal, xx...
Capt. Joseph D. Burns, xx...
Capt. Joseph A. Carnevale, Jr., xx...
Capt. Jay M. Cohen, xx...
Capt. Christopher W. Cole, xx...
Capt. David R. Ellison, xx...
Capt. Lillian E. Fishburne xx...
Capt. Rand H. Fisher, xx...
Capt. Alan M Gemmill, xx...
Capt. David T. Hart, Jr., xx...
Capt. Kenneth F. Heimgartner, xx...
Capt. Joseph G. Henry, xx...
Capt. Gerald L. Hoewing, xx...
Capt. Michael L. Holmes, xx...
Capt. Edward E. Hunter, xx...
Capt. Thomas J. Jurkowsky, xx...
Capt. William R. Klemm, xx...
Capt. Michael D. Malone, xx...
Capt. William J. Marshall III, xx...
Capt. Peter W. Marzluff, xx...
Capt. James D. McArthur, Jr., xx...
Capt. Michael J. McCabe, xx...
Capt. David C. Nichols, Jr., xx...
Capt. Gary Roughead, xx...
Capt. Kenneth D. Slaght, xx...
Capt. Stanley R. Szemborski, xx...
Capt. George E. Voelker, xx...
Capt. Christopher E. Weaver, xx...
Capt. Robert F. Willard, xx...
Capt. Charles B. Young, xx...

The following-named officers for appointment in the U.S. Navy to the grade indicated under title 10, United States Code, section 624:

To be rear admiral (lower half)

Capt. Marion J. Balsam, xx...
Capt. Barry C. Black, xx...
Capt. Richard T. Ginman, xx...
Capt. Michael R. Johnson, xx...
Capt. Charles R. Kubic, xx...
Capt. Rodrigo C. Melendez, xx...
Capt. Daniel H. Stone, xx...

The following-named officer for appointment in the U.S. Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, sections 601 and 5035:

To be admiral

Vice Adm. Donald L. Pilling, xx...

The following-named officer for appointment in the U.S. Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Conrad C. Lautenbacher, xx...

The following-named officer for appointment in the U.S. Navy to the grade indicated under title 10, United States Code, section 624:

To be rear admiral

Rear Adm. (lh) Lowell E. Jacoby, xx...

The following-named officer for appointment in the U.S. Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Michael L. Bowman, xx...

The following-named officer for appointment in the U.S. Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Vernon E. Clark, xx...

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning Rebecca G. Abraham, and ending Robert J. Zyriek II, which nominations were received by the Senate and appeared in the Congressional Record of October 7, 1997.

Air Force nominations beginning Share Dawn P. Angel, and ending Dustin Zierold, which nominations were received by the Senate and appeared in the Congressional Record of October 20, 1997.

Army nominations beginning *Reed S. Christensen, and ending James E. Ragan, which nominations were received by the Senate and appeared in the Congressional Record of October 7, 1997.

Army nominations beginning *Perry W. Blackburn, Jr., and ending *Paul A. Whittingslow, which nominations were received by the Senate and appeared in the Congressional Record of October 7, 1997.

Army nominations beginning Russell D. Howard, and ending Stephen J. Ressler, which nominations were received by the Senate and appeared in the Congressional Record of October 9, 1997.

Army nominations beginning Debra L. Boudreau, and ending Carl M. Wagner, which nominations were received by the Senate and appeared in the Congressional Record of October 20, 1997.

Army nominations beginning Lelon W. Carroll, and ending Howard W. Wellspring II, which nominations were received by the Senate and appeared in the Congressional Record of October 20, 1997.

Marine Corps nomination of Paul D. Mcgraw, which was received by the Senate and appeared in the Congressional Record of October 7, 1997.

Navy nomination of Jeffrey L. Schram, which was received by the Senate and appeared in the Congressional Record of June 12, 1997.

Navy nominations beginning Frank P. Achorn, Jr, and ending Daniel J. Zinder, which nominations were received by the Senate and appeared in the Congressional Record of September 18, 1997.

Navy nominations beginning *Frederick Braswell, and ending Edwin A. Tharpe, which nominations were received by the Senate and appeared in the Congressional Record of October 7, 1997.

Navy nominations beginning Leigh P. Ackart, and ending John A. Zulick, which nominations were received by the Senate and appeared in the Congressional Record of October 7, 1997.

Navy nominations beginning William L. Abbott, and ending Steven D. Ziegler, which nominations were received by the Senate and appeared in the Congressional Record of October 7, 1997.

Navy nominations beginning William B. Allen, and ending James P. Waters, which nominations were received by the Senate and appeared in the Congressional Record of October 7, 1997.

Navy nomination of Arvin W. Johnsen, which was received by the Senate and appeared in the Congressional Record of October 20, 1997.

Navy nominations beginning William L. Richards, and ending David A. Hawkins, which nominations were received by the Senate and appeared in the Congressional Record of October 20, 1997.

Navy nomination of James R. Pipkin, which was received by the Senate and appeared in the Congressional Record of October 20, 1997.

STATEMENT ON THE NOMINATION OF LT. GEN. KENNETH R. WYKLE TO BE ADMINISTRATOR OF THE FEDERAL HIGHWAY ADMINISTRATION

Mr. CHAFEE. Mr. President, I am pleased that the Senate has confirmed Lt. Gen. Kenneth R. Wykle to be the Administrator of the Federal Highway Administration. I must say that we have been waiting quite some time for this day, as the position has been vacant since Secretary Slater was confirmed in early February.

General Wykle appeared before the Committee on Environment and Public Works on Tuesday, October 28, and I am pleased to report that he is an excellent candidate for the position before him. He has a distinguished 32-

year record of service with U.S. Army, where he led a number of organizations and commands in the United States, Europe, and Asia. He also has extensive experience in managing the transportation of personnel and cargo by air, highway, rail, and ship. I am confident that he will continue to build on this excellent record as Federal Highway Administrator.

In his new position, General Wykle will represent the Department of Transportation and advise the Secretary on all matters related to the efficient movement of passengers and freight on the Nation's transportation system. The Federal Highway Administration is responsible for implementing a wide range of programs, including the Federal-aid highway program; highway safety programs; motors carrier programs; the federal lands highway program; research and technology; and international programs.

An issue that is on everyone's mind is the reauthorization of the Intermodal Surface Transportation Efficiency Act, or ISTEA. The Federal Highway Administration's role is a critical one in helping to implement this landmark legislation. I look forward to working with General Wykle and his staff through the reauthorization process and through the implementation process, once the bill is enacted.

It is incumbent upon the Federal Highway Administrator to protect not only the key Federal role in implementing ISTEA II but also the broad perspective needed to guide the Nation's transportation system into the next century. The enactment of ISTEA in 1991 transformed what was once simply a highway program into a program not only for building roads and bridges but also for enhancing our mobility, our safety, and the environment. In the second ISTEA, we must move forward and strengthen ISTEA's laudable goals of intermodalism, flexibility and efficiency.

I am confident that General Wykle has the experience and the knowledge to lead the Federal Highway Administration through the challenges ahead.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORDERS FOR FRIDAY, OCTOBER 31, 1997

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Friday, October 31. I further ask that on Friday, immediately following the prayer, the routine requests through the morning hour be granted, and that the Senate immediately proceed to the consideration of H.R. 2646, the A-Plus Education bill, with the time until 10:30 a.m. being equally divided between Senator COVERDELL and Senator DASCHLE or Senator DASCHLE's designee.

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

PROGRAM

Mr. GRASSLEY. Tomorrow morning the Senate will begin an hour of debate prior to the cloture vote on H.R. 2646, the A-Plus Education bill. Therefore, Members can anticipate the first rollcall vote tomorrow at approximately 10:30 a.m. If cloture is not invoked, the Senate will proceed to a cloture vote on the motion to proceed to the Defense Authorization Act Conference Report. Members can anticipate additional procedural votes on that measure.

In addition, the Senate may consider the D.C. appropriations bill, the Amtrak strike resolution, and any additional legislative or executive items that can be cleared. As a reminder to Members, the first rollcall vote tomorrow morning will occur at 10:30 a.m.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

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.

There being no objection, the Senate, at 6:50 p.m., adjourned until Friday, October 31, 1997, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 30, 1997:

FEDERAL RESERVE SYSTEM

EDWARD M. GRAMLICH, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPIRED TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 1994.

ROGER WALTON FERGUSON, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPIRED TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 1986.

DEPARTMENT OF LABOR

CHARLES N. JEFFRESS, OF NORTH CAROLINA, TO BE AN ASSISTANT SECRETARY OF LABOR.

DEPARTMENT OF TRANSPORTATION

KENNETH R. WYKLE, OF VIRGINIA, TO BE ADMINISTRATOR OF THE FEDERAL HIGHWAY ADMINISTRATION.

JUDICIARY

MARY ANN COHEN, OF CALIFORNIA, TO BE A JUDGE OF THE U.S. TAX COURT FOR A TERM OF FIFTEEN YEARS AFTER SHE TAKES OFFICE.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

MARGARET ANN HAMBURG, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

SOCIAL SECURITY ADMINISTRATION

STANFORD G. ROSS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD FOR A TERM EXPIRING SEPTEMBER 30, 2002.

DEPARTMENT OF THE TREASURY

DAVID W. WILCOX, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

JOHN E. MANSFIELD, OF VIRGINIA, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 2001.

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.

THE JUDICIARY

CHARLES J. SIRAGUSA, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NEW YORK.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. STEWART E. CRANSTON, X...

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be brigadier general

COL. JAMES P. CZEKANSKI, X...

THE FOLLOWING AIR NATIONAL GUARD OFFICERS OF THE UNITED STATES FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be major general

BRIG. GEN. RENDELL F. CLARK, JR., X...
BRIG. GEN. WILFRED HESSERT, X...
BRIG. GEN. THEODORE F. MALLORY, X...
BRIG. GEN. LORAN C. SCHNAIDT, X...
BRIG. GEN. JAMES E. WHINNERY, X...

To be brigadier general

COL. GARRY S. BAHLING, X...
COL. DAVID A. BEASLEY, X...
COL. JACKSON L. DAVIS, III, X...
COL. DAVID R. HUDLET, X...
COL. KARL W. KRISTOFF, X...
COL. JOHN A. LOVE, X...
COL. CLARK W. MARTIN, X...
COL. ROBERT P. MEYER, JR., X...
COL. JOHN H. OLDFIELD, JR., X...
COL. EUGENE A. SCHMITZ, X...
COL. JOSEPH K. SIMEONE, X...
COL. DALE K. SNIDER, JR., X...
COL. EMMETT R. TITSHAW, X...
COL. EDWARD W. TONINI, X...
COL. GILES E. VANDERHOOF, X...

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. JOHN A. GORDON, X...

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be major general

BRIG. GEN. PAUL A. WEAVER, JR., X...

To be brigadier general

COL. CRAIG R. MCKINLEY, X...
COL. KENNETH J. STROMQUIST, JR., X...
COL. JAY W. VAN PELT, X...

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. PETER J. SCHOOMAKER, X...

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. LARRY R. JORDAN, X...

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be major general

BRIG. GEN. FLETCHER C. COKER, JR., X...

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE SECTION 624:

To be rear admiral (lower half)

CAPT. PHILLIP M. BALISLE, x...
CAPT. KENNETH E. BARBOR, x...
CAPT. LARRY C. BAUCOM, x...
CAPT. ROBERT E. BESAL, x...
CAPT. JOSEPH D. BARNS, x...
CAPT. JOSEPH A. CARNEVALE, JR., x...
CAPT. JAY M. COHEN, x...
CAPT. CHRISTOPHER W. COLE, x...
CAPT. DAVID R. ELLISON, x...
CAPT. LILLIAN E. FISHBURNE, x...
CAPT. RAND H. FISHER, x...
CAPT. ALAN M. GEMMILL, x...
CAPT. DAVID T. HART, JR., x...
CAPT. KENNETH F. HEIMGARTNER, x...
CAPT. JOSEPH G. HENRY, x...
CAPT. GERALD L. HOEWING, x...
CAPT. MICHAEL L. HOLMES, x...
CAPT. EDWARD E. HUNTER, x...
CAPT. THOMAS J. JURKOWSKY, x...
CAPT. WILLIAM R. KLEMM, x...
CAPT. MICHAEL D. MALONE, x...
CAPT. WILLIAM J. MARSHALL III, x...
CAPT. PETER W. MARZLUFF, x...
CAPT. JAMES D. MCARTHUR, JR., x...
CAPT. MICHAEL J. MCCABE, x...
CAPT. DAVID C. NICHOLS, JR., x...
CAPT. GARY ROUGHEAD, x...
CAPT. KENNETH D. SLAGHT, x...
CAPT. STANLEY R. SZEMBORSKI, x...
CAPT. GEORGE E. VOELKER, x...
CAPT. CHRISTOPHER E. WEAVER, x...
CAPT. ROBERT F. WILLARD, x...
CAPT. CHARLES B. YOUNG, x...

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be rear admiral (lower half)

CAPT. MARION J. BALSAM, x...
CAPT. BARRY C. BLACK, x...
CAPT. RICHARD T. GINMAN, x...
CAPT. MICHAEL R. JOHNSON, x...
CAPT. CHARLES R. KUBIC, x...
CAPT. RODRIGO C. MELENDEZ, x...
CAPT. DANIEL H. STONE, x...

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 601 AND 5035:

To be admiral

VICE ADM. DONALD L. PILLING, x...

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. CONRAD C. LAUTENBACHER, x...

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be rear admiral

REAR ADM. (LH) LOWELL E. JACOBY, x...

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. MICHAEL L. BOWMAN, x...

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. VERNON E. CLARK, x...

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING REBECCA G ABRAHAM, AND ENDING ROBERT J ZYRIEK, II, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 1997.

AIR FORCE NOMINATIONS BEGINNING SHARE DAWN P. ANGEL, AND ENDING DUSTIN ZIEROLD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 20, 1997.

IN THE ARMY

ARMY NOMINATIONS BEGINNING *REED S. CHRISTENSEN, AND ENDING JAMES E. RAGAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 1997.

ARMY NOMINATIONS BEGINNING *PERRY W. BLACKBURN, JR., AND ENDING *PAUL A. WHITTINGSLOW, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 1997.

ARMY NOMINATIONS BEGINNING RUSSELL D. HOWARD, AND ENDING STEPHEN J. RESSLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 9, 1997.

ARMY NOMINATIONS BEGINNING DEBRA L. BOUDREAU, AND ENDING CARL M. WAGNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 20, 1997.

ARMY NOMINATIONS BEGINNING LELON W. CARROLL, AND ENDING HOWARD W. WELLSPRING, II, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 20, 1997.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF PAUL D. MCGRAW, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 1997.

IN THE NAVY

NAVY NOMINATION OF JEFFREY L. SCHRAM, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 12, 1997.

NAVY NOMINATIONS BEGINNING FRANK P ACHORN, JR, AND ENDING DANIEL J ZINDER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 18, 1997.

NAVY NOMINATIONS BEGINNING *FREDERICK BRASWELL, AND ENDING EDWIN A. THARPE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 1997.

NAVY NOMINATIONS BEGINNING LEIGH P ACKART, AND ENDING JOHN A ZULICK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 1997.

NAVY NOMINATIONS BEGINNING WILLIAM L ABBOTT, AND ENDING STEVEN D ZIEGLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 1997.

NAVY NOMINATIONS BEGINNING WILLIAM B ALLEN, AND ENDING JAMES P WATERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 1997.

NAVY NOMINATION OF ARVIN W. JOHNSEN, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 20, 1997.

NAVY NOMINATIONS BEGINNING WILLIAM L. RICHARDS, AND ENDING DAVID A. HAWKINS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 20, 1997.

NAVY NOMINATION OF JAMES R. PIPKIN, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 7, 1997.

HOUSE OF REPRESENTATIVES—*Thursday, October 30, 1997*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. PEASE].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 30, 1997.

I hereby designate the Honorable EDWARD A. PEASE to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

Rev. Everett W. Hannon, Jr., Pastor, the Second Baptist Church, Lexington, MO, offered the following prayer:

Most gracious Father, we come now in the name of our Lord Jesus Christ, who shed his blood on Calvary's cruel cross. We praise You for making us such a powerful nation in a short time, for we are one nation under God. We seek peace and justice for all nations.

As we gather together in these hallowed Chambers to make life-changing decisions, give us the spirit of servitude to serve our God and then the people of these United States of America.

God Almighty, You are the conductor and we are the orchestra. Please guide our decisions so that we may agree in pitch and tone making a song of victory for the entire world to behold.

In Jesus' name we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore (Mr. PEASE). The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

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

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Tennessee [Mr. DUNCAN] come forward and lead the House in the Pledge of Allegiance.

Mr. DUNCAN 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 Ms. McDevitt, one of its clerks, announced that the Senate had passed a bill and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1150. An act to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national or multistate significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes.

S. Con. Res. 37. Concurrent Resolution expressing the sense of the Congress that Little League Baseball Incorporated was established to support and develop Little League baseball worldwide and that its international character and activities should be recognized.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain ten 1-minute requests following the gentleman from Missouri [Mr. SKELTON].

REVEREND EVERETT HANNON

Mr. SKELTON. Mr. Speaker, the morning prayer was delivered by Rev. Everett Hannon, who is the minister of the Second Baptist Church in my hometown of Lexington, MO. Reverend Hannon is a native of Lexington and currently resides in nearby Warrensburg, MO, with his wife Carol and their two children, Andrea and LeAndrea.

Reverend Hannon is the eldest son of Marjorie and Everett Hannon, Sr. He received his theology degree from the Central Bible College in Kansas City, MO. He has been the pastor of the Second Baptist Church for 10 years, and he is well known for his excellent sermons and devotion to the members of his congregation. Reverend Hannon also provides civic leadership in the community.

In addition to his church duties, he serves as the moderator of the Central District Missionary Baptist Association and the auditor of the Missouri State Missionary Baptist Congress.

I am pleased that this outstanding Missouri minister could be with us today, and I know the Members of this body join me in thanking Reverend Hannon for his opening prayer.

SO-CALLED OBEY COMPROMISE

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

Mr. GOODLING. Mr. Speaker, the President announced that he would develop a national test in 1997 without the approval of the Congress. Two hundred ninety-five Members of the Congress said, "No, you won't." The President signed a contract anyway. The President said, "I will also pilot and field test this national test in 1998, without the approval of the Congress." Two hundred ninety-five Members said, "No, you won't."

The so-called Obey compromise that we will hear about says, go, ahead, Mr. President, you can do both with the blessing of the Congress. Develop the test in 1997. Field test it and pilot in 1998.

What a slap in the face of the 295 Members of the House of Representatives. If we have $100 million to spend, why would we spend it to tell 50 percent of our students one more time "You're not doing well"? They have been told that time and time again after every standardized test they have ever taken.

If this comes to the floor of the House in this manner, I would hope that all 295 would vote against the appropriation bill.

COMMITTEE HAS TRIED TO DRAFT HONEST COMPROMISE

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

Mr. OBEY. In response to the comments of the previous speaker, the gentleman from Pennsylvania [Mr. GOODLING], Mr. Speaker, I would like to take note of two facts. I notice a fax from the Office of Congressman SHADEGG which says, "Urgent, Republican leadership is pushing the David Obey proposed compromise, which sells us out on testing." That is what I hear from one side. Then I hear from Mr. Ralm Emanuel at the White House that the White House intends to veto this bill "because DAVE OBEY has sold the White House out on testing."

I would suggest that if Mr. Clinton, or the gentleman from Pennsylvania [Mr. GOODLING] or Mr. Emanuel or the gentleman from Arizona [Mr. SHADEGG] or anyone else thinks that it is so easy to put together a compromise, they sit down and talk to each other. It seems to me that that is what we need, rather than having both sides cry "sell-out" because this committee has tried to draft an honest compromise.

I have great respect for the President, and I have great respect for the gentleman from Pennsylvania [Mr. GOODLING], but I would suggest that one of them is spectacularly wrong.

LETTER FROM JULIE GORLIK

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

Mr. NEUMANN. Mr. Speaker, first in response to my colleague from Wisconsin [Mr. OBEY], we do not need a compromise, we need Washington out of our lives and we need Washington to leave education in the hands of the parents, the communities, and the school boards.

But that is not why I rose this morning. I rose because last night, as I was reading constituent mail, I got this letter from Julie Gorlik, who called our office. And here is what it says. It says that she is upset that there is assistance for unmarried, unwed mothers, for the lazy, for criminals, and for homosexuals, but there is never any help for married people who are doing their best to make ends meet and support a family and they cannot get any help from anyone. They are hard-working, honest, good people and they get discriminated against.

I rise this morning to invite Julie to tune in this evening when I will be taking the time to go through some of the things in the tax cut package that are specifically designed because we have heard this message from our constituents over and over and over again: $500 per child for under the age of 17; the college tuition tax credit; the education savings credit to help parents save for their kids's education; the Roth IRA; and on and on we go. There will be more on this when I have 1 hour on the floor this evening.

VOUCHERS ARE FIRST STEP TO DISMANTLE PUBLIC SCHOOLS

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

Mr. PALLONE. Mr. Speaker, I have listened to the last two speeches by my Republican colleagues. I have to say I am truly amazed at the pace of the Republican leadership's antipublic education drive. The Republicans are determined this fall to make every effort to drain resources from public schools and funnel Federal dollars into private schools.

A few weeks ago the Republicans narrowly passed a bill to force vouchers on the D.C. schools. Today, amazingly, they will try to bring their voucher experiment into schools throughout the country, and they are paying for it with Federal dollars that should be used to improve the public schools.

Mr. Speaker, vouchers are just the first step in a Republican effort to dismantle the public schools. Since taking control of Congress, the Republican leadership has repeatedly tried to shut down the Education Department and slash funding for public schools.

Democrats want to improve the public schools rather than tear them down. We put forward an agenda for first-class public schools that included money for school construction, purchases for computers. Let's improve the public schools. Do not let the Republicans tear them down.

VOTE "NO" ON NUCLEAR WASTE POLICY ACT OF 1997

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

Mr. GIBBONS. Mr. Speaker, over the past several months, I have taken the same opportunity to speak to the Members of this House on numerous times regarding a very important issue to this great Nation. Today, Members of this honorable body will have the opportunity to send a clear message. By voting "no" on H.R. 1270, the Nuclear Waste Policy Act, my colleagues will send a clear message that they do not support transporting the world's deadliest material, high-level nuclear waste, through the neighborhoods of their homes or their districts.

A no vote will also send a strong message that we do support the environmental measures, such as clean air, clean water, safe drinking water, and the National Environmental Protection Act. A no vote on H.R. 1270 will send a message that we do support States' rights.

Mr. Speaker, the facts are very clear. Transporting nuclear waste across this country will have devastating environmental consequences. Transporting nuclear waste across this country will cost the hard-working taxpayers of America billions of dollars. Let us rely on sound science, not bad politics. I strongly urge my colleagues to vote "no" on 1270.

PRESIDENT JIANG SLEEPS IN LINCOLN BEDROOM

(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, let us see if this makes sense. China helps Iran. Iran threatens Israel and all the Middle East. Iran is a known major terrorist threat to America. But Uncle Sam gives China $60 billion a year in sweetheart trade deals.

Now, if that is not enough to massage your arthritis, after all this, President Jiang is literally sleeping in the Lincoln bedroom, being wined and dined, at taxpayers' expense, by the White House.

Beam me up. This madness has gone too far. When American foreign policy goes from honest aid to the butcher at Tiananmen Square, something is wrong, Congress, very wrong. Think about it. I yield back what national security we still have left.

WHITE HOUSE AGREES TO TRANSFER OF NUCLEAR TECHNOLOGY TO COMMUNIST CHINA

(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, to follow the comments of my colleague from Ohio [Mr. TRAFICANT], the revelations are as real as the headlines in today's Washington Times: "China Aided Iran Chemical Arms." And below that, a bolder headline: "Clinton-Jiang Reach Nuclear Accord."

Mr. Speaker, let me see if I have this straight. The White House agrees to a transfer of nuclear technology to the Communist Chinese in exchange for a written promise that the Chinese will not share that technology with Iran.

We are not talking neckties or nectarines or notebooks. We are not talking conventional trade here. We are talking nuclear technology. We are going to give that to Communist China? Monte Hall would not even make a deal like that on his old game show.

There must be a sweetener here, Mr. Speaker. I wonder if the Chinese Government is not going to try to find Ya Lin Charlie Trie.

REPUBLICAN LEADERSHIP CONTINUES ATTACK ON PUBLIC EDUCATION

(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, education has always been the great equalizer in this Nation. It opens the doors of opportunity and provides every American child with the opportunity to live up to his or her potential. It is the public schools in this Nation where students of all economic levels, races, and creeds come together in one classroom to develop the skills that they are going to need for a successful future.

The right wing of the Republican Party has never believed in American public schools. Former Republican Presidential candidate Pat Robertson said straight out in 1994, and I quote, "abolish the public schools."

Today, the Republican leadership is continuing their attack on public education by advocating a radical experiment that would take precious taxpayer dollars out of our public schools and into private schools.

I have a message for the Republican leadership: Our children are not your guinea pigs. We need to support and strengthen our public schools, not siphon off precious funds. Stand up for public education. Reject the Gingrich voucher plan.

□ 1015

HONEST, CLEAN ELECTIONS

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

Mr. HEFLEY. Mr. Speaker, what does the other side have to hide? Why will the Immigration and Naturalization Service not comply with the law? Why will groups which have been ordered by the court to produce documents not produce those documents as required by law? Why do the Democrats refuse to come forward and demand that the LORETTA SANCHEZ election be investigated in the open for all to see to prove that only those legally able to vote did so? Why do the media refuse to get behind the calls of honest, clean elections in California?

Mr. Speaker, regardless of what the other side says, nothing can change the fact that this issue is about honest elections and the rule of law. It is not about overturning the election and declaring Bob Dornan the winner. That is simply not going to happen. It is about fair, honest, clean elections all across this country.

Mr. Speaker, again I ask the question, what does the other side have to hide?

CHINA AND FAST TRACK TRADE AUTHORITY

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

Mr. DEFAZIO. Today, coveted nuclear technology for China. But do not worry. They signed a secret nonproliferation agreement. Of course I cannot read it, my colleagues cannot read it, but they will abide by it. Ha. You bet.

Next week fast track trade authority. Make no mistake. These policies are inextricably linked by the one overarching principle of U.S. foreign policy, money, corporate profits. That is all it is about. Human rights? The United States does not care. We do not stand for that anymore. U.S. economic interests in the long term, U.S. workers? The United States does not care anymore. And even now national security is subsumed to the profits of a few huge multinational U.S.-based corporations who want to export nuclear technology. It was all last night down at the White House right here: "Forget diplomacy. Money makes the world go round."

If you like our policy toward China, you will love fast track. It promises more of the same.

TAX REFORM

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

Mr. GUTKNECHT. Mr. Speaker, it has been said that death and taxes are the only sure things in life. The difference between the two is at least the IRS cannot make death any worse. The instruction book for the original income tax form was just 15 pages long and the highest tax rate was 6 percent. When Congress debated this issue in this Chamber in 1913, some Members worried that the rate would someday reach the unthinkable level of 10 percent. Today the lowest Federal income tax rate is 15 percent and that 15-page booklet has swelled to more than 9,000 pages. The average American family pays more in total taxes than they do for food, clothing, and shelter combined. It is time for a complete overhaul of the Tax Code and the IRS, which have become overly burdensome and unfair.

A lot of so-called experts told us we could not reform welfare, we could not slow the rate of Washington spending, we could not balance the budget and provide tax relief for American families. Today we are told that we cannot replace the existing Tax Code with one that is simpler, fairer, and less burdensome. I say it is simply amazing what can be accomplished when we do not know what we cannot do.

VOUCHERS

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

Mr. ROTHMAN. Mr. Speaker, today unfortunately the radical Republicans in Congress are continuing their all-out attack on the public school system. They want it to wither on the vine because, just like with Medicare, extremists in the Republican Party in Congress do not believe in public school education. Public school education is the key that unlocks the door to the American dream for more than 90 percent of America's children, including my own 2 kids. We cannot allow the radical Republicans in Congress to destroy America's public school system. Besides, what would be next? Are we going to give people vouchers to buy books if they do not believe in the public library? Are we going to give people vouchers to buy their own swing set if they find the local town park inconvenient?

No, because America is still a country that believes in the common good and the American dream. Let us fix our public schools, let us encourage charter public schools to create competition in our public schools, but let us not pillage the public school system in America. That will not be good for America.

H.R. 2748, AIR SERVICE IMPROVEMENT ACT

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

Mr. DUNCAN. Mr. Speaker, I have just introduced H.R. 2748, the Air Service Improvement Act. This is a bill which could help bring down the cost of air travel for small- or medium-sized airports. Today it costs people in cities likes Knoxville, Syracuse, and many other places much more to fly a couple of hundred miles than it does for people in many large cities to fly to Europe or across the entire country. This bill would open up new slots for airlines to serve underserved cities. It would provide a special grant program to help airports attract low-cost airlines to help bring down ticket costs. It would set up new, faster procedures for handling anticompetitive predatory pricing complaints against some airlines. The bill would set up a loan guarantee program to help airlines purchase commuter planes if they agree to serve underserved airports for at least 1 year.

The Air Service Improvement Act, if passed, could be a major step in helping to end the great unfairness that exists today in the price of airline tickets. I urge my colleagues to join me in bringing this much needed relief for air travelers in our small- and medium-sized cities.

SAY "NO" TO VOUCHER EXPERIMENT

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

Mr. MCGOVERN. Mr. Speaker, the House is scheduled to vote today on a radical experiment with our Nation's schools. The Republican leadership wants to use school vouchers to take badly needed funding from our public schools and divert it into private and religious schools. Make no mistake about it, this is a direct attack on public schools in America. At a time when school enrollment is soaring and Federal education funding is more and more scarce, Republicans want to undermine the public education system in this country.

Mr. Speaker, the Republican leadership's school voucher plan is part of a grander scheme to privatize K through 12 education, which could shut down neighborhood schools across the country. From California to Missouri to my own State of Massachusetts, voters have spoken loud and clear. Experimenting with school vouchers at the expense of public education is the wrong path to real education reform.

Democrats believe that we need to be improving public education in America by repairing our crumbling schools, reducing overcrowding, training more qualified teachers, wiring classrooms

to the Internet, raising standards, and providing a safe and drug-free learning environment. I urge my colleagues to vote against school vouchers and for improving public education in America.

BILL LANN LEE'S NOMINATION

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

Mr. ROYCE. Mr. Speaker, I rise today to encourage the Senate to reject the nomination of Mr. Bill Lann Lee to head the Justice Department Office of Civil Rights.

Mr. Lee's career has shown him to be little more than an ideolog, intent on bending the words and meaning of the law to suit his purposes. In response to last year's California civil rights initiative barring racial preferences by government, Mr. Lee made the preposterous argument that it was unconstitutional to treat all individuals equally before the law. A Federal court swiftly rejected such reasoning on the ground that the 14th amendment does not require what it barely permits.

Similarly, with mind-bending reason, Mr. Lee argued that the decline in minority enrollment establishes that the use of grades and standardized tests as admissions criteria is discriminatory.

Radicals like Mr. Lee are swimming against the tide of court opinions and popular sentiment in standing up for race-based government preferences, and they know it. He must not be furnished with the power of the Federal Government to further pursue his out-of-touch agenda. I urge the Senate to block this nominee.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PEASE). Members are reminded that they are not to urge actions on confirmation proceedings pending in the other body.

SCHOOL VOUCHERS OFFER ILLUSORY PROMISE

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

Mr. PRICE of North Carolina. Mr. Speaker, our Republican friends would have us believe that school vouchers would level the playing field by providing low-income parents the same choice as wealthy parents to send their children to private and religious schools. Unfortunately, that is an illusory promise.

For one thing, the Republican proposals would provide vouchers to only a small proportion of low and moderate income families.

Second, the Republican plans would cover only a fraction of the fees that most private schools charge. Most working families would be unable to make up the difference, making the vouchers useless to them, providing the greatest benefit for the wealthy families who can already afford the cost of tuition.

Mr. Speaker, when we consider what these funds could do if applied to the improvement of public education for all of our children, raising standards, developing magnet schools, putting computers in every classroom, our choice is clear. The Republican voucher plan promises what it cannot deliver, and it would divert us from the challenge of making public education all that it can and must be.

GREATER LOCAL CONTROL IN EDUCATION

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

Mr. TIAHRT. Mr. Speaker, why are the liberals against public schools? Everyone not in the pocket of special interests which protect the status quo knows that for public schools to improve, cosmetic changes will not be enough. No matter how many times we rearrange the chairs of the curriculum, real improvement will be nothing but another empty promise.

Let us just look at the places where public schools have improved. In Cleveland, Milwaukee, the State of Minnesota, truly bold initiatives are what forced change and brought about real improvement. The other side might stop for a moment and look at all three cases. Improvements did not come from Washington, DC. Improvements did not come from another Federal program with more bureaucrats. In every case, the improvement came from greater local control, more school choice and more power to make decisions in the hands of the parents.

Oh, yes, the special interests fought the very same changes that led to real improvement every step of the way. So why are the liberals against public schools?

PUBLIC EDUCATION FOR ALL, NOT A PRIVILEGED FEW

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

Mr. LEWIS of Georgia. Mr. Speaker, just 2 weeks ago, the Republican leadership brought to this floor a so-called scholarship proposal, an experiment that would drain $45 million out of public schools in the District of Columbia and give it to just 3 percent of students to attend private and religious schools. But taking money out of schools in the District of Columbia was not enough for them. Now they are coming after all public schools in every city, town and village in the Nation, draining resources from public schools and giving vouchers for a few to attend private and religious schools.

□ 1030

That is the Republican HELP Scholarship scheme. HELP the few, deprive the many, that is the Republican plan.

This voucher scheme will do nothing to rebuild our crumbling public schools, some overcrowded, or train teachers. Our children need our help. This is why Democrats believe in investing in public education. Public education for all, opportunity for all, scholarships for all, not vouchers for a privileged few.

FORAGE IMPROVEMENT ACT OF 1997

The SPEAKER pro tempore (Mr. PEASE). The unfinished business is the question of agreeing to the resolution (House Resolution 284) on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The vote was taken by electronic device, and there were—yeas 277, nays 139, not voting 16, as follows:

[Roll No. 545]

YEAS—277

Aderholt	Chambliss	Gekas
Archer	Chenoweth	Gibbons
Armey	Christensen	Gilchrest
Bachus	Clement	Gillmor
Baesler	Coble	Gilman
Baker	Coburn	Goode
Ballenger	Collins	Goodlatte
Barcia	Combest	Goodling
Barr	Condit	Goss
Barrett (NE)	Cook	Graham
Bartlett	Cooksey	Granger
Barton	Cox	Greenwood
Bass	Cramer	Gutknecht
Bateman	Crane	Hall (TX)
Bereuter	Crapo	Hansen
Berman	Cunningham	Hastert
Berry	Danner	Hastings (WA)
Bilbray	Davis (VA)	Hayworth
Bilirakis	Deal	Hefley
Bishop	DeLay	Herger
Bliley	Diaz-Balart	Hill
Blunt	Dickey	Hilleary
Boehlert	Dooley	Hinojosa
Boehner	Doolittle	Hobson
Bonilla	Dreier	Hoekstra
Bono	Duncan	Holden
Borski	Dunn	Horn
Boswell	Ehlers	Hostettler
Boucher	Ehrlich	Houghton
Boyd	Emerson	Hulshof
Brady	Engel	Hunter
Brown (FL)	English	Hutchinson
Bryant	Ensign	Hyde
Bunning	Everett	Inglis
Burr	Ewing	Istook
Burton	Fazio	Jenkins
Buyer	Foley	John
Callahan	Forbes	Johnson (CT)
Calvert	Fowler	Johnson (WI)
Camp	Fox	Johnson, Sam
Campbell	Franks (NJ)	Jones
Canady	Frelinghuysen	Kaptur
Cannon	Frost	Kasich
Castle	Gallegly	Kelly
Chabot	Ganske	Kim

King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy (NY)
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Pastor
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanchez
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wynn
Young (AK)

NAYS—139

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Blagojevich
Blumenauer
Bonior
Brown (CA)
Brown (OH)
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Doggett
Doyle
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Flake
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
Lampson
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
McCarthy (MO)
McGovern
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Moran (VA)
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Payne
Poshard
Price (NC)
Rahall
Rangel
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Slaughter
Snyder
Stark
Stokes
Strickland
Tauscher
Taylor (MS)
Thompson
Tierney
Torres
Towns
Velázquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Weygand
Woolsey
Yates

NOT VOTING—16

Cubin
Dixon
Edwards
Fawell
Foglietta
Gonzalez
Hall (OH)
McDade
McDermott
Metcalf
Pelosi
Schiff
Smith, Adam
Weldon (FL)
Wise
Young (FL)

□ 1055

Messrs. NEAL of Massachusetts, RODRIGUEZ, SHERMAN, and TIERNEY changed their vote from "yea" to "nay."

Mr. MATSUI changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. PEASE). Pursuant to House Resolution 284 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2493.

□ 1056

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2493) to establish a mechanism by which the Secretary of Agriculture and the Secretary of the Interior can provide for uniform management of livestock grazing on Federal lands, with Mr. NUSSLE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Alaska [Mr. YOUNG], the gentleman from Minnesota [Mr. VENTO], the gentleman from Oregon [Mr. SMITH], and the gentleman from Texas [Mr. STENHOLM] each will control 15 minutes.

The Chair recognizes the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I yield 1 minute to the gentleman from Utah [Mr. HANSEN], the chairman of the subcommittee.

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

Mr. Chairman, I rise in strong support of H.R. 2493, the Forage Improvement Act of 1997. This bill, introduced by my friend and colleague, Congressman BOB SMITH from Oregon, implements needed changes to current grazing laws and regulations. Congressman SMITH has expended a great deal of effort in trying to address concerns from all sides of the grazing issue and is to be commended for not only tackling an issue which, in the past, has been very heated and controversial, but also for assembling a bill which is balanced and does no environmental harm whatsoever.

H.R. 2493 implements actions that will benefit the rancher dependent on our public lands, benefit the U.S. Treasury, and, most importantly, will greatly improve the rangeland resources over much of the West.

I would like to point out a couple of important areas that this bill addresses This bill codifies a new grazing fee formula which sets an equitable and fair value on forage for both the rancher and the U.S. Government. In fact, if applying the new fee to the current market, there would be a grazing fee increase of 36 percent from $1.35 to $1.84, thus the Government benefits. The rancher benefits by getting a fee formula that is averaged over a longer time period and is easy to figure out and track, thus gaining economic stability for the industry.

Another important part of H.R. 2493 is that it would allow flexible management agreements between the Government and ranchers that will be based on performance instead of prescriptions. These agreements will only be available to those ranchers who have demonstrated good land stewardship for 5 years or more. The agreements lead to innovative approaches to grazing management and help retain good rangeland conditions.

H.R. 2493 also increases the focus of science-based monitoring programs for the rangeland conditions. It is simply impossible to make good land management decisions without knowing the condition of the land. Recently it has become apparent that the Federal Government, for numerous reasons, have not paid enough attention to the monitoring function, thus decisions, sometimes bad ones, have been made because of the lack of good monitoring data. This bill sets up a monitoring program which is based on scientifically proven protocols which will ultimately lead to better decisionmaking and improved rangeland resources.

Congressman SMITH has done an outstanding job in crafting a bill which implements needed grazing reforms while avoiding any negative environmental effects.

I support H.R. 2493, and urge all my colleagues to also add their support.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 2493. As I mentioned, this is a bill that has been worked on very hard by the chairman of the subcommittee. The chairman of the Committee on Agriculture and of course myself have worked through this legislation. I believe it goes far toward the stability of the grazing activity that takes place on public lands, protecting the lands environmentally, providing for the owners of those lands the base allotments, so they can continue their efforts to try to protect the environment through sound management of the grazing forage areas on our public lands.

Mr. Chairman, H.R. 2493, the Forage Improvement Act, was introduced by my good friend and colleague from Oregon, Congressman BOB SMITH. Congressman SMITH should be applauded for laboring tirelessly on putting together a bill that keeps the controversy out and the common sense in regarding grazing practices on our public lands. Congressman SMITH has worked extremely hard to bring together the many sides of the grazing issue

and has assembled a bill that helps the rancher whose livelihood depends on public land grazing without doing any harm to the rangeland resources. In fact, implementing this bill will ultimately improve the rangelands across the west.

Controversy and confrontation on grazing of the public lands have been raging for years. It is clear that changes in current grazing laws and regulations are not only long overdue, but are absolutely necessary in order to resolve many of the grazing issues. H.R. 2493 makes these needed changes.

For example, this bill will bring economic stability to those ranchers who use Federal land for grazing while at the same time generate additional revenue for the Federal Treasury. This will be accomplished by implementing a new grazing fee formula which is easy to understand, simple to track, and which charges a fair price to the rancher who buys access to forage from the Federal Government.

Furthermore, the changes found in H.R. 2493 will improve rangeland conditions by increasing the focus on science-based monitoring. For far too long and for a variety of excuses the Federal Government simply hasn't done its job in assessing rangeland condition through monitoring. Congressman SMITH's bill puts the emphasis back to what actually exists on the ground through a monitoring program that is science-based and which follows established protocols. This program will greatly enhance the decisionmaking process and help establish rangeland goals that are good for the land and achievable.

Moreover, H.R. 2493 will establish a program of management flexibility to those ranchers who have demonstrated good land stewardship. This will help to keep the grazing lands in good and excellent condition.

This is a good bill whose time has come. It does nothing to harm the environment. In fact, it will improve rangelands across the West. It treats the Western land grazer honestly and fairly. And in return, the U.S. Treasury makes more money and gets an improved rangeland resource.

I urge all my colleagues to support and vote for H.R. 2493.

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

□ 1100

Mr. SMITH of Oregon. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a country of laws, not of men. And with respect to the issue of pasturing on public lands by grazers, we have been operating under the rule of men. It is time, I think, to return to the question of laws, and that is exactly the purpose and the reason that we are here today.

Mr. Chairman, we have been operating in the past under the rule of one pen. Now we must operate, it seems to me, with the consent of Congress, which is the way we do business in this country.

A little historical reference about this bill. It is a very delicate issue; one that we have been discussing for many years since I have been a Member of Congress. But this is a little different this year because we have agreed now among many factions to bring a bill that has wide support and that has been discussed and rehearsed by many, many people in this country, including such divergent areas of environmentalists, of grazers, ranchers, interested people, senators, representatives. For a period of the last 4 months, this may be the widest traveled bill in America because it has been to every corner and every State and it has been examined by every person who has an interest in this whole discussion.

Mr. Chairman, in the past, ranchers who graze more than 270 million acres of public land, primarily in 16 States in the West, have been under great stress. Often there have been contradictory agency regulations that they have had to live with, even different regulations between the Forest Service and the Bureau of Land Management.

The rangeland reform issue brought 2 years ago, and much of it struck down by a judge's decision, was a frightening thing to the people who depend upon public lands. So, Mr. Chairman, here we are with a group of people, very insecure, wanting direction as to how they may proceed to live with their families on public lands in the West.

Many of my colleagues well remember the issue of the last session when a bill was passed by the Senate, came to the House, and, of course, was under great scrutiny by everyone and failed to come to the floor, and so did not pass. So this again has upset people in the West because we have no guidelines, it seems, until we pass this bill.

Mr. Chairman, we have a very moderate list of requests in this bill. We have come back from the idea of wanting everything to pass at one time to a basic idea that we need two things for the stability and the predictability of people in the West who depend upon public lands. Basically this bill is about a fee that is fair to the public grazers, and it is a fee that is fair to the Federal Government.

Mr. Chairman, also there is tenure in this bill; in other words, not extended tenure, but existing rulemaking tenure of some 10 years. If participants follow the guidelines of the Bureau of Land Management and Forest Service every year, they have the opportunity to graze for 10 years with a renewal.

From this bill, we have struck many, many controversial issues. Just to name a few, the resource advisory councils, which were really a program promoted by Secretary Babbitt, came under great controversy simply because during the resource advisory council programs we wanted a majority vote of the resource council and the Secretary demanded a consensus; in other words, unanimous consent where one person could stop any kind of advisory council to the agencies.

Because it was controversial, we struck it from this bill. So it is existing law. We may have resource advisory councils, but they are certainly up to the various communities and the States. They are not in this bill.

Mr. Chairman, we have a lot of problems identifying allotments and base properties, and because it was controversial, we decided that we would not touch that and we would rely on existing law, which has been following several court cases in this country as far as definition of those two items.

There was a question of public access across private land and, frankly, we decided we would not touch that one either because that raises another argument, and so we dropped it out of this bill.

Now, we have left here, again, a very modest attempt to bring reason and stability to the West. It affects not one environmental law in this country. It produces nothing that would affect the environment at all. Grazing allotments are run and directed by the managers, the range managers. The number of sheep and cattle that are offered on public lands are highly regulated and counted each year.

So if there is a discrepancy, then we ought to arrange to have the public managers correct it. But it is not a part of this bill. It does not give the environmentalists any advantage. It does not give the grazers any advantage. It is a fair and reasonable offer.

Mr. Chairman, I commend this bill to my colleagues, and I ask for their support.

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

Mr. YOUNG of Alaska. Mr. Chairman, what remaining time do I have?

The CHAIRMAN. The gentleman from Alaska [Mr. YOUNG] has 14½ minutes remaining.

Mr. YOUNG of Alaska. Mr. Chairman, I ask unanimous consent to yield the balance of my time to the gentleman from Oregon [Mr. SMITH], chairman of the Committee on Agriculture, to conduct the rest of the debate on this bill.

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

There was no objection.

PARLIAMENTARY INQUIRY

Mr. STENHOLM. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. STENHOLM. It is my understanding under the rule that we have unanimous consent, 1 hour of debate equally divided between the Committee on Resources and the Committee on Agriculture and our time is divided and I control 15 minutes?

The CHAIRMAN. The gentleman is correct.

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

Mr. Chairman, I rise in strong support of H.R. 2493, the Forage Improvement Act of 1997. I would like to thank the gentleman from Oregon [Mr. SMITH], the distinguished chairman of the House Committee on Agriculture, for his hard work on this bill and for his sincere efforts to address the concerns of other Members.

Mr. Chairman, while very narrow in scope, this bill contains positive and necessary improvements to the current system for the management of grazing on Federal lands. I strongly support the requirement to use sound, verifiable science to monitor resource conditions and trends on grazing allotments. This bill allows Federal agencies to coordinate with ranchers to perform the monitoring or to hire a qualified consultant to do it.

Mr. Chairman, I firmly believe that we should base all environmental policy decisions on sound, verifiable science, and this provision is an extremely important step forward in that direction.

Additionally, this bill creates a grazing fee which provides stability and continuity for ranchers while returning a fair sum to the U.S. Treasury. It does this by ensuring the receipt of an equitable price for the product purchased by the rancher from the Government.

This bill raises grazing fees by 36 percent, and there are those who would argue that this is not enough of an increase and is just a government subsidy. But the fact of the matter is it is difficult to compare exactly all the intangibles associated with leasing public or private lands. They both contain their own unique qualities. Critics of this bill would do just as well to compare an apple to an orange.

Mr. Chairman, we must not lose sight of the fact that this bill will return fees to the U.S. Treasury that are an increase of 36 percent. For those who say this bill does not increase fees enough, similar fee increases for other Federal programs would hasten the elimination of the Federal deficit.

Finally, this bill requires the Forest Service and the Bureau of Land Management to administer grazing programs in a coordinated way. This was done to ensure that ranchers would be treated in the same manner by either agency. This just makes good sense.

Mr. Chairman, I strongly support this bill, a reasonable compromise, and I urge my colleagues to do likewise.

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

Mr. VENTO. Mr. Chairman, I yield 3 minutes to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, I rise in strong opposition to this bill. I am a Westerner. I think this legislation is bad for the West.

Mr. Chairman, I have traveled in the West and I have seen firsthand the overgrazed streams whose banks have been trampled and shorn of vegetation. This is one of the reasons that we have endangered salmon in the Pacific Northwest. Our fish have few healthy streams to spawn in. The overgrazing of our public land has an enormous public impact, and that is why this bill is being opposed by taxpayer groups and opposed by environmental groups.

Sports and commercial fishermen in the Northwest once provided $1 billion of income, but now the fishermen and fisherwomen of my district are out of work and the tackle manufacturers and the people who rely on tourism, they are losing money because there is no fish left to catch. To add insult to injury, those same constituents of mine are being asked to pay taxes to underwrite the below-market grazing fees.

Mr. Chairman, H.R. 2493 masquerades as a grazing reform bill, yet it puts grazing before the environmental health of our public rangelands. It turns grazing privileges on Federal lands into private property rights, and it expands grazing on public lands by including Forest Service lands.

For anyone who doubts the national ramifications of this legislation, this is not just a western issue. I have in my hand two editorials, one written by the Washington Post, "Subsidies for Big Ranchers," and the other written by the Herald Journal of Logan, UT. The Utah Herald Journal points out, and I quote, "The vast majority [of ranchers]—98 percent," and, Mr. Chairman, I repeat, 98 percent of ranchers, "don't even have access to public land and yet somehow they manage to stay in the black."

Now, who does have access? I go off the quote and come back in. "They include at least three Forbes billionaires, four oil and mining companies, and one national brewery," and I end the quote.

These are not small farmers. This bill provides corporate welfare to huge, huge agricultural interests.

The Washington Post, as I say, says it is a subsidy for big ranchers and it urges us to vote the bill down.

So, Mr. Chairman, both Easterners and Westerners agree that this bill is bad for the American taxpayer, bad for commercial and sports fishing groups, and bad, above all, for the environment. If it were not bad for the environment, not bad for our taxpayers, why would the taxpayer groups oppose it? Why would the environmental groups oppose it?

Mr. Chairman, I urge my colleagues, join those groups and vote "no" on this ill-advised legislation.

Mr. SMITH of Oregon. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, there is no, I repeat, there is no reference to private property rights in this bill. None. It conveys nothing. It yields nothing. There are eight large corporations that the gentlewoman from Oregon [Ms. FURSE] mentioned. There are 23,000 medium-sized ranches that depend upon this bill.

Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. CHAMBLISS].

Mr. CHAMBLISS. Mr. Chairman, I am pleased to rise in strong support of the Forage Improvement Act.

Mr. Chairman, I come at this bill from a little bit different perspective than most folks that will be here speaking today because I am from the Southeast, I am not from the West. But my perspective is to ensure that the rights of hunters and fishermen all across this country are protected in this bill. And I will say to the critics of this bill who believe that it does not protect hunters and fishermen that they are wrong.

As vice chairman of the Congressional Sportsmen's Caucus, I am one of the strongest advocates of multiple use of Federal lands.

□ 1115

I want to make sure that our sportsmen and sportswomen have the opportunity to hunt and fish on Federal lands. The compromise that the gentleman from Oregon [Mr. SMITH], my chairman on the House Committee on Agriculture, has struck ensures that multiple use is protected. By working with the gentleman from Oregon [Mr. SMITH] on this issue, we have made sure that this bill is sound legislation for all of our sportsmen here to support. There is no better evidence of that than the chairman himself, who is an avid sportsman, an avid hunter and fisherman.

I urge my colleagues on the Congressional Sportsmen's Caucus to support this bill. I would say to my other colleagues, if they support farmers and ranchers and they support sportsmen and sportswomen in America, support this bill.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. PETERSON].

Mr. PETERSON of Minnesota. Mr. Chairman, I rise in strong support of H.R. 2493, the Forage Improvement Act of 1997. As the other vice chairmen of the sportsmen's caucus, I want to associate myself with the remarks of my colleague.

Grazing on public lands has been a contentious issue, as we know, for the last 20 years. The laws regulating grazing as administered by the Forest Service and the BLM have evolved to the point where it has become very hard to make a living as a public lands rancher. Our ranchers legitimately need this legislation.

The way fees are currently structured, ranchers simply are not able to plan financially from year to year. It is important to point out that this bill is much more moderate and narrow than past grazing reform proposals. I think the chairman, the gentleman from Oregon [Mr. SMITH], and the ranking

member, the gentleman from Texas [Mr. STENHOLM] should be commended for the way they have reached out to make this bill more acceptable to people.

It is time to support this modest bill which takes us in a small but extremely important step in the right direction. I urge my colleagues to support this bill.

Mr. VENTO. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise in strong opposition to this bill. Fundamentally, the issue here is in terms of raising beef, raising sheep or goats as the case as this land is being used.

I would point out to my colleagues that this only affects, in essence, a dozen States. They will say 16, but quite candidly, it is only about a dozen States. Even within those States, we would find that the forage that is provided on public lands in California is 10 percent. Other Western States it may range as high as into the 30's.

Even within those States, public lands represent 50 percent of the forage. But the fact is that it takes place on 250 million acres that are under permit in terms of grazing so, indeed, this is important. But what does it mean in terms of production for farmers? It means less percent of the beef. So other farmers, others that are raising beef, they are not doing it in the thousands of animals in Minnesota, they are doing it in the hundreds.

The fact is that many of these operations are very large corporate farmers that have gained control. In fact, if we look at who has the control of this, less than 10 percent of the permittees control over 60 percent of the permits, over 60 percent of the forage, to put it more precisely. So this is a sop.

What is wrong here is that we have a system that is not being properly priced in the market. That leads to two things. First of all, it is unfair to the taxpayer. It is unfair and it leads to abuse and dependency in terms of these lands.

Most of these 250 million acres are ephemeral lands. They are marginal lands. That is why they generally remain in public ownership in many cases, not all. Some have other resources, other qualities that are wonderful. But the fact is they are marginal.

There are places in California where we have 2,500 acres for a single animal. In fact, I think the high there, in testimony that I saw, was like 3,400 acres, which is extreme. These hot desert areas, very fragile lands, we have the cows out there competing with the desert tortoise. I think it is wrong. I think that these cows end up with more miles on them than the old Chevrolet. The fact is that they become, when we put these animals on these lands, they become the dominant species.

What this bill does is to take what are in essence the BLM rules that provide for subleasing, transferring one's permits to somebody else, with a premium payment. It eliminates the premium payment so BLM can continue to do that without the premium payment and it transfers that which is forbidden by the Forest Service today, to permit them to in fact transfer those permits.

This is an out-of-whack bill. Even with the changes that are being proposed by the gentleman from Oregon [Mr. SMITH] and the gentleman from New York [Mr. BOEHLERT], it still does not get to the essence of what is the problem here. It is not addressing the problem. It is a bad bill. It should be defeated on this floor. It should be amended. I hope we can do so.

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

Mr. SMITH of Oregon. Mr. Chairman, I yield myself 30 seconds.

I want to correct the record. Indeed, cows are competing with tortoises. I wonder how much the gentleman would pay if he were grazing tortoises.

The other question and the point I want to make here is simply that according to GAO figures, 47 percent of the permits have 100 animals or less; 38 percent have 100 to 500 animals; 15 percent of the permits have more than 500 animals. This is not exactly a huge corporate stealing program.

Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. HILL].

Mr. HILL. Mr. Chairman, I rise in strong support of the Forage Improvement Act.

As my colleagues consider this proposal, I urge them to consider the underlying values that are represented in this bill. What are those values?

Simply speaking, Mr. Chairman, the values are fairness, predictability, and stability. In the West, our Federal Government owns huge blocks of public lands. In my State of Montana it owns about 30 percent of the lands. We expect those lands to be managed in a responsible fashion, responsible to the taxpayers, and responsible to the people who use those lands.

There are some important facts, though, that my colleagues need to understand as they consider this bill. First, our rangelands are in good condition; repeat, our public rangelands are in very good condition. Second, rangelands need to be grazed. Grazing produces healthier grass. It reduces fire hazards and it increases the capacity of the land to sustain wildlife. Interestingly, cooperative grazing management with producers and local managers working together today we have healthier grass and substantially more wildlife on our public lands.

Third, grazing on the public lands is very important in sustaining local economies, local communities and in sustaining family farms and ranches. If the range is healthy and it is sustaining wildlife, why do we need this bill?

Mr. Chairman, the answer is that under this Secretary of Interior, the administration has embarked on a radical new experiment in range management. They have thrown out 120 years of range management science. The administration has ignored local communities and it has written off family farms and ranches in the West. This bill is a moderate effort to restore predictability and stability to these communities and to these producers. How? By raising grazing fees in a predictable fashion with a predictable formula based on the price of cattle and interest rates. It creates a good return to the Treasury and it is based upon the ability to pay. It also brings stability by requiring range management to be based on proven science rather than special interests politics and most important, the bill is fair.

I urge my colleagues to do what is right. Vote "yes" on the Forage Improvement Act.

Mr. VENTO. Mr. Chairman, I yield myself 3 minutes.

To continue my debate with my colleagues, as I said earlier, this affects a dozen or so States. Most of the beef raisers and others raising sheep and goats need to rely upon the marketplace in terms of what is happening. Obviously, it is not my intent or the intent to eliminate grazing from Western lands. That is of course the red flag that is raised, but that is not the purpose. In fact, I think that we want and need a collaborative and cooperative partnership with our Western colleagues in terms of trying to achieve the objectives.

The fact is that as we look at this that the receipts from the BLM are only about half of what the cost is of the grazing programs. In fact, in looking at fiscal year 1995, it is estimated grazing receipts will amount to about $16.4 million, and the amount that was spent in managing those programs was in fact $47,400,000. That does not include the range improvements which amounted to about $10 million trying to take care of this.

What does this bill do to BLM's and to the Forest Service's ability to monitor? We heard about sound science. We heard about objectivity. We heard about doing this on the basis of the facts, not on the basis of politics. But then this bill suggests that if I am a BLM land manager, that I have to provide 48 hours' notice to the permittee to go on and to in fact look at this.

Remember this is public land. We are going to permit for someone to use it and we are suggesting that the manager of that land has to give 48 hours' notice so that we can go and determine whether or not in fact the monitoring of the cattle, if the sheep are properly being controlled in terms of how they

are using these various allotments that are out there, this is one of the problems with this bill.

In fact, the way it is designed, and it needs to be modified, it has entirely skewed the program in a different direction with regard to what the impact is. As I said, it provides for subleasing, something that the Forest Service does not provide today. This extends the subleasing, which I believe leads to the very large permittees where they are transferring these permittees around. Sixty percent of the AUM's are controlled by less than 10 percent of those that hold the permits. It does not deal with number of cows. We are talking about AUM's; we are talking about the amount of forage that is being used.

Mr. Chairman, during this debate there are going to be suggestions that most States, even in the West, charge 2 to 3 times as much as the proposed increase here, which is not 30 percent. It is closer to about 15 percent. But the fact is that we are talking about AUM's here. We are comparing apples to apples in terms of what the States charge. All the States tend to charge a great deal more than the Federal Government, than this bill even proposes to. We hope to rectify that with the Klug and Vento amendments.

Mr. STENHOLM. Mr. Chairman, I yield myself 1 minute and 30 seconds.

Mr. Chairman, I join this debate with my colleague from Minnesota, as one that represents a State that has very little, if any, Federal lands involved in this. I have spent several years analyzing whether or not this is a fair rental as far as the competitiveness with other ranchers. It is not just my judgment that causes me to support the bill today. It is cattlemen from all over the United States that have agreed.

Yes, maybe it is not a perfect formula. I do not know that anyone can devise a perfect formula. But to continue to suggest that the only valid formula for charging rental rates has to be with private lands is an erroneous assumption. That is comparing apples and oranges and it is not relevant to this debate.

Also we need to understand, yes, there are a few large enterprises that are involved. But 81 percent of the Forest Service permittees are part of small- to medium-sized family ranching. The amendment that the gentleman will offer, when we get to the amending process, would make it very difficult for these individuals to make a living in ranching in the real world.

Therefore, I encourage all of our colleagues to listen carefully, particularly when you are concerned about environmental concerns. This bill is very important in this aspect. It is suggesting that we rely on sound science. This bill institutes a program of scientific range monitoring to ensure that land managers make their decision on the basis of current reliable data and not merely one's judgment. What we are debating today is one's judgment.

Mr. SMITH of Oregon. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I want to correct the record here again and talk about the facts. The facts are that indeed this is an increase of 36 percent from a $1.35 to $1.84 per animal unit month.

Mr. Chairman, do not be fooled by the fact that the gentleman states that we only retrieve half the cost from the grazing fee. That is not true.

□ 1130

If you believe the Government is efficient by adding up all the costs and then saying, well, ranchers ought to pay the cost of administering the grazing fee, then I think you are on the wrong track. The facts are that the grazers pay almost the cost but we are also paying the NEPA cost. So I think that is a public policy, not a rancher's issue.

Mr. Chairman, I yield 1 minute to the gentlewoman from Missouri [Mrs. EMERSON].

Mrs. EMERSON. Mr. Chairman, I rise in strong support of the Forage Improvement Act. I want to thank the gentleman from Oregon [Mr. SMITH] for his strong leadership and his good commonsense effort to fix our Nation's grazing laws.

Mr. Chairman, this bill is good for our public lands and for those who depend on public lands for their livelihood. By reinforcing and clarifying the partnership between ranchers and Government, and by emphasizing better science as part of the process, the bill promotes sound grazing practices.

The fact is that America's farmers and ranchers are our best conservationists, and they are committed to working with the Government and other citizens in caring for the land.

This legislation is important to the future of family ranching operations. All of agriculture, including the ranching community, faces great market and weather uncertainties from year to year. Our Government should not add to this natural volatility by forcing confusing and conflicting grazing rules on our ranchers.

H.R. 2493 provides the stability in Federal policy that is long overdue. I urge a yes vote to support responsible public lands policies.

Mr. VENTO. Mr. Chairman, I yield myself 1 minute.

Apparently, my colleague is confused. There is some confusion about what the increase is in this bill. I am just going on the basis of the CBO. I think, for purposes of debate, I would quote and read from the document.

Using ERS's most recent data for the total gross value of production and projecting changes in cattle price and interest rates, CBO estimates that the proposed new formula would result in grazing fee averaging about 20 cents more per AUM over the 1998 to 2000 period in the western States in the grazing fee based on current law.

And I might say, in terms of the cost figures that I used, these are directly from the BLM figures. It indicates consistently, from 1991 to 1995, nearly a threefold cost in terms of the grazing program versus the receipts that come into it. So it is consistently 2-to-1, 3-to-1 more in terms of what we are spending. So there is a subsidy, in essence, here, and that is what we are facing.

No one is saying we are going to go to cost with this. But the fact is that we have got to recognize that in terms of where we are at. If we put this on a fair market value, if we put it on a cost basis, clearly it would be to the benefit of the environment and to the taxpayer.

Mr. SMITH of Oregon. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I do not know where the gentleman from Minnesota [Mr. VENTO] gets his numbers. In the bill, the AUM charges $1.84, not $1.55, as he is quoting. It is a $6 million increase to the Treasury from grazers across this Nation.

Mr. Chairman, I yield 2½ minutes to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT of Nebraska. Mr. Chairman, I thank the gentleman from Oregon [Mr. SMITH] for yielding me the time.

Mr. Chairman, I rise in strong support of the Forage Improvement Act. I think it is a very well-reasoned and responsible bill that will bring some order to the bureaucratic empire of Byzantine complexity that we call Federal land management.

I applaud my colleague, the gentleman from Oregon [Mr. SMITH], chairman of the full Committee on Agriculture, for his leadership on this issue. At a time when the White House, the Congress, and State governments are working to downsize and streamline all of our governmental bureaucracies and delivery systems, this bill goes a long way toward coordinating the administration of Federal land management activities. The current, complicated regulation of Federal lands, by both the Secretary of the Interior and Secretary of Agriculture, leads to a maze of confusing and often conflicting regulations for the administration of livestock grazing.

I have spent a considerable amount of time studying the U.S. Department of Agriculture's field office downsizing and streamlining. I know the conflicts that can arise from the contradictory regulations and the overlayering bureaucracy of this massive delivery system. This is only one department, Mr. Chairman. I can only imagine the conflicting and confusing delivery system of the Federal land management when two departments are involved in this situation. Chairman SMITH is to be

commended for even taking on this reform issue.

I was amused over the weekend as the Washington Post, certainly an expert in western land management, tried to explain why Congress should defeat this bill. It is a sad commentary on our time, I think, that this same newspaper that has encouraged reform of our Federal programs comes out against a bill that streamlines bureaucracy, emphasizes sound science practices, and a new grazing fee formula is implemented in the bill.

I think it is important to know that this legislation actually increases grazing fees, as has been suggested, and it does it with a new formula that is easy to understand, easier to track, and charges a fairer price. This bill is reform at its best, Mr. Chairman. I would encourage all Members to vote for this worthy piece of legislation.

Mr. VENTO. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I would ask the sponsor of the bill on what page of his bill does it state $1.86? I look through the bill. I find on page 36 the calculation, but I do not find that. My source of information is not the bill, it is the calculation carried out. I can read the calculation into the RECORD, but I do not want to confuse an already confused issue.

What I am quoting is what the CBO says. In any event, we all agree that there is an increase here. A 20-cent increase is hardly going to begin to make up. That would yield about $20 million a year. The costs, of course, are closer to $50 million a year in terms of managing this program.

Furthermore, I point out one of the problems with this bill is that it had no hearings in the Committee on Resources. It had no consideration in the subcommittee. The subcommittee has been very assiduous in terms of hearing most of the measures that come before us, but somehow this bill during this term received no consideration in that subcommittee. No markup. It went directly to the full committee and was marked up without hearings in that instance.

It has just been 6 weeks since this bill has been introduced. So if there is confusion about it in my part or the author's part, I can well understand it. I think it could have benefited from a full hearing of what some of the radical changes are in this bill. Again, we are seeing substantial changes on the floor to accommodate some of the concerns of Members.

In fact, of course, as I look at the list of opposition, I notice that the Trout Unlimited Group remains opposed to this bill. I have heard some allude here that they are members of the sportsmen caucus. I respect them for that. I do a little hunting and fishing myself when my schedule permits it.

But the fact of the matter is that this is opposed by the groups that I have here, Trout Unlimited, it is opposed by the National Wildlife Federation, and most of the environmental groups I think that we would look to, and, of course, it is opposed by some of the taxpayers' groups that are concerned about the constant drain in terms of revenues with respect to this bill.

Mr. Chairman, this bill is neither fair to the American taxpayer nor is there a good sound policy for Federal land management. I urge my colleagues to defeat this bill.

Mr. STENHOLM. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Texas [Mr. STENHOLM] has 10 minutes remaining. The gentleman from Minnesota [Mr. VENTO] has 3 minutes remaining. The gentleman from Oregon [Mr. SMITH] has 13½ minutes remaining.

Mr. STENHOLM. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. BISHOP].

Mr. BISHOP. Mr. Chairman, I appreciate the gentleman from Texas [Mr. STENHOLM] for yielding.

Mr. Chairman, I rise to express my support of H.R. 2493, the Forage Improvement Act of 1997. If you take away all the rhetoric, you will find that this bill has been written in the spirit of compromise and collaboration. There is nothing in it that attempts to roll back any existing laws.

There are so many issues that Western cattlemen will still face after this bill passes that will continue to threaten their businesses. Yet, this bill will try to provide some degree of certainty sorely lacking in public land ranching. One of the most important is a requirement of scientific monitoring of resource conditions and trends on grazing allotments.

This monitoring will allow the agencies to coordinate with ranchers, to perform the monitoring, and, more importantly, it will be based on regional criteria and protocols. This would help guarantee that the ranchers' business will not be vulnerable to regulations that have no basis in science or that were created in Washington without input from professionals in their own State who understand resource issues at the local level.

Currently, all the agriculture across this Nation is having to defend itself against an onslaught of potential restrictions that lack quality data. This bill will help the Western rancher, at least, to defend himself when he is accused of abusing the one thing he is in need of the most on public lands, the forage. It will also provide the cattlemen and agency land managers a valuable management tool to make sound judgments and to better predict the future.

Let us dispense with all the cheap shots that are being levied at this bill and let us move forward. Nobody loses with this and the Western cattlemen can attempt to put a little more certainty into their families' lives.

What we do here in Washington ought to be based on science, it ought to be based on common sense, and it ought to be user-friendly to the people of this country, and in this instance particularly the ranchers who make their living and their lives by using these public lands for grazing their cattle.

Mr. SMITH of Oregon. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I want to thank the gentleman from Georgia [Mr. BISHOP] personally. I think his statement and many others you will hear are from States that have no public land, no grazers. And I especially want to thank him for stepping up and to refute this idea that this only affects a small number of States. We are here together to represent 50 States. And I thank the gentleman from Georgia [Mr. Bishop] very much.

Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. COOKSEY], who of course has a lot of public lands.

Mr. COOKSEY. Mr. Chairman, I thank the gentleman from Oregon [Mr. SMITH] for yielding.

I, too, rise in strong support of the Forage Improvement Act, H.R. 2493, by the gentleman from Oregon [Mr. SMITH]. Mr. Chairman, first let me congratulate my good friend, the chairman of the Committee on Agriculture, for his hard work on this bill. This bill is a consensus bill that will benefit everyone involved, from the taxpayer to the livestock producer to the conservationist.

The gentleman from Oregon [Mr. SMITH] has collaborated on this bill with State and national livestock industry groups, individual producers, and environmentalists to bring predictability to our ranchers' plans for forage use.

As a physician, I rely on sound science to prescribe solutions, and I appreciate legislation that follows the same approach. The Forage Improvement Act will institute a program of scientific range monitoring on which land managers can rely. Decisions can be made on the basis of current and reliable data. This is important. Good science will predict not only the livestock producers, but also the public and the environment.

This bill provides incentives to ranchers who demonstrate they are responsible stewards of the land which allows them to enter into cooperative allotment management plans with the Department of the Interior. We all can agree that a renewed commitment to the scientific monitoring and decision-making will benefit everyone.

Another important reason to support this bill is that it streamlines the regulations of the Forest Service and Bureau of Land Management. If the rules

are easier to understand, the result is that they will be adhered to. Uniformity and coordination of management is needed to straighten out the current morass of regulation. Less bureaucracy is always better.

Finally, Mr. Chairman, I am supporting this bill because ranchers, just like the farmers in my district, need predictability under Federal rules and regulations. We will always have uncertainty in the weather, but we cannot have uncertainty from the Federal Government when ranchers are deciding on how best to use their land, whether to seek financing or even to sell their ranch.

Let us pass this bill and make it easier for those who are supporting their families with long hours and a noble calling. Let us streamline the bureaucracy that exists and use sound science for the benefit of everyone.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY of California. Mr. Chairman, I rise in support of this Forage Improvement Act. I think that the gentleman from Oregon [Mr. SMITH] needs to be complimented in his efforts to reach out to people in the environmental community and stakeholders, as well as Federal Government, in order to try to find a way that we can put to rest an issue that has been very contentious in its consideration in past Congresses.

I think what the gentleman from Oregon [Mr. SMITH] has done is to embody some of the proposals that the Department of the Interior has been trying to utilize to ensure that we have greater cooperation from people throughout the community, as well as environmentalists so that we can ensure that the interests of the taxpayers and interests of the public trust is maintained.

I think he is also moving forward in a responsible manner, too, by asking that we revise the formula in which we calculate the price per AUM and that this bill will result in an increase of almost 36 percent in the price of rangeland. And that means benefits that are going to accrue to the taxpayers.

What is also important is, I think, he is putting it in a place in which we are going to have more of a collaborative effort to ensure that the public lands are used in a manner which is going to benefit all of us.

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I am certain that the effort of this legislation is going to ensure that our public lands that are devoted to rangeland are going to be in better condition, that they are going to ensure that there will be a financial return to them. They will also provide benefits in maintaining much of this land in open space.

Once again, I just want to reiterate that I commend the gentleman from Oregon [Mr. SMITH]. I think this legislation is a balanced and responsible approach to dealing with grazing on public lands.

Mr. SMITH of Oregon. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. HOSTETTLER], a member of the committee.

Mr. HOSTETTLER. Mr. Chairman, I rise today in strong support of the gentleman from Oregon [Mr. SMITH], the chairman of the Committee on Agriculture and the gentleman from Alaska [Mr. YOUNG], the chairman of the Committee on Resources, and their effort on behalf of responsible use of publicly owned land. The fact that such a bill is necessary is just one of many problems that arise with this issue of Federal ownership of property.

Mr. Chairman, the Federal Government owns more than one-third of the 2.3 billion acres in the United States. It owns 63 percent of the 13 Western States. For a country founded in large part due to the high regard placed on the private ownership of property, this is a curious thing. One has to wonder how the United States of America assumed all this property given that article 1, section 18, clause 17 tells us Congress has the power:

> To exercise exclusive legislation in all cases whatsoever over such district (not exceeding 10 square miles) as may, by cession of particular states, and the acceptance of congress, become the seat of government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards and other needful buildings.

Does that sound like a mandate to own 725 million acres of land? As with so many other areas of policy in Government, we have gotten very, very far away from the intent of the Founding Fathers as expressed in our chief governing document, the U.S. Constitution, which each Member of this body takes an oath to uphold. With Federal ownership, you are bound to get them wanting to manage it this way and us wanting to manage it that way. Private property ownership is clearly the superior route. The Founding Fathers clearly saw Federal ownership of land as the exception rather than the rule.

Having said that, the least that we can do as Federal legislators is to give the taxpayers who use that federally owned land, their federally owned land, some regulatory relief. This bill does that. That is why I support this bill and urge my colleagues to do the same.

Mr. SMITH of Oregon. Mr. Chairman, I yield 1½ minutes to the gentleman from Oklahoma [Mr. LUCAS].

Mr. LUCAS of Oklahoma. Mr. Chairman, I rise in strong support of the Forage Improvement Act. The gentleman from Oregon [Mr. SMITH] and the gentleman from Alaska [Mr. YOUNG] should be commended by all in this body for bringing this well thought out, bipartisan piece of legislation to the floor of the People's House.

As a Congressman who still tries to earn an honest living as a cow/calf operator in western Oklahoma, or in truth I should point out, because of my responsibilities, whose wife is a cow/calf operator in western Oklahoma, I know firsthand the value that predictability and stability brings to those of us in the livestock industry. The legislation under consideration by the House today provides a uniform and consistent grazing policy that represents great progress toward enabling western ranchers the ability to plan for forage use.

This is a good bill. Yes, it raises grazing fees 36 percent. Yes, it requires coordination between the BLM and the Forest Service. Yes, it mandates scientific monitoring of grazing conditions. And yes, it creates authority for Government and ranchers to enter into cooperative management plans.

Mr. Chairman, this bill is bipartisan, it instills cooperation, increases Federal revenues, and mandates sound science. It is a good piece of legislation that deserves passage in this House.

Mr. SMITH of Oregon. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. LAHOOD], who is also a member of the committee.

Mr. LAHOOD. Mr. Chairman, I rise today to encourage my colleagues to support this bipartisan bill. I want to compliment the chairman of the committee, who has tried to work with all parties to fashion a bill that makes sense. It is a little bit comical to see some people come trotting out here with ideas about the fact that this maybe does not meet all of the budget considerations they want or the environmental considerations, when in reality the chairman has worked for 7 months with every group in this town to fashion a bill that makes sense in a bipartisan way, and he deserves credit for that, and he deserves support for it, because the bill gives added stability in being able to plan for the future. With more stability, ranchers will be able to continue to be good stewards of the land, which is what I guess environmental groups want and should want.

This has been a 7-month consultation with many, many groups. It contains new cooperative management authority for agencies and ranchers and will allow more flexibility for ranchers for them to continue achieving rangeland management goals. If there has ever been a bipartisan bill come on this floor that represented all sides, this is it. I encourage the support of all of the Members on both sides of the aisle.

Mr. VENTO. Mr. Chairman, I yield myself 30 seconds. To the gentleman in the well I would say if this is such a wonderful bill which was introduced September 17, why were there not hearings in the Committee on Agriculture? Why were there not hearings in the

Committee on Resources? It is not a 7-month bill. It is more like a 7-week bill that never had any hearings. That is why we are concerned. The sound science in this bill puts science in a straitjacket in terms of changing the AUM's, changing the procedure for the Forest Service.

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

Mr. VENTO. I yield to the gentleman from Illinois.

Mr. LAHOOD. The point of fact is that the chairman has worked with a lot of different groups over a long period of time. This is not a 7-week bill. This bill has taken an extended period of time.

Mr. SMITH of Oregon. Mr. Chairman, I yield myself 30 seconds. As usual, the gentleman is misleading the body. We did have hearings in the Committee on Agriculture, as witnessed by the gentleman from Texas [Mr. STENHOLM], the ranking member. So the idea we did not have hearings is wrong. This bill was referred to two committees. We took it to the full committee of the Committee on Resources. That is all. There were hearings, so let us clear the record.

Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. BLUNT].

Mr. BLUNT. Mr. Chairman, I stand in strong support of this bill and appreciate the chairman's leadership in bringing really a complex set of facts together here. Under this bill, the current complicated system of regulations will become easy to understand and simple to track. Both the Federal Government and the livestock producer will benefit when these regulations are understood. For the first time, ranching families will be able to go to borrow money with some certainty about what their future looks like and it will make a big difference to them. The fee structure is changed and modernized and beneficial to the taxpayer as well. This is really a very family farmer, rancher-oriented bill. We have more cattle in our State than any State except Mr. STENHOLM's State of Texas. We do not have any grazing land in our State. Not a single Missouri farmer will benefit from the grazing land provisions of this bill. But our folks will benefit from stability in the livestock production system that this bill creates. I am strongly in support of it.

Mr. STENHOLM. Mr. Chairman, I yield myself 2 minutes. I do this for purposes of confirming what the chairman said regarding the hearings that were held in the Committee on Agriculture and the subcommittee on this bill and also to reiterate what I know the gentleman from Minnesota totally agrees with. This is an issue that has been discussed for many, many years.

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

Mr. STENHOLM. I yield to the gentleman from Minnesota.

Mr. VENTO. I appreciate the gentleman yielding. I did not misstate the record with regards to the Committee on Resources. There have been many oversight hearings in grazing but not on this bill. If this bill was introduced after the hearings, I think that the record would be clear with regards to that, but there were not hearings on the specific issue that is before us.

Mr. STENHOLM. Mr. Chairman, reclaiming my time, I thank the gentleman for that clarification. Again, I was only speaking of the Committee on Agriculture and also speaking of the fact that I have participated in this debate for years, as the gentleman from Minnesota has.

What the chairman has done this year is attempted, as the gentleman from Georgia earlier spoke to, to reach out to people who are willing to compromise and to find an acceptable middle ground to a question that has proven to be irresolvable over the years. What we have today is the best good-faith compromise to reach an agreement midway between extreme views. This is what the bill before us today is all about.

We talk about the grazing fees. I think it is important for all Members who may not be as familiar with this, the grazing fee is merely for the forage and represents a small part of the overall cost of Federal lands ranching. Ranchers are responsible for fences, for water, for seeding and other improvements, keeping track of the livestock, along with anything else required by the agencies. That is where the real costs are. That is why ranchers from Texas, Georgia, Missouri, and other States do not have the objection as stated by the gentleman from Minnesota to this because based on the total cost, there is a reasonable certainty or a semblance of fairness as best that can be done in any formula. Also regarding the wildlife question, I find it fascinating when we see from 1960 to 1980 the increases of antelope, elk, and deer on these same lands that are being so misused by the livestock industry.

Mr. SMITH of Oregon. Mr. Chairman, I yield 3 minutes to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Chairman, I thank the gentleman from Oregon for yielding me this time. I must say with all due respect to the chairman of the Committee on Agriculture, he has worked tirelessly on this piece of legislation. He has worked night and day to make sure that all factions of concern, all issues of concern have been addressed. I appreciate his efforts in that. We do have some amendments yet to add, but I just really appreciate the chairman, and this demonstrates what leadership really is all about, the ability to work with many different groups of people.

I want my colleagues to picture this. Two thousand miles away from here in southern Idaho and dozens of other rocky and rugged places in this country, ranchers eke out a modest living and put food on our plates. These families like this, this is a picture of Mr. Dick Bass, a rancher in Idaho. This is a face on this whole problem. Mr. Bass is also a county commissioner, a husband, a father, and a good American who pays his taxes and pays fees to the Federal Government for the privilege of being able to graze on the public lands. He has worked tirelessly with other county commissioners and other ranchers to bring California bighorn sheep, in cooperation with the Idaho Fish and Game, to all of southern Idaho. And now that wildlife project has been so successful that we are now exporting California bighorn sheep out to other States.

They care about the land. They have improved the land since it was ravaged at the turn of the century. These cattlemen love the land and love their work. These guys have been out working in the far reaches of their ranches for days. Lately they have come in to send faxes to us to ask in very articulate and well-reasoned letters, citing many points about their concerns, but all they really ask is just let us keep making a living.

We have got to remember that the West has been ravaged with the shutdown of logging, with the overregulation on our lands. It is driving people from the lands. Do not drive the very shepherds that are keeping our lands healthy and vibrant. This has been the concern of the gentleman from Oregon [Mr. SMITH]. I share that concern with him. The gentleman from Oregon has brought a piece of legislation that brings financial stability into the industry and that has been very needed.

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But he also realizes, as I do, that these people have continued to battle hard weather and all kinds of bad wildlife, but they choose to stay there and be the kinds of shepherds of the land that we need, that America needs, and our industry needs.

The CHAIRMAN. The gentleman from Texas [Mr. STENHOLM] has 3¾ minutes remaining, the gentleman from Oregon [Mr. SMITH] has 2 minutes remaining and the gentleman from Minnesota [Mr. VENTO] has 2½ minutes remaining.

Mr. STENHOLM. Mr. Chairman, I ask unanimous consent to yield the balance of my time to the gentleman from Oregon [Mr. SMITH] and that he be allowed to yield it as he sees fit.

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

There was no objection.

Mr. SMITH of Oregon. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I rise in support of the bill with the manager's amendment.

I want to start by thanking the gentleman from Oregon, Chairman SMITH, for his openness and willingness to stand up to people who should be his allies to get a workable bill. The gentleman from Oregon [Mr. SMITH], the chairman, has always been responsible and candid and open minded.

Whenever I or my staff had a discussion with the gentleman from Oregon, Chairman SMITH, negotiations were friendly and productive. I appreciate that, because I know that the gentleman from Oregon [Mr. SMITH] has taken grief he does not deserve for trying to do the right thing: Searching for the sensible middle ground.

As for me, my position has not wavered since negotiations began in June. We made clear from the beginning what our concerns were with this bill, and once those concerns were addressed, we supported it. Our position has not changed.

We have never linked grazing issues to those in other bills, and we have never paid any attention to anyone else who tried to assert such linkage.

Let us turn to this bill. We have come up with a fair agreement, an agreement that helps ranchers while ensuring that the bill does no damage to the environment.

Our goal in negotiations has been to ensure that public land is never treated as if it is owned by private parties. Our goal has been to ensure that Federal officials have the ability to protect the integrity of public lands. Those goals have been met.

The manager's amendment makes changes in every section of this bill. It alters or drops problematic definitions which implied there was a private property right in Federal land. It drops the section on access. It drops the section on resource advisory councils, which are working so well. It clarifies the agency's role in monitoring and subleasing.

The manager's amendment does all that while still providing ranchers with stability, a new fee formula, and the privilege of conveying their grazing permit when they sublease their base property, as long as the Secretary approves.

This is a good deal that should enable us to pass grazing legislation for the first time in many years. But I hope it is just the first step. We have succeeded in ensuring that this legislation allows no damage to be done to the environment. I hope some day we can pass legislation that will be fair to ranchers, while being environmentally positive.

Ranching groups and environmental groups have been working for several years behind the scenes to develop such a grazing regime. That is as surprising as it sounds. In the meantime, I urge my colleagues to support the manager's amendment and its passage. I urge support of the base bill of the gentleman from Oregon, Chairman SMITH.

Mr. SMITH of Oregon. Mr. Chairman, I yield 1 minute to my good friend, the gentleman from Illinois [Mr. EWING].

Mr. EWING. Mr. Chairman, I am glad to rise in support of this legislation, H.R. 2493. I know how hard the gentleman has worked to bring together those in the grazing industry that are very important to their livelihood, those in the environmental community, those Representatives from the West, to fashion a bill that addresses a problem that has gone unaddressed in past Congresses and in this Congress.

It is time that this Congress move to pass meaningful legislation dealing with grazing rights, and do it in a fashion that does not offend the environmentalists in America and does not disadvantage those people in the cattle and the sheep industry in the West.

This bill does not do that. And that is important. It is important to farmers in the Midwest, that we keep our agricultural and our livestock industry healthy and viable in this country.

I congratulate the gentleman from Oregon [Mr. SMITH]. I am glad to support this bill, and I hope my colleagues will also.

Mr. VENTO. Mr. Chairman, I yield myself the balance of my time to again reiterate my opposition.

Mr. Chairman, this is an enormously important bill. I appreciate that my colleague, the chairman of the Committee on Agriculture, has worked with various groups, but the fact is at the end of the day, all the environmental groups are against it, some of the sports groups are against it, and some of the taxpayer groups are against it, because balance is not in this bill. This bill is not a balanced bill.

I regret that it did not have the type of hearings after the fact when it was written and introduced and passed so quickly that it is here and has not had the type of debate within committee.

So many questions are still confused with regard to it. There are 250 million acres of land under permit. The fact is that we have 30,000 permittees out there, but over half of them are very large. Half of the forage goes to the largest, less than 10 percent of the group.

There has been a reiteration of sound science. What is the science about increasing the number of sheep and goats per AUM? Where is the science that supports that? That is in the bill. Science is put in a straitjacket in this bill. Where is the science that says you cannot come on the land for 48 hours without notifying the individuals so you can monitor it. That puts a straitjacket on the land managers and the scientists we charge to manage the land.

What is the science that suggests that the fact is you are going to extend subleasing in the Forest Service where it does not exist today? Where is the science that says you eliminate the surcharge in terms of subleasing? Where is the science that suggests you throw out all of the regulations with regard to the Forest Service?

This sets up a whole new scheme in terms of rules and regulations. Where it lands, nobody can say. The fact is, yes, we have problems today, because this 250 million acres today is greatly competed for and has a multiple use in terms of recreation and many uses that did not exist when the basic grazing laws were written in the 1930's.

The fact is, these are important issues, laws like the Endangered Species Act. You can make a joke about the desert tortoise, but most of us would agree some of these ephemeral areas probably should not be grazed or should be closely monitored when they are.

But this bill does nothing to improve the dollars and cents given to the BLM and the Forest Service, but puts substantially new responsibilities on them, and the end consequence is the environment is going to pay, not just in dollars and cents here, in the terms of there is a $20 million increase here, $5 million in grazing fees, when we spend maybe twice or three times that much, some say $400 million more in terms of enforcing grazing permits.

Mr. Chairman, this is a bad bill and should be defeated.

Mr. SMITH of Oregon. Mr. Chairman, I yield myself 45 seconds.

Mr. Chairman, I do so again to correct the record. The gentleman has expanded beyond the truth here. The point is that 76 percent of the grazers are individuals, 8.5 percent are partnerships, and 10.8 percent are corporations. This is no corporate boondoggle.

Beyond this, this does not turn additional sheep and goats on the range. That is only a billing procedure. This has nothing to do with the number of sheep and goats turned out on the public ranges.

Mr. Chairman, I yield the balance of my time to the gentleman from South Dakota [Mr. THUNE].

The CHAIRMAN. The gentleman from South Dakota is recognized for 1 minute.

Mr. THUNE. Mr. Chairman, I want to thank the Chairman for yielding me this time and credit him and the distinguished ranking minority member here, the gentleman from Texas [Mr. STENHOLM], with putting together a bill that I think does address a lot of the concerns raised.

There have been a great number of hearings over the past several years on this very subject. I come from cattle country in western South Dakota. It is an area where you have to be tough to make a living. Out there, toughness is

a prerequisite. I also happen to be an avid bird hunter, an outdoorsman, that appreciates the perspective that sportsmen bring to this particular debate.

I believe the chairman has worked with all of those groups in a balanced way to come up with a commonsense approach that injects science into the equation and addresses the issue of fees in a way that provides stability for the ranchers who use these lands. It is based upon an objective set of indices, which I think yield stability to the people who are trying to make a living in the business of agriculture, particularly in the business of raising cattle and livestock, so they can make a living at this.

Mr. Chairman, this is a bill which I think accommodates a wide range of concerns. It is something that I hope all of us in this Chamber will be able to support.

Mr. FAZIO of California. Mr. Chairman, as a cosponsor of this legislation, I rise today in support of H.R. 2493, the Forage Improvement Act of 1997, sponsored by colleague BOB SMITH.

Congress has tried numerous times over the past several years to enact comprehensive reform of our Nation's rangeland grazing policy on Federal lands administered by the Bureau of Land Management and the Forest Service. The administration and the House of Representatives tried to increase grazing fees on public lands in 1993, and the Senate attempted to address some grazing fees issues in the fiscal year 1994 Interior appropriations bill. Grazing reform resurfaced again in the Senate Interior appropriations bill in 1996, and the Senate did pass a reform bill on March 21, 1996, only to die in the House.

I support the Forage Improvement Act of 1997, because I firmly believe that the Federal grazing permit system is simply too outdated and does not reflect the current needs of ranchers, communities, and the environment. Management of our public lands remains in limbo as the issue has been bounced back and forth from the House to the Senate to the administration. H.R. 2493 is the first step in the direction of a streamlined approach to managing nearly 270 million acres of rangeland in the United States.

I believe that grazing fees should be increased to reflect the value of the land that is being used. The formula provided by H.R. 2493 will result in an increase in grazing fees of between 15 and 30 percent over existing levels. This is a good start in leveling the playing field.

Participation in land use decisions by ranchers, local communities, public officials, and environmental advocates is also essential. That is why I support the manager's amendment offered by Mr. SMITH which deletes any language in the bill which would have altered the current processes of these Resource Advisory Councils, currently in place under an Executive order by Secretary Babbitt.

What we need to be successful in achieving comprehensive grazing reform this Congress is an approach where the viewpoints of all parties are taken into account from the very start. I believe that H.R. 2493 tried to incorporate this comprehensive and cooperative nature, and provides much needed and long-delayed reform of our Nation's rangeland system.

I urge my colleagues' support.

Mr. BARCIA. Mr. Chairman, I rise today in support of H.R. 2493. This is a fair bill that will not only help small to mid-size family ranchers, but end at last the contentious debate that has surrounded this policy since its inception in the early 1900's.

Under current law, the Forest Service and the Bureau of Land Management charge fees for grazing and each agency promulgates their own regulations. H.R. 2493 coordinates the efforts of the two agencies so that our citizens will not have to forage through a multitude of regulations.

This bill increases local involvement in the Resource Advisory Council by modifying the makeup of the council to include representatives from the community. The council would represent broad interests by including those who use the lands for grazing to persons interested in developing the land and from recreational users to state and local elected officials.

H.R. 2493 codifies a new fee formula that, according to the Congressional Budget Office, will not decrease the Federal Government receipts. In fact, this bill will increase the current fee for ranchers by 36 percent which will amount to approximately $6 million more for the Federal Government over the next 5 years.

This bill will not limit access to public lands and will not change any environmental laws that are so important in protecting the natural habitat and beauty of our public lands. In fact, allowing grazing on these lands has had a positive impact on our environment because ranchers have every incentive to protect and enhance the land and its natural habitat, and they have a proven track record. Moose, deer, and elk populations have increased by over 500 percent since 1960 on these lands.

Maintaining and supporting ranching communities is important for our economy and our environment. Without the protections to the wildlife, urban development would slowly move to devastate these vast rural and environmentally sound areas. The bill will provide security for ranchers and their families and I urge my colleagues to support this measure.

Mr. MORAN of Kansas. Mr. Chairman, nothing better symbolizes the heritage of the Western United States than cattle grazing on the open range, and with over 6.5 million cattle on farms and ranches, the Big First District has more cattle than any other congressional district. The cattle rancher still stands as a picture of the American independence, battling long odds and mother nature and enjoying the rewards of a hard day's work.

This heritage is why the bill before us is so important. To say that the life of the rancher is filled with uncertainties is an understatement. Just this past week in Western Kansas, we had our first blizzard of the season. For some cattlemen, it was devastating. One rancher north of Dodge City lost 200 out of a herd of 242 yearlings. Across the State, cattle losses are estimated at nearly 20,000 head.

As Members of Congress, we cannot change the weather and we cannot control the markets, but we can and should provide stability in the terms and rates for ranchers grazing on Federal land. The bill before this chamber does just that—guarantee that Federal grazing lands are managed in a way that will ensure their healthy existence for generations to come. This legislation will assist the American rancher do what he or she does best, feed the world, and it does so in a way that helps preserve the family farm and ranch.

The Forage Improvement Act is good policy for the rancher, the taxpayer, and important for the long-term health of this Nation's grazing lands. In addition, this bill represents the right way to develop policy through consensus and bipartisan work, not through administrative fiat.

Mr. Chairman, I urge my colleagues to vote in support of this important measure.

Mr. STUMP. Mr. Chairman, the American people want responsible Federal Government and bills that make sense. We should all be pleased with the Forage Improvement Act of 1997, because it improves Federal management responsibilities and will result in a more effective grazing policy.

Currently, management of Federal grazing responsibilities fall under the purview of both the Secretary of Agriculture and the Secretary of the Interior. The bill would allow the Secretaries to work together to provide for uniform management of livestock grazing on Federal lands.

So what is there to fear from this legislation? Nothing. Nothing in the act will affect grazing in any unit of the National Park System, or National Wildlife Refuge System, or on any lands that are not Federal lands, or on any lands that are held by the United States in trust for the benefit of Indians. Nothing in this act shall be construed to limit or preclude the use of, and access to, Federal lands for hunting, fishing, recreational, watershed management, or other appropriate multiple use activities in accordance with applicable Federal and State laws and the principles of multiple use. And, nothing in this act shall be construed to affect valid existing rights, reservations, agreements, or authorizations under Federal or State law.

What the act does do is to require that to the maximum extent practicable, the Secretary of Agriculture and the Secretary of the Interior shall provide for consistent and coordinated administration of livestock grazing and management of Federal lands consistent with the laws governing such lands.

The bill is a common-sense measure that will result in coordinated resource management. By increasing consultation, cooperation, and coordination between the Forest Service, Bureau of Land Management, and affected State or Federal agencies, private land owners, and users of Federal lands, the bill will ensure that focused land management needs can be addressed in an effective and amicable manner. I wholeheartedly support the Forage Improvement Act of 1997, and urge my colleagues to vote for the bill.

Mr. VENTO. Mr. Chairman, I rise in opposition to H.R. 2493, the Forage Improvement Act, which was recently pushed through the Resources Committee without being the subject of hearings.

I have worked on and studied grazing issues for many years. We have had debates

often in many different contexts since I've served in Congress. The issues are not simple; they are complex. Congress is charged with determining not just what is best for the local economies of the American West, but also what is best for the ecology of our public rangelands and the taxpayers of this country—in essence, balanced and fair policy, fiscally and environmentally. H.R. 2493 does not fulfill these challenges.

For instance, H.R. 2493 could attach a property right to grazing permits. The 1934 Taylor Grazing Act and the Supreme Court have stated clearly that grazing on public lands is a privilege, not a right. Changing grazing policy in this manner would require the taxpayers to compensate livestock operators when the Federal Government undertakes activities such as wildlife management and watershed restoration. That is not something that I think a majority in this Congress supports. This is a dramatic change which portends a significant impact upon the future of public land with such permits in effect today and tomorrow.

This bill also greatly strengthens the hand of livestock operators at the expense of the ordinary citizen. This bill provides environmental consultants hired by these operators a greater authority in ecological assessments than private citizens who are concerned about the adverse effects of grazing in the specific allotment. This bill also expands the opportunity of ranchers to sublease their permits to include Forest Service as well as BLM lands. Currently, ranchers can sublease their cheap permits to others for much higher rates. This Congress should be eliminating this significant taxpayer ripoff, not expanding it.

The biggest fiscal problem with H.R. 2493, however, is that it doesn't come to grips effectively with the subsidization of grazing fees and the fee structure. This year, it will cost livestock operators on BLM lands $1.35 per month to feed a single cow and its calf—or $1.35 per animal unit month [AUM]. But it will cost the taxpayers as much as $10 in some higher cost areas to provide the services necessary to administer such permits per AUM. In the case of family ranch operators who need Federal permits to survive, in an effort to recognize and preserve a smaller operator's way of life, this may be justified policy. But in the case of wingtip cowboys like Metropolitan Life and the Anheuser-Busch Co., both of which hold significant Federal grazing permits, I would think we could all agree that taxpayer subsidization is simply not warranted.

The continued grazing policy path of subsidization and distortion of market forces concerning the use of Federal lands for grazing invites environmental problems, short-changes administrative funding, and builds a ranching dependency that leads to the abuses evident in the practices of these corporate cowboy operators.

I will offer an amendment later on that begins the process of fixing this problem. 9 percent of the permittees control 60 percent of the forage on public lands on BLM lands and the number are similar for national forest lands. The other 91 percent are smaller ranchers—all with allotments that allow the grazing of less than 2,000 AUMs. My amendment would not change the current fee structure in H.R. 2493 for those family ranchers, and perhaps help them preserve their ranches. But the privileged few who control most of our public rangelands would have to pay more of their way. My amendment would require that permittees controlling more than 2,000 AUMs on Federal lands pay either the average fee charged by the State in which they operate, or the fee in this bill plus 25 percent. That way, we recognize family ranchers and the wingtip cowboys will pay a greater share, still subsidized but not as much. Additionally, I'm going to offer an amendment to maintain the traditional 5 sheep, 5 goats per AUM. The bill increases this by 33 percent to 7 sheep or goats per AUM, without explanation nor justification. I oppose H.R. 2493, even with the token improvements the chairman of the Agriculture Committee intends to make. I agree with him that we owe it to smaller ranchers and the American people to make our federal grazing program more efficient. We disagree on how to do this. I believe we need to put the reform in this so-called reform measure. My amendment, and others if passed would do just that.

Mr. SKAGGS. Mr. Chairman, we should not pass this bill. In fact, we should not be considering it at all.

Bringing this bill forward is not a step toward better management of the public lands or even toward greater certainty for ranchers who graze livestock on those lands. Instead, it merely revives old quarrels. It threatens to undermine important gains achieved through the hard work of consultation, cooperation, and census-building by suggesting that it may be possible to return to an earlier, less inclusive approach to land management.

For example, to debate this bill means reviving the old quarrel about grazing fees, especially since the bill's fee formula seems to have been developed without very extensive consultations and brought forward with only the sketchiest of explanations or justifications. To take just one example, neither of the two committee reports on this bill explain the basis for redefining the term "animal unit month" with respect to sheep and goats, even though the effect is to dramatically increase the amount of forage that can be purchased for the same fee. I would like to know why we're being asked to decide that sheep and goats actually eat less each month than we used to think.

I'm sure this part of the bill, and the other questions about fees, will be debated at length, as indeed they should be. But what concerns me more is the way the bill would reshape the Resource Advisory Councils and the way in which it would make it harder for the BLM and the Forest Service to do their important and difficult job of managing lands that belong to all the American people.

All of us who took part in past grazing debates remember how heated they were. Those of us from the west also remember that they came to be part of an often-partisan rhetoric about what some of our friends on the other side of the aisle liked to call the "War on the West".

But those of us from the west—and from Colorado in particular—remember something else, as well. We remember that when the debate here in Washington led to stalemate, Secretary of the Interior Bruce Babbitt—a westerner himself—came back to the west. We remember that in Colorado and throughout the west he met with the governors, the local officials, the livestock operators, and the public. We remember the discussions, the negotiations, the give-and-take. And we remember that out of that process has come a chance for a new start, a chance to put aside the old suspicions and to replace the old quarrels with a new structure of cooperation.

The Resource Advisory Councils [RACs] are central to that structure. Already they have achieved some notable successes, not just in Colorado but in other western states as well. The key to those successes has been the fact that they rest on inclusiveness and consultation, and have consensus as their goal.

But this bill originally threatened to deform the councils by replacing a search for consensus with deal-making and bloc voting and by setting the stage for limiting the views and interests to be represented by membership of future councils. This would be exactly wrong. We shouldn't do it.

I'm glad Chairman SMITH has just agreed to strike the bill's provisions regarding RACs. That's an improvement, in that it removes a bad provision, but it's not enough to salvage this legislation.

We also shouldn't make it harder for BLM and the Forest Service to properly manage their lands for multiple uses. But the bill would do that, too—by encouraging subleasing and by restricting proper monitoring of grazing practices, among other things. Again, these are steps backward, as is the bill's redefining of the term "allotment" in a way that suggests an intent to change the legal status of grazing from a permitted use of public lands into a property right—contrary to the clear language of the Taylor Grazing Act and other applicable law, and contrary to well-settled precedent.

So, Mr. Chairman, I regret that this bill is before us. It would be better for everyone—and especially for westerners—to have allowed the new processes of consultation and consensus-building to have continued to work without this distraction. But, since the new majority has chosen instead to bring this bill forward, we should do the right thing. We should reject it.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Resources printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule for a period not to exceed 3 hours, and shall be considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2493

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 "Forage Improvement Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Rules of construction.
Sec. 3. Coordinated administration.
TITLE I—MANAGEMENT OF GRAZING ON FEDERAL LANDS
Sec. 101. Application of title.
Sec. 102. Definitions.
Sec. 103. Prohibited condition regarding grazing permits and leases.
Sec. 104. Monitoring.
Sec. 105. Subleasing.
Sec. 106. Cooperative allotment management plans.
Sec. 107. Fees and charges.
Sec. 108. Resource Advisory Councils.
TITLE II—MISCELLANEOUS
Sec. 201. Effective date.
Sec. 202. Issuance of new regulations.

SEC. 2. RULES OF CONSTRUCTION.

(a) LIMITATION ON APPLICATION.—Nothing in this Act shall be construed to affect grazing in any unit of the National Park System, in any unit of the National Wildlife Refuge System, in any unit of the National Forest System managed as a National Grassland by the Secretary of Agriculture under the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010 et seq.), on any lands that are not Federal lands (as defined in section 102), or on any lands that are held by the United States in trust for the benefit of Indians.

(b) MULTIPLE USE ACTIVITIES NOT AFFECTED.—Nothing in this Act shall be construed to limit or preclude the use of Federal lands (as defined in section 102) for hunting, fishing, recreation, or other multiple use activities in accordance with applicable Federal and State laws and the principles of multiple use.

(c) VALID EXISTING RIGHTS.—Nothing in this Act shall be construed to affect valid existing rights, reservations, agreements, or authorizations under Federal or State law.

(d) ACCESS TO NONFEDERALLY OWNED LANDS.—Section 1323 of Public Law 96–487 (16 U.S.C. 3210) shall continue to apply with regard to access to nonfederally owned lands.

SEC. 3. COORDINATED ADMINISTRATION.

To the maximum extent practicable, the Secretary of Agriculture and the Secretary of the Interior shall provide for consistent and coordinated administration of livestock grazing and management of Federal lands (as defined in section 102), consistent with the laws governing such lands.

TITLE I—MANAGEMENT OF GRAZING ON FEDERAL LANDS

SEC. 101. APPLICATION OF TITLE.

(a) FOREST SERVICE LANDS.—This title applies to the management of grazing on National Forest System lands, by the Secretary of Agriculture under the following laws:

(1) The 11th undesignated paragraph under the heading "SURVEYING THE PUBLIC LANDS" under the heading "UNDER THE DEPARTMENT OF THE INTERIOR" in the Act of June 4, 1897 (commonly known as the Organic Administration Act of 1897) (30 Stat. 35, second full paragraph on that page; 16 U.S.C. 551).

(2) Sections 11, 12, and 19 of the Act of April 24, 1950 (commonly known as the Granger-Thye Act of 1950) (64 Stat. 85, 88, chapter 97; 16 U.S.C. 580g, 580h, 580l).

(3) The Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528 et seq.).

(4) The Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.).

(5) The National Forest Management Act of 1976 (16 U.S.C. 472a et seq.).

(6) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(7) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.).

(b) BUREAU OF LAND MANAGEMENT LANDS.—This title applies to the management of grazing on Federal lands administered by the Secretary of the Interior under the following laws:

(1) The Act of June 28, 1934 (commonly known as the Taylor Grazing Act) (48 Stat. 1269, chapter 865; 43 U.S.C. 315 et seq.).

(2) The Act of August 28, 1937 (commonly known as the Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act of 1937) (50 Stat. 874, chapter 876; 43 U.S.C. 1181a et seq.).

(3) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(4) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.).

(5) The Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010 et seq.).

(c) CERTAIN OTHER UNITED STATES LANDS.—This title also applies to the management of grazing by the Secretary concerned on behalf of the head of another department or agency of the Federal Government under a memorandum of understanding.

SEC. 102. DEFINITIONS.

In this title:

(1) ALLOTMENT.—The term "allotment" means an area of Federal lands subject to an adjudicated or apportioned grazing preference that is appurtenant to a base property.

(2) AUTHORIZED OFFICER.—The term "authorized officer" means a person authorized by the Secretary concerned to administer this title, the laws specified in section 101, and regulations issued under this title and such laws.

(3) BASE PROPERTY.—The term "base property" means private or other non-Federal land, water, or water rights owned or controlled by a permittee or lessee to which a Federal allotment is appurtenant.

(4) CONSULTATION, COOPERATION, AND COORDINATION.—For the purposes of this title (and section 402(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752(d))), the term "consultation, cooperation, and coordination" means to engage in good faith efforts—

(A) to discuss and exchange views; and

(B) to act together toward a common end or purpose.

(5) FEDERAL LANDS.—The term "Federal lands" means lands outside the State of Alaska that are owned by the United States and are—

(A) included in the National Forest System; or

(B) administered by the Secretary of the Interior under the laws specified in section 101(b).

(6) GRAZING PERMIT OR LEASE.—The term "grazing permit or lease" means a document authorizing use of Federal lands for the purpose of grazing livestock—

(A) within a grazing district under section 3 of the Act of June 28, 1934 (commonly known as the Taylor Grazing Act) (48 Stat. 1270, chapter 865; 43 U.S.C. 315b);

(B) outside grazing districts under section 15 of the Act of June 28, 1934 (commonly known as the Taylor Grazing Act) (48 Stat. 1275, chapter 865; 43 U.S.C. 315m); or

(C) on National Forest System lands under section 19 of the Act of April 24, 1950 (commonly known as the Granger-Thye Act of 1950) (64 Stat. 88, chapter 97; 16 U.S.C. 580l).

(7) LAND USE PLAN.—The term "land use plan" means—

(A) a land and resource management plan prepared by the Forest Service pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) for a unit of the National Forest System; or

(B) a resource management plan (or a management framework plan that is in effect pending completion of a resource management plan) developed in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) for Federal lands administered by the Bureau of Land Management.

(8) NATIONAL FOREST SYSTEM.—The term "National Forest System" has the meaning given such term in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)), except that the term does not include any lands managed as a National Grassland under the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010 et seq.).

(9) SECRETARY CONCERNED.—The term "Secretary concerned" means—

(A) the Secretary of Agriculture, with respect to the National Forest System; and

(B) the Secretary of the Interior, with respect to Federal lands administered by the Secretary of the Interior under the laws specified in section 101(b).

(10) SIXTEEN CONTIGUOUS WESTERN STATES.—The term "sixteen contiguous Western States" means the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming.

SEC. 103. PROHIBITED CONDITION REGARDING GRAZING PERMITS AND LEASES.

The Secretary concerned may not impose as a condition on a grazing permit or lease that the permittee or lessee provide access across private property unless the condition is limited to ingress and egress for Federal personnel engaged in authorized activities regarding grazing administration on Federal in-holdings.

SEC. 104. MONITORING.

(a) MONITORING.—The monitoring of conditions and trends of forage and related resources on Federal lands within allotments shall be performed only by qualified persons from the following groups:

(1) Federal, State, and local government personnel.

(2) Grazing permittees and lessees.

(3) Professional consultants retained by the United States or a permittee or lessee.

(b) MONITORING CRITERIA AND PROTOCOLS.—Such monitoring shall be conducted according to regional or state criteria and protocols selected by the Secretary concerned. The monitoring protocols shall be site specific, scientifically valid, and subject to peer review. Monitoring data shall be periodically verified.

(c) TYPES AND USE OF DATA COLLECTED.—The data collected from such monitoring shall include historical data and information, if available, but such data or information must be objective and reliable. The data and information collected from such monitoring shall be used to evaluate—

(1) the effects of ecological changes and management actions on forage and related resources over time;

(2) the effectiveness of actions in meeting management objectives contained in applicable land use plans; and

(3) the appropriateness of resource management objectives.

(d) NOTICE.—In conducting such monitoring, the Secretary concerned shall provide reasonable notice of the monitoring to affected permittees or lessees, including prior

notice to the extent practicable of not less than 48 hours.

SEC. 105. SUBLEASING.

(a) PROHIBITION ON SUBLEASING GRAZING PERMIT OR LEASE.—A person issued a grazing permit or lease may not enter into an agreement with another person to allow grazing on the Federal lands covered by the grazing permit or lease by livestock that are neither owned nor controlled by the person issued the grazing permit or lease.

(b) TREATMENT OF LEASE OR SUBLEASE OF BASE PROPERTY.—The leasing or subleasing, in whole or in part, of the base property of a person issued a grazing permit or lease shall not be considered a sublease of a grazing permit or lease under subsection (a). The grazing preference associated with such base property shall be transferred to the person controlling the leased or subleased base property.

SEC. 106. COOPERATIVE ALLOTMENT MANAGEMENT PLANS.

(a) WRITTEN AGREEMENTS FOR OUTCOME-BASED STANDARDS.—An allotment management plan developed under section 402(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752(d)) may include a written agreement with a qualified grazing permittee or lessee described in subsection (b) (or a group of qualified grazing permittees or lessees) that provides for outcome-based standards, rather than prescriptive terms and conditions, for managing grazing activities in a specified geographic area. At the request of a qualified grazing permittee or lessee, the Secretary concerned shall consider including such a written agreement in an allotment management plan. An allotment management plan including such a written agreement shall be known as a cooperative allotment management plan.

(b) QUALIFIED GRAZING PERMITTEE OR LESSEE DESCRIBED.—A qualified grazing permittee or lessee referred to in subsection (a) is a person issued a grazing permit or lease who has demonstrated sound stewardship by meeting or exceeding the forage and rangeland goals contained in applicable land use plans for the previous five-year period.

(c) INCLUSION OF PERFORMANCE GOALS.—A written agreement entered into as part of an allotment management plan developed under section 402(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752(d)) shall contain performance goals that—

(1) are expressed in objective, quantifiable, and measurable terms;

(2) establish performance indicators to be used in measuring or assessing the relevant outcomes;

(3) provide a basis for comparing management results with the established performance goals; and

(4) describe the means to be used to verify and validate measured values.

(d) FEDERAL ADVISORY COMMITTEE ACT.—Activities under this section shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 107. FEES AND CHARGES.

(a) GRAZING FEES.—

(1) CALCULATION.—The fee for each animal unit month in a grazing fee year for livestock grazing on Federal lands in the sixteen contiguous western States shall be equal to the 12-year average of the total gross value of production for beef cattle for the 12 years preceding the grazing fee year, multiplied by the 12-year average of the United States Treasury Securities six-month bill "new issue" rate, and divided by 12. The gross value of production for beef cattle shall be determined by the Economic Research Service of the Department of Agriculture in accordance with subsection (d)(1).

(2) LIMITATION.—The fee determined under paragraph (1) shall be the only grazing fee applicable to livestock owned or controlled by a person issued a grazing permit or lease.

(b) DEFINITION OF ANIMAL UNIT MONTH.—For the purposes of billing only, the term "animal unit month" means one month's use and occupancy of range by—

(1) one cow, bull, steer, heifer, horse, burro, or mule, seven sheep, or seven goats, each of which is six months of age or older on the date on which the animal begins grazing on Federal lands;

(2) any such animal regardless of age if the animal is weaned on the date on which the animal begins grazing on Federal lands; and

(3) any such animal that will become 12 months of age during the period of use authorized under a grazing permit.

(c) LIVESTOCK NOT COUNTED.—There shall not be counted as an animal unit month the use of Federal lands for grazing by an animal that is less than six months of age on the date on which the animal begins grazing on such lands and is the progeny of an animal on which a grazing fee is paid if the animal is removed from such lands before becoming 12 months of age.

(d) CRITERIA FOR ECONOMIC RESEARCH SERVICE.—

(1) GROSS VALUE OF PRODUCTION OF BEEF CATTLE.—The Economic Research Service of the Department of Agriculture shall continue to compile and report the gross value of production of beef cattle, on a dollars-per-bred-cow basis for the United States, as is currently published by the Service in: "Economic Indicators of the Farm Sector: Cost of Production—Major Field Crops and Livestock and Dairy" (Cow-calf production cash costs and returns).

(2) AVAILABILITY.—For the purposes of determining the grazing fee for a given grazing fee year, the gross value of production (as described above) for the previous calendar year shall be made available to the Secretary concerned, and published in the Federal Register, on or before February 15 of each year.

(e) TREATMENT OF OTHER FEES AND CHARGES.—

(1) AMOUNT OF FLPMA FEES AND CHARGES.—The fees and charges under section 304(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734(a)) shall reflect processing costs and shall be adjusted periodically as such costs change, but in no case shall such fees and charges exceed the actual administrative and processing costs incurred by the Secretary concerned.

(2) NOTICE OF CHANGES.—Notice of a change in a service charge shall be published in the Federal Register.

SEC. 108. RESOURCE ADVISORY COUNCILS.

(a) ESTABLISHMENT.—

(1) JOINT ESTABLISHMENT.—The Secretary of Agriculture and the Secretary of the Interior may jointly establish and operate a Resource Advisory Council on a State, regional, or local level to provide advice on management issues regarding Federal lands in the area to be covered by the Council.

(2) ESTABLISHMENT BY SINGLE SECRETARY.—If the Federal lands in an area for which a Resource Advisory Council is to be established are under the jurisdiction of a single Secretary concerned, that Secretary concerned shall be responsible for the establishment and operation of the Resource Advisory Council.

(3) EXCEPTION.—A Resource Advisory Council shall not be established in any State, region, or local area in which the Secretaries jointly determine that there is insufficient interest in participation on a Resource Advisory Council to ensure that membership can be fairly balanced in terms of the points of view represented and the functions to be performed.

(4) TREATMENT OF EXISTING ADVISORY COUNCILS.—To the extent practicable, the Secretaries shall implement this section by modifying existing advisory councils established under section 309(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739(a)) for the purpose of providing advice regarding grazing issues.

(5) CONSULTATION.—The establishment of a Resource Advisory Council for a State, region, or local area shall be made in consultation with the Governor of the affected State.

(b) DUTIES.—Each Resource Advisory Council shall advise the Secretary concerned and appropriate State officials on—

(1) matters regarding the preparation, amendment, and implementation of land use plans within the area covered by the Council; and

(2) major management decisions, while working within the broad management objectives established for such Federal lands in applicable land use plans.

(c) VOTING.—All decisions and recommendations by a Resource Advisory Council shall be on the basis of a majority vote of its members.

(d) DISREGARD OF ADVICE.—If a Resource Advisory Council is concerned that its advice is being arbitrarily disregarded, the Resource Advisory Council may request that the Secretary concerned respond directly to the Resource Advisory Council's concerns. The Secretary concerned shall submit to the Council a written response to the request within 60 days after the Secretary receives the request. The response of the Secretary concerned shall not—

(1) constitute a decision on the merits of any issue that is or might become the subject of an administrative appeal; or

(2) be subject to appeal.

(e) MEMBERSHIP.—

(1) NUMBERS.—The Secretary of Agriculture and the Secretary of the Interior (or the Secretary concerned in the case of a Resource Advisory Council established by a single Secretary) shall appoint the members of each Resource Advisory Council. Such appointments shall be made in consultation with the Governor of the affected State or States. A Council shall consist of not less than nine members and not more than fifteen members.

(2) REPRESENTATION.—In appointing members to a Resource Advisory Council, the Secretaries or the Secretary concerned (as the case may be) shall provide for balanced and broad representation of permittees and lessees holding a grazing permit or lease and other groups, such as commercial interests, recreational users, representatives of recognized local environmental or conservation organizations, educational, professional, or academic interests, representatives of State and local government or governmental agencies, Indian tribes, and other members of the affected public.

(3) INCLUSION OF ELECTED OFFICIAL.—The Secretaries or the Secretary concerned (as the case may be) shall appoint as a member of each Resource Advisory Council at least one elected official of a general purpose government serving the people of the area covered by the Council.

(4) PROHIBITION ON CONCURRENT SERVICE.—No person may serve concurrently on more than one Resource Advisory Council.

(5) RESIDENCY REQUIREMENT.—Members of a Resource Advisory Council must reside in the geographic area covered by the Council.

(6) GRANDFATHER CLAUSE.—A person serving on the date of the enactment of this Act as a member of an advisory council established under section 309(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739(a)) for the purpose of providing advice regarding grazing issues shall serve as a member on the corresponding Resource Advisory Council established under this section for the balance of the person's term as a member on the original advisory council.

(7) SUBGROUPS.—A Resource Advisory Council may establish such subgroups as the Council considers necessary, including working groups, technical review teams, and rangeland resource groups.

(f) TERMS.—Resource Advisory Council members shall be appointed for two-year terms. Members may be appointed to additional terms at the discretion of the Secretaries or the Secretary concerned (as the case may be). The Secretaries or the Secretary concerned (as the case may be), with the concurrence of the Governor of the State in which the Council is located, may terminate the service of a member of that Council, upon written notice, if—

(1) the member no longer meets the requirements under which the member was appointed or fails or is unable to participate regularly in the work of the Council; or

(2) the Secretaries or the Secretary concerned (as the case may be) and the Governor determine that termination is in the public interest.

(g) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—A member of a Resource Advisory Council shall not receive any compensation in connection with the performance of the member's duties, but shall be reimbursed for travel within the geographic area covered by the Council and per diem expenses only while on official business, as authorized by section 5703 of title 5, United States Code.

(h) FEDERAL ADVISORY COMMITTEE ACT.—Except to the extent that it is inconsistent with this title, the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Resource Advisory Councils.

(i) STATE GRAZING DISTRICTS.—Resource Advisory Councils shall coordinate and cooperate with State Grazing Districts established pursuant to State law.

TITLE II—MISCELLANEOUS

SEC. 201. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

SEC. 202. ISSUANCE OF NEW REGULATIONS.

The Secretary of Agriculture and the Secretary of the Interior shall—

(1) coordinate the promulgation of new regulations to carry out this Act; and

(2) publish such regulations simultaneously not later than 180 days after the date of the enactment of this Act.

The CHAIRMAN. Before consideration of any other amendment, it shall be in order to consider the amendment printed in House Report 105-355, if offered by the gentleman from Oregon [Mr. SMITH] or his designee. That amendment shall be considered read, be debatable for 10 minutes, equally divided and controlled by a proponent and an opponent, and shall not be subject to a demand for a division of the question.

If that amendment is adopted, the bill, as amended, shall be considered as an original bill for the purpose of further amendment.

During consideration of the bill for amendment, the Chairman may accord priority in recognition to a Member offering an amendment that has been printed in the designated place in the RECORD. Those amendments will be considered read.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment, and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

AMENDMENT OFFERED BY MR. SMITH OF OREGON

Mr. SMITH of Oregon. Mr. Chairman, I offer a manager's amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment Offered by Mr. SMITH of Oregon:

Page 27, line 6, strike "appurtenant to" and insert "associated with".

Page 27, lines 18 and 19, strike "to which a Federal allotment is appurtenant" and insert "with which a Federal allotment is associated".

Page 27, beginning on line 20, strike paragraph (4) (and redesignate subsequent paragraphs accordingly).

Page 31, beginning on line 4, strike section 103.

Page 31, line 15, insert "resource" after "of".

Page 31, beginning on line 16, strike "of forage and related resources".

Page 32, beginning on line 9, strike subsection (c), and insert the following new subsection:

(c) TYPES AND USE OF DATA COLLECTED.—

(1) USE OF PREVIOUSLY COLLECTED DATA AND INFORMATION.—In addition to using data collected from monitoring conducted under the authority of this section, the Secretary concerned shall consider data and information collected before the date of the enactment of this Act, if available, so long as the historical data and information is objective and reliable.

(2) APPLICATION OF CRITERIA AND PROTOCOLS.—The Secretary concerned shall not accept monitoring data that does not meet the requirements of subsection (a) or (b).

(3) USE OF DATA.—The data and information collected from such monitoring shall be used to evaluate—

(A) the effects of ecological changes and management actions on resources over time;

(B) the effectiveness of actions in meeting management objectives contained in applicable land use plans; and

(C) the appropriateness of resource management objectives.

Page 33, beginning on line 14, strike subsection (b) and insert the following new subsection:

(b) TREATMENT OF LEASE OR SUBLEASE OF BASE PROPERTY.—The leasing or subleasing of the entire base property, or lease of a quantity of base property sufficient to meet the base property requirement of the Secretary concerned, of a person issued a grazing permit or lease shall not be considered a sublease of a grazing permit or lease under subsection (a). The grazing preference associated with such base property may be transferred to the person controlling the leased or subleased base property if the transfer is approved by the Secretary concerned. All terms and conditions of the existing grazing permit or lease shall bind the person controlling the leased or subleased base property.

Page 34, line 5, strike "developed" and insert "or a grazing permit or lease.".

Page 34, strike lines 18 through 21 and insert the following: "management plan or a grazing permit or lease".

Page 35, line 3, insert after "plans" the following: "and in that person's grazing permit or lease".

Page 35, strike lines 4 through 9, and insert the following:

(c) INCLUSION OF PERFORMANCE GOALS.—A written agreement authorized under subsection (a) shall contain performance goals that—

Page 35, after line 19, insert the following new subsection (and redesignate the subsequent subsection accordingly):

(d) APPLICATION OF OTHER LAWS.—All requirements of law applicable to an allotment management plan and a grazing permit or lease under section 402(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752(d)), including the prohibition against extending the term of an existing grazing permit or lease, shall apply to a written agreement entered into under subsection (a).

Page 36, beginning on line 16, strike paragraph (2).

Page 39, beginning on line 9, strike section 108.

Page 46, line 10, insert after "take effect on" the following: "the first day of the first grazing season beginning after".

The CHAIRMAN. Pursuant to the rule, the gentleman from Oregon [Mr. SMITH] and a Member opposed, each will control 5 minutes.

The Chair recognizes the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Chairman, I yield myself such time as I may consume.

As has been indicated, Mr. Chairman, this bill has been an accumulation of views over the past months from across this great country, and, as indicated by the speakers you have heard already in general debate, this is widely supported in areas of the country that have no public lands. I am very appreciative of that support, because, again, this indeed is a Western issue, and, as some say, many do not have a dog in this fight. But many have stepped forward, and we have done it on a bipartisan basis.

The gentleman from Texas [Mr. STENHOLM], the ranking member on the Committee on Agriculture, has assembled a group of Democrats who are supporting this bill enthusiastically.

So this is not a question of separating the West from the rest of the America, nor is it a question of separating one party from another, nor is it a question of separating environment from grazing. I think we have here a coordinated effort, as evidenced by those speakers who have eloquently identified this bill.

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

The CHAIRMAN. Who seeks time in opposition?

Mr. VENTO. Mr. Chairman, I rise in opposition.

The CHAIRMAN. The gentleman from Minnesota [Mr. VENTO] is recognized for 5 minutes.

Mr. VENTO. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this is a compromise of sorts. I object to it, because I do not think it is a compromise that embraces the major flaws in the bill. It does eliminate the restructuring of the RAC's, and that is good, but the fact is that some of the underlying problems still persist.

For instance, we had talked about the fact that this bill tended to build a confusion about a property right with regard to an amendment. On page 27, the definition is less than clear than existing BLM definitions. This takes us back. The word associated with this type of compromise, it is going to be decided by a court. You are not clarifying something here; you are, in fact, moving it to the issue where someone will try to establish a property right based on this new language.

□ 1215

They eliminate some definitions that are confusing. They still have confusion with regard to monitoring, as I said, Mr. Chairman, earlier. The 48-hour provision remains in this bill. This would have prohibited agencies from conditioning grazing permits or leases, or a permittee permitting access against private property, it eliminated that agency, but with monitoring there are still problems. It is only a marginal improvement in terms of what is going on.

It is changing. They say they are for sound science, except they are writing into law the fact that you have to take into consideration some of the history, some of the other factors. This, again, is going to be open to interpretation as to what the rules and regulations are in the actual practice that evolves.

I think it is questionable. If you are trying to clarify something and provide the type of clarity that the proponents suggest or try to embrace here, it is important. Fundamentally, much of what has been discussed here is behind a facade of the venerable cowboy, but the fact is that many of these cowboys today are wearing wing-tipped shoes. Sixty percent of the forage is controlled by 10 percent of the permittees. That is the language we have.

The amendments we plan to offer will, indeed, address that, or provide the opportunity to address that in terms of trying to deal with the corporate cowboys that are, in fact, ripping us off. This amendment simply does not go far enough in terms of what it has done.

The cooperative management agreement that is talked about ties cooperative management agreements to the grazing permit or lease, changes only of marginal improvement. The underlying section continues to be seriously flawed. It goes far beyond what agencies do and it is inconsistent with FLPMA and the Taylor Grazing Act. Agencies do not allow grazing use over and above mandatory terms and conditions of the permit lease, as section 106 would do.

Mr. Chairman, this amendment as a compromise simply does not make it. That is why I am rising in opposition. There are some things in it that are better than what is in the bill, but this is not a compromise, in my judgment.

Frankly, if this bill had been worked out and worked on for so long, why is this compromise being offered today on the floor? The fact is, this is a last-minute effort to try to put a veneer of compromise and balance on this bill, which remains unbalanced.

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

Mr. SMITH of Oregon. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

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

Mr. Chairman, I would like to offer a perfecting amendment to the amendment offered by the gentleman from Oregon [Mr. SMITH], in attempting to continue the good-faith efforts toward meeting some of the concerns that have been raised by those who oppose this bill.

It is my understanding that this amendment that I offer has been agreed to by all interested parties, and would basically do three things. In section 102 of the bill, it would strike the definition of the term "allotments," in section 102 of the bill it would strike the definition of the terms "base property," and in section 3, or in section 105 of the bill, it would strike subsection (b), which deals with the treatment of lease or sublease of base property.

I offer this, again, in a good-faith effort to meet some of the objections which the chairman has agreed to, and it is my understanding all of the parties have agreed to this language.

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

Mr. STENHOLM. I yield to the gentleman from Minnesota.

PARLIAMENTARY INQUIRIES

Mr. VENTO. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN. The gentleman from Minnesota [Mr. VENTO] will state his inquiry.

Mr. VENTO. Mr. Chairman, did the gentleman from Texas [Mr. STENHOLM] ask unanimous consent to modify the amendment? Is that what the gentleman had intended to do?

The CHAIRMAN. The gentleman from Texas [Mr. STENHOLM] has not offered an amendment yet. If the gentleman intends to offer an amendment, that may be done at the end of the debate on the amendment offered by Mr. SMITH. That has not yet been done.

Mr. VENTO. Further parliamentary inquiry, Mr. Chairman. Do I misunderstand that the gentleman was offering or attempting to offer the amendment at this time?

The CHAIRMAN. He has not offered the amendment as of yet.

Mr. VENTO. I thank the Chair.

PARLIAMENTARY INQUIRY

Mr. SMITH of Oregon. Mr. Chairman, I have a parliamentary inquiry, to clear up any misunderstanding.

The CHAIRMAN. The gentleman from Oregon [Mr. SMITH] will state his inquiry.

Mr. SMITH of Oregon. Mr. Chairman, it is my understanding that we are debating my amendment, and when time runs out, there will be opportunity for further amendments to my manager's amendment.

The CHAIRMAN. The gentleman from Oregon is correct.

Mr. SMITH of Oregon. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me say again that some of the opposition that the gentleman states to this bill is clarified in this amendment that is about to be presented, which basically is silent on the question of property right. It does not convey a property right nor does it deny a property right, so we go back to existing law, and we go back to court cases. That is all. The same point about monitoring.

Mr. Chairman, if the gentleman does not trust Mr. Glickman, the Secretary of Agriculture, and Mr. Babbitt, the Secretary of the Interior, who have all the responsibility for monitoring, then who should we really trust? So I think the gentleman is a little off base in the question of monitoring, and certainly he is off base on the question of the property right.

Mr. VENTO. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I would just note to the gentleman on page 27 that the amendment the gentleman is offering right now changes the definition of "allotment" and changes the definition of "base property" to include allotment as "associated with." I think is the point.

Mr. SMITH of Oregon. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Oregon.

Mr. SMITH of Oregon. The gentleman must read the amendment forthcoming.

Mr. VENTO. I appreciate that. I was about to explain that I was catching up with what is to be offered beyond that. What was in the bill I was accurate about. What was in the amendment right now I am accurate about, right now with regard to "associated with."

These definitions have a great confusion with regard to property right, and it would end up in court. I appreciate the fact that the gentleman is going to further perfect the manager's amendment with the Stenholm amendment, but I want to just point out that I think I was accurate, and tried to be accurate. The fact is we have enough differences of opinion that we do not have to argue about that which is factually correct.

Mr. SMITH of Oregon. Mr. Chairman, I am sure the gentleman will support the bill, in that case.

Mr. VENTO. I do not think so.

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

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

Mr. VENTO. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would just point out to the gentleman that I understand that the amendment to be offered also will eliminate subleasing on Forest Service lands. In my time during general debate, I tried to structure my arguments based on the fact of what was in the initial manager's amendment, and now I understand the gentleman is going to change it and take some of those provisions out. I must say that they represent improvements. I commend the gentleman for that.

But there are still significant differences that we have with regard to monitoring. I still have significant differences with regard to where we need to go in terms of how we manage this 250 million acres of land. We intend to pursue those during the time of offering the amendments.

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

AMENDMENT OFFERED BY MR. STENHOLM TO THE AMENDMENT OFFERED BY MR. SMITH OF OREGON

Mr. STENHOLM. Mr. Chairman, I offer the perfecting amendment to the amendment that I discussed and explained in the general debate on the chairman's part.

The Clerk read as follows:

Amendment offered by Mr. STENHOLM to the amendment offered by Mr. SMITH of Oregon:

In lieu of the amendments relating to page 27, line 6, page 27, lines 18 and 19, and page 33, beginning on line 14, insert the following amendments:

Page 27, beginning on line 3, strike paragraph (1).

Page 27, beginning on line 14, strike paragraph (3).

Page 33, beginning on line 14, strike subsection (b).

Mr. STENHOLM. Mr. Chairman, I will not take any additional time. I explained the amendment during general debate on the previous amendment. I do believe it is agreed to by all of the parties, that it is a perfecting amendment. I would urge its adoption.

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

Mr. STENHOLM. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I just want to check through this. This strikes both the definitions on section 102 on allotment on base property, and then further strikes the new (b), the new (b) that was in the amendment, is that correct, under section 105?

Mr. STENHOLM. That is correct.

Mr. VENTO. So there will be no subleasing of Forest Service allotments, and there will be no new definition of "allotment" or "base property"; is that correct?

Mr. STENHOLM. That is my understanding, but I would ask the chairman to confirm it.

Mr. SMITH of Oregon. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Oregon.

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman for yielding.

It is exactly as identified. The problem here has been all along that there are some who believe that this language conveys a property right, some who believe it does not. In an effort to reach agreement on this bill, we did not feel that this was the time to settle the question of the property right, so we dropped the definition so that the debate can continue through the courts, if necessary, and will be, about the issue of property right. This is no longer an issue in this bill. We do not go back, we just rely upon court decisions and interpretation as we know it today.

The other part of this bill, indeed, we drop the question of the subleasing, not that subleasing is still illegal when you sublease a priority right. However, interpretation will be continued, as it has been, by the Bureau of Land Management and by the Forest Service as they have existed before this bill arrived.

Mr. VENTO. If the gentleman will yield further, I would just point out that this does not change this, that currently when there is a sublease there is a surcharge by BLM in terms of that sublease. They put a surcharge on it in terms of their activities. This bill eliminates that surcharge. These amendments do not modify that surcharge. That still remains. Is that correct? He said this vitiates the surcharge.

Mr. SMITH of Oregon. If the gentleman will continue to yield, Mr. Chairman, it is current law. We go back to current law. It is just not addressed in this bill.

Mr. STENHOLM. Mr. Chairman, I urge the adoption of my perfecting amendment.

Mr. VENTO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I understand going back to current law means BLM will be able to continue to charge the surcharge in terms of subleasing. That is my understanding. There will not be subleasing on the Forest Service, there will be, of course, current law with regard to BLM.

Mr. SMITH of Oregon. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Oregon.

Mr. SMITH of Oregon. Subleasing of a permit is against the law. You cannot sublease a permit. You can sublease base property with the permit, and that is what we are talking about. We go back to current law.

Mr. VENTO. I appreciate the gentleman's clarification.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. STENHOLM] to the amendment offered by the gentleman from Oregon [Mr. SMITH].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. SMITH], as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer amendment No. 10 printed in the RECORD.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows.

Amendment No. 10 offered by Mr. VENTO:

In section 107(a), strike paragraph (2) (page 36, lines 16 through 20) and insert the following new paragraph:

(2) DETERMINATION OF FEE.—

(A) SMALL PRODUCERS.—The holder of a grazing permit or lease, including any related person, who owns or controls livestock comprising less than 2,000 animal unit months on Federal lands pursuant to one or more grazing permits or leases shall pay the fee as calculated under paragraph (1).

(B) LARGE PRODUCERS.—The holder of a grazing permit or lease, including any related person, who owns or controls livestock comprising 2,000 or more animal unit months on Federal lands pursuant to one or more grazing permits or leases shall pay the fee as calculated under paragraph (1) for the first 2,000 animal units months. For animal unit months in excess of 2,000, the fee shall be the higher of the following:

(i) The average grazing fee (weighted by animal unit months) charged by the State during the previous grazing year for grazing on State lands in the State in which the lands covered by the grazing permit or lease are located.

(ii) The Federal grazing fee as calculated under paragraph (1), plus 25 percent of such fee.

Mr. VENTO. Mr. Chairman, this amendment was described in a Dear Colleague. What it attempts to do is to differentiate between the family rancher, providing that the existing fee formula that is in this measure would prevail, which is, as I pointed out, a substantially subsidized operation with regard to the amount that BLM or Forest

Service spends or expends, and the amount of fees that are retained.

Of course, much of those fees go back to the grazing councils and back to the States. So the fact is that the Federal Government, if we look at the scoring of this, has actually even a greater cost that is associated with it. As I pointed out, many attribute nearly $400 million to the cost of managing the 28,000 grazing permits on the various allotments.

□ 1230

The 250 million acres of land that we have grazed. And I would say to my colleagues that this affects the National Forests, it affects the Bureau of Land Management lands, it affects almost all the lands within the National Forests, whether they be wilderness, whether they be areas of special environmental concern in terms of the BLM. All of these lands are grazed. And as a matter of fact, some of the most outrageous consequences of that are viewed in some of these hot desert areas in some of the Southwest States where, of course, much of the land retained in Government ownership does not have the water, is land of quality that is not desirable for other purposes, and the consequences when overgrazing and abuses have occurred in the past, but do not always occur but they have in the past, these lands take a long, long time to heal.

Mr. Chairman, the tragedy, I think, of this issue is not just the money, the dollars lost to the taxpayers, but it is the consequence to these ecosystems which are so important for both recreation, for the maintenance of biodiversity, and other purposes.

Today this amendment I am offering will continue the type of assistance in this bill for those that have less than 2,000 animal unit months, 2,000 AUM's. This will take care of the family farms. This gives them that opportunity to have this lower subsidized fee, but for those above that size, and that only constitutes about 9 or 10 percent of the permittees that control 60 percent, 60 percent of the forage, 60 percent of the forage or the AUM's are controlled by that group.

In numbers we can look at that. With the 28,000, we realize that we are only talking about less than 3,000 of those and these are the corporate cowboys. Many times in a competitive marketplace it can be argued that family ranchers who are struggling ought to benefit. I think that argument can be made. But under this bill the way it is structured, the same benefits go to giant corporations, to oil companies, to insurance corporations who run operations five times the size of family farm ranches and pay the same low subsidized rate.

Mr. Chairman, this is not fair to the family ranchers or the American taxpayer. This Vento amendment will make these corporate cowboys pay their fair share. The megaoperators, those with the 2,000-plus animal unit months or cow-calf groups, will pay either the State permit fee which is charged in the various States, and we are comparing apples and apples because we are talking about AUM's. So no matter what the other services, we are talking about the animal unit months. They pay that fee that is paid in that State.

Mr. Chairman, I would say that many times the Federal lands only comprise about 10 percent in the case of California, 30 percent in some other States that are public lands States. And they would either pay that rate or 25 percent above the subsidized rate that goes to these family farmers.

These corporate cowboys are hiding behind, as I said, the sod of that revered cowboy and those ranch families. I think that we ought to strip that away and actually cause them to pay a little more. They would still get a subsidized rate, but not as great.

My amendment preserves the fee formula for the small and middle operation ranchers and families. For large scale livestock operators the days of taxpayer subsidized grazing would be over. These large operators comprise less than 10 percent of the permittees, but control over 60 percent of the forage.

Mr. Chairman, the abuses of the Federal grazing program are numerous, but there are a few notorious examples. One is a Japanese company, a foreign company, operating in Montana, raising over 6,000 cows for the purpose of selling specialized beef for a foreign market. In reading articles about this, Mr. Chairman, it was pointed out that they will be willing to pay a higher fee, these Japanese operated companies; they would not object to paying that higher fee.

A national oil company grazed over 10,000 cows on Federal rangelands in 1990, and a national life insurance company grazed over 12,000 cows on Federal lands in 1990.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. VENTO] has expired.

(By unanimous consent, Mr. VENTO was allowed to proceed for 1 additional minute.)

Mr. VENTO. Mr. Chairman, by passing the Vento amendment, we can still guarantee equitable treatment for small ranchers and taxpayers who it is estimated pay as much as $400 million a year to continue the total Federal grazing program. The numbers that we see, of course, come in at about $60 million or $70 million to manage the program, and the receipts are somewhere less than $25 million, even under this bill. So it is a three-to-one ratio, according to the BLM and the Forest Service.

A vote for the Vento amendment will take the corporate cowboys off the grazing haywagon, off the taxpayers' back, and put some real reform into this forage bill.

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

Mr. SMITH of Oregon. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this whole question of fees is always controversial and charges are made back and forth, and I maintain that this fee is not a subsidy to anybody. The livestock industry in this country has never asked this Congress or the American people for one dime and I doubt if they ever will.

However, we do plan a new formula, and I oppose the Vento amendment because it destroys the idea that this formula will be in place and people can be confident in it.

The formula, by the way, was developed by a professor at New Mexico State University, and it changes the manner in which we measure the amount of money that the Federal Government should receive from an asset, a capital asset, like its lands.

The way it is done, and I think very effectively, is to measure the production of an animal on public lands. The way that is done is to determine the value of production of a cow, calf, a bull, and replacement heifers, which by the way is published every year by the Agricultural Economic Program. The value then is divided by the 6-month Treasury note.

The 6-month Treasury note is a measurement in the United States as to how much and at what cost the Federal Government would pay for money. We use the 6-month because it is the highest of most of the Treasury bills.

Mr. Chairman, we then apply this formula over a 12-year period so we take the hills and valleys out of the production of animals on public lands and the hills and valleys out of the 6-month Treasury note.

Therefore, this capital asset now is treated like every other asset of the United States. It is treated like every other capital asset that it returns to the Treasury, the equivalent of a 6-month Treasury bill.

That is the formula that we are trying to place. The result of that formula will require an additional $6 million of money from those people who graze on public lands. That will increase the AUM cost from currently $1.35 per animal unit month to $1.84 per animal unit month. And that, then, of course, that fee will be adjusted each year according to the figures amassed.

It is a simple way to place the formula. It is a fair return to the Government, and I want to ask the people in this room, and those listening, how many industries in America would come to the Congress and ask for a 36-percent increase in their cost of doing business? The livestock industry is doing that.

AMENDMENT OFFERED BY MR. KLUG TO THE AMENDMENT OFFERED BY MR. VENTO

Mr. KLUG. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. KLUG to the amendment offered by Mr. VENTO:

Insert at the end of the amendment the following new amendments:

Strike line 25 on page 35 and all that follows through line 15 on page 36, and insert the following:

(a) BASIC FEE.—The basic fee for each animal unit month in a grazing fee year shall be equal to the rate charged for grazing on State lands in the State in which the Federal lands covered by the grazing permit or lease are located.

Page 37, beginning on line 22, strike subsection (d).

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

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

There was no objection.

Mr. KLUG. Mr. Chairman, we are going to pick up on the argument that just went on between the gentleman from Oregon [Mr. SMITH] and the gentleman from Minnesota [Mr. VENTO], and that is whether there is a subsidy involved to Western ranchers.

Let me point out that in a 1991 General Accounting Office report done on the subject, quote, and this is talking about the grazing program, "It does not achieve an objective of recovering reasonable program costs because it does not produce a fee that covers the Government's cost to manage the grazing program."

In other words, Mr. Chairman, it costs us a lot more money to run this program than we take in because of it. And I would argue that on the face of it, Mr. Chairman, that that therefore represents a subsidy.

I can remember when I was a freshman in Congress, about the time that the GAO report was done, when the Government Operations Subcommittee I was involved in took a look at ski programs across the United States and looked at the amount of money the Federal Government got where it leased lands to ski companies versus the amount of money that State governments got where it leased land to ski companies. Consistently across the board we negotiated poorer deals than the States did on land that was adjacent to one another. The same kind of ski lifts, the same kind of companies. We got shortchanged.

Mr. Chairman, this amendment today simply piggybacks off the apparent ability of States to do a better job negotiating than we can by saying that we are going to tie Federal fees to State fees.

Now, what the gentleman from Oregon [Mr. SMITH] wants to accomplish and what the cattle industry wants to accomplish is certainty. I understand that because it is tough to do business when prices go up and prices go down, when costs go up and costs go down.

Frankly, it is the kind of problem, Mr. Chairman, that my dairy farmers in Wisconsin have. They are not sure from month to month what production costs are going to be.

In this case we will do two things. We will deliver certainty because they already know what the fees are that are established at the State level, and we will return a higher value to U.S. taxpayers.

Mr. Chairman, again I hate to keep beating the same drum over and over. It costs us $42 million to run this program. We now collect $5.5 million. And under the best scenario under the language offered by the gentleman from Oregon [Mr. SMITH], we will collect only $2 million more, which means we are still losing $35 million on the deal.

Mr. Chairman, if instead we substitute language which says we are going to charge the State fees, we make more money. For example, under the bill we are debating right now the current fee that will be established will be $1.60. The lowest State fee is Arizona, which is $2.18. Remember, this Federal legislation now says $1.60, which is only a slight increase.

Mr. Chairman, in the State of Nebraska it is more than $22. If we sum those all up across all the places where grazing is allowed on BLM land or State land, the Congressional Budget Office says that gross revenues under this formula would increase $30 million annually; $24 million would be the Treasury's net revenues.

We do not completely break even and a number of my colleagues from the West would make the argument that the one reason we can never break even on BLM land, just like on Forest Service land, is because those operations are run so much more inefficiently than they are run in the private sector. I would grant that that is true.

But I would also suggest that while I may not have a dog in this fight from Wisconsin, I do have a dollar invested in this fight and every single one of my taxpayers does, and it makes a lot more sense to me that rather than making $7.5 million on the program, we make $30 million on the program, which means we still do not break even but we get a lot closer to our goal.

The Federal Land Policy Management Act mandates a reasonable return on the dollar for Federal taxpayers. Now, we have managed to accomplish that in the oil industry and the coal industry and the gas industry, but we have not done it in grazing.

Mr. Chairman, let me also point out a couple of other dynamics in the industry. Ninty-eight percent of cattlemen in this country and 97 percent of sheep farmers in this country do not have access to Federal land. They can still stay in the business regardless of when these fees are. And of the 23,000 permit holders, the gentleman from Minnesota is absolutely right, there are some extraordinarily egregious cases. There are three Forbes billionaires who get subsidies from the Federal Government in order to graze on federally owned land. There are four oil and mining companies, and there is, intriguingly, one brewery which also gets subsidies as a result of this.

The bottom line, Mr. Chairman, is we need to return a fair price to the U.S. taxpayer. Obviously, the cattle industry and the sheep industry manage to flourish and prosper on State lands all across the West. I am convinced they will continue to flourish because they will have new certainty on Federal lands in the West. But I can also tell my colleagues that it is time we ask them to pay a fair price for the services we provide.

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

Mr. Chairman, both of these amendments, the amendment offered by the gentleman from Minnesota [Mr. VENTO] and the amendment offered by the gentleman from Wisconsin [Mr. KLUG] make an awful lot of sense.

Clearly this legislation in the last half-hour has been improved by the amendments offered by the gentleman from Texas [Mr. STENHOLM]. But now we are down to the crux of the program, which is whether or not the taxpayers of this country are entitled to have the costs of this program covered by those who benefit from it.

□ 1245

The problem we have in the existing program is that, in effect, the benefits or the formula, the new formula offered in this legislation is simply arbitrary. It does not reflect what the real cost of doing business is or what the real potential for profit is or the qualities of the lands, which are related to those across the Federal grazing program. The fact of the matter is, as pointed out by the gentleman from Wisconsin [Mr. KLUG], it appears that the States for comparable lands are able to much better negotiate with the ranchers, with the grazers on the basis of the value of those lands. Those are the people who are competing right alongside of the people who have Federal allotments that have a much lower cost in terms of the AUM for those lands.

When the Federal grazer goes to sell their cattle, they do not sell it at a lower price because they had a lower price of production. They all go to the same auction. They all go to the same purchaser, to the slaughterhouse, however the purchaser is decided, and a price is published or bid and they do not ask whether you are a Federal cow, a State cow, or a private sector cow. And therefore, what we see is a subsidy

that flows to the Federal cow, the Federal grazer, in this case, as opposed to that which goes to the person farming or grazing on private sector land and/or grazing on State lands that are in the same area, same vicinity and comparable for that production.

This has historically been a problem in the West. It certainly happens in my State of California where we have Federal water and we have State water. Federal water or State water will grow tomatoes; one is a Federal tomato and one is a State tomato. But when you go to Hunt Foods or Libby-McNeil, they do not ask if you are a Federal tomato or a State tomato. They say, this is what we are paying per ton of tomatoes. There is, in fact, a subsidy.

I think that for the moment, just as we had to finally make a decision that we were going to let the States start collecting royalties on some oil and gas because they were more efficient than the Federal Government, I think here we ought to think about and the gentleman from Wisconsin [Mr. KLUG] suggests we should be pegging the Federal return to the taxpayer based upon what the States charge because they seem to be much more efficient in getting that return to their taxpayers for this land.

Again, the formula that is presented by the gentleman from Oregon [Mr. SMITH] does not take into account the differences in the quality of the land, the land in Nebraska, the land in Colorado or up in the northern corner of California or the land in Arizona. Some cows eat creosote and have to go 40 miles an hour just to stay alive. Other cows are standing around in high clover. And there is no distinction. But there is a distinction when we get to the State leasing of these lands.

I think this is a fair, nonprejudicial way to allocate these resources. As the gentleman from Wisconsin [Mr. KLUG] points out, even this will not recover to us the full cost of doing business. But we can work on that. We can continue to work on the efficiencies and the costs of this program by the agencies that are running it.

First of all, we have got to stop the hemorrhaging of subsidies that flow out of this program and deprive the taxpayer of that return. This Congress over the last several years, in efforts to balance the budget, has assessed fees on multiple users, even in the granddaddies of all the water projects out in California. We now every year update the cost of doing business. We charge more and more as the cost goes up. No longer do we just pass that on to the taxpayer and those irrigators have to absorb that.

That is a decision we made a number of years ago, 3 or 4 years ago, as we decided to try and reduce this Federal deficit. We should be doing the same with respect to the Federal grazing program and, with the inclusion of this amendment, we have a very substantially improved bill beyond those improvements provided by the Stenholm amendment and the recent changes by the chairman of the committee. Without it, without this amendment or the Vento amendment, this is clearly a seriously flawed program with respect to the interest of the national taxpayers.

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

Mr. Chairman, I totally agree with the gentleman from California's statement that says when a rancher brings a calf to the market, the market does not differentiate whether it is grazed on State land, Federal land or private land. As I stated during the earlier debate, the general debate, if I were convinced that this was a subsidy for Western ranchers that accrued an unfavorable advantage to them over my Texas constituency, I would not be standing here today arguing, as I am, because it would be rather foolish politically or economically.

I have spent years trying to ascertain what a fair grazing rate is. I have listened to those that make the argument today on behalf of the taxpayer that it should be much, much higher. But then I have also spent the time analyzing that many times those who have not taken all of that time really are trying to compare apples and oranges. Because as I stated before, there are other costs of a rancher doing business on Federal lands that do not accrue to a private owner. For example, the owner of the land usually furnishes the fences and fencing is a very, very expensive endeavor. I rise in opposition to the Klug amendment.

I come at it, and I do not question sincerity of the gentleman from Wisconsin [Mr. KLUG] at all. He believes there is a subsidy. I believe there is not. I believe the facts are on my side. This is for colleagues to make that determination.

One of the things that I do in the base bill, the Vento amendment, though, the 2,000 animal unit divided by 12 months, that is 167 cows per year. Now, there are very few if any real working ranchers that can survive on this low threshold of gross receipts. So the intent of the amendment that is being amended is one of which I really ask our colleagues to take a look at it, because it displays a lack of true knowledge of the cattle industry today.

Also in the Klug amendment, having these grazing fees based upon State land rates, I think, would be an administrative nightmare. If we think the Tax Code is complex, currently let us take a look at the administrative cost. Imagine, two Federal agencies trying to implement a minimum of 11 different fee structures depending on location. I know the intent is good. At first blemish, it makes some sense. But then when you get down to the administrative cost, I find it interesting that some of the objections are dealing with the cost already of the BLM and the Forest Service in administering the program.

If we go back and study the reams of studies and papers that have gone into this, it gets into what we all commonly call an accounting gimmick, how we allocate costs. We have a BLM and we have a Forest Service in order to manage Federal lands, one use of which is grazing. But there are other uses. Wildlife, public use and the rancher only gets the use of the grazing and in return he puts an investment back into that land and it is a considerable amount of investment that they have to put into Federal land.

So I think when we look at the administrative nightmare of the Klug amendment, charging different State-based fees is going to be unfair, unless we come at the conclusion that somehow these Western ranchers are receiving a subsidy. I do not believe that the facts will bear that out. I encourage opposition to both the Klug and the Vento amendment.

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

Mr. STENHOLM. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, the gentleman pointed out in my underlying amendment that 2,000 was not enough, 2,000 AUM's was not enough for a family ranch to make a living. I would point out that 91 percent of the permittees have less than 2,000 AUM's so 91 percent of them cannot be wrong, can they? Does the gentleman want to tell them that they should not be in business? Is that the point?

Mr. STENHOLM. Mr. Chairman, no, that is not the point that I was making in the debate. What I am saying, when we start picking arbitrary numbers, we begin to get into all kinds of problems with the industry which we are discussing today. That is my only point.

Mr. VENTO. Mr. Chairman, if the gentleman will continue to yield, my point is that I am trying to differentiate in terms of a family ranch in terms of, the gentleman disagrees and we disagree about the subsidy. That is fine. But in terms of the fact that they are in fact in business and furthermore, of course, on the gentleman's time, I would point out that this formula in the bill is completely arbitrary.

The CHAIRMAN. The time of the gentleman from Texas [Mr. STENHOLM] has expired.

(By unanimous consent, Mr. STENHOLM was allowed to proceed for 2 additional minutes.)

Mr. VENTO. Mr. Chairman, if the gentleman will continue to yield, the formula is completely arbitrary in terms of what the costs are with regard to BLM. It looks at what the revenue is raised by beef over a 12-year average and then what the 12-year average is for a 6-month T bill and then multiplies it out and says that is our return.

But that does not have anything to do with what the cost is to the BLM or to the management side of this at all.

Mr. STENHOLM. Mr. Chairman, I do not disagree with that. My concern or my opposition to what the gentleman, both gentlemen are attempting to do, lies in the fact that nearly 50 percent of Western lands are owned by the Federal Government. Fully 50 percent of the Nation's marketable lands, 20 percent of the calves go to feed lots or are raised in Western public States. My concern is that we do not disrupt normal marketing arrangements, normal business practices in something as significant to the cattle industry as these areas are.

If I were convinced, as the gentleman is convinced, and the gentleman from Wisconsin [Mr. KLUG] is convinced and others are convinced, that there is an unfair subsidy, I would not be standing here arguing that. I am of the opinion there is not an unfair subsidy. I disagree with those that have come to different conclusions. That is my concern and why I am participating in opposing the gentleman's amendment and the Klug amendment.

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

Mr. STENHOLM. I yield to the gentleman from Wisconsin.

Mr. KLUG. Mr. Chairman, I will accept the premise that we could disagree on whether there is a subsidy involved here or not. But if I can, let me respectfully disagree on what essentially is simpler for the Federal Government to administer.

Here is what happens. We find out what the State rate is, and on Federal lands in those States the Federal Government charges it, versus this share is equal, this is the committee report language, the share is equal to the average rate of return on 6-month Treasury bills. The averages are calculated over a 12-year period corresponding to the normal cattle market cycle, thus stabilizing prospective annual rates of change in the calculated grazing fee.

You are essentially setting up a very convoluted formula that is based on a rolling price of beef which has nothing to do with the costs of running the program on Federal lands.

The CHAIRMAN. The time of the gentleman from Texas [Mr. STENHOLM] has again expired.

(On request of Mr. KLUG, and by unanimous consent, Mr. STENHOLM was allowed to proceed for 1 additional minute.)

Mr. KLUG. Mr. Chairman, if the gentleman will continue to yield, he may have a lot of objections to the amendment, but I think simplicity simply says we charge on the Federal lands what we charge on the State lands. We do not have to have a program that is going to put us through all kinds of calculated relationships based on beef prices in the future, beef prices in the past and T bill prices 12 years ago. For simplicity's sake and for administrative costs, I think it is simpler to charge on Federal lands what we charge on the State land, period, and here is the bill.

Mr. STENHOLM. Mr. Chairman, reclaiming my time, I would point out to our colleagues that the State fees that we are discussing are set based on the Federal charges and are as tainted by the current law that we are implementing. So therefore it is not nearly as simple because we are talking about changing something of which we are already basing on the Federal structure.

Mr. MILLER of Florida. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the Klug amendment. I believe the changes made to the grazing fee formula in this bill will not really change things at all.

Under this bill the Federal Government will still be using the taxpayers' hard-earned money to subsidize grazing for giant companies who do not need a government handout. This is corporate welfare and it is just plain wrong.

It cost the Federal Government, which means the taxpayers an average of nearly $6 per animal unit month just to administer the grazing program. The Government currently charges a grazing fee at the rock-bottom price of $1.35 per AUM. And if the Government had utilized the new formula proposed in this bill for this grazing year, that fee would have increased to only $1.84 per AUM. That is far short of the $5.81 per AUM it costs the taxpayers to run this program.

Even worse, the Congressional Budget Office estimates that this new formula would increase grazing fees an average of only 20 cents per AUM during the next 4 years. This is not change, and it is not fair to the American taxpayers.

Who benefits most from the grazing program? A small number of large-scale ranchers who comprise less than 10 percent of these holding grazing permits, but yet they control more than 60 percent of the land.

To help this, to help end this Government handout, my good friend from Wisconsin has offered an amendment that would make Federal grazing fees comparable to those charged by the State. State grazing fees are consistently higher than Federal grazing fees and closer to the rates charged by the private sector. As a result, the Klug amendment would allow the Government to generate an additional $30 million a year in revenues to help offset the cost of administering this program.

□ 1300

This is a step in the right direction. I do not think anyone can argue with the fact that the Government's grazing policies need to be reformed. There does need to be more uniformity in how Federal agencies administer grazing programs on public land. But if we are really to reform the program, we should not be leaving grazing fees essentially unchanged.

This Congress has made significant progress toward reducing waste and spending money more wisely. But the new grazing fee formula contained in this bill misses the mark.

I urge my colleagues to support the Klug amendment. A vote for this amendment will show America that Congress has committed to taking a big bite out of corporate welfare, not the taxpayers' wallets.

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

Mr. Chairman, I think we ought to again look at this question of fees with respect to State lands and with respect to the Vento amendment. First of all, I chased the tail of that baby for a while. In fact, I offered at one time to the livestock industry an opportunity to hold harmless the Federal Government in the management of its grazing practices, which would have meant that the fee would be determined by the cost of managing the grazing program on the Department of the Interior and Forest Service lands. I withdrew that effort simply because I would never catch up.

Now, anybody who thinks that the Federal Government is an efficient operator would please step forward. I see none. The point is that if they load up the cost, as they have in the Department of the Interior and the Forest Service, if they load up the cost in managing the fee, they can argue they will never have a fee that will compensate for the cost of the Government doing business.

Therefore, we come now to the question of what is proper and what is a fair return to the Government? I insist that this new formula is much fairer and returns an additional $6 million to the Treasury for the purposes of grazers grazing public lands. The State land idea is wrong. We are comparing apples and oranges here. The State lands in every State are in much better condition and much higher quality than the Federal lands. They are, in many cases, pulled together in an operating unit so that there is less cost of operating from State lands. We cannot compare State lands and Federal lands in the same breath, and we should not have a fee on the State lands the same as Federal lands.

The question is many times argued about private lands here. And I ask, where is the subsidy? And I submit to my colleagues, there are four studies that I have outlined here on the board within the last 5 years that indicate that it costs more to do business on public lands if you have a public grazing permit than it does on private lands.

I would much prefer and any livestock person would much prefer to

spend $10 on AUM in a good private pasture than I would a $1.84 in the rocks and the brush. Why? Because you get a fully equipped department with the private land. Many times the management, we get the water provided, we get the fences provided, and it costs much less money.

And then you say, why, then, do not people who graze on public lands rent private pasture? Simply is, it is not available. The answer is, it is not available. Ninety percent of the lands owned by the Federal Government in the State of Nevada, 50 percent in the State of Oregon, go down the line, there is not the availability of private land or that is where we would be. I would much prefer to turn my cattle out in Virginia at $10 or $15 in AUM than to graze them in my part of the State of Oregon, where you are right, we do have problems, the cows need wheels to go from water hole to water hole. So this idea that we are comparing State and private pasture to the public lands by the Federal Government is a dead wrong idea.

Now, the fair share is this. And let us again address the corporate demons. These people are talking about 8, 8 permittees out of 23,000. And when they say that great corporate pork, well, there are eight of them. But 23,000 families are out there depending on us and depending upon a fair bill. Let us keep them paying their bills. Let us keep them on the public lands. And for goodness sake, let us get a fair return by turning down the Klug amendment and the Vento amendment and adopting this very fair new proposal and program, which returns an additional amount of money to the Treasury.

Mr. VENTO. Mr. Chairman, I rise in support of the Klug amendment.

Mr. Chairman, this amendment looks familiar. It is one I offered in full committee when we marked up the bill. And fundamentally I support what the gentleman from Wisconsin [Mr. KLUG] is doing. I think if we cannot do this, it would be good to do what I am proposing at least. But this is a better amendment, frankly, in terms of trying to deal with the cost of grazing on our public lands.

As has been pointed out by the gentleman from Florida [Mr. MILLER] and the gentleman from California [Mr. MILLER], we have got the Millers agreeing, and the gentleman from Wisconsin [Mr. KLUG], the fact is that we spend nearly $6 an AUM and receive under this bill, under CBO's suggestion, that over the next 5 years it will be about 20 cents, in fact, 20 cents more than what the fee is, $1.55 per AUM. But if we had had this fee in effect over the last 20 years, in 15 of those years we would have gotten less back per AUM, according to the Congressional Budget Office and there is no base fee or floor in the formula so it could sink very low.

So, in fact, if we took this formula, this is not an improvement in a formula, this is a change without benefit in terms of what it does and in fact may lower the AUM fee on public lands. It certainly continues the existing type of below-market type of fees in the West. And the fact is, as the gentleman from Wisconsin [Mr. KLUG] is pointing out, that many of these States have similar lands, and, of course, such States are charging on the basis of an animal unit month, the amount of forage that it takes to raise an animal, calf-cow combination, for 1 month, the same measurement and definition in this bill.

So we are comparing apples and apples. The bill's proponents can go through all the machinations that they want, those who are advocates for this, but we are comparing the exact type of value that is being conveyed by the State and Federal AUM. No one has demonstrated that it is any different. I think it is ridiculous in some cases to raise cows and to put land to this particular use when, in fact, it takes 2,000, 3,000, 3,700 acres to raise a cow. Those cows do end up with more miles than your old Chevrolet. But the fact is that is what ranchers chose to do. And the fact is that the way this formula works, it gives them that AUM for $1.55 a month according to CBO under this new formula.

As I said, in the last 20 years, 15 of the years they would have got lower fees. This proposal that the gentleman from Wisconsin [Mr. KLUG] has made that I proposed gives you some options. It says, let us try to get closer to what the cost of management of the program is.

The fact is that the formula of this bill is a completely arbitrary formula. It suggests, if you have the cows out there, this is the price of beef. Then the Federal Government is entitled to whatever the average beef price is for 12 years, a 6-month T-bill rate for 12 years. So it just returns a certain amount of money to us. The fact is it costs us three times that amount to run the program, three times that amount just to manage the 28,000 grazing permittees.

We can argue the Federal Government is inefficient, but the fact is that this type of discrepancy, the answer is not to continue to charge below-market prices. We need the resources so that we can, in fact, run the programs in an efficient and effective way. But the land managers are being denied that today.

In fact, if we look at the dollars spent in terms of the BLM programs, we find that they have not substantially increased for this purpose and that I think, frankly, those public land managers do a pretty good job considering the limited resource in the area that they have. We are talking of over 250 million acres of Federal land that are given over to this particular purpose.

The Klug amendment will say that a State land, State-leased allotment right along the side of a Federal allotment would be paying, in essence, the same. In other words, when they go to market, there is no difference. And we are talking about animal unit months, the amount of forage. So the parity here is nearly absolute, as absolute as lands can be. But we look specifically at the lands to see what their productive capacity is. That is what is involved in terms of this management.

As for complexity, there is no complexity. Those that were shaming the gentleman from Wisconsin [Mr. KLUG] for complexity here have not really looked at the complexity in this entire program in terms of measuring AUM's and the ephemeral nature of some of these areas and the weather and seasonal changes. There is a lot of management responsibility that is conveyed to the BLM in terms of managing these lands properly.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I want to say again the suggestion that somehow the State grazing fees only apply to superior land is just a misnomer.

The fact is, in Arizona, in California, in Colorado, the State lands very often are right next to the Federal lands. They are carved out of the same lands. They were put there in an arbitrary fashion. And the quality is very much the same. But in Arizona are we going to pay $2.18, and under this formula we are going to pay $1.55? In California, we are going to pay $500 a year minimum. Under this we do not know what we are going to pay. In Colorado, we pay $6.50 to $7.17. And under this we pay $1.55.

The point is this: It is sort of like new math. Joe and Moe are both ranchers. Joe farms on Federal land, and Moe farms on State land. Joe and Moe send their cows to market. They get the same price. Joe on Federal land gets more money back than Moe on State land. What is that called? That is called a subsidy. We have to end it right now.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. VENTO] has expired.

(By unanimous consent, Mr. VENTO was allowed to proceed for 1 additional minute.)

Mr. VENTO. Mr. Chairman, I think the Klug amendment is an improved amendment to mine. I would urge the Members to vote for it and then to vote my amendment up, as amended, or as it is. It gives us some options in terms of looking at family and ranchers. And I think that ultimately the end result is that when you subsidize and create this kind of dependency with these types of reduced or suppressed prices, that do not reflect what the costs are

to the Government, we call it a subsidy.

I think we ought to stop the subsidy for all. If we cannot do it for all, we ought to at least do it for the 9 percent of the permittees, the corporate cowboys, that control 63 percent of the forage, 63 percent of the forage by 9 percent, and try to retain it then for the family ranchers that some may feel deserve a subsidy. Frankly, I have my view on that. But I would hope we can support the Klug amendment. But if we cannot, at least let us cut it out for the corporate cowboys.

Mr. Chairman, the Klug amendment only addresses the fee issue because that is the only thing Congress needs to address at this time. The current grazing fee is $1.35. Mr. Smith's bill would raise that by 20 cents.

This amendment would set the Federal grazing fee at the level each State charges for grazing on State lands. Every Western State charges more than the Federal Government, with several charging six times as much. Many of these State lands are of the same character as the Federal lands and the services provided are similar or identical.

The amendment is consistent and equitable, certainly more so than the fee formula contained in H.R. 2493. The bill's fee formula Members may recall is similar but even more egregious than the one that some Members tried to get enacted in the 104th Congress. It is a formula that is not based on fair market value or sound scientific principles. Terms are imprecise and confusing. Perhaps the proponents of the bill could explain exactly how they arrived at a formula that provides that the grazing fee shall equal the 12-year average of the total gross value of production for beef cattle for the 12 years preceding the grazing fee year, multiplied by the 12-year average of the U.S. Treasury securities 6-month bill "new issue" rate, divided by 12.

More importantly, the bill's fee formula is flawed in its application. If the formula had been in place the past 20 years, the grazing fee would have been less than the flawed PRIA formula fee for 15 of those years. Under the bill, ranchers would pay less in fees than they did in 1980.

Public land ranchers presently pay from 4 to 7 times less than ranchers who graze cows on private and State lands. The free market is allowed to work on private lands, yet on public lands a confusing Federal formula keeps public land grazing fees artificially low. The result? Public land ranchers, who produce just 2 percent of the beef consumed in the United States, have a decided economic advantage over ranchers who use private or State lands.

I am not aware of ranchers packing it up based on the grazing fees States charge. This amendment is a simple, direct way to address the grazing fee issue and I urge its adoption.

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

Ranching on lands that are managed by the Federal Government is very different than ranching on lands that are managed by the State government. In fact, I would like to remind the gentleman from Minnesota [Mr. VENTO] and the gentleman from California [Mr. MILLER] that, indeed, ranching on State land, you deal with primarily one agency. When we are ranching on Federal lands, we are dealing with the U.S. Army Corps of Engineers, the Forest Service, the Bureau of Land Management, the National Marine Fisheries Service, the Fish and Wildlife Service, the Department of Energy, Parks from time to time, and now the tribes have more say in the governing of public lands. It goes on and on and on.

The fact is is that ranchers are responsible for their own fences on public lands, watering, seeding, keeping up wildlife, improvement of wildlife ponds, keeping track of all the livestock when there are visitors on the land, recreationists who leave gates open, keeping track of what people are doing on the allotment. It is a whole different ball game.

This is a very thoughtful formula. And, in fact, people like me, who represent people from the West, as does the gentleman from Oregon [Mr. SMITH], I personally feel like the good chairman has been far too generous with the Federal Government. But this is what we have agreed to. And I appreciate his concern. But a 36-percent increase in the animal-unit per month for every single animal? That is a huge cost of doing business.

Let me tell my colleagues some of the other things that are different about managing on Federal lands and grazing on Federal lands instead of State lands. Let me give my colleagues an example.

In Idaho, and some of the Western States, we understand that sagebrush competes with grass. Out there on the arid western lands, this is 20-mile-an-hour cow country, at best. A cow has to graze at 20 miles an hour all day long just to get enough to eat. Now we have our Federal land managers out there planting more sagebrush, which competes with the grasslands.

Mr. LEWIS of California. Mr. Chairman, will the gentlewoman yield?

Mrs. CHENOWETH. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I am sorry to interrupt the thought of the gentlewoman from Idaho [Mrs. CHENOWETH], but at this moment she just brought to mind the reality that just a few years ago we had a serious debate on this floor regarding desert lands in the West and some people were suggesting that maybe those lands would not be bad for grazing. There was an amendment on the floor which opposed grazing, which eventually passed.

The same two gentlemen on the other side of the aisle, the gentleman from California [Mr. MILLER] and the gentleman from Minnesota [Mr. VENTO] strongly opposed the grazing on that land, when it was obvious that not only would it be difficult land for grazing in terms of 20-mile-an-hour grazing, nonetheless, logical use of that land. It was imposed by exactly the same people, who, from what I can tell, want no grazing anywhere, and especially they are ready and willing to hurt the small farmer who is hurt most by the adjustments they are discussing here.

□ 1315

Mrs. CHENOWETH. I thank the gentleman from California. I do want to say that with this fee increase, we really will be succeeding in running our cattlemen off the land. We have got to remember, this is the part of America's heritage and culture they write songs about, they copy their styles of dress back here in the East, they run their same kind of rigs back here, they make movies about them, they sing songs about them, and yet this body is willing to cut that part of America's heritage and culture loose. I say no. America is great because America is different. We are different than Madison, WI, or in Mr. VENTO's district in St. Paul. It is very, very beautiful, but even the gentleman from Minnesota said these public lands are different. They are arid. He understands that. Why is that debate different now than it was then?

Mr. HILL. Mr. Chairman, will the gentlewoman yield?

Mrs. CHENOWETH. I yield to the gentleman from Montana.

Mr. HILL. I thank the gentlewoman for yielding. I am sure the gentlewoman is aware of the fact that there was a study in Montana, as a matter of fact, on this very subject, about the difference between State lands and Federal lands and management. One of the things that this study looked at is why is it that State lands are more productive and why is it that State lands cost less to administer than the Federal lands. They found that the State of Montana did a better job of managing its lands for lower cost. In addition to that, the lands were more productive because the objective of the management of State lands in Montana was to maximize the economic return. That is not, as I think the gentlewoman knows, the objective of management to Federal lands. It also discovered that the State provided fencing, it provided water, it provided a lot of additional amenities that the Federal Government does not provide.

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

Mr. Chairman, I thank the chair, my colleague from Iowa who is presiding over the debate this afternoon, and I thank my colleagues from the West under the leadership of the chairman of the Committee on Agriculture, my good friend from Oregon. I appreciate the spirit of the overall legislation. I rise in strong support of that, but take issue quite frankly with the amendments offered by my colleagues from Minnesota and Wisconsin.

It is important to remember a couple of things when we talk about so-called public lands, Mr. Chairman. Public lands are not public parks. They are not public libraries. They are not public museums. Indeed, Mr. Chairman, a better definition is federally controlled land. Indeed, I would direct the attention of all my colleagues, Mr. Chairman, to Gila County, AZ, where less than 5 percent of the land in that county is owned by any private entity.

I listened with great interest to my colleague from California talk about the State of Arizona, the youngest of the 48 contiguous States, admitted to this Union on Valentine's Day, 1912. Something to remember is that one of the conditions for statehood was that Arizona had to surrender vast amounts of its territorial lands to the Federal Government as a condition for statehood. When we talk about the territorial lands, the lands surrendered to the Federal Government, we are talking about the most choice land. Indeed, if I had a dispute with my colleague on the other side from California, as he tried to lump together Arizona and other States in dealing with this and the appeal I would make to my colleague from Wisconsin, is that we are not talking about the same land. We are not saying that it is the same property, even if it is property adjacent, because the Federal Government had the right to select the acreage that it took from the territory that became the State. And it changed the whole situation there.

So indeed my colleague from Oregon is quite correct. When the Federal Government was given the pick of the land, there is a fundamental difference in that property. But I would also appeal to those in think tanks who love to talk about socialist cowboys or to those who would claim that somehow these are evil subsidies or corporate welfare, remember the history, Mr. Chairman. Do you not believe that if the ranchers of the West had the opportunity to buy private property as exists east of the Mississippi River, that they would gladly surrender the current situation for a portion of land?

Mr. Chairman, knowing that sadly sometimes policy debates are displaced by political consideration and a deliberate misunderstanding of what I am saying, let me be very clear on this point. I am not asking that all federally controlled land be put up for sale. I am not saying that. But I am saying that with the vast amount of land owned by the Federal Government, you better believe that ranchers and farmers would love to have the opportunity to have that land in private ownership. And we are forced into this situation because of the history of our Nation, because of the fact that the Federal Government insisted in territories like Arizona that became States that a majority of that land, or a significant portion of that land, be under the control of the Federal Government.

That brings us here to this debate today. That is why we need to reject the proposed amendments and embrace the overall legislation brought to the floor by my colleague from Oregon, because we have worked to fashion a reasonable compromise. Indeed, the gentlewoman from Idaho had it right when not everything in the legislation is exactly to the liking of our constituents. But we have hammered out in the spirit of compromise to go the second mile with those east of the Mississippi River who are suburbanites, with those who believe that they can capture the issue and so misframe it as to perpetuate the myth that those who make their livings off the land are not good stewards of the land. Quite the contrary is true, Mr. Chairman. And because of conditions that exist today, because of the presence of the Federal Government, because of the history of the settlement of the West and the long and rocky road to statehood for many of the territories west of the Mississippi River, we are brought to this situation here today.

For all those who talk about subsidies, for all those who call this a form of corporate welfare, Mr. Chairman, they are dead wrong. Support the underlying legislation. Reject the proposed amendments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. KLUG] to the amendment offered by the gentleman from Minnesota [Mr. VENTO].

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

RECORDED VOTE

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

A recorded vote was ordered.

The CHAIRMAN. Pursuant to clause 2(c) of rule XXIII, the Chair may reduce to not less than 5 minutes the time for any recorded vote that may be ordered on the underlying amendment offered by the gentleman from Minnesota [Mr. VENTO] without intervening business or debate.

The vote was taken by electronic device, and there were—ayes 205, noes 219, not voting 8, as follows:

[Roll No. 546]

AYES—205

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Bass
Becerra
Berman
Bilirakis
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Cardin
Carson
Castle
Chabot
Clay
Clayton
Clement
Clyburn
Coble
Conyers
Cook
Costello
Cox
Coyne
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Dickey
Dicks
Dingell
Dixon
Doggett
Doyle
Engel
Eshoo
Evans
Farr
Fattah
Fawell
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gejdenson
Gephardt
Gilman
Goss
Green
Greenwood
Gutierrez
Hamilton
Harman
Hastings (FL)
Hilliard
Hinchey
Hoekstra
Hooley
Horn
Hoyer
Inglis
Jackson (IL)
Jefferson
Johnson (CT)
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kingston
Kleczka
Klink
Klug
Kucinich
LaFalce
Lampson
Lantos
Leach
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDade
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Menendez
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moran (VA)
Morella
Nadler
Neal
Neumann
Obey
Olver
Owens
Pallone
Pappas
Pascrell
Pastor
Payne
Pease
Pelosi
Petri
Porter
Portman
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Rivers
Rodriguez
Roemer
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sanford
Sawyer
Scarborough
Schumer
Scott
Sensenbrenner
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Thompson
Tierney
Torres
Towns
Upton
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Whitfield
Wise
Woolsey
Wynn
Yates

NOES—219

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chambliss
Chenoweth
Christensen
Coburn
Collins
Combest
Condit
Cooksey
Cramer
Crane
Crapo
Cunningham
Danner
Deal
DeLay
Diaz-Balart
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fazio
Foley
Fowler
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Gordon
Graham
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Holden
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jenkins
John
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kelly
Kim
King (NY)
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette

Lazio
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
Martinez
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meek
Metcalf
Mica
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Parker
Paul
Paxon
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Reyes
Riggs
Riley
Rogan
Rogers
Royce
Ryun
Salmon
Sandlin
Saxton
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Walsh
Wamp
Watkins
Watts (OK)
Weller
White
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—8

Cubin
Deutsch
Gonzalez
Jackson-Lee (TX)
Moakley
Schiff
Weldon (FL)
Weldon (PA)

□ 1344

Messrs. RIGGS, CRANE, ADERHOLT and SKAGGS and Ms. EDDIE BERNICE JOHNSON of Texas changed their vote from "aye" to "no."

Messrs. WEXLER, DAVIS of Florida, COX of California and ANDREWS and Ms. MCKINNEY changed their vote from "no" to "aye."

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Chairman, on rollcall vote 546, the Klug amendment to H.R. 2493, I was unavoidably detained in meetings. Had I been present, I would have voted "aye."

□ 1345

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. VENTO].

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

RECORDED VOTE

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

A recorded vote was ordered.

The CHAIRMAN. Pursuant to clause 2(c) of rule XXIII, the Chair will reduce this vote to not less than 5 minutes.

The vote was taken by electronic device, and there were—ayes 208, noes 212, not voting 12, as follows:

[Roll No. 547]

AYES—208

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Berman
Bilirakis
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Cardin
Carson
Castle
Chabot
Clay
Clayton
Clement
Clyburn
Conyers
Cook
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Doyle
Duncan
Engel
Eshoo
Evans
Farr
Fattah
Fawell
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gejdenson
Gephardt
Gillmor
Gordon
Green
Greenwood
Gutierrez
Hamilton
Harman
Hastings (FL)
Hilliard
Hinchey
Hoekstra
Hooley
Horn
Hoyer
Inglis
Jackson (IL)
Jefferson
Johnson (CT)
Johnson (WI)
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kingston
Kleczka
Klink
Klug
Kucinich
LaFalce
Lampson
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDade
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Miller (FL)
Mink
Moakley
Moran (VA)
Morella
Nadler
Neal
Neumann
Oberstar
Obey
Olver
Owens
Pallone
Pappas
Pascrell
Pastor
Paul
Payne
Pease
Pelosi
Petri
Porter
Portman
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Rivers
Rodriguez
Roemer
Rohrabacher
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sanford
Sawyer
Scarborough
Schumer
Sensenbrenner
Serrano
Shays
Sherman
Skaggs
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson
Tierney
Torres
Towns
Upton
Velázquez
Vento
Visclosky
Wamp
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—212

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cooksey
Cox
Cramer
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fazio
Foley
Fowler
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Holden
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jenkins
John
Johnson, E. B.
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
Martinez
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Minge
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Paxon
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Reyes
Riggs
Riley
Rogan
Rogers
Ros-Lehtinen
Royce
Ryun
Salmon
Sandlin
Saxton
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Walsh
Watkins
Watts (OK)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—12

Bono
Cubin
Danner
Deal
Deutsch
Gonzalez
Granger
Jackson-Lee (TX)
Schiff
Scott
Weldon (FL)
Weldon (PA)

□ 1353

Mr. SMITH of Michigan changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Chairman, on rollcall vote 547 to H.R. 2493, I was unavoidably detained in meetings. Had I been present, I would have voted "aye."

PARLIAMENTARY INQUIRY

Mr. DELAY. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. DELAY. Mr. Chairman, I have a parliamentary inquiry in asking how long we hold the votes open, again.

The CHAIRMAN. This was a 5-minute vote. Five minutes is the minimum length of time that this vote was supposed to be held open.

Mr. DELAY. In order to accommodate Members' schedules, should Members try to make the votes as quickly as possible?

The CHAIRMAN. The Speaker has made various statements on many occasions regarding this policy. I think Members are well aware of the policy.

AMENDMENT NO. 13 OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer amendment No. 13 as printed in the RECORD.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 13 offered by Mr. MILLER of California:

In section 107(a), strike paragraph (2) (page 36, lines 16 through 20) and insert the following new paragraph:

(2) FEE FOR FOREIGN-OWNED OR CONTROLLED GRAZING PERMITS OR LEASES.—In the case of a grazing permit or lease held or otherwise controlled in whole or in part by a foreign corporation or a foreign individual, the fee shall be equal to the higher of the following:

(A) The average grazing fee (weighted by animal unit months) charged by the State during the previous grazing year for grazing on State lands in the State in which the lands covered by the grazing permit or lease are located:

(B) The average grazing fee (weighted by animal unit months) charged for grazing on private lands in the State in which the lands covered by the grazing permit or lease are located.

Mr. MILLER of California. Mr. Chairman, as Members are now aware, we have just experienced two very close votes on whether or not the Federal Government ought to continue to subsidize grazing on Federal lands that are owned by the public, and continue that subsidy in a completely arbitrary fashion.

The question in the two previous amendments, first of all, was whether or not the Federal land grazers ought to pay at least those prices that are charged for rental of that land and the grazing of that land that the States charged for comparable lands within their borders, and in a very, very narrow margin, apparently the House decided that was not the case.

In the second amendment, the decision was whether or not, if we are going to subsidize these people in an arbitrary fashion to the tune of some $30 million a year that this program loses, should we subsidize also some of the largest corporations in this country, and should we also subsidize some the richest people in this country.

On a much narrower vote the decision was somehow, unbelievably so, that yes, we could continue to pour taxpayer dollars to the richest corporations and the richest individuals. I do not think that is how we got to a reduced deficit, but somehow we are going to continue it.

In this amendment, Mr. Chairman, the question is this for us: Do we think we ought to continue to pour Federal subsidies to those corporations that are foreign-owned, to those corporations that are grazing on Federal lands but are foreign-owned and operated here.

□ 1400

Should we continue to subsidize grazing operations that are 11,000 acres in size, 6,000 acres, 4,000 acres owned by the E.M. Remy Co. out of Switzerland, the Zenchiku Livestock Co. of 7,000 acres from Japan, Two Dot Ranch out of France and Switzerland, and it goes on and on. Should we be using taxpayers' dollars to subsidize these foreign operations?

Mr. Chairman, if that does not give my colleagues reason to pause as they cast their two previous votes to end these subsidies, we might want to understand that in some instances we are subsidizing foreign mining operations that are mining on their base properties, have gotten Federal allotments, are taking hundreds of millions of dollars off of Federal lands for which they pay no royalties to the taxpayers, and then the taxpayers are giving them additional subsidies for the grazing of the cattle.

Mr. Chairman, when will my colleagues stop insulting the American taxpayer with this kind of program? They could not do it, they could not bring it upon themselves to say we ought to just charge what the States apparently are able to charge in a much more efficient fashion. So they could not stop the taxpayers' subsidy there.

They could not bring it upon themselves when we just singled out the top 7, 8, 9 percent of the users of this land who are among the largest and richest corporations and individuals in this country. They could not stop it there. Can they stop it here?

Mr. Chairman, they are using these taxpayer dollars to subsidize foreign corporations, some of whom are, in fact, double-dippers. They are dipping into the Federal Treasury because they are mining on Federal lands, but they do not provide any royalties for the billions of dollars that they take off in silver and gold, and then they get to dip to graze the cattle, which is incidental to their mining operation.

Mr. Chairman, at some point, at some point this body has got to understand that they are insulting the intelligence of the American people if they believe that they accept this or they think this is acceptable, because it is not and that is what we have to do.

Mr. Chairman, these foreign firms that I am asking to end the subsidy for are in the top 4 percent of the size of these cattle operations. These are not the "Mom and Pops" that some people said that they wanted to save in the last amendment from an increase in cost. This is not the family farmer; these are the big fellows who are owned by foreign corporations, who have decided they can come here and raise cattle with subsidized dollars.

Mr. Chairman, I think we ought to put an end to that. I think we ought to understand that this is a subsidy to which they are entitled, with no limits under the current law. My amendment would end that subsidy. They would simply have to pay the State rates or the private rates. We are not gouging them. We just ask that they pay what the State charges for comparable lands within their boundaries.

Mr. SMITH of Oregon. Mr. Chairman, I move to strike the last word.

Mr. Chairman, without getting into the question of trade with foreign countries, let me read for the record a quote from the Taylor Grazing Act, and I am quoting: "Grazing permits shall be issued only to citizens of the United States or to those who have filed the necessary declaration of intention to become such, or required by naturalization laws, and to groups, associations, or corporations authorized to conduct business under the laws of the State in which the grazing district is located."

Well, Mr. Chairman, obviously if there are operations, foreign operations, they have to follow the law of this country and of the Taylor Grazing Act, so they have to be citizens.

If this is a direct assault at, let us say, the Japanese, then maybe we ought to remind ourselves that Japan takes about $1 billion of beef every year, maybe it is a $2 billion market. I would suggest that if we are going to close the borders of America around this issue, then we indeed are going to cause international concerns.

Foreign countries, whomever they may be, the people must be citizens to have this permit. But if they are targeted, they will obviously retaliate. So I see no reason for this amendment. It has no place in this discussion. We have had the discussion about fee increases. This is mischief. There is no purpose in it, and I suggest we oppose it.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Oregon. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I could not help but react to the remarks of the gentleman from California [Mr. MILLER] regarding the earlier two amendments that were just referenced. Indeed, in that case there was a very strong bipartisan vote in opposition to those amendments. I would hope that the same kind of logic and sense would apply to this amendment and we would get the same kind of bipartisan support.

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman.

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

Mr. Chairman, I want to speak in favor of the amendment that the gentleman from California [Mr. MILLER] has just outlined. I want to make an appeal to Members of the House.

Mr. Chairman, I am a Member of the House of Representatives, proud to serve here and I think, Mr. Chairman, you know that I have said on more

than one occasion that respect for the House includes being able to win and also understand what losing is all about, being defeated.

The last two amendments did not come out the way I voted. I understand that and I accept that. But, Mr. Chairman, what I am hoping is a basic sense of fairness can prevail. Those votes were close. People were paying strict attention to what it was they were voting on. And I think we have to give the best possible motivation and express goodwill toward one another with respect to our votes.

So my appeal on asking Members to vote for this amendment is one based on fairness. With all due respect to the previous speakers, this is not a question of closing borders; this is a question of whether we are going to extend the same privileges explicit, I would say, Mr. Chairman, in the last two amendments to foreign-controlled corporations.

Mr. Chairman, I do not think that this can be reduced to an argument about whether or not we are treating our western brothers and sisters fairly or those in the majority of areas where the grazing takes place. It is one thing for us to involve ourselves in a discussion as to what is the appropriate legislative approach on grazing land. It is another thing to subsidize foreign-controlled permittees. I do not see how we can make an argument based on fairness, based on fairness to the American taxpayer, that would allow us to do this.

All the amendment of the gentleman from California [Mr. MILLER] is saying is that if businesses come in and make these investments as a foreign-controlled permittee, that they should not be allowed to have the benefit of the American taxpayer dollar. This is not an assault on anyone overseas.

Mr. Chairman, I would be very interested to see what kind of argument would be made when we look at the kind of laws that apply against Americans being involved with owning land and being able to extract minerals or to engage in other kinds of agricultural business in other countries.

Mr. Chairman, we are always the ones that are expected to do the producing for others in terms of fairness. What we are asking for is fairness for the American taxpayer here. Surely those who in good conscience made their votes on the other two measures can look to that same conscience to see, is this really the intent of those who favored the law as it is presently applied? Is it really the intent that these foreign-controlled permittees should be involved in this way?

Mr. Chairman, this is far from mischief. I do not think it is fair to characterize it that way. This is a fundamental question about what we have as a legislative foundation for the application of these laws. We have had our arguments, we have had our discussions as to whether the existing law and how it is applied, Mr. Chairman, is fair and appropriate. Surely it is a legitimate question. Far from being capricious or mischievous, it is a legitimate question as to whether the law ever intended this.

I ask, Mr. Chairman, that as Members come to vote on this particular amendment, can they in good conscience say that it was the intent and is the intent of this legislation to subsidize the foreign-controlled permittees? I think an honest evaluation, a fair evaluation would come to the conclusion it is not. And therefore I ask that we vote favorably on the amendment offered by the gentleman from California [Mr. MILLER] in the spirit of what has been accomplished here today in terms of the legislative process.

PARLIAMENTARY INQUIRY

Mr. VENTO. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. VENTO. Mr. Chairman, we were allotted 3 hours of general debate under the 5-minute rule. Can the Chairman inform me as to the time remaining?

The CHAIRMAN. There is 1 hour and 30 minutes remaining in overall consideration of amendments under the rule.

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

Mr. Chairman, I believe that no matter, the Taylor Grazing Act, as the gentleman from Oregon [Mr. SMITH], our chairman and friend, related to us, obviously did not anticipate that foreign nationals would indeed be awarded the Federal grazing permits and allotments.

Here it is not just a matter of a son of an immigrant as an example that was not naturalized and had not achieved citizenship yet having that particular option, but what is assumed here is that these are actually corporations and entities that are being treated as a person but are really, in essence, subsidiaries or actually the basic holding company of an international organization registered abroad. And, of course, when we go through the laundry list of who this is, and the system of these operations, we readily recognize that we are looking at vertical integration. They want to raise the beef themselves on U.S. public lands at low rates, subsidized rates, and in fact then process it and remove it to their home market.

So it is, I believe; and I think the numbers indicate that the cost of managing the grazing program on our Federal lands is nearly three times the cost, at least three times the cost of what is actually received by virtue of these fees.

Lost in all of this debate, of course, is the question of whether or not on a multiple use pattern that these 250 million acres of land, wilderness, forests, BLM lands, whatever the designation that they have on them, what is left behind is their use and what the conflicts and problems are with such use. Whether this is the highest and best use.

Mr. Chairman, we could or should be able to agree that, at least in terms of this benefit, that those who control these lands ought not to be in the hands of foreign nationals and if such entities control such lands they ought not to receive the subsidized rates but rather pay the higher State rates.

A month ago, Mr. Chairman, on this floor there was a debate about the voluntary conservation designations that went on with regards to some of our parks and some of the other areas, like the biological reserves that were discussed which were used for research, and all of this was voluntary. Here today we have actually the control of Federal lands in a sense through this allotment and permit process, which represents a direct seasonal control by a foreign entity in terms of these lands. That is really what this is about. They are controlling the grazing allotments and fees, are basically controlling and regulating these lands, given the same responsibilities, the same stewardship responsibilities and other responsibilities that are accorded to U.S. citizens and U.S. entities and receiving the same bargain basement subsidized rate.

Mr. Chairman, we have our disagreement about the subsidy going to them. We have our disagreement about the subsidy going to the corporations, corporate cowboys, the welfare cowboys. We have our disagreements, but I would think that there would be more consensus about whether or not this ought to extend beyond the borders to other countries and to other nonnationals that are under this bill and under the law, the way it is practiced, actually have that benefit. We should stop passing on this benefit, the subsidy at least at the United States of America border.

I think if we go back to 1937, I think the intention of Congress, the intention, was that this would be a benefit, that these lands would be available to the general public, to U.S. citizens, not to foreign national corporations or foreign nationals for their benefit, to be part of an integrated conglomerate.

Mr. Chairman, I submit to the Members that this is a good amendment. I do not know that it is going to correct everything in this bill, but at least it would make a statement about what I think is one of the most egregious problems of foreign nationals exploiting these lands for their benefit.

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

Mr. Chairman, I would like to say a few words in favor of the amendment

that has been offered to this bill by the gentleman from California [Mr. MILLER].

The purpose of the gentleman's amendment is very simple. It is not to restrict grazing on Federal lands at all. What the gentleman from California would do is simply ensure that foreign corporations who are using Federal lands and grazing on those Federal lands, grazing cattle and other animals on those Federal lands, pay the market price for those grazing rights, either the highest of the State or the private fee, or grazing on either State or private land.

□ 1415

This is a very reasonable amendment. It is something that should be supported by every Member of the House. Let us make it clear. We do not object to grazing on Federal lands that are suitable for grazing. We are in favor of that. Often grazing is compatible with most Federal lands. It can be in fact beneficial to some Federal lands. So we are not opposed to grazing on Federal lands.

We simply want to ensure that the American taxpayer is not taken to the cleaners by foreign corporations that are grazing their animals on Federal land at bargain basement prices, often one-third or one-fourth of the market value to graze on either private or State lands. That is what the Miller amendment would do.

This amendment simply recognizes that there are major foreign corporations from Switzerland, from France, from Japan, that are using vast acreage in the West, thousands of acres to graze their cattle and their animals and that grazing is being subsidized by the American taxpayer.

It is high time that this practice be put to an end. What is the reason for it? There is no good reason for it whatsoever.

When Members talk about the thousands of small ranchers on Federal lands, they are not talking about major corporations such as Zenchiku, which runs a huge cattle operation on Federal lands in Montana and the Interior Department inspector general noted in a recent report that there was no limit on the grazing privileges and benefits provided to foreign corporations.

Why would the Members of this House, whether they come from the West or the East or the South or wherever they come from, why would the Members of this House want to go back to their districts and say, I just voted to ensure that foreign corporations can come here and graze their animals on Federal land and you all are going to have to pay for it, you all meaning the American citizens, the American taxpayers? That does not make any sense. I do not think anybody wants to do that. So the Miller amendment, again, does not restrict grazing on Federal land, not at all.

What it does is this, it says that if you are a foreign corporation, you want to come here and graze cattle on Federal land, you have to pay the market price. You have to pay the fair market price. It is a very capitalist amendment, as a matter of fact. It says, no subsidizing by the American taxpayer of grazing privileges for foreign companies.

Let us put these subsidies to an end. Let us make sure that the American taxpayer is not asked once again to bear the cost of grazing by major foreign corporations who are wealthy beyond the dreams of most Americans. Let us make sure that they pay the fair market value to graze their animals on Government land that is owned by all the people of this country. Let us all support the Miller amendment.

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

I just want to say that this, I can understand the emotional appeal of this argument, but the fact is that America has always had her borders open to those people who would be willing to work their trade, whether they are a corporation or not. A corporation can be two people. But being a corporation is not a bad thing in America. People who have come to this land have been encouraged to work and that is what we need to encourage them to do, Mr. Chairman.

We need to encourage them to work their trade, whether their trade be running cattle or repairing shoes or being an accountant, whatever, that is part of reaching the American dream. I just do not believe that we should start cutting people out of their trade simply because they want a part of the American dream, they wanted to come to America and they wanted to work.

The visionaries who wrote the Taylor Grazing Act, which all of us rely on so much, clearly state in that act, and this is existing law, that grazing permits shall be issued only to citizens of the United States or to those who have filed the necessary declarations of intention to become such as required by the naturalization laws and to groups, associations or corporations authorized to conduct business under the laws of the State in which the grazing district is located.

That is very clear, Mr. Chairman. Why and how have we become a country that allows a lot of immigration into the State and then puts them in a category where we support them and they do not work? I think that this should be a nation that continues to hollow out the abilities and the visions and the opportunities for people to come to America and work their trade.

Ms. PELOSI. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I just want to respond to the previous speaker. This amendment is not about whether or not people or corporations get to come to the United States to work their trades, which sounds very noble. This is an amendment about whether or not those corporations, when they come to America to work their trade, ought to continue to receive a Federal subsidy. It is just that simple. This is about whether or not on the Federal lands that are owned by all of the people of the United States in which people lease those lands for the purposes of engaging in grazing, whether or not those Federal, those foreign corporations ought to pay their way. This is simply about whether they should pay their way.

The notion that somehow this is not done because of the Taylor Grazing Act, the fact of the matter is, the IG's report points out that, specifically with respect to the Japanese corporation, that it is a Japanese-owned company that is operated in Montana. So this is being done. They ought to just pay their way. That is all we are asking. Just pay what grazers pay the State of California, the State of Colorado, the State of Idaho for the use of those lands and end the Federal subsidies to those people who are among the very largest of the grazers within this program.

This is not about being against people who come here and work hard. It is about large corporations that have their own wherewithal coming here and being entitled to a Federal subsidy. That is what has got to stop. There is no showing, there is no showing that these corporations need this subsidy in terms of viability.

In Idaho, we would just say that this foreign corporation should pay $4.88 instead of $1.55. We would say that in Montana they should pay $4.05 instead of $1.55. That is the purpose of this amendment.

I think clearly the American people understand it. I hope that their representatives in Congress understand it. This is just one subsidy too far for the American public.

I thank the gentlewoman for yielding to me.

Ms. PELOSI. Mr. Chairman, I rise in support of the gentleman's amendment. It is bad enough that foreign mining companies get public lands for $5 an acre. The grazing program allows them now to graze their cattle on Federal lands at bargain basement rates.

Why should the American public subsidize the grazing activities of such foreign mining corporations as Australia's Newmont Gold and Canada's Barrick Goldstrike. When they talk about the thousands of small ranchers on Federal lands, they are not talking about the Japanese land and livestock company Zenchiku, which runs a huge cattle operation in Federal lands in Montana.

Low Federal grazing fees are being used to prop up the cattle operations of such foreign firms as E. M. Remy of Switzerland and Two Dot Ranch Inc. of France and Switzerland. All the foreign firms cited range in the top 4 percent of the size of the cattle operations grazing on Federal lands.

The Interior Department Inspector General noted in a 1992 report that there was no limit on the grazing privileges and benefits provided to foreign operators. We have the opportunity to change these policies now. It is time to end the exploitation of public resources and the rip-off of the American taxpayer.

The Miller amendment makes foreign grazing operators pay the higher of either the State or private lease rates in the State in which the Federal permit or lease is located. Let us end this piece of corporate welfare for foreign firms and adopt the Miller amendment.

Mr. VENTO. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I thank the gentlewoman for yielding to me because in excoriating the problems with foreign operations, I did not point out, we do not intend to exclude them with the Miller amendment. What the purpose here is, is just the option that they would pay the same rate as is paid at the States. This would treat them differently than domestic corporations. Domestic individuals are treated in a favorable way by this formula and by this bill.

We do not believe that benefit should be extended to these foreign operations which really represent an integrated control in terms of coming into this country, setting up. Next they will have the timber leases. I mean if we carried this out, we could basically have all of our natural resources controlled by foreign entities at these bargain basement prices. Whatever we feel about the type of corporate welfare we provide, we want to limit it apparently to American companies and American individuals.

Ms. PELOSI. Mr. Chairman, I thank the gentleman. I urge our colleagues to vote "aye" on the Miller amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MILLER].

The amendment was agreed to.

AMENDMENT NO. 11 OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. VENTO:

Page 37, line 2, strike "seven" both places it appears and insert "five".

Mr. VENTO. Mr. Chairman, this amendment would change what is in the bill. In other words, an AUM, an animal unit month, which is defined as a cow-calf unit in terms of providing feed for a month, historically under the law has provided for the equivalent of five sheep or five goats to be the equivalent of a cow-calf combination for an animal unit month. This measure changes the AUM's from five to seven. In other words, it would be seven sheep or seven goats for an AUM.

Of course, by increasing the number of sheep or goats per AUM from five to seven, that change would effectively decrease the cost of grazing sheep and goats by almost one-third, by almost 33 percent. This is a taxpayer giveaway basically, yet another reduction in revenue terms of the bill. As I said, there is disagreement.

My view is that this bill will take the AUM's to $1.55 based. That is not my estimate. That is the Congressional Budget Office. Some Members have said they disagree with that, which would be more like a 15-percent increase, not the 36-percent increase that the proponents of this have advanced as to what the bill would accomplish.

I could talk about that later. But the fee per AUM established under the bill, regardless of the type of livestock grazed in the forage area, needs to sustain a fixed number of sheep and goats, and would be unchanged by the definition, but owners of sheep and goats could purchase fewer AUM's to support the same number of animals under the new definition in the bill.

□ 1430

Some producers might increase the size of their sheep and goat herds in response to lower effective costs for grazing on public land because the grazing fees are only a fraction of the total cost for grazing on public land, or to raise sheep and goats. However, the CBO expects a net drop in the number of AUM's associated in a decrease in offsetting receipts. They are saying this will lose over half a million dollars. This particular change, this definition, CBO says, will lose $600,000 per year.

But more importantly is that besides having an arbitrary formula for establishing what the cost is for cow-calf combinations on the 250 million acres of public range that are managed under this law, besides that, this is another arbitrary change in terms of what is taking place. This is simply a gift pack to those that are raising sheep and goats on the public range.

I would suggest, as I said, that most of these grazing species, whether they be cows, burrows, or horses, on public lands that are being grazed end up being the dominant animal in terms of that particular ecosystem. In fact, very often predators have been destroyed historically to, in fact, make it safe for those cows, those goats, and those sheep. So they do become the dominant species. And they completely, shape the range by the grazing behavior.

In some cases, these grasslands and other areas can absorb that type of abuse as to what is the carrying capacity. But other areas are very fragile. In terms of extending this, I think we end up doing great harm in terms of many of those fragile ecosystems, those ephemeral types of lands that are used for grazing. And in that 250 million acres I might say, Mr. Chairman, a goodly part of it is very fragile land. And while it was looked upon as wasteland in the past, today we recognize that those ecosystems and the biodiversity that occurs there is enormously important. Some are the habitat to our spectacular types of species, some of which, unfortunately, today remain threatened or endangered. All of those are potential conflicts that need to be resolved.

I know of no basis for the change that is provided here. As I implied earlier in my comments with regard to the formula in this bill, it is a completely arbitrary formula, it has nothing to do with what the costs of managing the program, of monitoring the program. It has nothing to do with the cost of the BLM or Forest Service, who spend nearly three times as much as they take in fees in terms of trying to manage and to monitor this program.

This definition simply is a gift to those who have the permits for such allotments. We would probably have a tendency to emphasize more sheep and goat AUM's on public lands based simply on the fact that we are reducing the cost by one-third and actually having a preference for goat or sheep by virtue of the definitional change of that. That may well have a profound effect on the public range as there grazing pattern and impact is different.

I know of no analysis of this. Unfortunately, since we did not have hearings on this proposed change, we could not discuss this in the committee and raised these types of questions or heard answers from the administration or the land managers.

I urge the adoption of my amendment, Mr. Chairman, to stop this AUM definition change.

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

Mr. Chairman, as usual, the gentleman from Minnesota [Mr. VENTO], recognizing his lack of background in livestock and sheep, has misquoted and mistaken this argument. The facts are, Mr. Chairman, that the U.S. Department of Agriculture has been overcharging sheep and goat producers who graze on public lands for these many years. And why is that?

It is simply because that in 1950 the comparison between a cow and a sheep was 920 to 140 pounds. Today, the comparison is 1,120 to 147 pounds. That means, Mr. Chairman, that an animal can only consume forage equivalent to its weight.

Now, this does not affect in any way the stocking rate of sheep and goats to the ranch. If this amendment stays in the bill, it means that the stocking rate is continually organized and orchestrated and managed by the BLM and Forest Service if there are those permits available. Therefore, it only affects the billing rate. And the billing rate, to be fair to sheep producers, ought to be 7 to 1 and not 5 to 1.

Therefore, the Economic Research Service of the U.S. Department of Agriculture, in 1994, pointed out and argued the point that we should change the formula since the weight differential has changed. The bill does change the formula in fairness to the sheep and goat producers. And I point out again that the bill, when it passes, will increase to the Federal Treasury $6 million a year. It will increase sheep and goat producers who graze on public lands by 15 cents or more per animal-unit month.

Therefore, Mr. Chairman, I suggest that we oppose the Vento amendment and exact fairness for the sheep and goat producers of this country.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. VENTO].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 176, noes 244, not voting 12, as follows:

[Roll No. 548]

AYES—176

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bereuter
Berman
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Cardin
Carson
Chabot
Clay
Clayton
Clement
Clyburn
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Duncan
Engel
Eshoo
Evans
Fattah
Filner
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Ganske
Gephardt
Gordon
Green
Gutierrez
Hamilton
Harman
Hilliard
Hinchey
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Leach
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Moran (VA)
Morella
Nadler
Neal
Neumann
Oberstar
Obey
Olver
Owens
Pallone
Pappas
Pascrell
Payne
Pease
Pelosi
Price (NC)
Rahall
Ramstad
Rangel
Regula
Rivers
Roemer
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sanford
Sawyer
Schumer
Serrano
Shays
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Strickland
Stupak
Tauscher
Thurman
Tierney
Torres
Towns
Upton
Velázquez
Vento
Visclosky
Wamp
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—244

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chambliss
Chenoweth
Christensen
Coble
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Farr
Fawell
Fazio
Flake
Foley
Frost
Gallegly
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Livingston
Lucas
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Minge
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Pastor
Paul
Paxon
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Redmond
Reyes
Riggs
Riley
Rodriguez
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sandlin
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Sherman
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Tiahrt
Traficant
Turner
Walsh
Watkins
Watts (OK)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—12

Coburn
Conyers
Cubin
Danner
Fowler
Gonzalez
Granger
Linder
Schiff
Stokes
Weldon (FL)
Weldon (PA)

□ 1455

Messrs. BILIRAKIS, PETRI, BONO and RODRIGUEZ changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. GINGRICH. Mr. Chairman, I move to strike the last word. Let me say first that I want to commend the chairman of the committee and his ranking member and the entire team on the Committee on Agriculture that did such a good job with producing a bipartisan bill. They worked together with Members across this House. I want to also thank the gentleman from New York [Mr. BOEHLERT], who worked on this bill. I believe we have here a very broadly based bill that does a number of very important things.

I feel particularly good about this because this summer we had a western States tour that went through Utah and Idaho and Montana and Wyoming that met with ranchers, that looked at problems of the Bureau of Land Management, that looked at challenges that we face in making sure that family ranches and family farms can survive. I want to recommend to Members from all over America that we need to work on that kind of tour here at home. We talk about trips overseas, but I think frankly sometimes to get our rural Members to go to urban areas, to get our urban Members to go to rural areas, to get Easterners to visit the West and Westerners to visit the coast, this kind of educating ourselves about our own country and talking with people in a practical way about the realities of their life changes Members' understanding of issues that may just be theoretical here in Washington, DC.

□ 1500

This bill, the Forage Improvement Act, first of all, from the taxpayers' standpoint, raises the fee on public land footage by 36 percent and has been scored by the Congressional Budget Office as something which gains revenue for the American people, but it does so in a way that actually helps the ranchers.

It makes sense for the rancher to pay the higher fee, because it also creates greater flexibility and cooperation by allowing the Secretary to enter into

cooperative allotment plans with those ranchers who prove they are responsible stewards of the land, so we begin to eliminate some of the red tape and eliminate some of the more, frankly, Mickey Mouse regulations.

It streamlines an entire set of regulations between the Forest Service and the Bureau of Land Management, trying to give the American people one set of rules and regulations, rather than what are often not only overlapping, but conflicting sets of rules and regulations.

It provides for the application of sound science. Again, those who have been looking at our public lands know that we have had a tremendous increase in populations of species. We have actually had, in some areas, an explosion of population. We need to base our environmental policies and our conservation policies on an approach that starts with sound science, with finding out from biologists and botanists what is really happening, and then basing it not on theories, not on ideologies, but on what we learn from the scientists directly involved.

I believe this bill is a significant step in the right direction, and I believe it offers the hope of greater stability and greater sound economic management for family ranches across the West.

So I again want to commend the gentleman. I think this is a very important building block toward a healthy agricultural base for the United States. I think it streamlines the government, improves the yield to the taxpayer, increases the opportunity for the farmer, and does so in a way that is environmentally sound and is based on sound science.

I urge every Member to vote "yes" on this bill.

Mr. COSTELLO. Mr. Chairman, I rise today in support of H.R. 1270, the Nuclear Waste Policy Act.

The United States' 109 nuclear power plants, located in 34 states including my home state of Illinois, are running out of storage space for spent nuclear fuel. By early 1998, a quarter of our reactor sites will have exhausted their storage capacity.

The passage of the Nuclear Waste Policy Act will result in long-awaited changes to our Nation's used fuel management policy. This bill will finally begin to utilize the financial contributions of millions of Americans who have paid over $12 billion into the Nuclear Waste Fund for the specific purpose of creating a national repository for spent fuel. Illinois has the most spent fuel of any other state—4300 metric tons located in seven spent storage facilities throughout the state. Residents of Illinois have paid more than those from any other state into the Nuclear Waste Policy Fund by contributing $1.4 billion. They deserve to have their money used for the purpose it was intended—a permanent and safe national repository. The Nuclear Waste Policy Act allows for such a removal.

The bill replaces the mandatory flat fee of one tenth of a cent per kilowatt hour with a discretionary annually adjusted fee. While the bill permits a maximum of 1.5 tenths of a cent per kilowatt hour in peak disposal site construction years, it also requires the annual fee average no more than one tenth of a cent per kilowatt hour between 1999 and 2010. Further, under this bill user fees cannot be diverted to unrelated federal programs.

Mr. Speaker, while I support this bill I, like many of my constituents, continue to be concerned about the transportation of nuclear waste. I am pleased this bill directs the Department of Energy to take all steps necessary to ensure that it is able to safely transport spent nuclear fuel to the repository. The Department of Energy also will be required to notify states through which waste will be transported and to provide those states with technical assistance and funding to train public safety officials. I support the Schaefer Manager's amendment which includes important provisions designed to minimize transportation through populated areas. The Manager's amendment also provides for the establishment of preferred rail routes for waste transportation.

Mr. Chairman, I support this bill and I am pleased spent nuclear fuel will finally be removed from the temporary storage facilities in my state and into a safe national repository where it belongs.

Mr. ACKERMAN. Mr. Chairman, I rise today in strong opposition to H.R. 1270, the Nuclear Waste Policy Act of 1997. Few policy decisions will have a more significant impact on our environment and the safety of our communities than this bill before us today. High-level waste is a daunting responsibility which must be afforded the most stringent and thorough deliberation. The determination to transport nuclear waste through 43 States, affecting 52 million people, should not be mandated by political motivations. The potential cost, in terms of the loss of life and the impact on our environment is too great to dictate arbitrary deadlines. If the scientific community is not yet prepared to support the political rhetoric coming from this floor, how can we feel qualified to preempt their authority and expertise?

When we in Congress fail to meet our deadlines on appropriations bills, we pass a continuing resolution, and extend the time afforded us to pass informed legislation. With the passage of H.R. 1270, we will be directing the Department of Energy to abide by a deadline which they are not adequately prepared to implement. By doing so, we will endanger our environment and the constituents of almost every Member in this House. As conscientious legislators, we must grant the Department of Energy the same latitude to make informed decisions that we allow ourselves. To do anything less would be the ultimate form of hypocrisy.

The scientific feasibility of the Yucca Mountain site has not yet been determined, and when every significant environmental and citizen organization is in opposition to this bill, we must at least acknowledge that there are serious concerns which have not been adequately addressed. In good conscience there is simply no way we can place this deadly material in untested canisters and ship it on poorly maintained railways, through ill prepared and unaware communities, until every issue is resolved and every precaution is taken. If we pass this legislation we have failed our community, we have failed our Nation, and we have failed ourselves. I strongly urge all my colleagues to vote against this dangerously flawed bill.

The CHAIRMAN. Are there further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

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

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. NEY) having assumed the chair, Mr. NUSSLE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2493) to establish a mechanism by which the Secretary of Agriculture and the Secretary of the Interior can provide for uniform management of livestock grazing on Federal lands, pursuant to House Resolution 284, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

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

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

Mr. MILLER of California. 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 242, nays 182, not voting 9, as follows:

[Roll No. 549]

YEAS—242

Aderholt	Bilbray	Buyer
Archer	Bilirakis	Callahan
Armey	Bishop	Calvert
Bachus	Bliley	Camp
Baesler	Blunt	Canady
Baker	Boehlert	Cannon
Ballenger	Boehner	Castle
Barcia	Bonilla	Chabot
Barr	Bono	Chambliss
Barrett (NE)	Boswell	Chenoweth
Bartlett	Boyd	Christensen
Barton	Brady	Coble
Bass	Bryant	Coburn
Bateman	Bunning	Collins
Bereuter	Burr	Combest
Berry	Burton	Condit

Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Fazio
Foley
Fowler
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Goss
Graham
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (WI)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
Lucas
Manton
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Minge
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Parker
Pastor
Paxon
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Regula
Reyes
Riggs
Riley
Rodriguez
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sandlin
Saxton
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watts (OK)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—182

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Engel
Eshoo
Evans
Farr
Fattah
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gejdenson
Gephardt
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hinchey
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Klug
Kucinich
LaFalce
Lampson
Lantos
LaTourette
Lazio
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Moran (VA)
Morella
Nadler
Neal
Obey
Olver
Owens
Pallone
Pappas
Pascrell
Paul
Payne
Pease
Pelosi
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Redmond
Rivers
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sanford
Sawyer
Scarborough
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—9

Cubin
Danner
Gonzalez
Granger
Schiff
Stokes
Watkins
Weldon (FL)
Weldon (PA)

□ 1524

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

Ms. DANNER. Mr. Speaker, on rollcall vote 549 I was unavoidably detained. I would like the RECORD to show that had I been present, I would have voted "yes."

On rollcall vote 548 I was unavoidably detained. I would like the RECORD to show that had I been present, I would have voted "no."

On rollcall vote 547 I was unavoidably detained. I would like the RECORD to show that had I been present, I would have voted "no."

GENERAL LEAVE

Mr. SMITH of Oregon. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and that I may include extraneous matter in the RECORD on the bill, H.R. 2493.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2493, FORAGE IMPROVEMENT ACT OF 1997

Mr. SMITH of Oregon. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 2493, the Clerk be authorized to correct the table of contents, section numbers, punctuation, citations, and cross-references, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2459

Mr. PAXON. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of the bill, H.R. 2459.

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

There was no objection.

NUCLEAR WASTE POLICY ACT OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 283 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1270.

□ 1526

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1270) to amend the Nuclear Waste Policy Act of 1982, with Mr. MCINNIS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, October 29, 1997, the demand for a recorded vote on amendment No. 9 printed in House Report 105–354 offered by the gentleman from Ohio [Mr. TRAFICANT] had been postponed.

It is now in order to consider amendment No. 10 printed in that report.

The Chair has been advised that the amendment will not be offered.

SEQUENTIAL VOTES POSTPONED IN THE COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 283, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 4 offered by the gentleman from Nevada [Mr. ENSIGN]; amendment No. 5 offered by the gentleman from Nevada [Mr. GIBBONS]; amendment No. 6 offered by the gentleman from Nevada [Mr. ENSIGN]; amendment No. 7 offered by the gentleman from Massachusetts [Mr. MARKEY]; amendment No. 8 offered by the gentleman from Nevada [Mr. GIBBONS]; and amendment No. 9 offered by the gentleman from Ohio [Mr. TRAFICANT].

AMENDMENT NO. 4 OFFERED BY MR. ENSIGN

The CHAIRMAN. The unfinished business is the demand for a recorded

vote on amendment No. 4 offered by the gentleman from Nevada [Mr. ENSIGN] on which further proceedings were postponed and on which the noes prevailed by a voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. ENSIGN:

Page 15, insert after line 8 the following:

"(e) RISK ASSESSMENT AND COST BENEFIT.—The Secretary shall not take any action under this Act unless the Secretary has with respect to such action conducted a risk assessment which is scientifically objective, unbased, and inclusive of all relevant data and relies, to the extent available and practicable, on scientific findings and which is grounded in cost-benefit principles.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 135, noes 290, not voting 7, as follows:

[Roll No. 550]

AYES—135

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barr
Barrett (WI)
Becerra
Berman
Bishop
Blagojevich
Blumenauer
Bonilla
Boswell
Brown (CA)
Bryant
Cannon
Carson
Christensen
Clay
Condit
Conyers
Cooksey
Coyne
Cunningham
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Doggett
Doyle
Engel
English
Ensign
Eshoo
Evans
Filner
Flake
Foglietta
Ford
Furse
Gibbons
Goodling
Gutierrez
Hamilton
Hansen
Hill
Hilleary
Hinchey
Hooley
Hulshof
Istook
Jackson (IL)
Jackson-Lee (TX)
Kasich
Kelly
Kennedy (RI)
Kennelly
Kingston
Kleczka
Klug
Kucinich
LaFalce
Lampson
Lantos
Lewis (GA)
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McDermott
McGovern
McHale
McIntosh
McKeon
McKinney
McNulty
Meehan
Millender-McDonald
Miller (CA)
Mink
Moakley
Moran (KS)
Nadler
Neal
Neumann
Oberstar
Obey
Olver
Owens
Pascrell
Paul
Payne
Pease
Pelosi
Peterson (MN)
Pombo
Rahall
Rangel
Reyes
Rivers
Roemer
Rothman
Roybal-Allard
Sanchez
Schumer
Serrano
Shays
Sherman
Smith (NJ)
Souder
Stark
Stenholm
Stokes
Talent
Thurman
Tierney
Torres
Towns
Waters
Watts (OK)
Waxman
Weygand
Woolsey
Wynn
Yates
Young (AK)

NOES—290

Aderholt
Allen
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonior
Bono
Borski
Boucher
Boyd
Brady
Brown (FL)
Brown (OH)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Cook
Costello
Cox
Cramer
Crane
Crapo
Cummings
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Etheridge
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kennedy (MA)
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Klink
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Manton
Manzullo
Martinez
McCarthy (NY)
McCollum
McCrery
McDade
McHugh
McInnis
McIntyre
Meek
Menendez
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pastor
Paxon
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rodriguez
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Rush
Ryun
Sabo
Salmon
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stearns
Strickland
Stump
Stupak
Sununu
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Watt (NC)
Weller
Wexler
White
Whitfield
Wicker
Wise
Wolf
Young (FL)

NOT VOTING—7

Cubin
Gonzalez
Schiff
Tauzin
Watkins
Weldon (FL)
Weldon (PA)

□ 1552

Mrs. CLAYTON, and Messrs. DEUTSCH, KENNEDY of Massachusetts, RUSH, KLINK, and SKAGGS changed their vote from "aye" to "no."

Mr. PETERSON of Minnesota, Mr. NEAL of Massachusetts, Mrs. KELLY, Mr. COYNE, Mr. BERMAN, Ms. ROYBAL-ALLARD, Mr. BECERRA, and Mr. RANGEL changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 283, 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 each amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 5 OFFERED BY MR. GIBBONS

The CHAIRMAN. The unfinished business is the demand for a recorded vote on amendment No. 5 offered by the gentleman from Nevada [Mr. GIBBONS] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 5 Offered by Mr. GIBBONS:

Page 19, inset after line 16 the following:

"(e) EMERGENCY RESPONSE TEAM.—The Secretary may not plan for the transportation of spent nuclear fuel or high-level radioactive waste through any State unless the Governor of such State can certify that an adequate emergency response team exists in such State to appropriate manage any nuclear accident that may occur in such transportation.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 112, noes 312, not voting 8, as follows:

[Roll No. 551]

AYES—112

Abercrombie
Ackerman
Baesler
Barr
Becerra
Blagojevich
Blumenauer
Brown (FL)
Bryant
Cannon
Carson
Clay
Collins
Cooksey
Cummings
Davis (IL)
Deal
DeFazio
Delahunt
Dellums
Ehlers
English
Ensign
Eshoo
Evans
Farr
Filner
Flake
Forbes
Ford
Franks (NJ)
Furse
Gephardt
Gibbons
Gilchrest
Hansen
Herger
Hill
Hinchey
Hooley
Hostettler
Hutchinson
Jackson (IL)
Kasich
Kelly
Kennedy (MA)
Kingston
Kleczka
Kucinich
LaFalce
Lampson
Lantos
Lewis (GA)
Linder
LoBiondo
Lowey
Lucas
Maloney (NY)
Markey
McDermott
McGovern
McInnis
McKeon
McKinney
McNulty
Meehan

Millender-McDonald
Miller (CA)
Mink
Moakley
Moran (KS)
Nadler
Ney
Obey
Owens
Pallone
Pappas
Pascrell
Paul
Payne
Pease
Pelosi
Pombo
Pryce (OH)
Quinn
Rahall
Rangel
Reyes
Roemer
Rothman
Roybal-Allard
Saxton
Schumer
Shays
Slaughter
Smith (NJ)
Souder
Stark
Stearns
Stokes
Talent
Tauscher
Thune
Tierney
Torres
Watkins
Watts (OK)
Waxman
Weygand
Wolf
Woolsey
Young (AK)

NOES—312

Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (OH)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Combest
Condit
Conyers
Cook
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Davis (FL)
Davis (VA)
DeGette
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Engel
Etheridge
Everett
Ewing
Fattah
Fawell
Fazio
Foglietta
Foley
Fowler
Fox
Frank (MA)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lipinski
Livingston
Lofgren
Luther
Maloney (CT)
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McHugh
McIntosh
McIntyre
Meek
Menendez
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (VA)
Morella
Murtha
Myrick
Neal
Nethercutt
Neumann
Northup
Norwood
Nussle
Oberstar
Olver
Ortiz
Oxley
Packard
Parker
Pastor
Paxon
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Rodriguez
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stenholm
Strickland
Stump
Stupak
Sununu
Tanner
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thurman
Tiahrt
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watt (NC)
Weller
Wexler
White
Whitfield
Wicker
Wise
Wynn
Yates
Young (FL)

NOT VOTING—8

Cubin
Gonzalez
Jefferson
Schiff
Smith (OR)
Tauzin
Weldon (FL)
Weldon (PA)

□ 1603

Mr. HILLIARD and Mrs. CLAYTON changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 6 OFFERED BY MR. ENSIGN

The CHAIRMAN. The unfinished business is the demand for a recorded vote on amendment No. 6 offered by the gentleman from Nevada [Mr. ENSIGN] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. ENSIGN:

Page 19, insert after line 16 the following:

"(c) EMERGENCY RESPONSE.—The Secretary may not plan for the transportation of spent nuclear fuel or high-level radioactive waste in a fiscal year for which funds appropriated under section 203(c) are insufficient (as determined by the Federal Emergency Management Agency) to ensure adequate and trained emergency response teams along all the transportation routes to be used in such fiscal year.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 118, noes 305, not voting 9, as follows:

[Roll No. 552]

AYES—118

Abercrombie
Ackerman
Andrews
Baesler
Barr
Becerra
Berman
Blagojevich
Blumenauer
Boswell
Bryant
Campbell
Cannon
Cardin
Carson
Christensen
Coburn
Cooksey
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Dixon
Doggett
Doyle
Engel
English
Ensign
Eshoo
Evans
Filner
Flake
Forbes
Ford
Furse
Gephardt
Gibbons
Gilchrest
Gutierrez
Hansen
Hill
Hilleary
Hinchey
Hooley
Hutchinson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kingston
Kucinich
LaFalce
Lampson
Lantos
Lewis (GA)
Linder
Lowey
Lucas
Luther
Maloney (NY)
Markey
McCarthy (MO)
McDermott
McGovern
McKeon
McKinney
McNulty
Meehan
Millender-McDonald
Miller (CA)
Mink
Moakley
Moran (KS)
Nadler
Ney
Owens
Pallone
Pappas
Pascrell
Paul
Payne
Pelosi
Pryce (OH)
Rahall
Reyes
Rivers
Rothman
Roybal-Allard
Sanchez
Schumer
Serrano
Shays
Sherman
Smith (NJ)
Souder
Stabenow
Stark
Stokes
Talent
Tauscher
Thomas
Thune
Tierney
Torres
Vento
Watkins
Watts (OK)
Waxman
Weygand
Wise
Wolf
Woolsey
Young (AK)

NOES—305

Aderholt
Allen
Archer
Armey
Bachus
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cook
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cummings
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Etheridge
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Foglietta
Foley
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lipinski
Livingston
LoBiondo
Lofgren
Maloney (CT)
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntyre
Meek
Menendez
Metcalf
Mica
Miller (FL)
Minge
Mollohan

Moran (VA)
Morella
Murtha
Myrick
Neal
Nethercutt
Neumann
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Parker
Pastor
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Quinn
Radanovich
Ramstad
Rangel
Redmond
Regula
Riggs
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Rush
Ryun
Sabo
Salmon
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Tanner
Taylor (MS)
Taylor (NC)
Thompson
Thornberry
Thurman
Tiahrt
Towns
Traficant
Turner
Upton
Velázquez
Visclosky
Walsh
Wamp
Waters
Watt (NC)
Weller
Wexler
White
Whitfield
Wicker
Wynn
Yates
Young (FL)

NOT VOTING—9

Bartlett
Cubin
Gonzalez
Johnson, Sam
McIntosh
Schiff
Tauzin
Weldon (FL)
Weldon (PA)

□ 1611

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 7 OFFERED BY MR. MARKEY

The CHAIRMAN. The unfinished business is the demand for a recorded vote on amendment No. 7 offered by the gentleman from Massachusetts [Mr. MARKEY] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. MARKEY:

Page 36, strike line 18 and all that follows through line 9 on page 39.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 151, noes 273, not voting 8, as follows:

[Roll No. 553]

AYES—151

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Boehlert
Boswell
Brown (CA)
Brown (OH)
Campbell
Carson
Clay
Clayton
Conyers
Cooksey
Costello
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Dicks
Dixon
Doggett
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Filner
Flake
Forbes
Ford
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Green
Gutierrez
Hall (OH)
Hefner
Hinchey
Hooley
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kleczka
Kucinich
LaFalce
Lampson
Lantos
Lewis (GA)
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Moran (VA)
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Payne
Pelosi
Portman
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Sabo
Sanchez
Sanders
Sawyer
Schumer
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith (NJ)
Smith, Adam
Souder
Stabenow
Stark
Stokes
Strickland
Talent
Tauscher
Taylor (MS)
Thompson
Tierney
Torres
Velázquez
Vento
Walsh
Waters
Watt (NC)
Watts (OK)
Waxman
Weygand
Wise
Wolf
Woolsey
Yates

NOES—273

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Boyd
Brady
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ewing
Fawell
Fazio
Foglietta
Foley
Fowler
Fox
Frelinghuysen
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hamilton
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Manton
Manzullo
Martinez
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meek
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Pastor
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Reyes
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Rush
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stearns
Stenholm
Stump
Stupak
Sununu
Tanner
Tauzin
Thomas
Thornberry
Thune
Thurman
Tiahrt
Towns
Traficant
Turner
Upton
Visclosky
Wamp
Watkins
Weller
Wexler
White
Whitfield
Wicker
Wynn
Young (AK)
Young (FL)

NOT VOTING—8

Cubin
Gonzalez
Hansen
Herger
Schiff
Taylor (NC)
Weldon (FL)
Weldon (PA)

□ 1621

So the amendment was rejected.

The result of the vote announced as above recorded.

AMENDMENT NO. 8 OFFERED BY MR. GIBBONS

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Nevada [Mr. GIBBONS] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. GIBBONS:

Page 55, beginning in line 3 strike ", except that" and all that follows through line 21 and insert a period.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 67, noes 357, not voting 8, as follows:

[Roll No. 554]

AYES—67

Becerra
Berman
Cannon
Carson
Clay
Clayton
Conyers
Cooksey
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Dixon
Doggett
Ensign
Eshoo
Evans
Filner
Furse
Gejdenson
Gibbons
Hansen
Hinchey
Hooley
Jackson (IL)
Jackson-Lee (TX)
Kennedy (RI)
Kennelly
Kucinich
LaFalce

Lampson
Lewis (GA)
Lowey
Lucas
Maloney (NY)
Markey
Martinez
McDermott
McGovern
McKinney
McNulty
Millender-McDonald
Miller (CA)
Mink
Nadler
Owens
Pallone
Payne
Pelosi
Rahall
Reyes
Roybal-Allard
Serrano
Shays
Souder
Stark
Stokes
Tierney
Torres
Vento
Waters
Watt (NC)
Waxman
Woolsey
Young (AK)

NOES—357

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cummings
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Etheridge
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Luther
Maloney (CT)
Manton
Manzullo
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meehan
Meek
Menendez
Metcalf
Mica
Miller (FL)
Minge
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Redmond
Regula
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Towns
Traficant
Turner
Upton
Velázquez
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Wynn
Yates
Young (FL)

NOT VOTING—8

Bereuter
Cubin
Gonzalez
John
Schiff
Taylor (NC)
Weldon (FL)
Weldon (PA)

□ 1631

Mr. MEEHAN changed his vote from "aye" to "no."

Ms. PELOSI and Mr. NADLER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 9 OFFERED BY MR. TRAFICANT

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. TRAFICANT:

Page 81, insert after line 13 the following:

"SEC. 510. PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.

"(a) IN GENERAL.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

"(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available under this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

"(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available under this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 407, noes 2, answered "present" 15, not voting 8, as follows:

[Roll No. 555]

AYES—407

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fazio
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly

Kennedy (MA)	Murtha	Shadegg
Kennedy (RI)	Myrick	Shaw
Kennelly	Nadler	Shays
Kildee	Neal	Sherman
Kilpatrick	Nethercutt	Shimkus
Kim	Neumann	Shuster
Kind (WI)	Ney	Sisisky
King (NY)	Northup	Skaggs
Kingston	Norwood	Skeen
Kleczka	Nussle	Skelton
Klink	Oberstar	Slaughter
Klug	Obey	Smith (MI)
Knollenberg	Olver	Smith (NJ)
Kolbe	Owens	Smith (OR)
Kucinich	Oxley	Smith (TX)
LaFalce	Packard	Smith, Adam
LaHood	Pallone	Smith, Linda
Lampson	Pappas	Snowbarger
Lantos	Parker	Snyder
Largent	Pascrell	Solomon
Latham	Paul	Souder
LaTourette	Paxon	Spence
Lazio	Payne	Spratt
Leach	Pease	Stabenow
Levin	Pelosi	Stark
Lewis (CA)	Peterson (MN)	Stearns
Lewis (GA)	Peterson (PA)	Stenholm
Lewis (KY)	Petri	Stokes
Linder	Pickering	Strickland
Lipinski	Pickett	Stump
Livingston	Pitts	Stupak
LoBiondo	Pombo	Sununu
Lofgren	Pomeroy	Talent
Lowey	Porter	Tanner
Lucas	Portman	Tauscher
Luther	Poshard	Tauzin
Maloney (CT)	Price (NC)	Taylor (MS)
Maloney (NY)	Pryce (OH)	Thomas
Manton	Quinn	Thompson
Manzullo	Radanovich	Thornberry
Markey	Ramstad	Thune
Mascara	Rangel	Thurman
Matsui	Redmond	Tiahrt
McCarthy (MO)	Regula	Tierney
McCarthy (NY)	Riggs	Towns
McCollum	Riley	Traficant
McCrery	Rivers	Turner
McDade	Roemer	Upton
McDermott	Rogan	Vento
McGovern	Rogers	Visclosky
McHale	Rohrabacher	Walsh
McHugh	Ros-Lehtinen	Wamp
McInnis	Rothman	Waters
McIntosh	Roukema	Watkins
McIntyre	Royce	Watt (NC)
McKeon	Rush	Watts (OK)
McKinney	Ryun	Waxman
McNulty	Sabo	Weller
Meehan	Salmon	Wexler
Meek	Sanchez	Weygand
Metcalf	Sanders	White
Millender-McDonald	Sandlin	Whitfield
	Sanford	Wicker
Miller (CA)	Sawyer	Wise
Miller (FL)	Saxton	Wolf
Minge	Scarborough	Woolsey
Mink	Schaefer, Dan	Wynn
Moakley	Schaffer, Bob	Yates
Mollohan	Schumer	Young (AK)
Moran (KS)	Scott	Young (FL)
Moran (VA)	Sensenbrenner	
Morella	Sessions	

NOES—2

Conyers	Furse

ANSWERED "PRESENT"—15

Becerra	Menendez	Rodriguez
Filner	Ortiz	Roybal-Allard
Gutierrez	Pastor	Serrano
Hinojosa	Rahall	Torres
Martinez	Reyes	Velázquez

NOT VOTING—8

Cubin	Mica	Weldon (FL)
Fawell	Schiff	Weldon (PA)
Gonzalez	Taylor (NC)	

□ 1639

Mr. PASTOR changed his vote from "aye" to "present."

Ms. VELÁZQUEZ changed her vote from "no" to "present."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MICA. Mr. Chairman, on rollcall No. 555, I was unavoidably detained. Had I been present, I would have voted "yes."

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

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

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HAYWORTH) having assumed the chair, Mr. MCINNIS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1270) to amend the Nuclear Waste Policy Act of 1982, pursuant to House Resolution 283, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on 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. MARKEY

Mr. MARKEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MARKEY. I am opposed to the bill in its current form, yes.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MARKEY moves to recommit the bill H.R. 1270 to the Committee on Commerce with instructions to report the same back to the House forthwith with the following amendment:

Page 23, line 3, after the period insert "Contractors transporting spent nuclear fuel or high-level radioactive waste under any such contract shall not be indemnified under section 170d. of the Atomic Energy Act of 1954 for any liability resulting from negligence, gross negligence, or willful misconduct in connection with such transportation.".

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MARKEY] is recognized for 5 minutes in support of his motion to recommit.

□ 1645

Mr. MARKEY. Mr. Speaker, this recommittal motion is the amendment the nuclear industry does not want Members to vote on, which is why the Committee on Rules did not put it in order. The reason that the nuclear industry does not want us to vote on this amendment is that, as opposed to Nevada getting all the waste, or the nuclear site having the waste taken from it, this amendment deals with the transportation of the waste through Members' districts and what the liability is of the trucking company, of the rail company that has responsibility for this material.

Throughout the entire night last night we heard that an accident cannot happen, that these cannisters are so strong, and if a train hit the cannister, the train would be hurt. We were told that the Governor does not have to certify that transport is safe. We were told that the mayors and the local selectmen do not even have to have a role in public health or safety. But, buried in this bill is a total indemnification against liability of the trucking or the rail company if an accident occurs in Members' districts.

Mr. Speaker, 43 States are going to have these materials riding through them. What happens if the trucking company engages in gross misconduct, if the trucking company engages in gross negligence? They are still not liable.

Mr. Speaker, if the truck driver is on antidepressants, is drunk, is driving 80 miles an hour, careens into our community with this nuclear material, the company is not liable. My amendment makes the company liable. That is the only way we are going to make them accountable, to make sure they hire good drivers, to make sure they have the right kinds of protections built into the trucks, into the railcars. That is what this amendment is all about, plain and simple, just accountability for the companies who are carrying this dangerous material through every one of our districts. That is where it hits our districts, where it hits our people.

Mr. Speaker, I yield to the gentleman from Nevada [Mr. ENSIGN].

Mr. ENSIGN. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, H.R. 1270 does in fact assume that Congress and the Members here are experts, not the scientists. H.R. 1270 says that we are going to ignore what the Nuclear Waste Technical Review Board said, that there is no hurry, there is no urgency.

As a matter of fact, if we put interim storage, and by the way, this bill is not about Yucca Mountain, this bill is about interim storage of nuclear waste at the Nevada test site. If we put interim storage at the Nevada test site, we will hurt the characterization process of Yucca Mountain. This bill is not about science, this is about politics. This is about all of us thinking that we are experts, over the geologists and all

the scientists at the Nuclear Waste Technical Board and the like.

Mr. MARKEY. Reclaiming my time, Mr. Speaker, so this amendment is the mobile Chernobyl amendment. It will be coming through Members' districts. The police, the local PTAs, everyone will be asking questions. When they are told that the drivers are not liable, that the railroad companies are not liable, there are going to be a lot of questions to answer.

If there is only going to be one yes vote on recommittal, vote to include this liability for our districts when it is coming through our hometowns.

Mr. ENSIGN. If the gentleman will continue to yield, Mr. Speaker, the other thing about this bill is this bill does ignore private property rights and ignores States' rights. The 10th amendment reserves the power to the States and people that it does not specifically grant to the Federal Government in the Constitution.

The State of Nevada never had nuclear waste produced in its State. This is not a national security issue, this is about commercial nuclear waste trying to be shipped by other States to the State of Nevada. The gentleman from Idaho has good moral arguments because their State has had nuclear waste shoved down their throats. That is why he wants this bill, to get it out of his State, but it is no more right to send it to his State or to my State. This is wrong. It ignores private property rights as well as States' rights.

I urge a "yes" vote on the motion to recommit, and a "no" vote on H.R. 1270.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I rise to speak in opposition to the motion to recommit.

The SPEAKER pro tempore [Mr. HAYWORTH]. The gentleman from Colorado [Mr. DAN SCHAEFER] is recognized for 5 minutes.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield to the gentleman from Idaho [Mr. CRAPO].

Mr. CRAPO. Mr. Speaker, once again, the entire story has not been told. The fact is that this amendment would amend the Price-Anderson Act, a statute that was carefully crafted over two entire Congresses with great deliberation. There has been no hearing on this amendment, and it makes a dramatic change in an area of law that has always been very controversial.

This is not a simple matter. Contractor liability was hotly contested when the Price-Anderson Act was debated in the 100th and 101st Congresses. Congress did not bar indemnification of contractors from damages resulting from negligence out of recognition that such a course would be inconsistent with the purposes of the Price-Anderson Act. Why?

The fact is that although the impression was made in the debate in favor of this motion that there would be no compensation for those who might be injured by accidents involving nuclear transmission of fuel, the Price-Anderson Act does provide for compensation. It simply provides that it is done through a process that will provide immediate compensation to victims, rather than forcing them into expensive and protracted litigation.

Again, this is an issue that has been debated hotly over two Congresses. It will be visited again in the reauthorization of the Price-Anderson Act before transportation begins, and the impression that was tried to be made by those who debated in favor of this motion that there is no compensation for victims of such accidents is simply false. There is a system of compensation in place. This amendment should be rejected.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield to the gentleman from Texas [Mr. HALL], my ranking member.

Mr. HALL of Texas. Mr. Speaker, the only change that I see in this is that it amends the Price-Anderson Act. That is an act that we very carefully crafted over two Congresses. There has been no hearing on this amendment. All in the world this is, by a very clever and articulate and a fine Member of Congress, it is a last gasp, the last grasp, the last opportunity to derail us finding a place for the nuclear waste. That is absolutely all it is.

The purpose of the Price-Anderson Act is to provide a means of quickly compensating the victims of a nuclear accident. Let me say this: This amendment, this motion, is not timely, it is not necessary, and it is not debated. There has been absolutely no hearing on it.

The Price-Anderson Act has to be reauthorized by the year 2002. Nuclear waste shipments will not begin until 2002, so there is no reason to act on this amendment today, since transportation will not begin until 5 long years from now. Why the urgency this afternoon? It is just to derail this amendment today. It is very clever, very well presented, but it just does not hold up.

The situation could be different 5 years from now. At least the committee system would have 60 long months to work, to hear, to notify and have input from people more knowledgeable than any of us here. I think it is unnecessary, it is dangerous, it is untimely, and it is unneeded. I urge that we defeat it.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, I thank the gentleman for yielding to me.

I would like to have the Members' attention for just a minute. I am not going to yell, wail, or scream. I just want to tell the Members what the facts are.

Mr. Speaker, the Price-Anderson Act was enacted between the 100th and 101st Congresses on a bipartisan basis so people, if there was a nuclear accident, people could get compensation immediately. What this amendment would do, the amendment offered by the gentleman from Massachusetts [Mr. MARKEY], it would throw things into the courts. It may be 5 years or 6 years or 10 years before anybody would ever get compensated if, in fact, there ever was a nuclear accident, and there has not been.

So what the gentleman from Massachusetts [Mr. MARKEY] would like to do is to hand this over to the trial lawyers, to the courts, to the private settlement issue, and not get victims compensated immediately.

What we are asking in this bill, what the Price-Anderson Act does, is compensate victims immediately so they can take care of their health problems or their physical problems, or any property damage that they received. This amendment ought to stay in place. Price-Anderson ought to stay in place, and we should reject the Markey amendment.

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. MARKEY. 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, if ordered, will be taken on the question of passage of the bill.

The vote was taken by electronic device, and there were—ayes 142, noes 283, not voting 7, as follows:

[Roll No. 556]

AYES—142

Abercrombie	Delahunt	Hinchey
Ackerman	DeLauro	Hinojosa
Andrews	Dellums	Hooley
Baesler	Dingell	Jackson (IL)
Barrett (WI)	Dixon	Jackson-Lee (TX)
Becerra	Doggett	Jefferson
Bentsen	Engel	Johnson, E. B.
Berman	Ensign	Kanjorski
Blagojevich	Eshoo	Kaptur
Blumenauer	Evans	Kennedy (MA)
Borski	Farr	Kennedy (RI)
Boswell	Fattah	Kennelly
Brown (CA)	Filner	Kind (WI)
Brown (FL)	Flake	Kleczka
Brown (OH)	Furse	Klink
Cardin	Gejdenson	Kucinich
Carson	Gephardt	LaFalce
Clay	Gibbons	Lampson
Clayton	Green	Lantos
Conyers	Gutierrez	Lewis (GA)
Coyne	Hall (OH)	Lofgren
Cummings	Hamilton	Lowey
Davis (IL)	Harman	Luther
DeFazio	Hastings (FL)	Maloney (CT)
DeGette	Hefner	

Maloney (NY)
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKeon
McKinney
McNulty
Meehan
Meek
Millender-McDonald
Miller (CA)
Mink
Moakley
Nadler
Neal
Ney
Oberstar
Obey
Owens
Pallone
Pascrell
Paul
Payne
Pelosi
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Sabo
Sanchez
Sanders
Sawyer
Schumer
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith (NJ)
Smith, Adam
Souder
Stark
Stokes
Strickland
Talent
Tauscher
Thompson
Thurman
Tierney
Torres
Velázquez
Vento
Visclosky
Waters
Waxman
Weygand
Wolf
Woolsey
Yates

NOES—283

Aderholt
Allen
Archer
Armey
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boucher
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ewing
Fawell
Fazio
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kasich
Kelly
Kildee
Kilpatrick
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manton
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
Menendez
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Northup
Norwood
Nussle
Olver
Ortiz
Oxley
Packard
Pappas
Parker
Pastor
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Rush
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stearns
Stenholm
Stump
Stupak
Sununu
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Towns
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Weller
Wexler
White
Whitfield
Wicker
Wise
Wynn
Young (AK)
Young (FL)

NOT VOTING—7

Bonior
Cubin
Foglietta
Gonzalez
Schiff
Weldon (FL)
Weldon (PA)

□ 1715

Mr. STRICKLAND changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HAYWORTH). The question is on passage of the bill.

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

RECORDED VOTE

Mr. MARKEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 307, noes 120, not voting 6, as follows:

[Roll No. 557]

AYES—307

Aderholt
Allen
Archer
Armey
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonior
Bono
Borski
Boucher
Boyd
Brady
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Collins
Combest
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Etheridge
Everett
Ewing
Fattah
Fawell
Fazio
Flake
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McHugh
McInnis
McIntyre
Meek
Menendez
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Neumann
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Pappas
Parker
Pastor
Paxon
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Ramstad
Redmond
Regula
Riggs
Riley
Rodriguez
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Rush
Ryun
Salmon
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Towns
Traficant
Turner
Upton
Vento
Visclosky
Walsh
Wamp
Watt (NC)
Watts (OK)
Weller
Wexler
White
Whitfield
Wicker
Wolf
Wynn
Young (AK)
Young (FL)

NOES—120

Abercrombie
Ackerman
Andrews
Baesler
Barrett (WI)
Becerra
Berman
Blagojevich
Blumenauer
Bonilla
Boswell
Brown (CA)
Carson
Clay
Condit
Conyers
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Dixon
Doggett
English
Ensign
Eshoo
Evans
Farr
Filner
Foglietta
Furse
Gephardt
Gibbons
Gutierrez
Hall (OH)
Hamilton
Hansen
Harman
Hastings (FL)
Herger
Hinchey
Hooley
Jackson (IL)
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kleczka
Kucinich
LaFalce
Lampson
Lantos
Lewis (CA)
Lewis (GA)
Lofgren
Lowey
Lucas
Markey
Martinez
McDermott
McGovern
McHale
McIntosh
McKeon
McKinney
McNulty
Meehan
Millender-McDonald
Miller (CA)
Mink

Moakley	Rivers	Stark
Moran (VA)	Roemer	Stokes
Nadler	Rothman	Talent
Ney	Roybal-Allard	Tauscher
Owens	Sabo	Tierney
Pallone	Sanchez	Torres
Pascrell	Sanders	Velázquez
Paul	Schumer	Waters
Payne	Serrano	Watkins
Pease	Shays	Waxman
Pelosi	Sherman	Weygand
Pombo	Skaggs	Wise
Radanovich	Slaughter	Woolsey
Rahall	Smith (NJ)	Yates
Rangel	Smith, Adam	
Reyes	Souder	

NOT VOTING—6

Coburn	Gonzalez	Weldon (FL)
Cubin	Schiff	Weldon (PA)

□ 1727

Messrs. BRYANT, CHRISTENSEN, and McCRERY changed their vote from "no" to "aye."

So the bill was passed.

The result of vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill, H.R. 1270.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1270, NUCLEAR WASTE POLICY ACT OF 1997

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I ask unanimous consent the Clerk be authorized to make technical corrections in the engrossment of the bill, H.R. 1270, including corrections in spelling, punctuation, section numbering and cross-referencing.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

PRIVILEGES OF THE HOUSE—DISMISSAL OF CONTEST IN 46TH DISTRICT OF CALIFORNIA UPON EXPIRATION OF OCTOBER 31, 1997

Mr. MENENDEZ. Mr. Speaker, I rise to a question of the privileges of the House, and I offer a resolution (H. Res. 290) pursuant to clause 2 of rule IX.

The SPEAKER (Mr. HEFLEY). The Clerk will report the resolution.

The Clerk read as follows:

HOUSE RESOLUTION 290

Whereas Loretta Sanchez was issued a certificate of election as the duly elected Member of Congress from the 46th District of California by the Secretary of State of California and was seated by the U.S. House of Representatives on January 7, 1997; and

Whereas A Notice of Contest of Election was filed with the Clerk of the House by Mr. Robert Dornan on December 26, 1996; and

Whereas the allegations made by Mr. Robert Dornan have been found to be largely without merit, including his charges of improper voting from a business, rather than a residential address; underage voting; double voting; and charges of unusually large numbers of individuals voting from the same address. It was found that those accused of voting from the same address included a Marines Barracks and the domicile of nuns; that business addresses were legal residences for the individuals, including the zoo keeper of the Santa Ana Zoo; that duplicate voting was by different individuals; and that those accused of underage voting were of age; and

Whereas the Committee on House Oversight has issued unprecedented subpoenas to the Immigration and Naturalization Service to compare their records with Orange County voter registration records, the first time in any election in the history of the United States that the INS has been asked by Congress to verify the citizenship of voters; and

Whereas the privacy rights of United States citizens have been violated by the Committee's improper use of those INS records;

Whereas the INS itself has questioned the validity and accuracy of the Committee's use of INS documents;

Whereas the INS has complied with the Committee's request and, at the Committee's request, has been doing a manual check of its paper files and providing worksheets containing supplemental information on that manual check to the Committee on House Oversight for over five months; and

Whereas the Committee on House Oversight, subpoenaed the records seized by the District Attorney of Orange County on February 13, 1997 and has received and reviewed all records pertaining to registration efforts of that group; and

Whereas some Members of the House Oversight Committee are now seeking a duplicate and dilatory review of materials already in the Committee's possession by the Secretary of State of California; and

Whereas the Task Force on the Contested Election in the 46th District of California and the Committee have been reviewing these materials and have all the information they need regarding who voted in the 46th District and all the information they need to make a judgment concerning those votes; and

Whereas the Committee on House Oversight has after over nine months of review and investigation failed to produce or present any credible evidence sufficient to change the outcome of the election of Congresswoman Sanchez and is now, in place of producing such credible evidence, pursuing never ending and unsubstantiated areas of review; and

Whereas, Contestant Robert Dornan has after nearly one year not shown or provided any credible evidence sufficient to demonstrate that the outcome of the election is other than Congresswoman Sanchez's election to the Congress; and

Whereas, the Committee on House Oversight should complete its review of this matter and bring this contest to an end and now therefore be it:

Resolved, That unless the Committee on House Oversight has sooner reported a recommendation for its final disposition, the contest in the 46th District of California is dismissed upon the expiration of October 31, 1997.

□ 1730

The SPEAKER pro tempore (Mr. HEFLEY). The resolution presents a question of the privileges of the House.

MOTION TO TABLE OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I move to table the resolution.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from New York [Mr. SOLOMON].

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

RECORDED VOTE

Mr. MENENDEZ. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 212, noes 198, answered "present" 3, not voting 19, as follows:

[Roll No. 558]

AYES—212

Aderholt	Fox	McIntosh
Archer	Franks (NJ)	McKeon
Armey	Frelinghuysen	Mica
Bachus	Gallegly	Miller (FL)
Baker	Ganske	Moran (KS)
Ballenger	Gibbons	Morella
Barrett (NE)	Gilchrest	Myrick
Bartlett	Gillmor	Nethercutt
Barton	Gilman	Neumann
Bass	Goodlatte	Ney
Bateman	Goodling	Northup
Bereuter	Goss	Norwood
Bilbray	Graham	Nussle
Bilirakis	Granger	Oxley
Bliley	Greenwood	Packard
Blunt	Gutknecht	Pappas
Boehlert	Hansen	Parker
Boehner	Hastert	Paul
Bonilla	Hastings (WA)	Paxon
Bono	Hayworth	Pease
Brady	Hefley	Peterson (PA)
Bryant	Herger	Petri
Bunning	Hill	Pickering
Burr	Hilleary	Pitts
Burton	Hobson	Pombo
Buyer	Hoekstra	Porter
Callahan	Horn	Portman
Calvert	Hostettler	Pryce (OH)
Camp	Hulshof	Quinn
Campbell	Hunter	Radanovich
Canady	Hutchinson	Ramstad
Cannon	Hyde	Redmond
Castle	Inglis	Regula
Chabot	Istook	Riggs
Chambliss	Jenkins	Riley
Chenoweth	Johnson (CT)	Rogan
Christensen	Johnson, Sam	Rogers
Coble	Jones	Rohrabacher
Collins	Kasich	Ros-Lehtinen
Combest	Kelly	Roukema
Cook	Kim	Royce
Cooksey	King (NY)	Ryun
Cox	Kingston	Salmon
Crane	Klug	Sanford
Crapo	Knollenberg	Saxton
Cunningham	Kolbe	Scarborough
Davis (VA)	LaHood	Schaefer, Dan
Deal	Largent	Schaffer, Bob
Diaz-Balart	Latham	Sensenbrenner
Dickey	LaTourette	Sessions
Dreier	Lazio	Shadegg
Duncan	Lewis (CA)	Shaw
Dunn	Lewis (KY)	Shays
Ehlers	Linder	Shimkus
Ehrlich	Livingston	Shuster
Emerson	LoBiondo	Skeen
English	Lucas	Smith (MI)
Ensign	Manzullo	Smith (NJ)
Everett	McCollum	Smith (OR)
Ewing	McCrery	Smith (TX)
Fawell	McDade	Smith, Linda
Foley	McHugh	Snowbarger
Fowler	McInnis	Solomon

Spence	Thornberry	Watts (OK)
Stearns	Thune	Weller
Stump	Tiahrt	White
Sununu	Traficant	Whitfield
Talent	Upton	Wicker
Tauzin	Walsh	Wolf
Taylor (NC)	Wamp	Young (FL)
Thomas	Watkins	

NOES—198

Abercrombie	Goode	Neal
Ackerman	Gordon	Oberstar
Allen	Green	Obey
Andrews	Gutierrez	Olver
Baesler	Hall (OH)	Ortiz
Baldacci	Hall (TX)	Owens
Barcia	Hamilton	Pallone
Barrett (WI)	Harman	Pascrell
Becerra	Hastings (FL)	Pastor
Bentsen	Hefner	Pelosi
Berman	Hilliard	Peterson (MN)
Berry	Hinchey	Pickett
Bishop	Hinojosa	Pomeroy
Blagojevich	Holden	Poshard
Blumenauer	Hooley	Price (NC)
Bonior	Hoyer	Rahall
Borski	Jackson (IL)	Rangel
Boswell	Jackson-Lee (TX)	Reyes
Boucher	Jefferson	Rivers
Boyd	John	Rodriguez
Brown (CA)	Johnson (WI)	Roemer
Brown (FL)	Johnson, E. B.	Rothman
Brown (OH)	Kanjorski	Roybal-Allard
Cardin	Kaptur	Rush
Carson	Kennedy (MA)	Sabo
Clay	Kennedy (RI)	Sanders
Clayton	Kennelly	Sandlin
Clement	Kildee	Sawyer
Clyburn	Kilpatrick	Schumer
Condit	Kind (WI)	Scott
Conyers	Klink	Serrano
Costello	Kucinich	Sherman
Coyne	LaFalce	Sisisky
Cramer	Lampson	Skaggs
Cummings	Lantos	Skelton
Danner	Levin	Slaughter
Davis (FL)	Lewis (GA)	Smith, Adam
Davis (IL)	Lipinski	Snyder
DeFazio	Lofgren	Spratt
DeGette	Lowey	Stabenow
Delahunt	Luther	Stark
DeLauro	Maloney (CT)	Stenholm
Dellums	Maloney (NY)	Stokes
Deutsch	Markey	Strickland
Dicks	Martinez	Stupak
Dingell	Mascara	Tanner
Dixon	Matsui	Tauscher
Doggett	McCarthy (MO)	Taylor (MS)
Dooley	McCarthy (NY)	Thompson
Doyle	McDermott	Thurman
Edwards	McGovern	Tierney
Engel	McIntyre	Torres
Eshoo	McKinney	Towns
Etheridge	McNulty	Turner
Evans	Meehan	Velázquez
Farr	Menendez	Vento
Fattah	Millender-McDonald	Visclosky
Fazio	Miller (CA)	Waters
Filner	Minge	Watt (NC)
Flake	Mink	Waxman
Forbes	Moakley	Wexler
Ford	Mollohan	Weygand
Frank (MA)	Moran (VA)	Wise
Frost	Murtha	Woolsey
Furse	Nadler	Wynn
Gejdenson		Yates
Gephardt		

ANSWERED "PRESENT"—3

Coburn	Sanchez	Souder

NOT VOTING—19

Barr	Houghton	Payne
Cubin	Kleczka	Schiff
DeLay	Leach	Weldon (FL)
Doolittle	Manton	Weldon (PA)
Foglietta	McHale	Young (AK)
Gekas	Meek	
Gonzalez	Metcalf	

□ 1753

Mr. Barcia and Ms. Carson changed their vote from "aye" to "no."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HEFLEY). Before we go to the next resolution, the Chair would remind the Members that these votes should not come as a surprise. Members are expected to be here and vote within the 15-minute time limit.

PRIVILEGES OF THE HOUSE—DISMISSAL OF CONTEST IN 46TH DISTRICT OF CALIFORNIA UPON EXPIRATION OF OCTOBER 31, 1997

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise to a question of the privileges of the House, and I offer a resolution (H. Res. 291) pursuant to clause 2 of rule IX.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 291

Whereas, Loretta Sanchez was issued a certificate of election as the duly elected Member of Congress from the 46th District of California by the Secretary of State of California and was seated by the U.S. House of Representatives on January 7, 1997; and

Whereas A Notice of Contest of Election was filed with the Clerk of the House by Mr. Robert Dornan on December 26, 1996; and

Whereas the Task Force on the Contested Election in the 46th District of California has met only on February 26, 1997 in Washington, D.C. on April 19, 1997 in Orange County, California, and October 24, 1997 in Washington, D.C.; and

Whereas the allegations made by Mr. Robert Dornan have been largely found to be without merit; charges of improper voting from a business, rather than a resident address; underage voting; double voting; and charges of unusually large number of individuals voting from the same address. It was found that voting from the same address included a Marines barracks and the domicile of nuns, that business addresses were legal residences for the individuals, including the zoo keeper of the Santa Ana zoo, that duplicate voting was by different individuals and those accused of underage voting were of age; and

Whereas the Committee House Oversight has issued unprecedented subpoenas to the Immigration and Naturalization Service to compare their records with Orange County voter registration records, the first time in any election in the history of the United States that the INS has been asked by Congress to verify the citizenship of voters; and

Whereas the INS has complied with the Committee's request and, at the Committee's request, has been doing a manual check of its paper files and providing worksheets containing supplemental information on that manual check to the Committee on House Oversight for over five months; and

Whereas some Members of the House Oversight Committee are now seeking a duplicate and dilatory review of materials already in the Committee's possession by the Secretary of State of California; and

Whereas the Task Force on the Contested Election in the 46th District of California and the Committee have been reviewing these materials and has all the information it needs regarding who voted in the 46th District and all the information it needs to make judgments concerning those votes; and

Whereas the Committee on House Oversight has after over nine months of review and investigation failed to present credible evidence to change the outcome of the election of Congresswoman Sanchez and is pursuing never ending and unsubstantiated areas of review; and

Whereas, Contestant Robert Dornan has not shown or provided credible evidence that the outcome of the election is other than Congresswoman Sanchez's election to the Congress; and

Whereas, the Committee on House Oversight should complete its review of this matter and bring this contest to an end and now, therefore, be it

Resolved, That unless the Committee on House Oversight has sooner reported a recommendation for its final disposition, the contest in the 46th District of California is dismissed upon the expiration of October 31, 1997.

The SPEAKER pro tempore. The resolution presents a question of the privileges of the House.

MOTION TO TABLE OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I move to table the resolution.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from New York [Mr. SOLOMON].

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

RECORDED VOTE

Ms. ROYBAL-ALLARD. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 216, noes 200, answered "present" 3, not voting 13, as follows:

[Roll No. 559]

AYES—216

Aderholt	Cannon	Foley
Archer	Castle	Fowler
Armey	Chabot	Fox
Bachus	Chambliss	Franks (NJ)
Baker	Chenoweth	Frelinghuysen
Ballenger	Christensen	Gallegly
Barr	Coble	Ganske
Barrett (NE)	Collins	Gekas
Bartlett	Combest	Gibbons
Barton	Cook	Gilchrest
Bass	Cooksey	Gillmor
Bateman	Crane	Gilman
Bereuter	Crapo	Goodlatte
Bilbray	Cunningham	Goodling
Bilirakis	Davis (VA)	Goss
Bliley	Deal	Graham
Blunt	DeLay	Granger
Boehlert	Diaz-Balart	Greenwood
Boehner	Dickey	Gutknecht
Bonilla	Doolittle	Hansen
Brady	Dreier	Hastert
Bryant	Duncan	Hastings (WA)
Bunning	Dunn	Hayworth
Burr	Ehlers	Hefley
Burton	Ehrlich	Herger
Buyer	Emerson	Hill
Callahan	English	Hilleary
Calvert	Ensign	Hobson
Camp	Everett	Hoekstra
Campbell	Ewing	Horn
Canady	Fawell	Hostettler

Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—200

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Forbes
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

ANSWERED "PRESENT"—3

Coburn
Sanchez
Shadegg

NOT VOTING—13

Cox
Cubin
Foglietta
Gonzalez
Houghton
Manton
Moakley
Payne
Schiff
Souder
Weldon (FL)
Weldon (PA)
Yates

□ 1816

Mr. SPRATT changed his vote from "aye" to "no."

Mrs. JOHNSON of Connecticut and Mr. SNOWBARGER changed their vote from "no" to "aye."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—DISMISSAL OF CONTEST IN 46TH DISTRICT OF CALIFORNIA UPON EXPIRATION OF OCTOBER 31, 1997

Ms. NORTON. Mr. Speaker, I rise to a question of the privileges of the House, and I send to the desk a privileged resolution (H. Res. 292) pursuant to clause 2 of rule IX and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. HEFLEY). The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 292

Whereas, Loretta Sanchez has been duly elected to represent the 46th District of California; and

Whereas A Notice of Contest of Election was filed with the Clerk of the House by Mr. Robert Dornan on December 26, 1996; and

Whereas the Task Force on the Contested Election in the 46th District of California met only on February 26, 1997 in Washington, D.C. on April 19, 1997 in Orange County, California, and October 24, 1997 in Washington, D.C.; and

Whereas the allegations made by Mr. Robert Dornan have been largely found to be without merit: charges of improper voting from a business, rather than a resident address; underage voting; double voting; and charges of unusually large number of individuals voting from the same address. It was found that voting from the same address included a Marines barracks and the domicile of nuns, that business addresses were legal residences for the individuals, including the zoo keeper of the Santa Ana zoo, that duplicate voting was by different individuals and those accused of underage voting were of age; and

Whereas the Committee on House Oversight has issued unprecedented subpoenas to the Immigration and Naturalization Service to compare their records with Orange County voter registration records, the first time in any election in the history of the United States that the INS has been asked by Congress to verify the citizenship of voters; and

Whereas the INS has complied with the Committee's request and, at the Committee's request, has been doing a manual check of its paper files and providing worksheets containing supplemental information on that manual check to the Committee on House Oversight for over five months; and

Whereas the Committee on House Oversight, subpoenaed the records seized by the District Attorney of Orange County on February 13, 1997 and has received and reviewed all records pertaining to registration efforts of that group; and

Whereas some Members of the House Oversight Committee are now seeking a duplicate and dilatory review of materials already in the Committees possession by the Secretary of State of California; and

Whereas the Task Force on the Contested Election in the 46th District of California and the Committee have been reviewing these materials and has all the information it needs regarding who voted in the 46th District and all the information it needs to make judgements concerning those votes; and

Whereas the Committee on House Oversight has after over nine months of review and investigation failed to present credible evidence to change the outcome of the election of Congresswoman Sanchez and is pursuing never ending and unsubstantiated areas of review; and

Whereas, Contestant Robert Dornan has not shown or provided credible evidence that the outcome of the election is other than Congresswoman Sanchez's election to the Congress; and

Whereas, the Committee on House Oversight should complete its review of this matter and bring this contest to an end and now therefore be it;

Resolved, that unless the Committee on House Oversight has sooner reported a recommendation for its final disposition, the contest in the 46th District of California is dismissed upon the expiration of October 31, 1997.

The SPEAKER pro tempore. The resolution presents a question of the privileges of the House.

MOTION TO TABLE OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I move to table the resolution.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from New York [Mr. SOLOMON].

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

RECORDED VOTE

Ms. NORTON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 214, noes 187, answered "present" 4, not voting 27, as follows:

[Roll No. 560]

AYES—214

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton

Bass
Bateman
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Collins
Combest
Cook
Cooksey
Crane
Crapo
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Watkins
Watts (OK)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—187

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Carson
Clay
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Forbes
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Menendez
Miller (CA)
Minge
Mink
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Pascrell
Pastor
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Wexler
Weygand
Wise
Wynn

ANSWERED "PRESENT"—4

Coburn
Sanchez
Shadegg
Wamp

NOT VOTING—27

Barrett (NE)
Bereuter
Burton
Clayton
Cox
Cubin
Davis (FL)
Foglietta
Gonzalez
Maloney (NY)
Manton
Meek
Millender-McDonald
Moakley
Owens
Pallone
Payne
Pelosi
Rangel
Schiff
Souder
Taylor (MS)
Waxman
Weldon (FL)
Weldon (PA)
Woolsey
Yates

□ 1838

So the motion to table 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. MILLENDER-McDONALD. Mr. Speaker, on rollcall No. 560, I was coming down the aisle when the Speaker closed the vote before I was able to cast my vote. Had I been able to vote, I would have voted "no."

PERSONAL EXPLANATION

Mr. PALLONE. Mr. Speaker, on rollcall No. 560, I was in the well of the House Chamber, and the Speaker did not notice that I was trying to vote. Had I been recognized, I would have voted "no."

PRIVILEGES OF THE HOUSE—DISMISSAL OF CONTEST IN 46TH DISTRICT OF CALIFORNIA UPON EXPIRATION OF OCTOBER 31, 1997

Mr. CONDIT. Mr. Speaker, I rise to a question of the privileges of the House, and I send to the desk a privileged resolution (H. Res. 293) pursuant to clause 2 of rule IX and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. HEFLEY). The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 293

Whereas Loretta Sanchez was issued a certificate of election as the elected Member of Congress from the 46th District of California and was seated by the U.S. House of Representatives on January 7, 1997; and

Whereas a Notice of Contest of Election was filed with the Clerk of House by Mr. Robert Dornan on December 26, 1996; and

Whereas the Task Force on the Contested Election in the 46th District of California met on February 26th, 1997 in Washington, D.C. on April 19th, 1997 in Orange County, California, and October 24, 1997 in Washington, D.C.; and

Whereas the Committee on the House Oversight has issued unprecedented subpeoneas to the Immigration and Naturalization Service to compare their records with Orange County voter registration records, the first time in any election in the history of the United States that the INS has been asked by Congress to verify the citizenship of voters; and

Whereas the INS has complied with the Committee's request and, at the Committee's request, has been doing a manual check of its paper files and providing worksheets containing supplemental information on that manual check to the Committee on House Oversight for over five months; and

Whereas the Committee on House Oversight has after over nine months of review and investigation failed to present credible evidence to change the outcome of the election of Congresswoman Sanchez and is pursuing never ending and unsubstantiated areas or review; and

Whereas, the Committee on the House Oversight should complete its review of this matter and bring the matter forward for the House of Representatives to vote upon and now therefore be it:

Resolved, that unless the Committee on House Oversight has sooner reported a recommendation for its final disposition, the contest in the 46th District of California is dimissed upon the expiration of October 31, 1997

The SPEAKER pro tempore. The resolution presents a question of the privileges of the House.

MOTION TO TABLE OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I move to table the resolution.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from New York [Mr. SOLOMON].

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

RECORDED VOTE

Mr. CONDIT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 212, noes 190, answered "present" 4, not voting 26, as follows:

[Roll No. 561]

AYES—212

Aderholt
Archer
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Collins
Combest
Cook
Cooksey
Cox
Crane
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Watkins
Watts (OK)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—190

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Forbes
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Sawyer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Wexler
Weygand
Wise
Woolsey
Wynn

ANSWERED "PRESENT"—4

Coburn
Shadegg
Taylor (MS)
Wamp

NOT VOTING—26

Armey
Barrett (NE)
Crapo
Cubin
Dooley
Foglietta
Foley
Gonzalez
Manton
Martinez
McInnis
McIntosh
Menendez
Moakley
Moran (VA)
Owens
Payne
Rangel
Sanchez
Schiff
Schumer
Souder
Waxman
Weldon (FL)
Weldon (PA)
Yates

□ 1858

Mrs. MALONEY of New York changed her vote from "aye" to "no."

Mr. REGULA changed his vote from "no" to "aye."

So the motion to table was agreed to.

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. Sherman Williams, one of his secretaries.

PRIVILEGES OF THE HOUSE—DISMISSAL OF CONTEST IN 46TH DISTRICT OF CALIFORNIA UPON EXPIRATION OF OCTOBER 31, 1997

Mr. BECERRA. Mr. Speaker, I rise to a question of the privileges of the House, and I send to the desk a privileged resolution (H. Res. 294) pursuant to clause 2 of rule IX and ask for its immediate consideration.

The SPEAKER pro tempore [Mr. HEFLEY]. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 294

Whereas, Loretta Sanchez was issued a certificate of election as the duly elected Member of Congress from the 46th District of California by the Secretary of State of California and was seated by the U.S. House of Representatives on January 7, 1997; and

Whereas A Notice of Contest of Election was filed with the Clerk of the House by Mr. Robert Dornan on December 26, 1996; and

Whereas the Task Force on the Contested Election in the 46th District of California met on February 26, 1997 in Washington, D.C. on April 19, 1997 in Orange County, California and October 24, 1997 in Washington, D.C.; and

Whereas the allegations made by Mr. Robert Dornan have been largely found to be without merit: charges of improper voting from a business, rather than a resident address; underage voting; double voting; and charges of unusually large number of individuals voting from the same address. It was found that voting from the same address included a Marines barracks and the domicile of nuns, that business addresses were legal residences for the individuals, including the zoo keeper of the Santa Ana zoo, that duplicate voting was by different individuals and those accused of underage voting were of age; and

Whereas the Committee on House Oversight has issued unprecedented subpoenas to the Immigration and Naturalization Service to compare their records with Orange County voter registration records, the first time in any election in the history of the United States that the INS has been asked by Congress to verify the citizenship of voters; and

Whereas the INS has complied with the Committee's request and, the Committee's request, has been doing a manual check of its paper files and providing worksheets containing supplemental information on that manual check to the Committee on House Oversight for over five months; and

Whereas the Committee on House Oversight, subpoenaed the records seized by the District Attorney of Orange County on February 13, 1997 and has received and reviewed all records pertaining to registration efforts of that group; and

Whereas the Task Force on the Contested Election in the 46th District of California and the Committee have been reviewing these materials and has all the information it needs regarding who voted in the 46th District and all the information it needs to make judgments concerning those votes; and

Whereas the Committee on House Oversight has after over nine months of review and investigation failed to present credible evidence to change the outcome of the election of Congresswoman Sanchez and is pursuing never ending and unsubstantiated areas of review; and

Whereas, Contestant Robert Dornan has not shown or provided credible evidence that the outcome of the election is other than Congresswoman Sanchez's election to the Congress; and

Whereas, the Committee on House Oversight should complete its review of this matter and bring this contest to an end and now therefore be it;

Resolved, that unless the Committee on House Oversight has sooner reported a recommendation for its final disposition, the

contest in the 46th District of California is dismissed upon the expiration of October 31, 1997.

The SPEAKER pro tempore. The resolution presents a question of the privileges of the House.

MOTION TO TABLE OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, for the fifth time, I move to table the resolution.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from New York [Mr. SOLOMON].

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

RECORDED VOTE

Mr. BECERRA. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 217, noes 193, answered "present" 4, not voting 18, as follows:

[Roll No. 562]

AYES—217

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Watkins
Watts (OK)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—193

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Forbes
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Wexler
Weygand
Wise
Woolsey
Wynn

ANSWERED "PRESENT"—4

Coburn
Sanchez
Shadegg
Wamp

NOT VOTING—18

Barrett (NE)
Bishop
Conyers
Cubin
Foglietta
Gonzalez
Lazio
Manton
Moakley
Oberstar
Payne
Sanders
Schiff
Souder
Waxman
Weldon (FL)
Weldon (PA)
Yates

□ 1920

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—DISMISSAL OF CONTEST IN 46TH DISTRICT OF CALIFORNIA UPON EXPIRATION OF OCTOBER 31, 1997

Ms. HOOLEY of Oregon. Mr. Speaker, I rise to a question of the privileges of the House, and I offer a resolution (H. Res. 295) pursuant to clause 2 of rule IX.

The SPEAKER pro tempore (Mr. HEFLEY). The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 295

Whereas, Loretta Sanchez was issued a certificate of election as the duly elected Member of Congress from the 46th District of California and was seated by the U.S. House of Representatives on January 7, 1997; and

Whereas A Notice of Contest of Election was filed with the Clerk of the House by Mr. Robert Dornan on December 26, 1996; and

Whereas the Task Force on the Contested Election in the 46th District of California met on February 26, 1997 in Washington, D.C. on April 19, 1997 in Orange County, California, and October 24, 1997 in Washington, D.C.; and

Whereas the allegations made by Mr. Robert Dornan have been largely found to be without merit: charges of improper voting from a business, rather than a resident address; underage voting; double voting; and charges of unusually large number of individuals voting from the same address. It was found that voting from the same address included a Marines barracks and the domicile of nuns, that business addresses were legal residences for the individuals, including the zoo keeper of the Santa Ana zoo, that duplicate voting was by different individuals and those accused of underage voting were of age; and

Whereas, the Committee on House Oversight has issued unprecedented subpoenas to the Immigration and Naturalization Service to compare their records with Orange County voter registration records, the first time in any election in the history of the United States that the INS has been asked by Congress to verify the citizenship of voters; and

Whereas the INS has complied with the Committee's request and, at the Committee's request, has been doing a manual check of its paper files and providing worksheets containing supplemental information on that manual check to the Committee on House Oversight for over five months; and

Whereas some Members of the House Oversight Committee are now seeking a duplicate and dilatory review of materials already in the Committees possession by the Secretary of State of California; and

Whereas the Task Force on the Contested Election in the 46th District of California and the Committee have been reviewing these materials and has all the information it needs regarding who voted in the 46th District and all the information it needs to make judgements concerning those votes; and

Whereas the Committee on House Oversight has after over nine months of review and investigation failed to present credible evidence to change the outcome of the election of Congresswoman Sanchez and is pursuing never ending and unsubstantiated areas of review; and

Whereas, Contestant Robert Dornan has not shown or provided credible evidence that the outcome of the election is other than Congresswoman Sanchez's election to the Congress; and

Whereas, the Committee on House Oversight should complete its review of this matter and bring this contest to an end and now therefore be it;

Resolved, That unless the Committee on House Oversight has sooner reported a recommendation for its final disposition, the contest in the 46th District of California is dismissed upon the expiration of October 31, 1997.

The SPEAKER pro tempore. The resolution presents a question of the privileges of the House.

MOTION TO TABLE OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I move to table the resolution.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from New York [Mr. SOLOMON].

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

RECORDED VOTE

Ms. HOOLEY of Oregon. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 212, noes 197, answered "present" 5, not voting 18, as follows:

[Roll No. 563]

AYES—212

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Thune
Traficant
Upton
Walsh
Watkins
Watts (OK)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)

NOES—197

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Forbes
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

ANSWERED "PRESENT"—5

Coburn
Sanchez
Shadegg
Tiahrt
Wamp

NOT VOTING—18

Barrett (NE)
Burton
Cubin
Foglietta
Frost
Gekas
Gonzalez
Manton
Moakley
Payne
Saxton
Schiff
Souder
Thomas
Weldon (FL)
Weldon (PA)
Yates
Young (AK)

□ 1941

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—DISMISSAL OF CONTEST IN 46TH DISTRICT OF CALIFORNIA UPON EXPIRATION OF OCTOBER 31, 1997

Ms. WATERS. Mr. Speaker, I rise to a question of the privileges of the House, and I offer a resolution (H. Res. 296) pursuant to clause 2 of rule IX.

PARLIAMENTARY INQUIRY

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

The SPEAKER pro tempore [Mr. HEFLEY]. The gentleman will state it.

Mr. SOLOMON. Mr. Speaker, would it be in order to have the gentleman from Massachusetts [Mr. FRANK], the speed reader, read the next two resolutions?

The SPEAKER pro tempore. Under the rules, the Clerk must read the resolutions.

The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 296

Whereas as contested election contest has been pending between Congresswoman Loretta Sanchez and Mr. Robert Dornan since December 26, 1996; and

Whereas the Task Force on the Contested Election in the 46th District of California has only met on February 26, 1997 and October 24, 1997 in Washington D.C. and on April 19, 1997 in Orange County, California; and

Whereas the allegations made by Mr. Robert Dornan have been largely found to be without merit: charges of improper voting from a business, rather than a resident address; underage voting; double voting; and charges of unusually large number of individuals voting from the same address. It was found that voting from the same address included a Marines barracks and the domicile of nuns, that business addresses were legal residences for the individuals, including the zoo keeper of the Santa Ana zoo, that duplicate voting was by different individuals and those accused of underage voting were of age; and

Whereas the Committee on House Oversight has issued unprecedented subpoenas to the Immigration and Naturalization Service to compare their records with Orange County voter registration records, the first time in any election in the history of the United States that the INS has been asked by Congress to verify the citizenship of voters; and

Whereas the INS has complied with the Committee's request and, at the Committee's request, has been doing a manual check of its paper files and providing worksheets

containing supplemental information on that manual check to the Committee on House Oversight for over five months; and

Whereas some Members of the House Oversight Committee are now seeking a duplicate and dilatory review of materials already in the Committees possession by the Secretary of State of California; and

Whereas the Task Force on the Contested Election in the 46th District of California and the Committee have been reviewing these materials and has all the information it needs regarding who voted in the 46th District and all the information it needs to make judgments concerning those votes; and

Whereas the Committee on House Oversight has after over nine months of review and investigation failed to present credible evidence to change the outcome of the election of Congresswoman Sanchez and is pursuing never ending and unsubstantiated areas of review; and

Whereas Contestant Robert Dornan has not shown or provided credible evidence that the outcome of the election is other than Congresswoman Sanchez's election to the Congress; and

Whereas the Committee on House Oversight should complete its review of this matter and bring this contest to an end and now therefore be it;

Resolved, that unless the Committee on House Oversight has sooner reported a recommendation for its final disposition, the contest in the 46th District of California is dismissed upon the expiration of October 31, 1997.

□ 1945

The SPEAKER pro tempore (Mr. HEFLEY). The resolution presents a question of the privileges of the House.

MOTION TO TABLE OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I move to table the resolution.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from New York [Mr. SOLOMON].

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

RECORDED VOTE

Ms. WATERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 214, noes 196, answered "present" 3, not voting 19, as follows:

[Roll No. 564]

AYES—214

Aderholt
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Traficant
Upton
Walsh
Watkins
Watts (OK)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)

NOES—196

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Forbes
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

ANSWERED "PRESENT"—3

Coburn
Tiahrt
Wamp

NOT VOTING—19

Archer
Barrett (NE)
Cubin
Foglietta
Frost
Gekas
Gonzalez
Manton
McNulty
Moakley
Payne
Pryce (OH)
Schiff
Skelton
Souder
Weldon (FL)
Weldon (PA)
Yates
Young (AK)

□ 2005

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—DISMISSAL OF CONTEST IN 46TH DISTRICT OF CALIFORNIA UPON EXPIRATION OF OCTOBER 31, 1997

Mr. DOOLEY of California. Mr. Speaker, I rise to a question of the privileges of the House, and I send to the desk a privileged resolution (H. Res. 297) pursuant to clause 2 of rule IX and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. HEFLEY). The Clerk will report the resolution.

The Clerk read as follows:

Whereas, Loretta Sanchez was issued a certificate of election as the duly elected Member of Congress from the 46th District of California by the Secretary of State of California and was seated by the U.S. House of Representatives on January 7, 1997; and

Whereas A Notice of Contest of Election was filed with the Clerk of the House by Mr. Robert Dornan on December 26, 1996; and

Whereas the Task Force on the Contested Election in the 46th District of California has met only three times; and

Whereas the allegations made by Mr. Robert Dornan have been largely found to be without merit: charges of improper voting from a business, rather than a resident address; underage voting; double voting; and charges of unusually large numbers of individuals voting from the same address. It was found that voting from the same address included a Marines barracks and the domicile of nuns, that business addresses were legal residences for the individuals, including the zoo keeper of the Santa Ana zoo, that duplicate voting was by different individuals and

those accused of underage voting were of age; and

Whereas the Committee on House Oversight has issued unprecedented subpoenas to the Immigration and Naturalization Service to compare their records with Orange County voter registration records, the first time in any election in the history of the United States that the INS has been asked by Congress to verify the citizenship of voters; and

Whereas the INS has complied with the Committee's request and, at the Committee's request, has been doing a manual check of its paper files and providing worksheets containing supplemental information on that manual check to the Committee on House Oversight for over five months; and

Whereas some Members of the House Oversight Committee are now seeking a duplicate and dilatory review of materials already in the Committees possession by the Secretary of State of California; and

Whereas the Task Force on the Contested Election in the 46th District of California and the Committee have been reviewing these materials and has all the information it needs regarding who voted in the 46th District and all the information it needs to make judgments concerning those votes; and

Whereas the Committee on House Oversight has after over nine months of review and investigation failed to present credible evidence to change the outcome of the election of Congresswoman Sanchez and is pursuing never ending and unsubstantiated areas of review; and

Whereas Contestant Robert Dornan has not shown or provided credible evidence that the outcome of the election is other than Congresswoman Sanchez's election to the Congress; and

Whereas the Committee on House Oversight should complete its review of this matter and bring this contest to an end and now therefore be it;

Resolved, that unless the Committee on House Oversight has sooner reported a recommendation for its final disposition, the contest in the 46th District of California is dismissed upon the expiration of October 31, 1997.

The SPEAKER pro tempore. The resolution presents a question of the privileges of the House.

MOTION TO TABLE OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, for the eighth and last time, I move to table the resolution.

The CHAIRMAN. The question is on the motion to table offered by the gentleman from New York [Mr. SOLOMON].

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

RECORDED VOTE

Mr. DOOLEY of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 208, noes 192, answered "present" 4, not voting 28, as follows:

[Roll No. 565]

AYES—208

Aderholt
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bateman
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Traficant
Upton
Walsh
Watkins
Watts (OK)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—192

Abercrombie
Ackerman
Allen
Andrews
Baesler
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Forbes
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Moran (VA)
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shadegg
Sherman
Sisisky
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

ANSWERED "PRESENT"—4

Coburn
Sanchez
Tiahrt
Wamp

NOT VOTING—28

Archer
Baldacci
Barrett (NE)
Bereuter
Bono
Cubin
Ehrlich
Foglietta
Frost
Gonzalez
Hall (OH)
Jenkins
Kasich
Manton
McKinney
McNulty
Moakley
Murtha
Oxley
Payne
Pryce (OH)
Schiff
Skelton
Smith (OR)
Souder
Weldon (FL)
Weldon (PA)
Yates

□ 2027

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REREFERRAL OF S. 459 TO THE COMMITTEE ON EDUCATION AND THE WORKFORCE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the Senate bill, S. 459, and that the bill be rereferred to the Committee on Education and the Workforce. This bill amends and reauthorizes the Native American Programs Act of 1974.

The SPEAKER pro tempore [Mr. HEFLEY]. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

MAKING IN ORDER ON FRIDAY, OCTOBER 31, 1997, OR ANY DAY THEREAFTER CONSIDERATION OF CONFERENCE REPORT ON S. 858, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1998

Mr. GOSS. Mr. Speaker, I ask unanimous consent that it be in order on Friday, October 31, 1997, or any day thereafter to consider the conference report to accompany S. 858; that all points of order against the conference report and against its consideration be waived; and that the conference report be considered as read when called up.

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

There was no objection.

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AUTHORIZING SPEAKER TO DESIGNATE TIME FOR RESUMPTION OF PROCEEDINGS ON REMAINING MOTIONS TO SUSPEND RULES CONSIDERED MONDAY, SEPTEMBER 29, 1997

Mr. GOSS. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to designate a time not later than November 7, 1997, for resumption of proceedings on the seven remaining motions to suspend the rules originally considered on Monday, September 29, 1997.

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

There was no objection.

AGREEMENT FOR COOPERATION BETWEEN UNITED STATES AND FEDERATIVE REPUBLIC OF BRAZIL CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. HEFLEY) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)), the text of a proposed Agreement for Cooperation Between the Government of the United States of America and the Government of the Federative Republic of Brazil Concerning Peaceful Uses of Nuclear Energy, with accompanying annex and agreed minute. I am also pleased to transmit my written approval, authorization, and determination concerning the agreement, and the memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views, is also enclosed.

The proposed agreement with Brazil has been negotiated in accordance with the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 and as otherwise amended. In my judgment, the proposed agreement meets all statutory requirements and will advance the nonproliferation and other foreign policy interests of the United States. The agreement provides a comprehensive framework for peaceful nuclear cooperation between the United States and Brazil under appropriate conditions and controls reflecting a strong common commitment to nuclear nonproliferation goals.

The proposed new agreement will replace an existing United States-Brazil agreement for peaceful nuclear cooperation that entered into force on September 20, 1972, and by its terms would expire on September 20, 2002. The United States suspended cooperation with Brazil under the 1972 agreement in the late 1970s because Brazil did not satisfy a provision of section 128 of the Atomic Energy Act (added by the Nuclear Non-Proliferation Act of 1978) that required full-scope International Atomic Energy Agency (IAEA) safeguards in nonnuclear weapon states such as Brazil as a condition for continued significant U.S. nuclear exports.

On December 13, 1991, Brazil, together with Argentina, the Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials (ABAAC) and the IAEA signed a quadrilateral agreement calling for the application of full-scope IAEA safeguards in Brazil and Argentina. This safeguards agreement was brought into force on March 4, 1994. Resumption of cooperation would be possible under the 1972 United States-Brazil agreement for cooperation. however, both the United States and Brazil believe it is preferable to launch a new era of cooperation with a new agreement that reflects, among other things:

—An updating of terms and conditions to take account of intervening changes in the respective domestic legal and regulatory frameworks of the parties in the area of peaceful nuclear cooperation;

—Reciprocity in the application of the terms and conditions of cooperation between the Parties; and

—Additional international nonproliferation commitments entered into by the Parties since 1972.

Over the past several years Brazil has made a definitive break with earlier ambivalent nuclear policies and has embraced wholeheartedly a series of important steps demonstrating its firm commitment to the exclusively peaceful uses of nuclear energy. In addition to its full-scope safeguards agreement with the IAEA, Brazil has taken the following important nonproliferation steps:

—It has formally renounced nuclear weapons development in the Foz do Iguazsu declaration with Argentina in 1990;

—It has renounced "peaceful nuclear explosives" in the 1991 Treaty of Guadalajara with Argentina;

—It has brought the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco) into force for itself on May 30, 1994;

—It has instituted more stringent domestic controls on nuclear exports and become a member of the Nuclear Suppliers Group; and

—It has announced its intention, on June 20, 1997, to accede to the Nuclear Non-Proliferation Treaty (NPT).

The proposed new agreement with Brazil permits the transfer of technology, material, equipment (including reactors), and components for nuclear research and nuclear power production. It provides for U.S. consent rights to retransfers, enrichment, and reprocessing as required by U.S. law. It does not permit transfers of any sensitive nuclear technology, restricted data, or sensitive nuclear facilities or major critical components thereof. In the event of termination key conditions and controls continue with respect to material and equipment subject to the agreement.

From the U.S. perspective, the proposed new agreement improves on the 1972 agreement by the addition of a number of important provisions. These include the provisions for full-scope safeguards; perpetuity of safeguards; a ban on "peaceful" nuclear explosives using items subject to the agreement; a right to require the return of items subject to the agreement in all circumstances for which U.S. law requires such a right; a guarantee of adequate physical security; and rights to approve enrichment of uranium subject to the agreement and alteration in form or consent of sensitive nuclear material subject to the agreement.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution and urge that the Congress give it favorable consideration.

Because this agreement meets all applicable requirements of the Atomic

Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123 a. of that Act. This transmission shall constitute a submittal for the purposes of both sections 123 b. and 123 d. of the Atomic Energy Act. the Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House International Relations Committees as provided in section 123 b. Upon completion of the 30-day continuous session period provided for in section 123 b., the 60-day continuous session provided for in section 123 d. shall commence.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 30, 1997.*

SCHOOL CHOICE

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

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, just a couple of weeks ago 295 Members of this Congress voiced their support for local schools, for local school board members, for parents and for our children with respect to national testing. We decided, a majority of us in this body, that independent national testing, that parental measures of quality, that school board standards established locally are in fact the best measurements of how our children are succeeding in our schools and how our public education system is delivering quality service. The White House on the other hand persists in pushing forward their plan for government-run national testing defined by bureaucrats here in Washington, another effort by people here in the city of Washington, DC to consolidate education authority in the hands of powerful bureaucrats so far removed from the children in our districts and the schools that we represent here in Congress.

Mr. Speaker, we need to stick to our guns here in the House. The 295 Members need to tell the White House that our schools need to continue to be governed locally.

Mr. Speaker, Congress has a choice.

It can ignore the findings of the 1983 report on education in America—A Nation at Risk—for yet another year.

Or it can get serious and pass real reforms that have the benefit of a proven track record and common sense behind them.

Previous Congresses have chosen to sell out to the special interests and protect the status quo.

The results are there for all to see.

The other side of the aisle is proposing to do exactly that for one more year.

It's always the same story—more money into the very same wasteful bureaucracies with money that taxpayers already forked over the last time the Government asked for more money.

More Federal programs, more bureaucracy, and more control from Washington, DC.

This is the essence of how the other side thinks problems are solved.

It's time to change course. Public schools can compete in a free market—they should be permitted to do so.

It's time to change course.

Competition works.

Greater parental control and less intrusion from Washington means better decisions about how our children are educated.

It's time to give parents school choice.

VOTE DOWN OHIO'S WORKERS COMPENSATION INITIATIVE

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

Mr. KUCINICH. Mr. Speaker, next Tuesday the people of Ohio will vote against Issue 2 to overturn a number of destructive changes that have been made in the State's workers compensation system. Those who favor Issue 2 argue that these changes are constructive reforms. Nothing could be further from the truth. The real intent of these changes is to block legitimate applicants from receiving the benefits they deserve because they have been hurt on the job.

Issue 2 would impose upon applicants a burden of proof that would be almost impossible to meet. It would allow employers to keep their injury, disease and accident reports hidden from the public. It would cut in half the amount of time that claims would remain open for the payment of compensation and medical benefits.

If this law had been in effect in 1995 in Ohio, 9 out of 10 persons who received total permanent disability would have been rejected.

It is a total fraud to call Issue 2 a reform of Ohio's workers compensation system. It is a takeaway law that tries to convince working people in Ohio to take away rights and benefits they have had for 80 years. Stand up for injured workers. Vote down Issue 2.

Issue 2 is opposed by a broad-based coalition of citizens and municipal organizations such as the Parma City Council. I request that this Emergency Resolution from the Parma City Council be entered into the CONGRESSIONAL RECORD.

RESOLUTION NO. 306–97

By: Susan M. Straub, Deborah Lime, Sam C. Bonanno, Dean E. Depiero, Roy J. Jech, J. Kevin Kelley, Paul T. Kirner, John R. Stover, Anthony Zielinski.

A Resolution opposing Senate bill 45—Workers' Compensation Reform Bill and urging voters to vote "No" on Issue 2 on November 4, 1997, and Declaring an Emergency

WHEREAS, the Ohio legislature and Governor Voinovich have decided to tap compensation payments to workers injured or diseased on the job; and,

WHEREAS, the most severe benefit cuts are: 1) decreasing benefits to those with permanent partial disabilities; 2) denying coverage to workers who contract occupational cancers and other occupational diseases; 3) denying coverage for those who suffer from carpal tunnel or other repetitive motion injuries; 4) decreasing non-working wage loss from 200 weeks to 26 weeks; and,

WHEREAS, a coalition of public interest, labor, and injured worker organizations turned in 415,000 signatures on petitions to the secretary of state on July 21, 1997, forcing a referendum on the so-called Workers' Compensation Reform Bill (SB 45) signed by Governor Voinovich in the spring; and,

WHEREAS, the signatures mean that for the first time since 1939, Ohioans will be able to go to the polls and *VOTE "NO"* on anti-injured workers legislation;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARMA, STATE OF OHIO:

Section 1. That this Council of the City of Parma has determined that Senate Bill 45—Workers' Compensation Reform Bill will negatively impact those citizens who have suffered injuries and diseases as a consequence of their employment, and thus, urging voters to vote "no" on Issue 2 on November 4, 1997.

Section 2. That the Clerk of Council be, and he hereby is, directed to forward a certified copy of this Resolution to Governor George V. Voinovich, Congressman Dennis Kucinich, Senator Gary C. Suhadolnik, Senator Patrick A. Sweeney, Senator Judy B. Sheerer, State Representative Ron "Mickey" Mottl, and State Representative Dale Miller.

Section 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of the Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of the City of Parma, and for the further reason that this measure is necessary as the general election will be held November 4, 1997, and this Resolution shall become immediately effective upon receiving the affirmative vote of two-thirds of all members elected to Council and approval of the Mayor, otherwise from and after the earliest period allowed by law.

Passed: September 22, 1997, Charles M. Germana, President of council.

Attest: Michael F. Hughes, clerk of council, approved: September 23, 1997.

Filed with the Mayor: September 23, 1997, Gerald M. Boldt, Mayor, City of Parma, Ohio.

I, Michael F. Hughes, Clerk of Council, City of Parma, County of Cuyahoga and State of Ohio, hereby certify this to be a true and correct copy of Resolution No. 306–97, passed by Parma City Council on the 22nd day of September, 1997.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. HEFLEY). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

BREAST CANCER AWARENESS MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. MORELLA] is recognized for 5 minutes.

Mrs. MORELLA. Mr. Speaker, October is Breast Cancer Awareness Month. Throughout this month, the Congressional Caucus for Women's Issues has sponsored special orders to urge our colleagues to work with us to increase funding for breast cancer research, treatment, and prevention, and to expand insurance coverage for screening and treatment.

Last year, an estimated 182,000 women were diagnosed with breast cancer, and 46,000 died of the disease. One in eight women will develop breast cancer in their lifetimes. It continues to represent the most frequent major cancer in women and the second leading cause of cancer deaths in women.

Despite the increases in funding for breast cancer research and prevention in recent years, we still have few options for prevention and treatment. For this reason, the gentlewoman from New York [Mrs. LOWEY] and I have introduced H.R. 1070, The Breast Cancer Research Act of 1997. This bill authorizes $590 million for breast cancer research at the National Institutes of Health for fiscal year 1998, which is an increase of 35 percent. This funding level is recommended by the National Breast Cancer Coalition and the American Cancer Society. The bill has been cosponsored by a bipartisan group of Members.

Many worthy research proposals go unfunded each year, and a greater Federal investment in this research will attract more top scientists to this effort. I urge my colleagues who are speaking tonight and I urge my colleagues in this House to add their names as cosponsors of this important bill.

I am pleased that the House approved the fiscal year 1998 Labor, Health, and Human Services Education Appropriations bill, which has a 6-percent increase in funding for the National Institutes of Health. The Senate has approved an even higher increase of 7.5 percent. I particularly thank the chairman, the gentleman from Illinois [Mr. PORTER], for his leadership in working to bolster our Federal investment in biomedical research, including breast cancer research, as well as the members of his subcommittee, including three members of the Women's Caucus, the gentlewoman from New York [Mrs. LOWEY], the gentlewoman from California [Ms. PELOSI], and the gentlewoman from Connecticut [Ms. DELAURO].

The National Cancer Institute receives the highest funding increase of all the institutes in the bill. I hope that a final version will be forthcoming very soon. We must also work to better translate new research findings to clinical applications both through a greater focus on clinical research and through technology transfer.

As chair of the Subcommittee on Technology, I have been working to facilitate technology transfer between Government agencies and the private sector. Efforts such as the "missiles to mammograms" project between the Public Health Service, the Department of Defense, the intelligence community, and NASA are critically important in applying new technologies to the fight against breast cancer.

Earlier this year, the gentlewoman from New York [Mrs. LOWEY] and I circulated the congressional letter urging the Appropriations National Security Subcommittee to provide $175 million for the peer-reviewed breast cancer research program at the Department of Defense, a letter cosigned by 170 of our colleagues, many of whom are here this evening. And while this final conference report fell short of that mark, I wanted to commend Chairman YOUNG for his role in increasing spending for the program to $135 million in the final version.

The peer-reviewed breast cancer research program has gained a well-deserved reputation for its innovation and efficient use of resources, with over 90 percent of program funds going directly to research grants. We must continue to increase our investment in this important program.

Access to mammography screening is another critical issue. The caucus had a major victory in August, when Congress approved the Balanced Budget Act, which includes annual coverage for mammography screening under Medicare. This has been a longtime caucus priority. And I was pleased to be an original cosponsor of both the Kennelly bill to provide annual coverage, as well as a cosponsor of the bill, H.R. 15, of subcommittee chairman, the gentleman from California [Mr. THOMAS], which provided for a number of preventive benefits, including annual mammography screening.

As of last fall, the breast and cervical cancer screening program had provided more than 1.2 million breast and cervical cancer screenings, education and followup services for low-income women across the country. While this program has been successful, we must ensure that efforts to reach disabled and disadvantaged and minority populations are expanded. As an interesting number of mastectomies and lymph node dissections are performed as outpatient surgery, Congress should ensure that women receive hospital care. Breast cancer has been a bipartisan priority within the caucus and for our male colleagues. I look forward to working with all of our Members to increase our commitment to it.

H.R. 135 AND BREAST CANCER AWARENESS MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. MALONEY] is recognized for 5 minutes.

Mr. MALONEY of Connecticut. Mr. Speaker, as October is Breast Cancer Awareness Month, I rise to reflect on those loved ones we have lost to breast cancer and to offer my support to those who are struggling with the disease. I also rise to strongly urge an important legislative response to this killer disease.

Whether we are aware of it or not, all of us know at least one person who has been affected by breast cancer. The prevalence of this disease is underscored by some truly alarming statistics. Breast cancer is the most common form of cancer in women in the United States. And as was mentioned a minute ago, one in eight women will be diagnosed with the disease in her lifetime. In my home State of Connecticut alone, 2,000 women will be diagnosed with breast cancer in 1997 and approximately 480 women, unfortunately, will succumb to this illness.

Finding a way to eradicate breast cancer must be a national priority. It is imperative that the public and private sectors continue to devote sufficient resources for research activities aimed at finding a cure. I would like to commend my colleagues for their efforts to pass the fiscal year 1998 Labor, Health and Human Services Education Appropriations bill, which provides a $764.5 million increase over last year's level for the National Institutes of Health and $124 million more for the National Cancer Institute.

Until we find a cure, however, we must ensure that those living with breast cancer have access to quality health care services. New drugs and therapies are being developed to ease the suffering of breast cancer victims and help them lead normal lives. However, as my colleague, the gentlewoman from Connecticut [Ms. DELAURO] eloquently stated on the floor of this House the other night, some managed care organizations are providing inadequate coverage for hospital stays after women undergo mastectomies.

I find it unconscionable that managed care staffers whose knowledge of medicine is often limited and whose decisions are influenced by financial considerations are forcing women out of hospitals in their time of need. The results of a study conducted on this matter by the Connecticut Office of Health Care Access are stunning. The report revealed that the average length of a hospital stay for breast cancer patients in Connecticut and across the Nation is decreasing, and it is falling faster for mastectomies than for other inpatient discharges. We must act to halt this unacceptable trend. Breast cancer patients face life-and-death decisions,

and they should be afforded the peace of mind that comes with adequate coverage of services.

The gentlewoman from Connecticut [Ms. DELAURO] and I, together with 194 of our colleagues, have introduced legislation to address this problem. I am proud to be a cosponsor of the Breast Cancer Patient Protection Act, critical legislation which provides important safeguards for those afflicted with breast cancer. This measure will guarantee coverage of a maximum hospital stay of 48 hours for a woman having a mastectomy and 24 hours for a woman undergoing a lymph node removal. This is the least we can do for patients who have just endured a traumatic and painful surgical procedure. And consistent with other efforts to regulate managed care plans, and ensure quality health care, this legislation helps to empower women to make their own health care choices, and gives doctors the ability to make appropriate medical decisions.

Unfortunately, the Congress has not taken action on this legislation. The Sapient Health Network has created a web page and is asking people to sign their "Breast Cancer Care" petition urging Congress to schedule hearings on the Breast Cancer Protection Act. Thousands of Americans have contacted that website to express their support for this critical legislation.

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This web site also contains a number of testimonials from breast cancer survivors, patients, and family members of victims.

I would like to close by reading the moving statements of two Connecticut residents whose lives have been touched by breast cancer. One reads: "I am a breast cancer survivor who was fortunate enough to have my reconstruction covered by my insurance company, thanks to some careful wording by my plastic surgeon. I had my mastectomy and reconstruction at the same time just 4 years ago, and my surgeon said that I would be in the hospital 4 to 5 days. I can't imagine going home any sooner, especially with the drains still in me. Unfortunately I developed an infection and stayed 21 days. What if that infection hadn't shown up before I was sent home?"

Another Connecticut resident writes: "In May of 1997, I was diagnosed with breast cancer. Fortunately it was detected through a mammogram at a very early stage. I've had a lumpectomy, lymph node dissection, and radiation. The laws need to be supportive and realistic. These are our mothers and sisters and wives and daughters that we're talking about."

Mr. Speaker, now is the time for us to intensify our efforts to eliminate breast cancer. I urge my colleagues to support the Breast Cancer Patient Protection Act.

ACLU AT IT AGAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, last Thursday in one of our Nation's leading daily newspapers, the Christian Science Monitor, was this paragraph:

"The ACLU is at it again. The organization that opposes school uniforms, obstructs teen curfews, fights metal detectors at airports, and challenges restrictions on child pornography is now turning its legal firepower against single-sex public schools."

As the headline in the Monitor said, "Single-sex schools are a form of diversity." The Christian Science Monitor is not a conservative publication. Also, even many liberals like columnist William Raspberry and others have praised single-sex schools.

People should be free to go to any type of school they want to go to or their parents want them to go to. But everyone should realize how elitist and left wing the ACLU has become, how out of step with the American people it is. It basically has become an organization that is supported by rich socialists.

They fight against school prayer and in favor of child pornography. What a group. Then they try to portray themselves as a pro bono public interest group and then demand $6.7 million, $450 an hour, for legal work in their suit against the Citadel. The ACLU charged $105,000 just to prepare the bill in that case, so now all the students at the Citadel will have to pay higher fees for their college education, thanks to the ACLU.

While I am speaking about the type of education our children receive and the choices or options they have, let me also mention last week's White House Conference on Day Care. Columnists Linda Chavez and Mona Charen both wrote about this conference and the harmful effects of placing small children into institutional day care.

Linda Chavez wrote, "From everything we know about child development, it's a good thing more children, especially infants, are not being cared for in institutional settings. Babies and very young children need the kind of personal attention and care giving that is impossible to find in a day care center no matter how well-intentioned or well-meaning the staff."

She quoted Dr. Stanley Greenspan, a professor of pediatrics and psychiatry at George Washington University, who wrote recently in the Washington Post, "In the rush to improve and increase child care, we are ignoring a more fundamental reality: Much of the child care available for infants and toddlers in this country simply isn't good for them."

Among his reasons were a lack of continuity with one care giver and lack of prolonged interactions between child and adult. In other words, babies and small children need, desperately need and desperately want, much more individualized attention than is possible even in the best, most expensive day care center.

Mona Charen went on to write: "American families are creative. Though we hear endless calls for more and better child care, 66.7 percent of mothers with children under age 6 are full-time mothers or are employed part-time. They are not crying out for more institutional child care. What they do need are tax breaks, flex-time, work-at-home options, telecommuting and job sharing."

She goes on to say this: "The notion of a child care crisis is a myth. We now have expert testimony like that of Dr. Greenspan and other experts cited by the Clintons themselves to bolster the common-sense intuition that parents are the best guardians of young children. The goal of public policy ought to be to ensure that as many parents as possible are free to make that choice."

The thing that would help children the most, Mr. Speaker, would be to drastically decrease the cost of government. Today the average person is paying almost half of his or her income in taxes of all types, Federal, State and local.

Thus, as several commentators have noted, today one spouse has to work to support the government while the other spouse works to support the family. Many families who would like to spend more time with their children simply do not have the option because of our big government, the Nanny State we have created. Our children would be far better off today, Mr. Speaker, if we drastically downsized our government and drastically decreased its cost and left more money for parents to spend on their own children and less on government bureaucrats. Our children will be far better off with less government and more time with and attention from their parents.

WHAT A DIFFERENCE 4 YEARS MAKES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota [Mr. THUNE] is recognized for 5 minutes.

Mr. THUNE. Mr. Speaker, this last weekend as I do most weekends, I went back to my home State of South Dakota and had the opportunity to participate in the annual governor's pheasant hunt, which was a huge success in spite of the weather. It is always a great reminder and a great opportunity for me to get away to clear my head, get out in the beautiful country, in the fall in South Dakota, which is a wonderful time of the year, and participate in an activity which has become a trademark and something that

is very much a part of our culture in my State of South Dakota. Oftentimes as I travel in my State when I am back home I will hear from some of my conservative friends who express frustration at the fact that sometimes Washington has not come, or that we have not done enough in terms of changing the culture of this city, that we are not making progress fast enough. What I often try to remind them of is what a difference 4 years has made.

As I look at the progress that has been made here in the last 4 years, I think it is important to keep in perspective from where we have come so we know where we are going. Four short years ago, we had a President who was trying to invent a national health care system, where the government, this huge bureaucracy, would take over the health care system in this country. We saw the largest tax increase in the history not only of this country but, as someone has said, I believe a Senator, the biggest tax increase in the history of the world. And now in 4 short years and after the 1994 election, when those policies were repudiated and the Republicans took majority of the Congress, we began to take action to reverse the culture of this city, and it changed the value system that we have here.

I would like to think that the values that we have brought here as a matter of value, that bigger is not necessarily better and that smaller is better in the area of the Federal Government and that my kids are infinitely better off if we have a Federal Government that is more efficient, more responsive and a better value for the taxpayers. As a basic statement of values, that it is not the government's money, it is in fact the people of this country's money, and they ought to be able to best determine how those dollars are spent. Furthermore, that we do not need Hollywood, as the Vice President suggested last week, to force us to consider what our values ought to be. But as a matter of fact, that we want to give a more active role to parents, to families, to churches, to communities, to allow parents to spend more time with their families so they will not have to work 3 jobs by giving them a lower tax structure so they can have the important role in shaping the values of the future of our country and the future of our kids.

These are the things that I think we are making and the areas where we are making historic progress, as we consider the accomplishments of the past 4 years, welfare reform, the first balanced budget in some 30 years, the first tax relief, lower taxes on American families and businesses and people who are farmers and ranchers in my State for the first time in 16 years. Medicare reform. So many issues we have tackled in this Congress and progress we have made.

The short of it is I believe for the first time in a generation, we have taken bold steps to shift power out of Washington, D.C. and back home to the folks who really need to be in a position to make the decisions that affect their daily lives. These are important steps. This is progress that we have made. There is a lot of room to go and a lot of room for improvement here. Those are the things that we are going to continue to work on.

I think as we look into the next year and the challenges that are ahead of us, we have to do something to destroy the Tax Code that has become an abomination to the people of this country. In a very bold way, I believe that we are going to take on the issue of reforming the IRS and restructuring it and then taking this Tax Code and making it simpler and fairer and more practical for the American public. We are going to look at areas like education and making important reforms to, as a matter again of values, say that parents should have more input in how their kids are educated, that the taxpayers ought to get the best possible value that we can out of our education dollar and that we want to see the optimum, the very best quality of education for our kids.

Those are important priorities for us and those are things that we are going to continue to move forward. We have made an important beginning here in the past 4 years. As a Republican majority in the Congress when we took over in 1994, these are accomplishments to which we can point with pride.

I think it points also to the need to continue to build upon a vision for the future which envisions a Federal Government which again is smaller and more responsive, more efficient, and a recognition that it is in fact the people of this country and their initiative and when we give them the opportunity to keep more of what they earn, that they will do what is in the best interest not only of themselves and their family but they will also work in the areas of their communities to make this a better place in which to raise their kids, in which to build a better future for this country.

I look forward to being a part of these initiatives that we are going to continue to work on to build upon the progress that has been made and to continue down the path into the future. We have had a great beginning. We now need to move forward.

IN MEMORY OF THE LATE HONORABLE WALTER H. CAPPS OF CALIFORNIA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentlewoman from Oregon [Ms. HOOLEY] is recognized for 60 minutes as the designee of the minority leader.

Ms. HOOLEY of Oregon. Mr. Speaker, I would like to especially thank the gentleman from Wisconsin [Mr. NEUMANN], who allowed us to go first so we may honor our friend and fellow colleague Walter Capps.

I would like to begin this special order with a moment of silence in honor of our friend.

Mr. Speaker, a number of Members, especially some of the Members of the freshman class who were very close to Walter wanted to pay a special tribute to him tonight. It seems particularly appropriate that we should share a moment of quiet reflection for a man whose reflective, thoughtful style was at odds with the often noisy, clamorous tenor of this body.

Even amongst the freshman class, there is a great deal of diversity in the ways my colleagues make decisions. While high-minded ideals play a part in every public servant's decisions, there are few Members who sought a moral grounding for their judgments more seriously and persistently than Walter Capps.

He was once quoted as saying, "The question is, What will I do? Am I being true to who I am? If I go this way, will I have violated anything that is essentially human?" Plainly Walter's humanism, his morality, his seriousness, his rectitude raised the business of the legislature to a higher level. He reminded us all about our reasons for coming to Congress in the first place. Walter was a different breed, a renaissance man cut from the same cloth from which I would like to imagine that the giants of our Republic's history came.

Yesterday on the floor I recalled one of my favorite stories about Walter, how he had told me that when he was laid up from a serious accident and unable to campaign, he had written a book. How remarkable in this age of hard and fast campaigning. I was almost mystified that he could have found time to do such a thing. Later, I learned that it was his 14th book.

By now even those of us who were not lucky enough to have known Walter in the short time here have through his tragedy of death come to realize how greatly he will be missed. I will miss him both professionally and personally. I will miss his bipartisanship and his intelligence. I will miss his warmth and his good humor.

Congressman Capps' spirit will live on among the Members of this freshman class. He will live through the work that we do. His early and unfortunate death deprived us of something wonderful, but the example that he set for all of us during his time here leaves us something wonderful to live up to.

Mr. Speaker, I yield to the gentleman from North Carolina [Mr. PRICE].

□ 2100

Mr. PRICE of North Carolina. I thank the gentlewoman for yielding

and for organizing this special order tonight.

Mr. Speaker, Walter Capps brought rare qualities of insight and grace to political life and to his service among us. In his short time here, he touched us individually and as an institution in ways reflected in the remarkable outpouring of grief and tribute we have witnessed since Tuesday. Walter was, as the President said, a rare soul, and we are much the poorer for his passing.

I first met Walter Capps some 35 years ago at Yale University, where he was a graduate student in religious studies and I was a fellow student of his wife, Lois, and brother, Don, in the Divinity School. Walter went on to a career distinguished for the quality of his teaching and writing and research, and far-reaching in its impact on students and colleagues and in the Santa Barbara community.

His would have been a rich and full life had he never been drawn into politics, but the fact that he took on the challenge of this new career speaks volumes, not only about his remarkable and diverse talents, but also about his openness to the leading of the Spirit and his powerful sense of moral obligation.

It was not as though membership in the Congress fell into Walter's lap. Walter fought two hard campaigns and was preparing for another. He came back from a difficult loss in 1994 and a horrible automobile accident in 1996. His manner was genial and gentle, but those qualities were combined with a bedrock of conviction and courage and persistence.

He was in politics for the right reasons, but he knew that the values and purposes he brought to political life would not prevail without a struggle. With Lois at his side, he was willing to make that struggle, and our country and this institution are the better for it.

When I returned to the House after the 1996 election, Walter Capps was one of the new Members I was most eager to meet. This was partly because of our shared background, of course, but also because of the unique career path and remarkable talents that brought him to this place. I was privileged to become his friend here, as were so many colleagues to whom Walter reached out with an insatiable curiosity about the people and issues with which he was working, a cooperative and generous spirit, and great good humor.

Walter Capps cared deeply about uplifting minds and spirits. He succeeded because his own spirit was centered and at peace. He had much to give, and he gave without measure.

We are deeply saddened that Walter's time among us was so abruptly cut short, but we rejoice in a life fully and usefully lived, and we are heartened that a man like Walter Capps could be elected and could grace this House and our service with his presence.

In the words of the Apostle Paul, we thank God upon every remembrance of him.

Ms. HOOLEY of Oregon. Mr. Speaker, I yield time to the gentleman from Florida [Mr. DAVIS].

Mr. DAVIS of Florida. Mr. Speaker, tonight is an evening for us to give thanks for the remarkable life of Walter Capps. It is also an opportunity for us to express appreciation to Walter's constituents in Santa Barbara and the communities he represented, to thank them for sending Walter to Congress to serve with us. It is further an opportunity to reflect on the unique attributes of Walter Capps.

Walter stood out in a body of very, very strong-willed people as being an extremely strong-willed person himself. How else can you explain the fact that Walter succeeded in getting elected to Congress while spending a few months in a hospital bed with very serious injuries?

Yet what made Walter stand out was the fact that while he was a very strong-willed person, he was also a very selfless person. I was struck on the several times that I talked with Walter by the fact that there was absolutely no sense of ego in this man, simply a determination to do his job.

Walter invested himself in learning the issues. Walter invested himself in trying to understand how to make this a better place within which to do the people's business. This is because Walter, above all, believed in the power of knowledge. He believed in the power of ideas, and his weapon here on the floor of the House of Representatives was his knowledge of the issues and his ability to use his intellect to convince others on the merits of issues.

One of the other things I will always remember about Walter Capps is his remarkable peace of mind. Amid the sound and fury that often characterizes this body, Walter had a certain calm about him which most of us can only envy.

That calmness in Walter Capps can clearly be attributed to a very rich and deep spiritual life, which he shared with many through his writings and his teachings in Santa Barbara, and also a quite remarkable sense of self-knowledge.

Walter Capps knew who he was. Walter Capps knew what he believed. Walter Capps understood quite clearly what gifts he had been endowed with, and he knew how to use them. He came here to simply get the job done. Above all, Walter was a teacher, and we were just beginning to learn from Walter in so many ways. So in the short time we had to get to know Walter, we have learned a lot.

To Walter, and to Lois, and to the Capps family and to the constituents that sent him here, we thank you for the chance of having had the opportunity to serve with him.

Ms. HOOLEY of Oregon. Mr. Speaker, I yield to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Speaker, it does not seem possible that it has just been one year that we had the good fortune to know Walter in the people's House, the House of Representatives. In some ways, I feel like I knew him very well in that one short year, and I thought, well, why is that? Because our districts are kind of neighbors? Well, maybe that is so.

Because we are one of, I think, only two Swedish-Americans in the House of Representatives and we used to tease each other about that? Maybe that is the truth. But as I think about it, I think I feel I know Walter very well because we all do, because he took the time to share himself with each of us and not just with us, with his constituents.

I think about what we have lost and what his constituents have lost, what his family has lost, and I also think what we have gained.

When I think of Walter, I think of several things. I think of his integrity, and I remember sitting here on this floor when we would be casting our votes and for the freshmen Members, trying to make those fine decisions, trying to understand all of the forces at play, and Walter would say something like, "I think the right thing to do is this." Not the political thing, not the popular thing, but "I think the right thing is to do this." And then he would do that thing.

I think of Walter as a sparkley-eyed person, and I think of the jokes that he and Reverend Ford used to tell, sometimes in Swedish so the rest of us would not understand, and the jokes that he would tell. He proved up the truth that you can have values and integrity, but you don't have to be grim and not fun to be around.

I think about Walter as a modest and egalitarian person, who treated the most modest person from his district or on the street as the owner of the country, who did not put the rich or the powerful or the important on any higher pedestal than the least person he ever met. And it is those values that we got from Walter. It is that that he gave to us.

Where does a person get their life, their attitude towards life? Surely from their values. In Walter's case, from his faith. I also think his severe accident really had a very large impact on him. He talked to me, and I think to many perhaps, about how it made him understand in a very real way how precious life is, when he had confronted the fact that he was really not expected to live, but he fought his way back.

After that, he took, without ever telling anyone, no press, never made much of it, but he always made a point to go back and visit the rehabilitation

center where he spent those months and to visit with the people who were still there or who had become ill since he had left and to give them some hope, just by being there, that he had made it and they could, too.

Finally, I think of Walter as someone who loved his family in a way that was very special. I think of him and Lois walking these floors at night when the votes were going, because Lois was here as his life partner, but also his values partner. I think of the pride that he had in his children and how he would share that pride and how wonderful that was, and I think of how honored he felt that his neighbors had selected him to come here for a short while to represent them, to trust his values to be translated in their behalf.

He knew that all of us are here passing through at the request of our neighbors to do the people's will. He did not know it would be just for one year. In that one year, he has done more than many do in decades.

For that, Walter, we all thank you, honor you, and thank your family.

Ms. HOOLEY of Oregon. Mr. Speaker, I yield time to the gentlewoman from New York [Mrs. MCCARTHY].

Mrs. MCCARTHY of New York. Mr. Speaker, as you can hear from all of our colleagues, Walter Capps, Congressman Walter Capps, was a wonderful person. Again, I am a freshman, and I can remember meeting him for the first time during orientation.

I was scared during those days, because it was the first time that I had come here to try and work and do the people's work, and I remember sitting next to Walter, and he kind of saw me shaking and said, "Are you okay?" I said I don't know. I hope I can do this job. And he goes, Carolyn, you got here. You will do it, and you will do it fine.

Well, we are here almost 11 months and Walter had become my teacher, and for that I thank him. I loved walking from the halls to here while we would talk about what was going on in our lives and what was going on back in our district. For those things, I thank him for very deeply.

The one thing about Walter, he was a quiet man, but he was a giant. We have had a lot of extremely important people here, and more important people will come and do great things. Walter would have been one of those people. We will never know.

Yesterday, I was going over my desk and I saw that I had signed on on a bill with Walter, because he was always working to try to make life better for people. I think all of our colleagues will work to make sure his name is on that bill and that bill will pass. That will be our legacy to Walter and to his family. I thank you so much. We will all miss Walter.

Ms. HOOLEY of Oregon. Mr. Speaker, I yield time to the gentleman from New Jersey [Mr. ROTHMAN].

Mr. ROTHMAN. Mr. Speaker, I thank Congresswoman HOOLEY for putting together this tribute to our friend, the late Walter Capps.

First of all, I would like to extend my heartfelt condolences to Lois and Walter's children. We can only imagine how you are feeling. You have our thoughts and our prayers.

Walter Capps lived a very rich and vigorous life, serving his community in many different ways. As a young man in Omaha, Nebraska, he learned the value of a hard day's work with Union Pacific Railroad by delivering newspapers and by painting houses.

As a professor of religious studies at the University of California Santa Barbara, he emerged as a national leader in the study of peace and conflict, veterans affairs, and America's democracy.

While at the University of California Santa Barbara, he also developed one of the first college curriculums on the history, experience and ramifications of the Vietnam War. He was active with his community, service organizations in the Santa Barbara area and in his own Lutheran church.

Walter epitomized the kind of person we all want to be, not only as Members of Congress, but as human beings. In a time when petty partisanship engulfs this body so often, too often, and prevents the Congress, many times, from doing the people's work, it was such a gift to be able to look over and see Walter Capps, a man who exuded humility and compassion and grace.

He refused to subscribe to the lowest common denominator of discourse. He spoke from the heart, always challenging us to see the big picture and to work for a world where harmony, reconciliation and thoughtfulness were to be more common than anger, conflict, and ignorance.

□ 2115

While campaigning to represent the people of the 22d Congressional District of California, Walter Capps often spoke of the broken bond of trust between the people of the United States and their government. He believed that Americans deserved a government as good as the people it served, and that idealism has a place in Washington, DC.

In the memory of Walter Capps, I challenge each and every Member of this great House, and every Member of the United States Senate, to seize this sense of idealism and to begin to work for a Nation that Walter would have been proud of, a place where social divisions melt away into a national community, where we come together to solve our problems in a constructive, thoughtful, and compassionate manner.

I remember first meeting Walter in our freshman orientation sessions. I am 5 feet 8½ inches, and Walter was tall, but he was a giant, as the gentlewoman from New York, Mrs. CAROLYN MALONEY, said, in other ways. When you met him, you knew that here was just a great person, a great man; smart, smarter than all of us, but he was so kind. He was so humble. He really was a beautiful human being. You were almost in awe of him when you spoke with him, because he was so smart, he was so well-read, he was so knowledgeable, but he was tolerant of all of us, short people, smaller people, and I do not just mean in height.

He had great intelligence, humility, gentleness, grace, maturity, and eyes that bespoke a great love of life. It was a tremendous honor to serve this Nation with Walter Capps, and to have gotten to know him and work with him, however briefly. I will miss him. I think I will always miss him, and his loss is a wound that will never heal.

It is my hope and prayer that this House will carry on his legacy, and will always remember and live up to his expectations and grand vision of the potential of the United States of America and the potential of the human race.

Ms. HOOLEY. Mr. Speaker, I yield to the gentleman from Iowa [Mr. BOSWELL].

Mr. BOSWELL. Mr. Speaker, 50-plus some hours ago we were stunned, 2 days and a little bit, when we heard in this Chamber, the people's Chamber, that one of ours had left us, had left this earth. Many of us had many mixed feelings. For me, I still struggle with it somewhat.

We shared a lot, I guess because we are the oldest ones of our class. I told him, though, I was the oldest. He said, well, we have got to check that. So we did, from time to time, as if he would have forgotten. Of course, he did not. But we talked probably about every day about something, sometimes just to share a little joke, or whatever, but we seemed to touch one another on a regular basis.

I know, Lois, if you are watching us through this great medium of television and satellite and so on, and the people in California, it is our opportunity to share with you about how this man touched our lives.

He came to this, the people's House, after many years, and probably never on his want list of things to do. But finally the time came, whatever the circumstance was, and he probably knew within him that life experience had shared with him things that he could come and share with us; that he could come and represent the people of his district and bring a balance, some levity, at times, but bring some sincere, deep feelings about what America is all about.

He was a theologian, a writer, and I think he practiced what he believed. Behind our Speaker is that beautiful flag that Walter loved, and just above our Speaker's head are those words, "In God We trust." As the Speaker and

as I look across, we look into a picture of Moses. I think those things were very, very important to Walter Capps.

He tried to live by example. He did not go around boasting that he had written 14 books, as I have learned here. He did not boast that he won a race after going through a horrible accident. He was Walter, a man of the people, a man who loved his country, his community, his State, and the people that occupied the same.

This morning by chance I happened to talk to a Mrs. Kersh from out in his district. She called to be sure that I knew that Walter had passed, and his funeral was going to be Monday. So we talked, and she said, we have had a great loss. We are just not sure how we are going to handle this. He loved us all, in spite of ourselves, at times. And she said many other things.

The thought that comes to me as I think of this, and I shared it a little bit Tuesday morning or Wednesday morning, there are some promises that I know that Walter Capps would believe in. I often reflect at times like this on John: 14, where Jesus was talking to his disciples, knowing that sometime he would be leaving. He said, I go to prepare a place for you, and I will come and receive you to me, and I will not leave you comfortless.

Lois, you will not be left comfortless. I believe that. And I believe, as I understood Walter Capps, that he is at that someplace that is hard to identify, watching down upon us with a twinkle in his eye, a smile, grieving for those of his loved ones that are grieved for him, but he is there, doing his work, assisting in preparing a place for us and for you. Our lives were touched by him, our lives were made better because Walter Capps came our way. I am very appreciative. I thank the gentlewoman for this chance to share.

Ms. HOOLEY. Mr. Speaker, I yield to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY of Connecticut. Mr. Speaker, it is with great sadness that I join with my colleagues to honor the life of Walter Capps. At this moment, may I take the opportunity to thank the 22nd District of California, the area of Santa Barbara, for sending this wonderful, wonderful man to the House of the people, to the Congress of the United States of America.

In his one year in Congress, Walter Capps added immensely to the lives of every one of us that he served with. Walter Capps was thoughtful. Walter Capps was reflective of something that was so important to all of us. He was willing to engage in dialogue on both sides of the aisle. He was committed to the fact that well-meaning people can reason together, that we can talk, we can debate, that we should come together in the interests of the United States of America and the things that the people of the United States of America want us to do. For that reason, Walter Capps should be an inspiration and model to all of us.

I met Walter Capps in the orientation of the freshman class, the new Members of the 105th Congress. I met him, I saw him, and I knew that this was a man that was delighted to be here. Walter Capps was a brave man. He was absolutely as brave as you get. Some of us who are in politics and understand what it is like to run for public office know, you literally put yourself up and you can be shot at. He ran for public office, he ran for Congress, and he lost. He had the courage to come back and run again and he won, so he came to be among us.

Walter Capps was probably about as honorable as you can get, as honorable a man as there can be to serve in this body. He was also gracious. What I remember when I met him that week of orientation was that he insisted that every single one of us, we that had been in the Congress and were there with the new class, met his wife, his beloved wife, Lois. Because he understood that in those two races that he had run to come to Congress, that she was the partner that helped him get here.

One of the reasons that I appreciated Walter to the extent that I did, because I have been here a while, I understood that Walter understood governance. He understood our democratic system. He understood that he was elected, one of 435, to come here to represent his constituents, and to respect the government of the United States of America. He understood that he had to be positive to make this government work, and as a result of this understanding, he enhanced the system.

For me, the real loss of Walter is that he understood something so deeply, but something that is so much a part of our democratic system of government. He truly understood, because of his background, because of his education, because of all that he was, he understood such a definite piece of our government: he understood the separation of church and State. He understood how strong that wall had to be. He understood that we cannot have a democratic system if we mix religion and politics.

Why I feel so badly about Walter leaving us is that I thought that with his understanding, with his education, a Ph.D. From Yale and divinity studies, that he could teach this body, each and every one, that this democratic system could not survive if we in this body did not understand that we had to have separation of church and State.

So I come here tonight to mourn his loss. I come here tonight to say that he was only with us for one year. I come here tonight to say to his family, I hope that they have comfort to think this is one man who could come here in one year and have such an impact on his colleagues.

But I also come here tonight, and stay here tonight with the members of his freshman class, who will not be freshmen much longer, wonderful Members of the 105th Congress, to say to them, you come here to honor Walter's memory. You come here to say good-bye to him. You come here to say that you love him. But let me give you a challenge.

I am a woman that has been in this body for 15 years. I am a woman who has seen classes come and classes become part of this body. The last two classes I have seen, the last two classes, the 104th Congress and the 105th Congress, are quite special, particularly on the Democratic side. That is one of the reasons that I feel after 15 years that I can leave this body, because I think you can carry on the dialogue, you can carry on the constitutional mandates, you can carry out what this country has to do to be great.

So I give you a challenge tonight. I say to you Members, particularly Democratic Members of the 105th Congress, new Members, you are going to do a good job. I think you are wonderful. I think you are probably the best class I have seen in a long, long time.

But no matter how hard you work, no matter how good you think your work is, I challenge you to go an extra mile, to do more because you knew Walter Capps, and you knew if he could have lived longer, how much he would have done.

So I challenge you Members who loved Walter Capps to say you will work as hard as you can, but you will work even harder to make sure that his being is among you, and that you do better than you think you can do in memory of that beloved man.

□ 2130

Ms. HOOLEY of Oregon. Mr. Speaker, I yield now to the gentleman from Texas [Mr. TURNER].

Mr. TURNER. Mr. Speaker, each us who began service in this Congress with Walter are left with fond memories of our friendship with him. It is a tribute tonight to hear the statements of our colleagues who each in their own unique way saw the true value of Walter's life.

We all knew him as a true gentleman. We all saw him as a deeply spiritual, religious man. We saw him as a kind and thoughtful and principled man. We saw him as a man of quiet determination.

We all remember as he walked in this Chamber and had a quick smile and a kind word for each of us. And many of us watched him as he walked across the Capitol to our office building, hand-in-hand many times, with Lois. He reflected the best of a good father, a loving husband, a man who understands and understood what was really important in this life.

I know as we speak tonight, Lois and the children are perhaps listening with many friends and I must say that Walter and Lois were an example to all of us as husbands and fathers. Lois really in many ways was like a 436th Member of this body. She oftentimes attended committee meetings with Walter and often she ventured off to go to committees that he was not even on. She shared his intellect, his keen interest and in his campaign she was a true partner in being sure that they were victorious in their election.

Walter Capps was a man who really stood apart. He came here as a college professor serving over three decades as a professor at the University of California in Santa Barbara, best known for his course on the Vietnam War. They say that there were over 800 students signing up for that class, filling the hall. In fact, they had to have the largest lecture hall at the university just for those who wanted to be under his tutelage.

Yes, we learned that when Walter spoke, as those students learned, Walter had something to say. And we knew that it was worth listening to. Walter was a man who understood adversity. He lost his first election and had to run again to come here. He nearly lost his life in a head-on collision during his second campaign. He met head-on on a mountain road with a drunken driver. But Walter, as he reflected upon his injuries during rehabilitation, said something worth quoting. He said, "I never want to forget what it's like to go through the world in a wheelchair. I would never wish for a car accident like this, but I've learned from it. Love and care for one another is what is at the core of what links us."

Walter understood the important things of life. We all were enriched by having known him. He taught us by his example to remember why we are here. He gave politics a good name and in the rough and tumble world of politics, as we so often see it in this House Chamber, Walter in many ways would at first glance appear to not fit in, as if he did not really belong here. But on closer reflection, we all realized that, yes, he truly did belong here and he set the standard for us all.

Mr. Speaker, Walter was a man who knew who he was. He knew what he believed in and he knew where he was going in this life and in the life hereafter.

Around here we often note that we are addressed as "The Honorable." Walter Capps truly deserved the title of "Honorable." He was a great American, a great family man, and a friend to each of us. He will be truly missed. May God rest his soul and may God be with Lois and the family in this difficult time.

Ms. HOOLEY of Oregon. Mr. Speaker, I thank the gentleman. Mr. Speaker, I now yield to the gentleman from Texas [Mr. LAMPSON].

Mr. LAMPSON. Mr. Speaker and other House Member colleagues, I rise to honor the memory of my friend and colleague, Walter Capps.

We freshmen Members on the Democratic side learned to look to Walter Capps as a leader among us. He led with humility, with fundamental goodness, and boundless wisdom. It is an overwhelming thing to arrive here in Washington, DC, and realize that we now have to stand in the shoes of generations of leaders who have steered this country through the course of its history. It was reassuring to have among us a man who seemed to understand our role as part of a scheme that went beyond the day-to-day operations of the government. As a scholar of religious studies, Walter Capps' presence in this House reminded all of us that our work must reflect our beliefs and our faith.

Mr. Speaker, Walter Capps ran for Congress because he believed he had something to offer to this country. He had already had a successful career and certainly had a beautiful family. He did not need this. But he felt obligated to offer his gift, himself, because he loved his country.

In the short time that he served, Walter Capps made a difference. He touched the lives of each of the Members of the House of Representatives, and he touched the lives of the citizens across America. And tonight our deepest sympathies go with Lois and his beautiful children. Indeed, "God bless you."

Ms. HOOLEY of Oregon. Mr. Speaker, at this time I yield time to the gentleman from Ohio [Mr. STRICKLAND].

Mr. STRICKLAND. Mr. Speaker, I thank the gentlewoman for the time. St. Francis de Sales I think has conveyed a profound truth when he said, "There is nothing so strong as gentleness, and there is nothing so gentle as real strength."

Our friend and our colleague, Walter Capps, was gentle and he was strong.

Mr. Speaker, I have been amazed in the last couple of days as we have heard each other talk about Walter Capps. It has caused me at 56 years of age to reflect upon my own life and my own mortality; to ask myself if I were to leave this Earth, would people say about me what they say about Walter? Could they say about me what they say about Walter?

Those of us who serve in this place do so for a variety of reasons, some noble and some perhaps not so noble. Politicians are described in different ways, as smart, skillful, crafty, successful, weak, corrupt. Many words are used to describe politicians.

I think I would like to be described as a loving person, as a loving politician. And if I can just share with you what Walter's death has done for me, it has caused me to reflect upon the people that I know, my constituents, my family, my colleagues. We are talking of Walter's goodness, his gracefulness, his gentleness, his greatness.

It has caused me to wonder if every day in this place people like Walter walk past us in these aisleways and sit beside us in these chairs, people on both sides of the aisle, people who are truly good and decent and caring, and we get so caught up in our day-to-day activities and our efforts that we fail to recognize the goodness and the strength and the gentleness that is all about us.

Mr. Speaker, I am thankful for Walter Capps, for his wife Lois. We lived together in the Methodist Building. I was able to see him occasionally as he would come and go. But I hope that Walter's death teaches us a lesson that is somewhat lasting.

The scripture asks the question, "O grave, where is thy victory? O death, where is thy sting?" And I guess I would like to think that for me and perhaps many of us, we can learn from Walter's death as we learned from Walter's life, that we should pause and reflect and be grateful for Walter, but also be grateful for each other.

Ms. HOOLEY of Oregon. Mr. Speaker, at this time I yield to the gentleman from Wisconsin [Mr. JOHNSON].

Mr. JOHNSON of Wisconsin. Mr. Speaker, I join in offering tonight my condolences and my thoughts tonight about Walter Capps. Here was a man who, like me, had never held elective office before and yet he seemed at ease coming here to the Halls of Congress.

He told me once that he was as thrilled as I was at being here. Walter Capps had, as I had, already a successful career in another job. He was a teacher and professor and, we found out, an author. So this place was new and exciting and yet thrilling to him.

Many of us freshmen Congressmen got to know Walter and Lois Capps because even though he counted among his friends some Members of Congress, it was now him, he was coming to Washington as a freshman Congressman, a 63-year-old freshman, older and wiser than many of us, I thought, yet just as exuberant as a kid or teacher who just got his first job.

Walter and Lois came together to many of the orientation sessions here. It was the teacher, the professor, Walter Capps, in the classroom learning about his new job, representing the people. Most of us listened when he spoke. His questions seemed to me to be, maybe because he was a professor, more thoughtful. His tone was questioning and inquiring. He was for many of us a teacher and a student. The freshmen came here students of government and now practicing government at its peak, representing the people.

We knew Walter was a good one. As I said, he and Lois sat through days of meetings. When it was nice outside, we

sat inside learning about government. And I remember a day we were outside not too many months after we arrived here and we were walking over to this House for a vote, and he turned and asked how I liked this job, and I said I loved it and he said, "I do, too. It is a great honor. We are pretty lucky."

But it was all of us who got to know Walter Capps for a short time, not quite a year, it was we, who were lucky, lucky to know a freshman who, like us, was so real, so energetic and compassionate and caring and, as we will hear tonight, just a real nice guy. It is true, like all of us, Walter Capps was a politician and he worked hard to get here and appreciated his opportunity and his chance to play a role in this Nation's future. Walter Capps, whose service to his district, state and country was brief, but his effect on those he met personally will last far beyond any legislative record, and we are all better for having worked with Walter Capps.

Mr. Speaker, I would say his district was pretty lucky to have him, we were lucky to know him, God is lucky now to have him a lot closer. He was not showy and he was not flashy. He was tall and he was just good, what any American would want in their Representative.

Mr. Speaker, I would say, "Thank you, Walter, for running for Congress, for choosing to play your part on the stage of American politics." It was reluctantly brief but remarkable in its impression. And I would say "Thank you, California, for recognizing a wonderful choice to represent you. Thank you, Lois, for sharing your time and your husband, Walter Capps, with us and the Nation. And Walter, we miss you."

□ 2145

Ms. HOOLEY of Oregon. Mr. Speaker, I yield to the gentleman from North Carolina [Mr. ETHERIDGE].

Mr. ETHERIDGE. Mr. Speaker, I want to thank the gentlewoman from Oregon [Ms. HOOLEY] for putting together this evening of tribute to our dear friend, Walter Capps.

Mr. Speaker, I rise this evening to pay tribute to a friend and a colleague, Representative Walter Holden Capps, who was our friend. It is with deep sympathy and grief that I speak this evening. Words cannot truly express the loss that Members on both sides of the aisle feel with Walter's passing.

As a professor of religious studies, he was known for his strong spiritual background and his deep, deep commitment to education. As you have heard, he was the holder of a doctorate degree from Yale University and the author of 14 books. He came to this people's House after winning one of last year's most hotly contested House races. Representative Capps entered the House after many years of committed service to education, 33 years. For 33 years he had been a professor of religious studies at the University of California, Santa Barbara, where he pioneered the study of conflict resolution, a great beginning to come to the people's House.

Students recognized him for his questioning, spiritual nature and a willingness to engage public issues on a philosophical level. In 1984, Walter invited the then Governor of the State of Nebraska, Senator BOB KERREY, to teach with him his course on the Vietnam War. This nationally recognized course was the first of its kind to be taught in the United States.

A Medal of Honor winner for his service in Vietnam, Senator KERREY urged then Professor Capps to consider political life. Ten years later, Walter made his first run for the United States Congress but, as we have heard this evening, he came up just short.

On May 21, 1996, during a second attempt at gaining public office, as we have heard this evening, Walter was injured in a massive automobile accident as he returned to his Santa Barbara home after having just completed a news conference. After emerging from three months of rehabilitation, Walter returned to the campaign trail where he was victorious in the grandest fashion.

As a fellow member of the House Committee on Science, I would often sit next to Walter. He had a keen interest for the growing role of science in our society and asked many probing questions and wondered why we were not putting more money in science. Although he will be remembered as a Member of the House of Representatives, as we have heard this evening, and his contributions here, I will most remember him for the impact he has made on the young people through his many years of contribution, 33 years in education.

He and I shared a commitment to providing quality education to all the children, no matter what their background may have been. I think if Walter is remembered by his family and his community, it will be for his commitment to the children.

I will end by extending my heartfelt sympathy to Walter's wife, Lois, and to their three children, Lisa, Todd, and Laura. I know that this will be a tough few days ahead, but remember that your friends love you and they will be there for you because you have many, many friends. I join my colleagues in saluting Walter for his wonderful spirit and lifelong commitment to his fellow man. He was a true friend and he will be missed.

Ms. HOOLEY of Oregon. Mr. Speaker, I yield to the gentleman from Virginia [Mr. GOODE].

Mr. GOODE. I thank the gentlewoman for arranging the program this evening.

Mr. Speaker, together with my colleagues, I rise tonight to pay tribute to the memory of one of our best, Walter Capps. Walter's death on Tuesday not only shocked and surprised all of us, but also has united us in sadness that we have lost such a gentle and caring friend. My wife, Lucy, and I met Walter and Lois at freshman orientation last November and have had the opportunity to come to know them in the months since then.

From my observations, today's issue of Roll Call was completely correct with its headline that characterized Walter as the nicest Member of Congress. There was something special in his nature, a cheerfulness, an openness, a warmth that made him both liked and respected.

I remember very well Walter's remarks to our Thursday morning prayer breakfast not long ago. He spoke about his personal faith and his experiences as a professor of religion at the University of California, Santa Barbara. From his remarks, one could sense Walter's deep commitment to America's young people, the strength of his faith and a certain inner peace. To Lois and the Capps family, I say that we feel your loss with you for we have lost a friend and someone whom we are richer for having known.

Ms. HOOLEY of Oregon. Mr. Speaker, I yield to the gentlewoman from California [Ms. SANCHEZ].

Ms. SANCHEZ. Mr. Speaker, I rise tonight to speak about a friend, Walter Capps. My husband, Stephan, and I had a very difficult campaign. I came in January at the same time that Walter came with his wife, Lois. During this entire campaign, while we were south of Los Angeles, just north of Los Angeles, Walter Capps and Lois, his wife, were running for Congress. And I kept hearing some amazing things about this super man who would go out and talk to people and was bright and intelligent and had the toughest race going on in Congress.

I kept thinking, would it not be wonderful if in California we would have somebody like Walter Capps representing us? And when I arrived, the first thing my husband said to me was, I would really like to meet Walter Capps. Of all the famous people we have here in Congress, my husband, Stephan, wanted to meet Walter.

Now, my husband, Stephan, had gone to the University of California at Santa Barbara. He had spent five years there, finally graduating with his degree, and in that time he was one of those students who had petitioned to try to squeeze into one of Professor Capps's classes. And in five years there was such a demand for those classes that he was unable to be in his class.

So he said, the one person I really want to meet is Walter Capps. As you know, my husband has stayed back in California, and I go out to California to be with him on the weekends. I kept saying to my husband, do not worry,

you will get a chance. There is always the Christmas party in December. And as I heard about the death of Walter this week, the first thing that came to mind was that there never really is enough time. In fact, tomorrow sometimes never comes for some of us.

If there is one thing I have learned from Walter's death, is that we all have to appreciate each other while we are here together. A couple of weeks ago, Walter came and sought me out and took me outside of these halls, and we sat down and we spoke a while.

Walter and I had a lot of things in common. We were both Representatives from California. We both had tough races. He went back every single weekend, most of the time on the same plane that I did. Many times we would talk. And while many people have said, oh, my God, how can Loretta take the pressure of everything that is going on this year, what most people did not realize was that Walter Capps was doing the same thing I was doing, going back every weekend, talking to the people, getting ready for a very difficult reelection, being with the people back home, trying to be with his family, his three children and his wife, and trying also to do the job of a new Congressperson.

He took me outside of this room and sat me down and he said, are you okay, Loretta? Is everything okay? Is there something we can do for you?

Here Walter had been going through the same things, in essence, that I had and yet he had found the time to ask me if everything was okay in my life.

I guess the most special thing about Walter was the fact that he had such a great family. As we all know, family takes time and it takes love and it takes commitment. About the greatest thing I can remember, as you all do, I am sure, is Lois and Walter together holding hands. That always struck me, because Stephan and I have been married for a little over seven years, and many of you have not had a chance to see us together. But when we are together, we hold hands.

When I used to watch Walter and Lois, I used to think to myself, they do it and they have been married almost 37 years. I thought, would it not be great if when Stephan and I reach 37 years we are still holding hands?

Walter, you taught me quite a bit. I am proud to call you my friend and, Lois, our thoughts are with you. He was a great man. He is a great man. He will be with us for many, many years.

Ms. HOOLEY of Oregon. Mr. Speaker, I yield to the gentleman from Arkansas [Mr. BERRY].

Mr. BERRY. Mr. Speaker, I rise tonight to honor the memory and service of my friend and colleague, the gentleman from California, the Honorable Walter Capps. His warm smile, kind words, great intellect and integrity made this a better place. His wisdom and courage made this country a better place. Even though he served only a short time, we were all honored by his having served as a man of the House. Our prayers go with Lois and Walter's family because they have lost the most.

Ms. HOOLEY of Oregon. Mr. Speaker, I yield to the gentleman from Maine [Mr. ALLEN].

Mr. ALLEN. Mr. Speaker, I am pleased to be here tonight to share with my friends and Walter's friends our memories of him in his service to this House.

The people of California's 22d District chose well when they chose Walter Capps, and we want to express our sympathy today to, Lois, his partner in life and in politics, and to their children, Lisa, Todd, and Laura.

We now know, as freshmen, how we have come to know each other over the past year, and we knew Walter well by now, but if I can take you back to the time when we first came together, we were getting to know each other, telling each other stories about how difficult our own races were. And each of us felt that we had had a particularly difficult race.

Then we talked to Walter and we learned that he had been hospitalized for three months and that he had essentially campaigned from his hospital bed and that while in his hospital bed he had written his 14th book. We realized that this was a very extraordinary, gifted and talented man.

His kindness, his intelligence, his integrity will always be with us, but I think we will remember especially his joy in this job. And we will remember, as several have said, Lois and Walter walking outside, looking up at the Capitol rotunda all lit up at night, absolutely enthralled with both the responsibility and the joy of being here.

Lois, in particular, his partner in life, was thoroughly engaged in the issues that we dealt with and shared his goals and values. I want to just say one other thing. We knew him as a representative here in Congress. But there was a tribute today in the Washington Post written by Lou Cannon which gave some sense of what he was like as a professor.

It mentions his class on the Vietnam war and the 800 people who would sign up. And it has a paragraph that I believe you should hear. Lou Cannon talked to people who were in Walter's class. And he said:

A Vietnam veteran told me he had left the Capps lecture arm in arm with someone who had dodged the draft. A Vietnamese student wept as she told me that Capps had made her family's sufferings meaningful to her. Nobody quite knew how he did it. I think he was effective because he understood but did not judge. I think he was effective because he understood, but did not judge.

□ 2200

That sums up Walter Capps to me in a great many ways. He made his family, his university, his State, and this House better for his presence. He was our friend, and we will miss him. But he has taught us to listen to the better angels of our nature and try to live up to his example.

TRIBUTE TO THE LATE HON. WALTER H. CAPPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. FARR] is recognized for 5 minutes.

Mr. FARR of California. Mr. Speaker, I yield to the gentleman from Texas [Mr. REYES].

Mr. REYES. Mr. Speaker, I thank my colleague, the gentleman from California [Mr. FARR], for yielding.

It is a special time for us here as we talk about a dear friend. And for those of us that think that we have to know somebody for a long, long time in order to respect them, in order to love them, we do not.

Walter Capps most of us only truly knew for about 10 months or so. I can only say for my part that I feel a great sense of loss for losing him, but most of all, for not having the opportunity to have known him longer or having met him earlier in my life.

I can remember clearly the first time that I met Walter Capps. We were at one of our freshmen orientations. He came down and sat down next to me, like he would sit down to talk to others, and he looked at me and he said, "You are that Border Patrol guy, aren't you?" Walter Capps was unique. I did not know quite how to respond to him. Except, he spoke to me at length, and later I had the distinct feeling that I had just been through an interview in a very friendly and charming sort of way.

Walter Capps was a humble and gentle man. He was patient. He had a sense of humor. Many times in this hall, I wound up sitting next to him and we would trade witty remarks, and he would look at me and smile with a twinkle in his eye and say, "You know, you are pretty good at this stuff." And he was not so bad himself. He always kept a good sense of humor. He had a great sense of family. You could see that.

To the people of the 22nd District, I wanted to say thank you for giving us the opportunity to serve with a man of integrity, a man of high morals, a man of principles.

In closing, I would like to remember him as he truly was, as a loving husband, a devoted father, a dedicated true public servant and, for me and my wife, a dear friend that we will miss but that we know tonight is looking out for all of us, and most especially for you, Lois, for Lisa, for Laura, and for Todd.

This world is a better place because Walter Capps walked among us. He was a giant. He was a friend. And he will be missed.

Mr. FARR of California. Mr. Speaker, I yield to the gentlewoman from Michigan [Ms. STABENOW].

Ms. STABENOW. Mr. Speaker, I take just a moment this evening to join with my colleagues. It is an honor to serve in this body with my friends in the freshmen class. And it has been an honor to serve with Walter Capps. So much has been said about him, it is hard to know what to add, except to share a couple of personal experiences about Walter.

He and I met through the television set. We were both featured on one of the stories near the end of the campaign about hot-contested races. I had the opportunity to hear about this wonderful man, this bright, wonderful author and professor in California. We both had similar opponents. When we got here at orientation, we were very quick to look each other up and, not knowing each other, gave each other a hug and said that we were glad that we had both made it.

We went on to sit together on the Committee on Science. Walter sat next to me. He was all the things that everyone has said tonight in terms of his wit, his compassion, his intelligence, his caring. Sitting next to him on the committee, we had an opportunity to share some really important discussions about education, science and math education, the importance of investing in research, in science. It was clear to me that this was a man of incredible depth, as well as a man who was extremely caring and respectful of other people.

He was always teasing me about my legislative director, who he said was wonderful and he wanted to steal her from me. And every time she came up to speak with me on the Science Committee, he would say, "Is she treating you all right? And if she is not, just let me know." My staff loved to talk with Walter.

I think when I heard about what happened on Tuesday, and I was with my legislative director, both of us felt like we had been hit in the stomach, we were so shocked, and had a very difficult time the rest of the evening as we went back to the office and had an opportunity to share with each other about the wonderful discussions and interactions with our friend, Walter Capps.

To Lois and the family, our prayers are with you. You have had a wonderful opportunity to know our friend, Walter Capps, certainly much better than we have. But for me, for my staff, we want to let you know that we care deeply about your family and your loss and our prayers are with you.

Mr. FARR of California. Mr. Speaker, I yield myself as much time as I may consume and then with a close to the gentlewoman from Oregon [Ms. FURSE].

Mr. Speaker, tonight the United States Capitol mourns the loss of our colleague, Congressman Walter Capps. Tonight, it is a beautiful autumn evening outside. The Capitol is basking in spotlights, and the flags are all at half-mast. Forty-eight hours ago in this Chamber, the House of Representatives, we were a buzz as the news, the shocking news, was passed from Member to Member about Walter's sudden heart attack.

Tonight, I rise to pay tribute to this great man. First, because he was what politics in America needs, a scholar, a thinker, an accomplished man, Ph.D. from Yale, an author of 14 books, and, as so many speakers before me have mentioned, an incredible loving husband to Lois, the partnership that I think was the envy of the Capitol.

But he was also an incredibly loving, wonderful father to Lisa, Todd, and Laura. How many times we saw Laura at Capitol events as she worked in the White House. And how many of us as parents envied the ability and the wonderful relationship that he had with his daughter to be able to work in the Nation's Capitol alongside one of your children.

Walter was a mentor to us. What was so wonderful about him is his style, as everybody has mentioned. In an era of cynicism about politics, he made the cynics doubt themselves. He represented the district that is next door to mine, a district that I have long had close relationships with. The politicians in that district have been like the politicians in my own. I went to school with county supervisor Billy Wallace. And Jack O'Connell, the State senator, was my roommate when I was in the State legislature. And Andrea Seastrand, who preceded her husband, Eric Seastrand, who served with me in the State legislature and also died while he was in office. All of these people have been about that wonderful district.

Walter Capps was a futurist about that district. He knew that he could make a difference. And he was making a difference. He was excited about the future. And he knew that he was going to help Santa Barbara County and San Luis Obispo County.

Tonight, those counties have lost a great Congressman. California has lost a great scholar. The Nation has lost a model public servant. So tonight's tribute to Walter, with the flags at half-mast, it is also about patriotism, but not so much about the protection of the land of Walter's forefathers as it is about the preservation of the land of Walter's children.

Walter, look around you right now. I know up there in heaven, next to you is my father, who is former State Senator Fred Farr. He passed away just a few months ago. You two are probably sitting right now chuckling. With the passing of so many good Democrats, you are probably saying, the Lord is just trying to make a more perfect union.

Good night, Walter. Good night, Lois. Good night, kids. We love you.

TRIBUTE TO THE LATE HON. WALTER H. CAPPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. SHERMAN] is recognized for 5 minutes.

Mr. SHERMAN. Mr. Speaker, the day after WALTER died, I had a chance to join a number of our colleagues in recognizing him here. And I jotted down these few words just an hour or two after I learned of his death. And I thought that maybe when I came back to join with my freshmen colleagues, DON or WALTER, I would have something better to say. But, frankly, I do not.

So, with apologies to anyone who has heard me speak of WALTER in the last couple of days, I will say it again. This country lost a leader of depth and integrity. Just a couple days ago, this House lost one of our own. Lois, Laura, Todd, and Lisa lost a husband and a father. And, like several of my colleagues here today, I lost a role model and a friend.

WALTER CAPPS was the professor that we called a freshman. Most of us come here to Congress hoping that, once we are here, we will make some contribution of which we can be proud. WALTER CAPPS came here having already done more than we can hope to do.

As so many have pointed out, he was perhaps the most popular professor in the history of the University of California at Santa Barbara, where he did not just teach well what had been taught before, but invented courses, wrote books. If he never had come to this House, he would have been a major leader in the life of his district.

Now, like many new Members to this House, I often seek advice, a few hints. And when I wanted to know what was the smart political thing to do, I never went to WALTER. But when I sought wisdom and thoughtfulness, a way of looking at things that is different from today's headlines or yesterday's poll results, I sought out WALTER CAPPS. And he was always there.

We who hold elective office are often viewed as cynical manipulators of public opinion or as slaves to public opinion. We are depicted as knowing more or caring more about the politics of an issue than the substance. You can say what you want about most of us, but you cannot say all of us. Because, for a short time, WALTER CAPPS served in this House and he was everything you want us to be. He was the best of us. He will be missed.

Mr. Speaker, I yield to the gentlewoman from Oregon [Ms. HOOLEY].

□ 2215

Ms. HOOLEY of Oregon. Mr. Speaker, I thank the gentleman for yielding.

I would like to also enter into the RECORD a tribute from the gentleman from Ohio [Mr. HALL], as follows:

Mr. HALL of Ohio. Mr. Speaker, I rise to pay tribute to the late WALTER H. CAPPS. Not only has this country suffered a great loss, but we, his colleagues, have lost a model of an ethical and decent politician. We can all be thankful for the perspective that WALTER brought to us in his 10 months in the House, and he will be greatly missed by us all.

WALTER provided us with a unique understanding of society through his spiritual and philosophical nature. He was not afraid to see the bigger picture; to engage public policy from a collective point of view. This was demonstrated to me by his sincere and enthusiastic support of my bill for congressional apology for slavery. WALTER's dedication to the people he represented, and his principled campaign practices show the signs of a disciplined man. But most importantly, he will be remembered as a true scholar and a gentleman, with an undying love for humanity.

To me, WALTER CAPPS will be remembered as a teacher; not only for the 33 years that he enlightened our youth with spiritual ideas at the University of California at Santa Barbara, but as a role model of the kind of person we need here in Washington. One who taught the values of democracy and moral character through his actions, and shared his knowledge and devotion to decency through his words. My prayers are with his wife and children.

Ms. HOOLEY of Oregon. Mr. Speaker, I would also again like to thank the gentleman from Wisconsin [Mr. NEUMANN] for so graciously allowing us to do this at the beginning and again yielding time.

As irreplaceable as Walter Capps will be for the Members of the House, his loss will I am sure be deeply felt by his district. We express our heartfelt condolences to them. We also grieve with Walter's family, his wife Lois, his children, Todd, Laura and Lisa and the rest of his loved ones. My colleagues and I are happy that he shared himself with us even for so short a time. I can only imagine that in the fullness of time, those that had known him longer will bless and hold dear each day they had the pleasure of his company. Our prayers are with all of you. Walter, we loved you. You will be missed.

THE DEBT, THE DEFICIT, AND SOCIAL SECURITY

The SPEAKER pro tempore (Mr. MCCOLLUM). Under the Speaker's announced policy of January 7, 1997, the gentleman from Wisconsin [Mr. NEUMANN] is recognized for 60 minutes as the designee of the majority leader.

CONDOLENCES TO FAMILY OF LATE HONORABLE WALTER CAPPS

Mr. NEUMANN. Mr. Speaker, I would like to also begin this night by expressing my condolences to the family of our colleague, Mr. Capps. I cannot count how many times my wife has said to me that she hopes that our 24 years of marriage will allow other folks around us to see that it is all right to find the right person in your life and to spend your entire life together. We also have 3 kids, and I am sure listening this evening, that Mr. Capps certainly provided a role model for many, many, many people not only in California but all across America. Married to the same woman for 37 years is something that many people should look to in this Nation for a role model. Again I cannot count how many times my wife Sue has said, "Let's hope people see that it is all right to be married to the same person," that that is the way things should be. Again, my condolences to their family and to the kids that are involved here.

Mr. Speaker, this evening I had reserved the hour primarily to talk about some budget matters. I guess last week we had a situation develop in our district where we were in dire need of some help from some folks. I gave my parents a call. My mom and dad said, well, we are going to be there instantaneously. They said they were going to drop everything they were doing.

So to start tonight rather than start on the budget stuff, I thought I would talk about a matter that is of the utmost importance not only to my parents but to other seniors like them all across America. It is an issue that has almost been put on the back burner out here in Washington and many different fronts, and that is Social Security. I thought I would start tonight by talking a little bit about what is happening in Social Security and then go to a solution as what we need to do about it, first, what is happening in Social Security.

I know many senior citizens rely on Social Security all across this great Nation of ours. The Social Security system in 1983 was set up so that it started collecting more money than what it pays out to seniors in benefits. The idea with Social Security was they would collect this extra money, put it aside in a savings account and then when the baby boom generation hit retirement, they would go to the savings account, get the money they need and still make good on the payments to our senior citizens. So it is kind of like you do in your own house where when you have got extra money coming in you put it in a savings account. Then when you overdraw your checkbook you go to the savings account, get the money out and make good on it. That is how the Social Security system is set up.

In fact, in 1996 the Social Security system collected $418 billion in taxes. That is, they went into the paychecks of working families all across America and they collected, they brought out here to Washington $418 billion. They only sent out checks to our senior citizens of $353 billion. Again, this is a program that basically is working. They collected $418 billion, they sent out $353 billion in checks to our senior citizens, and that left $65 billion that was supposed to be set aside into the savings account. This program if it was run properly, if this is what would be happening and it would be run right, is working just fine. The problem, and it should serve as no great surprise, that out here in Washington when they got that extra $65 billion, here is what they did. We get the money out here in Washington, we put it in the big government checkbook, in the general fund out here in Washington. They have been overdrawing the general fund, that is the deficit, they have overdrawn the checkbook out here where this money has been put every year since 1969. So what they do is they get this $65 billion, put it in the general fund, then they overdraw the general fund or the checkbook so there is no money left to put into that savings account for Social Security. So what they do instead is simply put an IOU down here in the Social Security trust fund. What has happened out here is they have collected this extra money like the system is supposed to work, they have paid out the benefits to seniors, paid out less than they collected, but instead of putting the money into the Social Security trust fund the way it is supposed to be done, they have put it in the general fund instead, they spend all the money out of the general fund, then at the end of the year they simply make an IOU entry into the Social Security trust fund.

We have developed legislation in our office, and to many of my colleagues this will not seem like it took Einstein to figure this out, it really did not, it is the same thing that every business across America does with any kind of a pension fund that is similar to Social Security. Here is what our legislation does. It simply says that this $65 billion that is collected in Social Security over and above what is paid out to our senior citizens in benefits be put directly into the Social Security trust fund. It is a very, very simple concept and it is what I used to do back when we had a business in the business world before I ran for office.

Again, what our legislation would do, and it is called the Social Security Preservation Act, is simply take the extra money that is coming in for Social Security and actually put it aside in the Social Security trust fund. Let me be a little more specific. What we would do with this extra $65 billion is we would buy negotiable T bills like any senior citizen in America can go to any bank and buy right now today. So instead of having IOUs down here in the trust fund we would then accumulate these negotiable treasury bonds, a T bill, much like anybody in this Nation can go to the bank and buy. The

idea in doing this would be to accumulate this kitty of money the way it was set up, the way this system was set up and designed to work. If we were to accumulate that kitty of money, Social Security would be safe all the way to the year 2029. By not accumulating that kitty of money, there is a shortfall in Social Security not later than the year 2012. Let me say that once more. If this money were collected and put down here in the trust fund the way it is supposed to be, instead of put into the big government checkbook, if it went straight to the trust fund, Social Security as we know it today would be solvent all the way to 2029. Under the current system where the money is put into the general fund instead of into the trust fund, and all the money is then spent out of that general fund and IOUs are put in the trust fund, that is the current system, Social Security is in serious trouble not later than the year 2012. We can see the urgency of this sort of activity.

Again, this bill is called the Social Security Preservation Act. It seems very fitting tonight that we would mention that when we have cosponsors from both sides of the aisle supporting the Social Security Preservation Act.

I would like to point out also how this impacts the budget process out here in Washington, because it is very important to understand. We are on the verge of having our first balanced budget since 1969. Every year since 1969, the people that have been out here in Washington have spent more money than what they had in their checkbook. That is, they overdrew the checkbook. When they overdrew the checkbook they went to borrow the money to make good on checks and they have been borrowing money every single year since 1969. Here is how the Social Security system relates to this budgeting process. In Washington, since this extra $65 billion is in their checkbook, they call their checkbook balanced even though they are using the Social Security money as opposed to putting it away where it belongs.

Let me show that in picture form. When Washington talks about a deficit, and they were talking about a fiscal year 1996 deficit of $107 billion, what they do not tell you is that in addition to that, there is $65 billion that has been taken out of the Social Security trust fund, so the real deficit for 1996 was $172 billion, not $107 billion that was reported to the American people.

What does all that mean? Balancing the budget for the first time means getting rid of this blue area by Washington definition. When we say in Washington we are going to balance the budget by 2002, we mean the blue area is going to be gone. But in that year 2002 to get to a balanced budget, they are still taking, in that year it would be $104 billion out of the Social Security trust fund. It is very important for people across America to understand that when Washington says they are going to get to a balanced budget, they will still be using the money out of the Social Security trust fund in their big general fund checkbook to make that checkbook look balanced. So even after we get to a balanced budget, we have a long ways to go to actually restore the Social Security trust fund.

I am happy to say we have legislation currently pending that we have written in my office that will put this money that has been taken out of Social Security back into the Social Security trust fund. We have written the Social Security Preservation Act that will start putting the money away immediately. In addition to that, we have written what is called the National Debt Repayment Act. The National Debt Repayment Act looks ahead, sees that when we are going to have surpluses, takes the surpluses, one-third for tax cuts, two-thirds for debt repayment, and as we are repaying that debt the money that has been taken out of the Social Security trust fund would get put back in the Social Security trust fund and Social Security would once again be solvent for our senior citizens.

I want to turn from there and address the bigger problem and look at just how far we have come in the last 2 years. I think it is very important as we talk about this to understand where we were in 1995 when for the first time in a long, long time, 40 years to be exact, Republicans took control of the House of Representatives and the Senate. What I have got with me here is a chart that shows the growing debt facing this great Nation of ours. It is important to see that from 1960 to 1980, the debt grew very little. But from 1980 forward, this debt has grown right off the chart. As a matter of fact, in 1995 when we got here, it was my first year in office, the debt was all the way up here. It was a very, very serious problem and it was growing fast.

Just to take this out of the partisan realm, I realize that when I point to 1980 as the year this thing started climbing rapidly and it is very clear in this picture that that is the year it started climbing very rapidly, I understand that all the Democrats say, "Well, that's the year Ronald Reagan was elected to office, therefore, it's the Republicans' fault." And I understand all the Republicans say, "Well, it's that Democrat Congress that could not control their spending habits and therefore it's the Democrats' fault." The facts are it does not matter whose fault it is, it is our responsibility as Americans to solve the problem. We are here in this chart and it is time that we as Americans accept our responsibility and do what is right for future generations in this great Nation that we live in and solve the problem. I used to be a math teacher. I guess it is fitting tonight to have another former professor here on the floor. I used to teach some college classes as well as junior high and high school. We used to use these numbers in our class to talk about how large the debt really is. We used to talk about these in our math class and use it for a number of placement discussions. This is the amount that the United States government has borrowed on behalf of the American people. This is our debt today. It is $5.3 trillion. Again, this is what we used to do in our math class. We used to divide the debt by the number of people in the United States of America and in fact we would find that the United States government has borrowed $20,000 on behalf of every man, woman and child in the United States of America. Let me say that once more because it is a pretty staggering number. The United States government on behalf of the American people has borrowed $20,000 on behalf of every man, woman and child in the United States of America. For a family of 5 like mine, that means they have borrowed $100,000. Let me say this a different way. That means they collected $100,000 less in taxes than what they spent out here in Washington basically over the last 20 years. For a family of 5 like mine, they borrowed $100,000. Here is the real kicker in this thing. A lot of people out in America go, "So what? So what if the government has borrowed all this money?" Well, there are a bunch of answers to the so-what, not the least of which this is our responsibility as a Nation to pay back, but the so-what is more immediate than that. A family of 5 like ours is sending an average of $580 a month to Washington to do nothing but pay the interest on the Federal debt. A lot of people out there say, "Well, that's not us. We don't pay $580 a month in taxes." They forget that when they walk into the store and do something as simple as buy a loaf of bread, that the store owner makes a profit on that loaf of bread and part of that profit gets sent out here to Washington, D.C. An average family of 5 in the United States of America today is sending $580 every month to Washington to do absolutely nothing but pay the interest on the Federal debt. That is a very real problem. It is a problem that is taking money out of the pockets and the paychecks of workers all across America, and it is a problem that we as a Nation need to address.

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This is where we were in 1995, and this is really the problem that we came into. I think it is important to understand how we got there. To point this out, I think it is important to think back to the late eighties and early nineties, what was going on, what sorts of promises were being made to the

American people. Many folks remember the Gramm-Rudman-Hollings Acts. They did the first one in 1985, the second one in 1987. Lots of folks remember the promises of the Gramm-Rudman-Hollings Acts. So I brought that with me tonight. This blue line shows what the Gramm-Rudman-Hollings Act promised to do with the deficit.

I think it is important to note by 1993, under Gramm-Rudman-Hollings, they promised we would have our first balanced budget since 1969. The red line shows what happened. If I get upset when I talk about this, it is because this is what brought me out of the private sector and caused me to spend 4 days a week away from my family as opposed to home doing the things I normally do, living with my family in Janesville, Wisconsin.

This red line shows what they did. They did not keep their promises. They promised we would balance the budget along this blue line, but the people here decided they could not control spending, and the red line is what they actually did.

So we get out here to 1993, they see that they have broken their promises, and what do they do? They say, well, we can't control spending out here in Washington, so there is only one thing left to do, and that is raise taxes.

In 1993, we got the biggest tax increase in American history. They raised the gasoline tax by 4.3 cents a gallon. The kicker with the gasoline tax increase, they didn't even spend it to build better roads. They spent it on Washington spending programs. So they got to 1993 and looked at this picture and said, well, this debt is really growing. We have to do something about it.

The right answer, I am going into the pockets of the American people. We will collect more money out of their paychecks, get it out here to Washington, and surely, surely, that will lead us to a balanced budget. That was the 1993 solution.

It was not only the gasoline tax. Senior citizens might recall that they increased Social Security taxes on the Social Security money they received. All sorts of tax increases were implemented as part of that 1993 tax increase package.

So this was the picture we were looking at in 1993. Promises of a balanced budget, that had clearly been broken, and the biggest tax increase in American history. The American people rose to the occasion and said enough of this. We are not going to tolerate this anymore. And they sent a new group of people to Washington.

Well, we have been here for 3 years now. Came in with that group that came in 1994 and was sworn in in 1995. We have been here for 3 years. I think it is reasonable that the American people start asking what has that group done? Are they any different or just the same old thing doing the same old thing, breaking their promises like what was going on before 1995?

The facts are, the American people should be evaluating this Congress and they should be asking the question have they done anything different?

Well, I brought the chart with me to show what is going on. When we got here in 1995, we laid out a plan to balance the budget as well. This blue line shows the promises we made to the American people. In fact, the blue line shows we were going to get to a balanced budget in 2020, and I have to tell you, when I went home to my district, and I said we are going to balance the budget by the year 2020, they all went, yea, sure, because they were accustomed to this and the broken promises.

But the facts are we are now in the third year of our plan to balance the Federal budget. We are not only on track, but ahead of schedule. We are so far ahead of schedule, in fact, that we will have our first balanced budget since 1969 probably in fiscal year 1998.

If everything continues the way it has during our first two years in office for one more year, we will in fact have our first balanced budget since 1969. We didn't do this while raising taxes. We, in fact, did this coupled with the first tax cut in 16 years.

I want to spend a little time on the tax cut in just a minute. But, before I do, I wanted to talk about why this picture is possible, because when you look at this picture and you understand what led to the change in 1993 that was broken promises and raising taxes, then you look at this picture, and you see we are on track balancing the budget probably 4 years ahead of schedule, and at the same time reducing taxes, a lot of my constituents go, Mark, the economy is so good, you guys are out there trying to look good in the face of the great economy we are in. That is nice, but not entirely true.

The economy is doing really, really well, but the reason this picture works is not just cause the economy is doing well. We have had good economies between 1969 and today. Every time in the past when the economy got good in the past, Washington saw extra money coming in, and this will not be hard to convince the people of, because it is so obvious. When the economy was good in the past and extra money came into Washington, Washington simply created a new Washington spending program and spent the money.

It is important to understand that being in the third year of a seven-year plan to balance the budget, getting to balance four years ahead of schedule and lowering taxes the at the same time, partly it is the economy.

But there is more to it than that. The growth of Washington spending before we got here was 5.2 percent annually. This is how fast spending was growing before we got here in 1995. This is how fast spending is growing now.

This is a very different picture. In the face of a very strong economy, with more revenue than expected coming into Washington, this Congress said we are going to slow the growth rate of Washington spending. We didn't go out and come up with a whole bunch of new Washington spending programs. Just the opposite. We are squeezing the growth rate of Washington spending at the same time there is extra revenue coming in. In fact, let me give you a couple very little known facts.

In 1996, our first fiscal year, we actually spent $28 billion less than was promised. In our second fiscal year, we spent $25 billion less than was promised. I challenge each one of my colleagues to go and get the budget resolution that we passed back in 1995. Do not take my word for it, go and get it. Then see what was promised and see how we actually spent less.

Again, when I am out with my constituents and I tell them this, I swear half of them get it and check it out, because they can't believe it actually happened. Washington said what they were going to spend and actually spent less money than they said they were going to spend. At the same time we were spending less money than we said we were going to spend, $100 billion plus of extra revenue came in. That is why we have the picture where we are able to both balance the budget ahead of schedule and reduce taxes at the same time.

This picture is absolutely essential in understanding that it is not only the good economy, and the good economy is certainly part of it, it is also Washington slowing the growth rate at the same time that extra revenue is coming in. In fact, in real dollars, we have slowed the growth rate of Washington spending from 1.8 percent to 0.6 percent. The growth rate has been slowed by two-thirds in two short years.

This is a monumental accomplishment, especially in the face of all the extra revenue that came in here that was unexpected.

Now, I am going to go to the next item. With this picture still here, I am going to go to the next thing, that most of our constituents do not understand when I am talking with them out there. It is like you are going to cut taxes, Mark? Is that another political promise? Is that where we are at?

No, that is not where we are at. The taxes have been cut. The bill is signed. For the first time in 16 years, people should start keeping more of their money rather than sending more of their money to Washington, D.C.

Let me be specific. First off, this tax cut package is heavily weighted towards education, as it should be. Education is extremely important for the future of this nation. It is heavily weighted towards families. Let me start with the families.

In January of next year, the families with children under the age of 17, keep

$400 per child more in their own home, rather than sending it out here to Washington. Translation: If you have a child under the age of 17 in your home, you should go to your place of employment and start keeping $33 a month more in your take-home pay instead of sending it to Washington, D.C. $33 a month, well, that is $400, divided up over the 12 months. You can start keeping the extra money in January of next year.

There are 550,000 families in Wisconsin alone eligible for this $400 per child tax cut. But I have a fear. I have a fear that people will not believe the tax cut package is real and they will send all that money out to Washington instead of keeping it in their home.

They will not make the effort in January to go in and actually keep the extra $33 in their own paycheck, instead of sending it out here. I am very much afraid of what is going to happen if Washington gets their hands on the money. So I would strongly encourage all of our constituents to go in and change their withholding, so they keep that extra money in their own home.

Education. We would hope a lot of families, and I know I was talking with a family at church with three kids. I know the first thing they said to me is Mark, when I get that $400, I know exactly what I am doing. I am putting it into a savings account to save for my kids' education.

Good news. We have established something called an education savings account that works much like an IRA. You can put up to $500 per year per child into an education savings account to save up for the kids as they are growing up for when they reach college age.

Now, I a lot of times call this the grandparents account. There are a lot of grandparents that talk to me and say we wish we could do something for our grandkids. Well, the account is set up so that the grandparents could literally put up to $500 per grandchild away to save up for the kids' education when they reach the age of 18. What better gift from a grandparent to a grandson or a granddaughter?

So the education savings accounts I think are very, very important. But we did not stop there. We understand that for many working families out there, when the first or second or third child goes off to college, paying those college tuition bills are very, very difficult and a huge burden on our families.

So the tax cut package also contains a college tuition credit of up to $1,500 per college student. In the vast majority of the cases, if you have a freshman or a sophomore in college, next year you will send $1,500 less to Washington. You will keep it in your own home and use to help pay for the kid's college education.

For a freshman or sophomore, you get the first $1,000, plus half of the second $1,000, or $1,500 total. For juniors and seniors, it is 20 percent of the first $5,000, up to $1,000 total.

It is interesting, with this $1,000 college tuition credit, I was out at a meeting, I believe in Waukesha, Wisconsin, and somebody came up to me and she said well, we are married, we are both working, and I am going back to school. Does the college tuition that I pay, this is now a young couple, does the college tuition that I pay qualify for a 20 percent reduction in my taxes? Do I get my 20 percent back?

The answer to that question is yes. The answer to that question is if you are a young married couple and one or both of the spouses has returned to college or tech school for purposes of bettering themselves and making themselves also qualified so they can get a job promotion and provide a better life for themselves and their family, if that is going on, does that college tuition cost qualify for the 20 percent tax credit?

The answer is definitively, yes it does. I want to make it very clear here, we are not talking about a tax deduction. We are talking about a tax credit. You fill out your taxes, you figure out how much you would have paid in taxes, and you subtract this number off the bottom line.

This is not a deduction, this is a tax credit. Figure out how much tax also you owe, subtract $400 per child.

Let me put this another way. For a family of five, whether they be in Janesville, Wisconsin, or wherever in this great Nation of ours, you have two kids at home and one off at college, that family will be pay $2,300 less in taxes next year.

This is real money. This is not a political promise. This is a bill that has been signed into law. The tax cut package is passed. A family of five, three kids, one is a freshman in college and two still at home, will literally pay $2,300 less in taxes next year.

Translation: Instead of sending $2,300 to Washington out of their paycheck, you keep the $2,300 in your own home. I would like to have anyone stand up and explain to me why it is they think that Washington can spend that $2,300 better than that family of five out there in America, because that is what this is really all about. There are very few people that voted against the tax cut package on either side of the aisle, I might add.

I had a call this morning, or yesterday, actually, and I was reading it this morning, from one of our constituents, that talked about how there is help all the way through government except for those hard-working families struggling to make ends meet.

Well, I would point out that the $400 per child, the college tuition tax credit, the education savings account, those are all aimed specifically at those folks.

Let us try one more thing though for the young couples or for the young singles that are working, because I hear a lot about this, that there is nothing in this for a young couple or a single who is working.

There are actually several things that impact that group very specifically. There is what is called the Roth IRA. You see, we find many of our young couples or singles that are saving for either future education or to buy their first home. In the Roth IRA, it works much like an IRA, you can put up to $2,000 per year per person into the Roth IRA. If you do not take the money out between then and retirement, the money accumulates, the interest and dividends, whatever you have put it into, accumulates tax-free all the way to retirement, and, at retirement, you take the money out absolutely tax free.

However, for those young couples or for those young singles in the work force, if you decide that you would like to buy a home, you can take out up to $10,000 out of this account specifically for the purpose of buying your first home. If you decide you want to go back to college and further your education or tech school and further your education so that you can qualify for a job promotion, a better life for yourself and your family, you can literally go into the Roth IRA, take the money out and use it.

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So you put the money away into a savings account, the money accumulates tax-free, and then you can take it back out for a first-time home purchase, for education, or if you do not take it out at retirement, you can take it out then absolutely tax-free.

This is also a very important feature for many of the empty-nesters, the folks whose kids are grown and gone. Typically they are in a 401(k) at their place of employment already, and they are looking at this tax cut package going, saying, what is there available for me?

The Roth IRA is the real answer. Even if you are in a 401(k), and this is very new as it relates to IRA's, even if you are in a 401(k) already you still qualify for the Roth IRA. You can start saving additional money for your own retirement. Remember, whatever accumulates in this Roth IRA, when you reach retirement, you take it out absolutely tax-free.

A couple of other things in this tax-cut package that I think are worth mentioning, always keeping this picture in mind and understanding that the reason we are able to cut taxes is because we have slowed the growth rate of Washington spending at the same time the economy is very strong. It is this picture that has put us in this position where we can have this great discussion about the fact that the

budget is balanced for the first time since 1969 and we are lowering taxes.

For folks that own their own home and have lived in that home for 2 years or more, and this affects many, many senior citizens, you may now sell that home and not owe any Federal taxes, in the vast majority of the cases. Let me say that once more. For your personal residence, if you have lived there 2 years or longer, in the vast majority of cases there will be absolutely no taxes due.

This affects all sorts of folks in our society. If a person is in a place of employment and they have an opportunity to take a better job and provide a better life for themselves and their families, and they take this job transfer that requires them to sell their home, in the past they may have suffered a capital gains debt to the Federal Government when they sold their home. Now if they have lived in that home for 2 years, there are no taxes due.

It also affects senior citizens in many, many, many cases. Many senior citizens took their one-time exclusion when they reached age 55. They then sold the bigger house that probably they raised their kids in and bought a smaller home, and they are still in that home. But since they have used their one-time exclusion, when they sell that home, that home has appreciated in value, and they would have owed taxes to the Federal Government on that appreciation.

Not anymore. There is no more one-time exclusion at age 55. Even if you took the one-time exclusion, our senior citizens can now sell that home that they moved into after the age of 55 at the appreciated value, and pay no money to the Federal Government in taxes. This is a major, major change.

Capital gains. We are finding today that more and more people are starting to save for themselves and their own retirement. The capital gains tax rate in most cases has been reduced from 28 to 20 percent. For the folks in the lower income bracket who have saved for their retirement, to take money out that has been in a capital gains situation, it has been lowered from 15 percent to 10 percent.

So if you are in a $41,000-a-year income bracket and you take money out, that is treated as capital gains. The rate dropped from 15 to 10. If you are over the $41,000, the rate dropped from 28 to 20. The good news is it is going down to 18.

I would be remiss not mentioning the changes for farmers and small business owners passing those businesses to the next generation. I cannot tell Members how many folks have talked to me in my district about the fact that when they want to pass a farm on from one generation to the next, but the tax burden is so great that they cannot possibly do it.

Under the Tax Code, that has been changed, and 90 percent of all farms may be passed from one generation to the next without paying Federal tax on it. This tax break also applies to many of our small businesses.

I have kind of stopped in the middle of this bigger discussion of what was going on back in 1993 and before: broken promises and not getting to a balanced budget, the tax increases of 1993, and how things have changed.

In fact, we have slowed the growth of Washington spending in the face of a very strong economy, and that, in fact, has actually led us to both a balanced budget 4 years ahead of schedule and the opportunity to have these tax cuts that I just talked about. This is a wonderful, wonderful situation to be in in terms of a change that has occurred out here in Washington in 3 short years.

The next thing I get from my constituents back home is, typically, "Well, Mark, it is not your doing. If you had done nothing, this all would have happened, anyhow." So I brought another chart with me to show exactly what would have happened if in fact when we got here in 1995 we played golf and tennis or basketball and did not do our job.

This red deficit line shows in my first year, this is where the deficit was going when I got here. This red line shows what would have happened had we not done our job. The yellow line shows where we were at the end of 1 year. So after a year of struggle we had brought this red line down to the location of the yellow line.

But we had a dream. We had a dream that we could actually balance the budget and lower taxes at the same time, restore Medicare for our senior citizens. That was our dream. This green line shows that dream. That green line shows how we were going to get to our balanced budget by 2002. The blue line shows what is actually happening.

Again, we can see what would have happened had we done nothing. What would have happened had we quit at the end of 12 months, what we hoped to do, that is the green line, and what is actually happening. Again, we are in the third year of this plan to balance the budget in 7 years. We are so far ahead of schedule that it would now appear that in the fiscal year 1998, we will reach our first balanced budget in more than a generation. I was a sophomore in high school the last time the Federal budget was balanced. So this is good news.

I think it is important that we understand that we are winning. We are winning the battle of getting to a balanced budget, but I do not think we should forget the earlier conversation about social security. I began the hour this evening by talking about social security, and how the money that is supposed to be in that social security trust fund, that extra money that has been collected that was supposed to be set aside, has been spent on all sorts of different Washington programs, and how even after we get to a balanced budget, they are still using that social security money.

I would like to now present the long-term solution to getting that money that has been spent back into the social security trust fund, and the bigger picture here is to not only get the money back in the social security trust fund, but to pay off that $5.3 trillion debt that has been run up so that our children can, in fact, leave this Nation absolutely debt-free. That is my dream for the future of the country. My dream for the future of the country and for the next 10, 15, 20 years of our generation's time here serving our Nation, my dream is that we will actually pay down the Federal debt, restore the social security trust fund, and continue to lower taxes on our working families and our workers all across America.

Here is the plan. Here is how it works. It is called the National Debt Repayment Act. Remember, it has three purposes: for workers, lower taxes; for senior citizens, restore the social security money; and most important of all, for our children, give them a Nation that is debt-free. Let our legacy to the next generation be that we have actually paid off the Federal debt, much like you would pay off a home mortgage in the business I used to be in, where we used to build homes.

Here is how it works. After we reach a balanced budget, we cap the growth of Washington spending at a rate at least 1 percent lower than the rate of revenue growth. After we reach balance, that is this point in the chart, we cap the growth of Washington spending, that is the red line, at a rate at least 1 percent slower than the rate of revenue growth. That is the blue line. That in fact creates a surplus. It is pretty easy to see in this chart. If spending is going up at a slower rate than revenue grows, it does in fact create this surplus.

We use the surplus in two ways. One-third of that surplus is dedicated to additional tax cuts for the workers. I might add while we are on this one-third, there is a bill introduced here that I am a strong supporter of and a cosponsor of that would literally sunset the IRS Tax Code as we know it today.

When I went through all of these tax cuts, a lot of my constituents back home will say, Mark, that is very complicated to understand all that. They are right. There are 20 volumes of Tax Code today. There are 20,000 pages of Tax Code. I challenge anyone to fully understand what is in that Tax Code.

So as we talk about these tax cuts, as we talk about using one-third of this surplus and dedicating that to additional tax reductions for workers all

across America, as we have that discussion, I think it is important that we throw in the mix that we would like to sunset the IRS Tax Code as we know it today and replace it with a system that is simpler, fairer, and easier for people to understand.

The bill currently would sunset the Tax Code as we know it today in the year 2001. I think that is a great idea. Why 2001 instead of tomorrow? I think we need to have a discussion and come up with a system that is in fact simpler, fairer, and easier to understand.

When I am out in our town hall meetings, a lot of my constituents start nodding their head with the "Yes, sure," thing again. But the reality is if we can actually balance the budget 3 or 4 years ahead of schedule, if we can lower taxes for the first time in 16 years, and make that tax cut very, very real, is it that hard to believe that we can also change the IRS system so it is simpler, fairer, and easier for folks to understand?

Certainly redoing the IRS code is easier than getting to a balanced budget. Certainly redoing the IRS code is easier than getting the people in this community to start spending at a slower growth rate. It has got to be easier to redo the IRS.

It is going to get done. I am very optimistic as we talk about using one-third of these for tax cuts, it will facilitate that move to an easier, simpler tax system, a fairer tax system. The other two-thirds of this surplus, remember, we cap the growth of Washington spending at least 1 percent below the rate of revenue growth, that creates a surplus. One-third is dedicated to tax cuts. Two-thirds is used to repay the Federal debt.

This works much like paying off a home mortgage. I used to be a homebuilder. When folks would buy one of our homes, the last thing we would do is go to a bank, and they would sign a mortgage on their home, and they would then start making payments on their home on a very regular basis. Over a 30-year period of time, they would pay off the mortgage.

That is exactly what we are suggesting that we do with the Federal debt. In fact, under this bill, if we enact it the way it is written, cap the growth of Washington spending at least 1 percent slower than the growth rate of revenue, we would in fact pay off the entire Federal debt by the year 2026.

It is a 29-year period of time. Folks are very familiar with the 30-year home mortgage. So it is like you set up on a repayment plan of the home mortgage, and whatever is left over gets returned the people in the form of tax cuts. That is what our bill does. Again, it is called the National Debt Repayment Act.

I think it is real important for us to understand that as we are repaying that Federal debt, as we are paying off the $5.3 trillion, part of that $5.3 trillion is the social security trust fund. So as we go through this plan and we actually pay off the Federal debt, the money that has been taken out of social security and spent on all kinds of other Washington programs in fact gets repaid to the social security trust fund. In repaying the money to the social security trust fund, social security once again becomes solvent for our senior citizens all the way to the year 2029.

This has another impact, and it is a very, very real impact. Remember the $580 a month that an average family of five is paying to do nothing but pay the interest on the Federal debt? As we go down this road and we start paying down the Federal debt, each time we make a payment on the Federal debt, that means there is less interest due the next year.

So the idea here is that as we go through this and we start paying down the Federal debt, each year we should be able to cut taxes even further, because there will be less interest that needs to be collected from our working families.

Think about this for a dream for the future of our country. Think about a dream where we actually pay off the Federal debt, we leave our children a legacy of a debt-free Nation, we restore social security for our senior citizens, and each and every year as we go forward we take one-third of this surplus and we lower the tax rate on our workers all across America.

People talk about the problem in Medicare. When I came here in 1995 Medicare was scheduled to be bankrupt in the year 2001. No one in America, I cannot believe anyone in this entire country, missed the Mediscare ads that were run during the last 2-year period of time, where all sorts of misinformation was put out about the Medicare system. But the one thing that was true was that if absolutely nothing was done, it would have been bankrupt in the year 2001.

We have restored Medicare for at least a decade, but at least a decade is not good enough for Medicare. I would like to point out that as we go through this program and we pay down the debt, the money that is no longer needed for interest we can use for tax cuts, but certainly we would prevent the Medicare system from going bankrupt after that decade that it has currently been restored for.

So we can now count the Medicare program without going into the pockets of the workers, taking more money and raising taxes again. This dream for the future of this country, it includes a restored social security for our senior citizens, it includes Medicare for our senior citizens, it includes a Nation where our children inherit this country absolutely debt-free. It includes a legacy of a debt-free Nation.

For the workers out there, they are not forgotten. For the workers out there who have borne this huge tax burden, taxes can come down each and every year as we go forward. Do not forget the other part of this, where we reform the IRS Tax Code. We dump the Tax Code we have right now, lock, stock and barrel, and put in a new tax system that is easier, simpler, and something that people can understand, and maybe they can even fill out their own taxes again.

I would like to kind of wrap it up tonight by just summarizing what we talked about. I started the hour tonight talking about social security, and how the social security system is collecting more money than it is paying back out to our senior citizens in benefits each year, but that money is currently being spent on other Washington programs. That is wrong. That needs to be stopped.

We talked about how this thing started happening. We talked about in fact how up through 1993 there had been promise after promise after promise, the Gramm–Rudman-Hollings bills, Gramm–Rudman-Hollings II in 1993, the 1990 tax pledge, our balanced budget pledge, the 1993 balanced budget pledge, promise after promise after promise of a balanced budget that never materialized.

The past contained broken promises of a balanced budget, and the final straw came in 1993 when they raised the gasoline tax, and they did not spend the money in building roads; when they raised social security taxes. That was the final straw. People finally said, enough. We have had it with the broken promises, we have had it with tax increases. We want Washington to get their house in order and control the growth of Washington spending.

We want a smaller Washington, less involved in our lives. That happened in 1994 when they put a new group in charge. We are now 3 years into a 7-year plan to balance the Federal budget. I am happy to report that in the third year, we will probably reach a balanced budget this year, but certainly 3 or 4 years ahead of schedule. We are not only on track to balancing the budget, keeping our promise, but we are 3 or 4 years ahead of schedule. We are going to reach our first balanced budget this year since 1969, and at the same time we are reaching that balanced budget we are providing the first tax cut in 16 years.

□ 2300

A tax cut that is heavily weighed toward families and education. $400 per child under the age of 17; $1,500 college tuition credit, freshmen and sophomores; $1,000 college tuition credit for continuing education beyond the freshman or sophomore year. The Roth IRA to save for education, for a first home,

or for retirement that when investors take the money out, it is absolutely tax free. The money accumulates tax free, and when they take it out, it is tax free.

Mr. Speaker, these are very, very real tax cuts; not a political promise. The tax cut bill has been signed into law. It is done. It is the law. Taxes are going down for the first time in 16 years. Think of this contrast. Broken promises of a balanced budget before 1995. Higher taxes, 1993. The biggest tax increase in American history. A balanced budget, first time since 1969. Three years into our 7-year plan we hit balance. Tax cut, first time in 16 years.

Mr. Speaker, it is significant. It is real. It is done. What a changed place Washington actually is as we stand here. But we are not done. This is not the end of the picture. This is not over. We still have dreams for the future of this country and where we are going. Our dream is not only to get to a balanced budget, but to pay off that Federal debt. And in paying off the debt, we restore the Social Security Trust Fund. In paying off the debt, we put ourselves in a position to allow us to pass this great Nation on to our children absolutely debt free, a legacy of a debt free Nation for our children.

Equally important, as we are going through that process we gradually reduce the tax burden on our working families and our workers all across America. That is our dream for the future of this great Nation that we live in.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCNULTY (at the request of Mr. GEPHARDT), for today after 7:45 p.m. and the balance of the week, on account of official business.

Mr. MANTON (at the request of Mr. GEPHARDT), for today after 5:25 p.m., on account of personal reasons.

Mr. YATES (at the request of Mr. GEPHARDT), for today after 5:30 p.m., on account of personal reasons.

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. BERRY) to revise and extend their remarks and include extraneous material:)

Mr. KUCINICH, for 5 minutes, today.
Ms. CLAYTON, for 5 minutes, today.
Mr. ALLEN, for 5 minutes, today.
Mr. SANDERS, for 5 minutes, today.
Ms. NORTON, for 5 minutes, today.
Mr. MCNULTY, for 5 minutes, today.
Mr. MALONEY of Connecticut, for 5 minutes, today.

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. DUNCAN, for 5 minutes, today.
Mr. ENGLISH of Pennsylvania, for 5 minutes, today.
Mr. THUNE, for 5 minutes, today.
Mr. WELDON of Pennsylvania, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. FARR of California.
Mr. SHERMAN.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BERRY) and to include extraneous matter:)

Mr. NEAL of Massachusetts.
Mr. BONIOR.
Mr. LIPINSKI.
Mr. KUCINICH.
Mr. KLINK.
Mr. KIND.
Mr. LANTOS.
Mr. WAXMAN.
Mr. HAMILTON.
Mr. HILLIARD.
Mr. MCNULTY.
Mr. LEVIN.
Mr. ETHERIDGE.
Mr. MURTHA.
Mrs. TAUSCHER.
Mr. ORTIZ.
Mr. ACKERMAN.
Mrs. MEEK of Florida.
Mr. TOWNS.
Ms. MILLENDER-MCDONALD.
Mr. PALLONE.
Mr. SERRANO.
Mr. HASTINGS of Florida.

(The following Members (at the request of Mr. DUNCAN) and to include extraneous matter:)

Mr. GILMAN.
Mr. FORBES.
Mr. NETHERCUTT.
Mr. SMITH of Michigan.
Mr. DAVIS of Virginia.
Mr. WELLER.
Mr. BURTON of Indiana.

(The following Members (at the request of Mr. NEUMANN) and to include extraneous matter:)

Mr. ROTHMAN.
Mr. LATOURETTE.
Mr. MCINTYRE.
Mr. BLUNT.
Mr. PACKARD.
Mrs. KELLY.
Mr. GREEN.
Mrs. MALONEY of New York.
Mr. DEUTSCH.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 37. Concurrent resolution expressing the sense of the Congress that Little League Baseball Incorporated was established to support and develop Little League baseball worldwide and that its international character and activities should be recognized; to the Committee on International Relations.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2013. An act to designate the facility of the United States Postal Service located at 551 Kingstown Road in South Kingstown, Rhode Island, as the "David B. Champagne Post Office Building."

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1227. An act to amend title I of the Employee Retirement Income Security Act of 1974 to clarify treatment of investment managers under such title.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that thqt committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 2013. An act to designate the facility of the United States Postal Service located at 551 Kingstown Road in South Kingstown, Rhode Island, as the "David B. Champagne Post Office Building."

ADJOURNMENT

Mr. NEUMANN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 2 minutes p.m.), the House adjourned until tomorrow, Friday, October 31, 1997, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5685. A letter from the Secretary of the Navy, transmitting notification that the Navy plans to finalize requirements to transfer the aircraft carrier ex-HORNET (CV 12) to a nonprofit group in Alameda, California, pursuant to 10 U.S.C. 7306; to the Committee on National Security.

5686. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the semiannual report on the activities of the Affordable Housing Disposition Program covering the period from January 1, 1997 through June 30, 1997, pursuant to Public

Law 102—233, section 616 (105 Stat. 1787); to the Committee on Banking and Financial Services.

5687. A letter from the Acting General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—National Flood Insurance Program: Insurance Coverage and Rates, Criteria for Land Management, Use, Identification, and Mapping of Flood Control Restoration Zones (RIN: 3067-AC17) received October 28, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5688. A letter from the Director, Federal Emergency Management Agency, transmitting the President's Report to Congress on the Modernization of the Authorities of the Defense Production Act, pursuant to Public Law 104—64, section 4; to the Committee on Banking and Financial Services.

5689. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Acquisition Regulation, Classification, Security and Counterintelligence [48 CFR Parts 952 and 970] received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5690. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the Commission's final rule—Regulations for the Licensing of Hydroelectric Projects [Docket No. RM95-16-000; Order No. 596] received October 29, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5691. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Perimeter Intrusion Alarm Systems [Regulatory Guide 5.44] received October 23, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5692. A letter from the Secretary of Health and Human Services, transmitting a report on the accomplishments in the field of family planning during fiscal years 1994 and 1995, pursuant to the Family Planning Services and Population Research Act of 1975, as amended; to the Committee on Commerce.

5693. A letter from the Chairman, Securities and Exchange Commission, transmitting reports prepared in response to various provisions of the National Securities Markets Improvement Act of 1996; to the Committee on Commerce.

5694. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Russia, Ukraine, and Norway (Transmittal No. DTC-86-97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5695. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to the United Kingdom (Transmittal No. DTC-89-97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5696. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Russia (Transmittal No. DTC-68-97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5697. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Audit of ANC 6C Covering the Period October 1, 1993 through December 31, 1996," pursuant to D.C. Code section 47—117(d); to the Committee on Government Reform and Oversight.

5698. A letter from the Administrator, Environmental Protection Agency, transmitting the annual report summarizing actions taken under Program Fraud Civil Remedies Act for the year ending September 30, 1997, pursuant to 31 U.S.C. 3801—3812; to the Committee on Government Reform and Oversight.

5699. A letter from the Regulatory Policy Official, National Archives and RECORDS Administration, transmitting the Administration's final rule—Transfer of Electronic Records to the National Archives (RIN: 3095-AA70) received October 22, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

5700. A letter from the Acting Director, Office of Personnel Management, transmitting a draft of proposed legislation to amend chapter 87 of title 5, United States Code, to enforce domestic relations court orders concerning payment of insurance proceeds, to make Additional Optional life insurance portable upon separation from service and allow retired employees to continue such coverage with no reduction after age 65, to improve Family Optional life insurance benefits, and to improve program administration; to the Committee on Government Reform and Oversight.

5701. A letter from the Executive Director, United States Arctic Research Commission, transmitting a letter in response to the reporting requirements of the Inspector General Act and the Federal Managers' Financial Integrity Act, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

5702. A letter from the Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Indiana Regulatory Program [SPATS No. IN-134-FOR; State Program Amendment No. 95-12] received October 30, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5703. A letter from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation to consent to a compact between the United States and any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico to facilitate the exchange of criminal-history records for noncriminal justice purposes; to the Committee on the Judiciary.

5704. A letter from the Assistant Secretary for Indian Affairs, Department of the Interior, transmitting the Department's final rule—Indian Highway Safety Program Competitive Grant Selection Criteria (RIN: 1076-AD82) received October 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5705. A letter from the Secretary of Energy, transmitting the Annual Report of the Metals Initiative for FY 1996, pursuant to Public Law 100—680, section 8; to the Committee on Science.

5706. A letter from the Acting Under Secretary (Comptroller), Department of Defense, transmitting notification of transfers of authorizations within the Department of Defense, pursuant to Public Law 104—201, section 1001(d) (110 Stat. 2631); jointly to the Committees on National Security and Appropriations.

5707. A letter from the Director, Office of Government Ethics, transmitting the final strategic plan, pursuant to Public Law 103—62; jointly to the Committees on Government Reform and Oversight and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HYDE: Committee on the Judiciary. H.R. 1965. A bill to provide a more just and uniform procedure for Federal civil forfeitures, and for other purposes; with an amendment (Rept. 105-358 Pt. 1). Ordered to be printed.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 434. A bill to provide for the conveyance of small parcels of land in the Carson National Forest and the Santa Fe National Forest, New Mexico, to the village of El Rito and the town of Jemez Springs, New Mexico; with an amendment (Rept. 105-359). Referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker.

H.R. 1965. Referral to the Committees on Ways and Means and Commerce extended for a period ending not later than February 27, 1998.

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. BLAGOJEVICH:

H.R. 2773. A bill to designate the facility of the United States Postal Service located at 3750 North Kedzie Avenue in Chicago, Illinois, as the "Daniel J. Doffyn Post Office Building"; to the Committee on Government Reform and Oversight.

By Mr. BLAGOJEVICH (for himself and Mr. SCHUMER):

H.R. 2774. A bill to prohibit the transfer of a handgun by a licensed dealer unless the transferee states that the transferee is not the subject of a restraining order with respect to an intimate partner or child of the transferee; to the Committee on the Judiciary.

By Mr. DOYLE:

H.R. 2775. A bill to designate the Department of Veterans Affairs medical center in Aspinwall, Pennsylvania, as the "H. John Heinz III Department of Veterans Affairs Medical Center"; to the Committee on Veterans' Affairs.

By Mr. FRELINGHUYSEN:

H.R. 2776. A bill to amend the Act entitled "An Act to provide for the establishment of the Morristown National Historical Park in the State of New Jersey, and for other purposes" to authorize the acquisition of property known as the Warren property; to the Committee on Resources.

By Mr. GEPHARDT (for himself, Mr. FAZIO of California, Mrs. KENNELLY of Connecticut, Mr. FROST, Ms. DELAURO, Mr. EDWARDS, Mr. LEWIS of Georgia, Mr. MENENDEZ, Mr. FARR of California, Mr. BAESLER, Mr. GEJDENSON, Mr. PALLONE, Mr. ETHERIDGE,

Mr. STRICKLAND, Mr. CLYBURN, Mr. CRAMER, Mr. PASTOR, Mr. BERRY, Mr. BROWN of California, Mr. CONDIT, Mr. DIXON, Mr. DOOLEY of California, Ms. HARMAN, Mr. LANTOS, Ms. LOFGREN, Mr. MARTINEZ, Mr. MATSUI, Ms. MILLENDER-MCDONALD, Ms. PELOSI, Ms. ROYBAL-ALLARD, Mr. SHERMAN, Mr. STARK, Mr. TORRES, Ms. WATERS, Mr. WAXMAN, Mr. MALONEY of Connecticut, Mrs. MEEK of Florida, Mrs. THURMAN, Mr. WEXLER, Mr. BISHOP, Mr. BLAGOJEVICH, Mr. LIPINSKI, Mr. RUSH, Mr. YATES, Mr. HOYER, Mr. WYNN, Mr. NEAL of Massachusetts, Mr. BARCIA of Michigan, Ms. RIVERS, Ms. STABENOW, Mr. MINGE, Mr. SABO, Mr. VENTO, Mr. PAYNE, Mr. ROTHMAN, Mr. ACKERMAN, Mr. ENGEL, Mr. HINCHEY, Mr. RANGEL, Ms. SLAUGHTER, Mr. HEFNER, Mr. PRICE of North Carolina, Mr. DEFAZIO, Mr. SPRATT, Mr. GORDON, Mr. TANNER, Mr. BENTSEN, Mr. RODRIGUEZ, Mr. SANDLIN, Mr. MORAN of Virginia, Mr. SISISKY, Mr. DICKS, Mr. WISE, Mr. POMEROY, Mr. BOSWELL, Mr. CUMMINGS, Mr. DINGELL, Mr. TOWNS, Mr. MCHALE, Mr. STENHOLM, Mr. MCDERMOTT, Mr. JOHN, Mr. SERRANO, Mr. BLUMENAUER, Mr. ABERCROMBIE, Mr. HASTINGS of Florida, Mr. HOLDEN, Mr. BROWN of Ohio, Ms. SANCHEZ, Mr. JEFFERSON, Mr. SCOTT, Mr. PICKETT, Mr. CARDIN, Mrs. MINK of Hawaii, Mr. SAWYER, Mr. COYNE, Mr. GREEN, Mr. HINOJOSA, Mr. ORTIZ, Mr. REYES, Ms. FURSE, and Mrs. MCCARTHY of New York):

H.R. 2777. A bill to amend the Federal Election Campaign Act of 1971 to limit the amount of non-Federal money that may be contributed to national political parties, to treat certain communications as independent expenditures subject to regulation under the Act, to restrict the solicitation and transfer of funds by candidates and parties to certain nonprofit organizations, and to require certain candidates to make monthly reports under the Act and to post such reports on the Internet; to the Committee on House Oversight.

By Ms. MCKINNEY:

H.R. 2778. A bill to amend the Internal Revenue Code of 1986 to increase the child care credit and provide that the credit will be refundable; to the Committee on Ways and Means.

By Mrs. MORELLA (for herself, Mr. SCHUMER, Mrs. JOHNSON of Connecticut, Mr. DAVIS of Virginia, Ms. FURSE, Ms. CARSON, Mr. VENTO, Mr. STARK, Mr. FROST, Mr. PAYNE, Mr. HINCHEY, and Mr. SANDERS):

H.R. 2779. A bill to provide grants to establish and operate supervised visitation centers for the purposes of facilitating supervised visitation of children and visitation exchange; to the Committee on the Judiciary.

By Mr. SANFORD:

H.R. 2780. A bill to provide for an annual statement of accrued liability of the Old-Age and Survivors Insurance Program; to the Committee on the Budget.

By Mr. SANFORD:

H.R. 2781. A bill to amend the Social Security Act to require the Commissioner of Social Security to submit specific legislative recommendations to ensure the solvency of the Social Security trust funds; to the Committee on Ways and Means.

By Mr. SANFORD:

H.R. 2782. A bill to amend the Internal Revenue Code of 1986 and the Social Security Act to provide for personal investment plans funded by employee social security payroll deductions, to extend the solvency of the old-age, survivors, and disability insurance program, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, 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. SHERMAN:

H.R. 2783. A bill to provide that a Member of, or Member-elect to, the House of Representatives shall not receive any annual pay increase except upon an appropriate written election; to the Committee on House Oversight.

By Mr. STARK:

H.R. 2784. A bill to amend title XVIII of the Social Security Act to limit the ability of physicians to demand more money through private contracts during periods in which the patient is in an exposed condition; to the Committee on Ways and Means, 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 Mrs. MORELLA (for herself, Mr. SCHUMER, Mr. DAVIS of Virginia, Mrs. JOHNSON of Connecticut, Ms. FURSE, Ms. CARSON, Mr. VENTO, Mr. LAFALCE, Mr. STARK, Mr. FROST, Mr. PAYNE, Mr. HINCHEY, and Mr. SANDERS):

H. Con. Res. 182. Concurrent resolution expressing the sense of Congress with respect to child custody, child abuse, and victims of domestic and family violence; to the Committee on the Judiciary.

By Mr. BARR of Georgia:

H. Res. 298. A resolution amending the Rules of the House of Representatives to repeal the rule allowing subpoened witnesses to choose not to be photographed at committee hearings; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

217. The SPEAKER presented a memorial of the Senate of the Commonwealth of Massachusetts, relative to Resolutions memorializing the President and the Congress of the United States to negotiate an international ban on antipersonnel landmines; to the Committee on International Relations.

218. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution 4 encouraging the leaders of the United States to work with our allies and other nations toward the creation of an international ban on the manufacture, stockpiling, sale, and the use of anti-personnel landmines, and urging the President and Congress of the United States to make permanent the current moratorium on the export of anti-personnel landmines; to the Committee on International Relations.

219. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution 13 memorializing the President and Congress of the United States to continue efforts to ensure that social security and Medicare are not threatened, to protect older Americans from harm and stress, to stop efforts to hurt the income security of older Americans, and to ensure that older Americans continue to receive all that they are entitled to and deserve; jointly to the Committees on Ways and Means and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. ETHERIDGE introduced A bill (H.R. 2785) for the relief of Clarence P. Stewart; 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. 27: Mr. SOUDER.

H.R. 135: Mr. STUPAK.

H.R. 145: Ms. HOOLEY of Oregon, Mr. ANDREWS, Mr. LEVIN, and Mr. MCNULTY.

H.R. 176: Mr. COX of California and Mr. HILLEARY.

H.R. 296: Mr. CAMPBELL.

H.R. 350: Mr. SHERMAN.

H.R. 352: Mr. WELDON of Florida.

H.R. 371: Mr. MORAN of Virginia and Mr. CALVERT.

H.R. 611: Ms. WATERS, Mr. SCHUMER, Mr. BLUMENAUER, and Mr. RODRIGUEZ.

H.R. 634: Mr. MCCOLLUM.

H.R. 721: Mr. BLUMENAUER.

H.R. 758: Mrs. FOWLER, Mr. COLLINS, and Mr. BARTON of Texas.

H.R. 805: Mr. LATOURETTE.

H.R. 836: Mr. HILLEARY.

H.R. 959: Mr. SHERMAN.

H.R. 971: Mr. ROTHMAN.

H.R. 979: Mr. MCDADE, Mr. NEY, Mr. BATEMAN, Mr. RIGGS, and Mr. GEKAS.

H.R. 981: Mr. EVANS and Mrs. MALONEY of New York.

H.R. 1010: Mr. JOHN, Mr. HILL, Mr. KASICH, and Mr. BOYD.

H.R. 1031: Mrs. NORTHUP.

H.R. 1130: Mr. GUTIERREZ.

H.R. 1151: Mr. DOYLE and Mr. FAWELL.

H.R. 1202: Mr. WOLF, Ms. WATERS, Ms. ROYBAL-ALLARD, Mrs. LOWEY, Mr. PASCRELL, Mr. KENNEDY of Massachusetts, Mr. DIXON, Mr. MENENDEZ, Ms. DELAURO, Mrs. MALONEY of New York, Mr. DICKS, Mr. PALLONE, and Mr. FRELINGHUYSEN.

H.R. 1356: Mr. BAKER and Ms. KILPATRICK.

H.R. 1375: Mr. POSHARD and Mr. MORAN of Virginia.

H.R. 1415: Mr. JACKSON, Mrs. TAUSCHER, and Mr. FRELINGHUYSEN.

H.R. 1425: Mr. ROTHMAN.

H.R. 1500: Mrs. MCCARTHY of New York.

H.R. 1504: Mr. BARR of Georgia.

H.R. 1595: Mr. ISTOOK, Mr. MICA, and Mr. PAUL.

H.R. 1636: Mr. BORSKI.

H.R. 1679: Mr. MCGOVERN.

H.R. 1711: Mr. BAESLER, Mr. COMBEST, Ms. GRANGER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MCHUGH, Mr. PETRI, Mr. SCARBOROUGH, Mr. BOB SCHAFFER, and Mr. SUNUNU.

H.R. 1715: Mr. GREENWOOD, Mr. FOX of Pennsylvania, and Mr. WELDON of Pennsylvania.

H.R. 1802: Mr. POMBO, Mr. CUNNINGHAM, and Mr. BARTLETT of Maryland.

H.R. 1861: Mr. LAMPSON and Ms. ROYBAL-ALLARD.

H.R. 1984: Mr. REYES.

H.R. 2023: Ms. SLAUGHTER, Mr. JACKSON, and Mrs. CLAYTON.

H.R. 2121: Mr. BENTSEN.
H.R. 2139: Mr. BOUCHER.
H.R. 2172: Mr. MCHUGH.
H.R. 2195: Mr. FILNER.
H.R. 2211: Ms. PELOSI, Mr. SANDERS, and Ms. FURSE.
H.R. 2221: Mr. MANZULLO and Mr. ARMEY.
H.R. 2253: Ms. PELOSI, Mr. RUSH, and Mr. SERRANO.
H.R. 2292: Mr. QUINN, Mr. JOHNSON of Wisconsin, and Ms. DELAURO.
H.R. 2349: Mr. RADANOVICH, Mr. CAMPBELL, Mr. BILBRAY, Mr. HUNTER, Mr. POMBO, Mr. KIM, and Mr. MCKEON.
H.R. 2408: Ms. SLAUGHTER and Mr. BONIOR.
H.R. 2431: Mr. DEFAZIO, Mr. GORDON, Mr. LAHOOD, Mr. MCHALE, Mr. MCKEON, Mr. RILEY, Mr. TAYLOR of North Carolina, and Ms. VELÁZQUEZ.
H.R. 2439: Mr. DAVIS of Virginia.
H.R. 2449: Mr. SNOWBARGER.
H.R. 2450: Mrs. EMERSON.
H.R. 2468: Mr. BISHOP.
H.R. 2476: Ms. BROWN of Florida, Mr. KENNEDY of Rhode Island, and Mr. COSTELLO.
H.R. 2485: Ms. DEGETTE.
H.R. 2499: Mr. WELLER, Mr. HULSHOF, and Mr. SOUDER.
H.R. 2503: Ms. DELAURO.
H.R. 2593: Mr. GEJDENSON, Mr. PETRI, Ms. DANNER, Mr. MARTINEZ, Mr. YOUNG of Alaska, Mr. GEKAS, Mr. DOOLITTLE, Mr. BALLENGER, Mr. EWING, Mr. TRAFICANT, Mrs. CHENOWETH, Mr. POMBO, and Ms. CARSON.
H.R. 2596: Mr. BOEHNER, Mr. MCHUGH, Mr. GEKAS, and Mr. SMITH of Michigan.
H.R. 2602: Mr. SHAYS and Ms. KILPATRICK.
H.R. 2608: Mr. RIGGS.
H.R. 2639: Ms. SLAUGHTER.
H.R. 2650: Mr. MOLLOHAN.
H.R. 2676: Mr. TALENT, Mr. JOHN, Ms. HARMAN, Mr. SAXTON, Ms. RIVERS, Mr. HALL of Texas, Mr. ROYCE, Mr. FROST, Mrs. LINDA SMITH of Washington, Mr. BOSWELL, Mr. THUNE, Ms. HOOLEY of Oregon, Mrs. CHENOWETH, Mr. SPRATT, Mr. EWING, Mr. CLEMENT, Mr. NEY, Ms. ESHOO, and Mr. ROTHMAN.
H.R. 2699: Mrs. MEEK of Florida, Mr. GUTIERREZ, Mr. RUSH, Mr. HINCHEY, Ms. KILPATRICK, Ms. HOOLEY of Oregon, Mr. ACKERMAN, Ms. MILLENDER-MCDONALD, Mr. FROST, and Ms. SLAUGHTER.
H.R. 2709: Mr. CAMPBELL, Mr. BAESLER, Mr. GREEN, Mr. CUNNINGHAM, Mr. LEWIS of Georgia, Mrs. LOWEY, Mr. WEXLER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. PASCRELL, Mr. COYNE, Mr. BARTLETT of Maryland, Mr. SHERMAN, Mr. KIND of Wisconsin, Mr. SNOWBARGER, Mr. FRANKS of New Jersey, Mr. BARR of Georgia, Mrs. MALONEY of New York, Mr. WAMP, Mr. PAPPAS, Mr. NEAL of Massachusetts, Mrs. NORTHUP, Mr. SALMON, Mr. PARKER, Mr. REYES, Mr. MALONEY of Connecticut, Mr. HUTCHINSON, Mr. PICKERING, Mrs. THURMAN, Mr. SHAW, Mr. WEYGAND, Mr. FRELINGHUYSEN, Mr. DIXON, Mr. JONES, Mr. PITTS, Mr. ENGLISH of Pennsylvania, Mr. CANNON, Mr. SESSIONS, Ms. BROWN of Florida, Mr. GORDON, Mr. TAUZIN, Mr. SAM JOHNSON, and Mrs. EMERSON.
H.R. 2723: Mr. SESSIONS and Mr. KINGSTON.
H.R. 2741: Mr. CONDIT.
H. Con. Res. 12: Mr. LIPINSKI.
H. Con. Res. 41: Mr. MASCARA.
H. Con. Res. 80: Mr. COMBEST.
H. Con. Res. 132: Mr. SOUDER and Mr. TALENT.
H. Con. Res. 148: Mr. LOBIONDO.
H. Con. Res. 156: Mr. ACKERMAN.
H. Con. Res. 174: Mrs. MALONEY of New York, Mr. FRANK of Massachusetts, Mr. WATTS of Oklahoma, Mr. HINCHEY, Mr. MCNULTY, Mr. ENGEL, Mr. WOLF, Ms. JACKSON-LEE, Mr. SCHUMER, Mr. ABERCROMBIE, Mr. BROWN of Ohio, Mr. YATES, Mr. FROST, Mr. FALEOMAVAEGA, Mr. HASTINGS of Florida, Mr. ROTHMAN, Ms. LOFGREN, Ms. SANCHEZ, Mr. KING of New York, Mr. GUTIERREZ, and Mr. FOLEY.
H. Con. Res. 175: Mr. SKEEN and Mr. YOUNG of Alaska.
H. Res. 37: Mr. BLAGOJEVICH and Mr. LIPINSKI.
H. Res. 224: Mr. FROST, Mr. PAXON, Mr. ALLEN, and Ms. SLAUGHTER.
H. Res. 267: Mr. HAYWORTH and Mr. RYUN.
H. Res. 275: Mr. LUTHER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2459: Mr. PAXON.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the clerk's desk and referred as follows:

26. The SPEAKER presented a petition of the City Council of the City of Plantation, Florida, relative to Resolution No. 7234 expressing strong opposition to the introduction and consideration of H.R. 1534, referred to as the "Private Property Rights Implementation Act," and its corresponding Senate Bill, S. 1204; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

KODAK'S DIFFICULTIES REVEAL JAPAN'S TRADE BARRIERS

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Mr. ENGLISH of Pennsylvania. Mr. Speaker, as the Japanese Government continues to systematically deny Japanese consumers fair and competitive access to America's Eastman Kodak Company's film and paper products, it is critical to maintain pressure on the administration to resolve this case. This case has far-reaching ramifications for our Nation's export potential. With that in mind, I respectfully submit the following article outlining the importance of a positive resolution of this case for my home State of Pennsylvania.

[From the Harrisburg Patriot News, Oct. 17, 1997]

KODAK'S DIFFICULTIES REVEAL JAPAN'S TRADE BARRIERS

(By Clifford L. Jones)

In the current and continuing congressional debate over foreign trade, the issue foremost in everyone's mind is the assurance that as trade barriers fall, they must fall equally for every trading partner. American workers, American companies are not afraid of competition, but we must insist on fairness in foreign markets.

Unfortunately, one of America's long-time trading partners continues to stick its thumb in the eye of American business. Japan continues to insist on tilting the playing field in their favor. That practice must be brought to an end, if not by Japan then mandated by enforcement actions by the World Trade Organization. And, if the World Trade Organization refuses to act in the face of blatant disregard for fairness in the marketplace, then America must rethink its actions in trade matters. In a few months, the World Trade Organization, the international arbiter of free and fair trading, is expected to settle a dispute that could affect every family in Pennsylvania.

The United States government has charged the Japanese government with systematic denial of fair and competitive access to Japanese consumers by America's Eastman Kodak Company.

Although this case involves photographic film and paper, it could just as easily have been brought on behalf of chemicals, telecommunications, agriculture or medical technology. There is a growing list of American industries thwarted by Japan's regulations which effectively protect Japanese business from foreign competition.

This case is important to all Americans, not just for Kodak employees, because exports are increasingly vital to our nation's economic well-being. By expanding sales of American products overseas, we create new jobs, higher incomes and a better standard of living at home. If the United States wins this case, other companies, including many in Pennsylvania, should find it easier to enter the Japanese market.

The United States has brought a fundamental challenge to the Japanese way of doing business. For 30 years, Japan has sought the benefits of lower tariffs to create new overseas markets for its own goods while firmly establishing restrictions on the entry of American products into its marketplace. For three decades, through three rounds of international negotiations, the Japanese government has promised and, yet, refused to eliminate major trade barriers.

It has replaced formal trade barriers with a complex series of laws and regulations. In fact, after the first round of negotiations in 1967, the Japanese Cabinet stated that it would be a "basic necessity" to protect domestic industry from foreign competition.

Kodak's on-going problems with marketing in Japan are indicators of the difficulties encountered by most U.S. industries as they attempt to compete fairly in Japan. In the last three decades Kodak has invested significant resources in the Japanese market and yet Kodak has managed to secure a market share nowhere near what it is in every other market in the free world.

Something, quite obviously, is wrong.

Kodak's market share is not the result of Japanese preference for domestic brands. Most Japanese consumers simply are unable to find Kodak products in stores. Unlike Japanese makers of photographic paper and film with totally free and fair access to the U.S. market, Kodak is able to reach only a small percentage of the market in Japan.

Unbelievably, Japan has consistently refused to even discuss this situation with the United States, one of its staunchest allies.

Common sense tells us that if trade barriers fall, foreign firms should capture a larger share of the market. In other countries when governments have honored their commitments, to free trade, Kodak's share has risen. This has not happened in Japan.

The Kodak case is also important to our relationship with such East Asian nations as China, Taiwan and South Korea, all of whom are following to some degree the Japanese model of export-led growth in combination with a protected domestic market.

If the United States case is successful, it will send a firm warning to other nations that they, too, must honor their commitments to free trade—or suffer the consequences. Recognizing the historic nature of the case the European Union is supporting the United States before the World Trade Organization.

I believe that the evidence supporting Kodak is overwhelming and there is only one reasonable conclusion. Let's hope for the sake of U.S. industry and for American workers that the World Trade Organization arrives at that conclusion. Such a determination will have the additional benefit of calming many of the congressional fears over proposals for continuing America's and the world's march to free trade.

CONGRATULATIONS TO THE VALPARAISO COMMUNITY SCHOOL SYSTEM

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Mr. VISCLOSKY. Mr. Speaker, it is a great privilege to take this opportunity to congratulate the Valparaiso Community School System. Valparaiso placed in the top 10 percent of 15,893 school systems nationwide, and it was named a 1997 "What Parents Want" award winner by SchoolMatch, an Ohio-based school selection consulting firm. I would especially like to recognize Valparaiso Community School System's superintendent, Michael Benway, and its director of secondary education, Glen Gambel, for their significant roles in this distinguished achievement.

The "What Parents Want" award was established 6 years ago by school administrators concerned about negative publicity surrounding public education. In making its decision, SchoolMatch uses information from county and State auditors, State taxing authorities, and State boards of education. To assess a school's qualifications, the firm uses a checklist of what parents look for when deciding which school system is best for their children. The seven-point list includes: competitiveness; academically solid, but not intimidating, testing; accreditation; recognition by a national foundation or by the U.S. Department of Education; competitive teacher salaries; above-average instructional expenditures; above-average library and media expenditures; and small class size.

The award is especially meaningful for the Valparaiso Community School System since SchoolMatch is a prominent organization that performs its own extensive research to determine which schools meet the above criteria.

With families increasingly having to relocate for job related purposes, SchoolMatch provides an invaluable service to parents with school-age children. SchoolMatch is used by a number of large corporations as they help relocating employees match their expectations with a school system in the area of relocation. The program has gained national recognition, as more than 48,000 parents contacted SchoolMatch's headquarters in Columbus, OH, last year.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in commending the Valparaiso Community School System on its receipt of this prestigious award. The dedication of Valparaiso's teachers and administrators to the education of citizens in the Valparaiso community is truly inspirational.

CHINA'S NUCLEAR NONPROLIFERATION POLICY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Mr. STARK. Mr. Speaker, I rise today to commend my colleagues, Mr. MARKEY, Mr. GILMAN, and Mr. COX, for their bipartisan efforts to shed light on China's pending nuclear nonproliferation certification in this morning's Washington Post. These distinguished gentlemen present us with the facts on China's most recent and egregious nonproliferation violations. Now it's up to President Clinton to face the facts and deny certification to China as a responsible member of the international nonproliferation community.

The Central Intelligence Agency released its biannual report to Congress this past summer and listed China as one of the two biggest nations to export nuclear materials to Iran and Pakistan. Now, less than 4 months later, China is pledging to limit its exports to Iran and end nuclear cooperation with the rogue nation. This agreement arrives at the dawn of "new and improved" United States-China relationship. As a nuclear weapons state and party to the Nonproliferation Treaty, China is obligated to promote "the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy." If China can break its pledge made in an international treaty, it certainly has the capability of breaking its pledge made to the Clinton administration. What evidence does the United States have that China will keep its promise to curb sales of nuclear materials to its largest consumers?

None. China's Government has denied accusations of selling nuclear technology and material to rogue nations. It has been barred from receiving United States technology for over 10 years for these transactions and now we're supposed to believe that China will reverse its current policy. I hope the Clinton administration doesn't expect Congress to buy this bogus change of heart. The administration has delinked human rights from trade and now it wants to ignore its own intelligence reports on nuclear proliferation. If the United States agrees to sell nuclear technology to China, it will open up the nuclear arms market to Iran and Pakistan. This is irresponsible, unacceptable, and goes beyond a policy of engagement.

China has not given any substantive signs of changing its current nuclear sales to Iran, yet the administration acquiesces on all requests for cooperation. China's leader, Jiang Zemin, insisted upon a fanfare welcome from the United States and his request was granted. However, compliance of the warm welcome should not set the tone for the upcoming discussions between the two leaders. President Clinton must send a clear, firm message regarding U.S. nuclear nonproliferation policy. The United States must lead by example and show China—and the world—that we are not open to sending nuclear technology to Iran via China.

The following article appeared in today's Washington Post:

CHINA AND NUCLEAR TRAFFICKING

(By Edward J. Markey, Benjamin A. Gilman and Christopher Cox)

During Chinese President Jiang Zemin's visit this week, President Clinton is expected to activate a 1985 Nuclear Cooperation Agreement with China. American companies would then be authorized to start selling nuclear reactors and fuel to a country that has been identified by the CIA as "a key supplier of most destructive arms technology" to rogue regimes such as Iran's. We believe that providing access to American technologies that could end up assisting Iran's nuclear weapons programs would constitute an intolerable risk to U.S. national security.

When the Nuclear Cooperation Agreement was finalized in 1985, Congress placed conditions on the resolution approving it that required the president to certify that China had become a responsible member of the international nonproliferation community before the agreement could go into effect. No U.S. president, not Regan, not Bush and until now not Clinton, has made such a certification. A glance at the record quickly shows why.

Communist China's nuclear, chemical, biological and missile proliferation has made it the Wal-Mart of international nuclear commerce. Consider the following list of only the worst and most recent of China's nonproliferation violations:

In February 1996 the People's Republic of China was discovered to have sold 5,000 ring magnets to Pakistan for use in Pakistan's secret uranium enrichment facility, though it publicly denied doing so.

In May 1997 the State Department cited seven Chinese entities for exporting chemical weapons technology to Iran.

In June 1997 Time magazine reported that China had not only transferred nuclear-capable missiles to Pakistan but was also helping Pakistan build missiles of its own.

In July 1997 the CIA identified China as being "the most significant supplier of Weapons of Mass Destruction (WMD)-related goods and technology to foreign countries."

In August 1997 Israeli intelligence reports confirmed that China is supplying long-range nuclear missile technologies to Iran.

In September 1997 the U.S. Navy reported that China is the most active supplier of Iran's nuclear, chemical and biological weapons programs.

This record speaks for itself. China has continually assure the United States that it would stop providing technologies for weapons of mass destruction to countries such as Iran and Pakistan. China has continually failed to live up to its promises. Before implementing the 1985 agreement, we need to be certain that this time the promises are for real.

The 1985 agreement requires the president to certify that China has made sufficient progress in halting proliferation. President Clinton, however, seems to believe that China's past proliferation record is irrelevant, and that we should blindly trust the vague and untested promises China has made to implement its own export controls and regulations. China has yet to make a tangible demonstration of its commitment to cease its sales of WMD technologies. Implementation of the Nuclear Cooperation Agreement is profoundly ill advised, at least until the following criteria are met:

(1) China must join the Nuclear Suppliers' Group (NSG). The NSG members have agreed not to sell nuclear technologies to any country that does not allow international inspections of all of its nuclear facilities all of the time, a criterion known as "full-scope safeguards." A 1993 statement by then Secretary of State Warren Christopher calls the NSG "a fundamental component of the international nonproliferation regime," and says that "the United States has been a strong proponent of requiring full-scope International Atomic Energy Agency safeguards as a condition for significant new nuclear supply commitments." Christopher's first statement remains true, but the Clinton administration is considering reversing itself on the second. Why should countries such as Canada and Switzerland, both NSG members, be held to a higher nonproliferation standard than Communist China?

(2) China must cease all proliferation of weapons of mass destruction, including missiles and chemical and biological weapons. A promise to cease nuclear proliferation without similar assurances to cease the proliferation of other mass destruction technologies is a lot like an alcoholic's swearing off scotch without bothering to stop drinking beer or wine.

(3) China must follow through with its promise to implement an export controls system, but it must be proved to be effective. This can be accomplished only through the passage of time. With such a long legacy of transgressions and broken promises, we need to see evidence of true reform before moving forward with certification.

President Clinton has an opportunity, as well as an obligation, to require that the People's Republic of China demonstrate its compliance with global nonproliferation norms (as opposed to mere promises) by resisting pressure from the Chinese government (and the American nuclear industry). But if the president certifies China as a nonproliferator, despite the record we have outlined and without a demonstrated change of behavior on the part of Beijing, he will have eviscerated U.S. nonproliferation policy and compromised U.S. national security.

PERSONALIZING SOCIAL SECURITY

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Mr. SMITH of Michigan. Mr. Speaker, once in a while, a speech is made that really makes sense for America. Recently Jim Martin, president, 60 Plus Association, made one of these speeches. On Social Security's 62d anniversary, Jim talked about the importance of personalizing Social Security.

Jim notes that the likely alternative to personalizing Social Security is a tax increase. Since 1971, there have been 36 Social Security tax increases. A Social Security tax increase does not make economic sense and more importantly it is not fair to working Americans.

Jim Martin, representing seniors all over America, supports the introduction of my Social Security Solvency Act, personalizing Social Security by offering each worker his or her own personal retirement savings account.

Thank you, Jim, for your thoughtful remarks.

PERSONALIZING SOCIAL SECURITY: UNPLUGGING THE THIRD RAIL

(By James L. Martin)

When I came to Washington as a newspaper reporter in 1962, John F. Kennedy was in the

White House, Neal Armstrong had not yet walked on the moon, Strom Thurmond was a Democrat and the problems with Social Security were perceived by few, other than Barry Goldwater.

So, today, August 14, 1997, on the 62d anniversary of Social Security, the 60 Plus Association becomes the first seniors group to publicly go on record to overhaul the system, releasing a paper it commissioned by economist Richard A. Hart, entitled "Personalizing Social Security: Unplugging the Third Rail." Why did a senior citizens group decide to tackle the issue of Social Security reform? Let me answer by citing a question I'm asked often about the program signed into law by President Franklin Delano Roosevelt on August 14, 1935.

The question is always the same, "Jim, why get involved?" After all, the theory goes, even if the current system is going bankrupt, "your seniors are protected, so why bother with the uncertain future of this politically volatile issue?"

Believe me, it would be easy to take a head-in-the-sand approach as so many do, including, I'm sorry to say, other senior citizens groups. Unfortunately, this attitude leads to a false impression that seniors are "greedy old geezers," a 'gimme, gimme, gimme" mentality which I hope to dispel. Seniors who built this country, in Depression and war time, through their blood, sweat and tears, deserve better.

To help dispel that erroneous image, I harken back to some of the advice one particular senior citizen has given me, and still does—my favorite senior—my mom, my sainted mother, if you will, Mary L. Martin, who, in her eighties, still works part-time! Her advice is that seniors' most valued assets are not their social security, their retirement income or their pensions—although these are certainly near the top of their list—but in her opinion, seniors' most valuable assets are their children, their grandchildren and their great grandchildren.

So that's why I decided to involve 60 Plus, seniors group responsibly trying to find a solution to the problem, for the sake of our children and our grandchildren.

To put it bluntly, Heritage Foundation economist Dan Mitchell said, or perhaps it was another often quoted economist, Americans for Tax Reform's Peter Ferrara, who said:

"Security was a Ponzi scheme then. It's a Ponzi scheme now." But even a Ponzi scheme—borrowing from Peter to pay Paul—worked well in the beginning, not only for Carols Ponzi but for others, just as the so-called Social Security Ponzi scheme worked well for seniors. But there looms now a "run on the Ponzi bank" as the Baby Boomers prepare to retire.

As Mr. Hart states in his paper, "the Social Security retirement train is a collision course with demographics. Social Security's pay-as-you-go system, where the taxes of today's workers are transferred to today's retirees, leaves it particularly vulnerable to demographic trends. As Baby Boomers age, life expectancy is rising and birth rates are falling. As the Social Security train heads straight into a demographic wall," Mr. Hart continues, "more and more Americans anticipate the oncoming wreck." Mr. Hart is right. More and more of us recognize the looming crisis.

A recant poll said that a majority of Democrats, for the first time, acknowledged not only that there is a problem with the system, but a majority of Democrats now even favor privatization as a solution. Everybody universally agrees there's a problem. But a solution remains elusive.

For example, President Clinton's Social Security Advisory Council has issued its long awaited report. This 13-member panel of experts readily agreed there is a problem but did they agree on a solution? Well, yes and no. They offered three solutions. It's not an exaggeration to say they split three ways from Sunday, six endorsing one solution, five another and two yet a third. Significantly, all three directly, or indirectly, advocated privatization. In 1983, President Reagan's Social Security Reform Commission came forth with its solution to keep the system solvent for, it said, at least another 75 years, well into the next century.

That begs the question, why another Commission so soon in the 1990's, after the 1983 Commission? The answer is that the system is in more trouble than previously thought. The problem is twofold. One: The good news is that we seniors are living longer, due to medical advances and our own better health habits. Two: The bad news is that you younger generations have to pay.

Of course, that's the way the system has always worked. But before there were more than 20 workers, not three, paying into the system for each beneficiary. One other fact that bears noting is that when first enacted, according to the actuarial tables, seniors died at about age 64, or as Mr. Hart so delicately phrases it, most workers were conveniently dead and buried before they could collect their benefits at age 65. As 60 Plus Honorary Chairman, former Indiana Congressman Roger Zion puts it, at a vigorous and robust 75, he has been "statistically dead" for 11 years. Now that seniors are living longer, that places further financial strains on the system. Clearly, a day of reckoning has come. The old fix of just raising taxes, some 51 times in 62 years, cannot continue. There's a limit.

There have been half-hearted attempts in the past to address the problem, half-hearted because not many politicians want to be accused of touching the so-called third rail. You know the old song—Social Security is the third rail of politics, touch it and you die.

Politicians have gotten away with this third rail scare tactic for too long, scaring seniors for political gain. Some of us recall the 1964 Barry Goldwater-Lyndon Johnson Presidential campaign when there was a TV commercial showing a giant pair of scissors cutting a Social Security card with a voice-over solemnly intoning that this would be the result if you voted for Goldwater. Another 1964 TV commercial also stated that a vote for Goldwater could result in U.S. soldiers being sent to fight and die in southeast Asia. Well, as one political wag put it, he "voted for Barry and sure enough, U.S. soldiers were soon sent to fight and die in Vietnam."

So, I would like to put politicians, regardless of party, on notice that seniors are tired of falsely being told their Social Security is going to be taken away. It's more likely that a meteorite will fall on the Social Security Administration building in Baltimore before a politician, of either party, would propose taking away Social Security.

Let me point out how 60 Plus became engaged on this issue. A few years ago the Third Millennium, Generation X'ers in the 18–34 age group, announced the startling news that most X'ers believed more in UFOs (unidentified flying objects) than that the system would be around when they retired. I responded on a radio talk show that seniors are also aware that the system is headed for bankruptcy. Then I added, somewhat flippantly, perhaps, that seniors believe more in the second coming (has it been 20 years this week?) of Elvis Presley than in the system's future solvency and that seniors might also prefer changes. After a few call-ins and further discussion of UFOs and Elvis, I decided to poll senior citizens. Our poll to approximately 100,000 seniors found that, by a surprising 3-to-1 margin, seniors preferred a privatized system. We then commissioned a survey by pollster Frank Luntz, an excerpt of which is in the study we've released. The Luntz poll confirmed our 3-to-1 ratio.

We were called by Insight Magazine, and we debated, in print, our counterpart at the American Association of Retired Persons, Horace Deets, in dueling 2000-word essays. If I could sum up each essay in one word, it would be: AARP—taxation, 60 Plus—privatization. AARP favors the same old solution, tax increases, while 60 Plus looks for new solutions.

Will privatization work? The privatization role model is the Chilean system. During the 1983 Social Security study, when Chile was mentioned as a solution, the status quo seekers dismissed their system as a new and unproven experiment. But, fast forward 15 years later and Chile now has an amazing track record of success. Now the status quo seekers try to demonize the word "privatize," implying that you have to be a stock market expert or the big boys on Wall Street will fleece you. Nothing could be further from the truth. There are a lot of workers in Chile who can't play the stock market but who proudly walk around with a passport-sized book with their name on it, keeping track of their investments. That is one of the reasons we use the word "personalize" because the system would allow each and every individual to take personal control of his or her own financial destiny.

Since 60 Plus is nonpartisan, we credit legislators from both parties for coming up with innovative ideas. One is Democratic Sen. Bob Kerrey of Nebraska, from whom we borrowed the word "personalize." Another suggestion, by one of the Generation-X'ers, is to "modernize" the system. Many others on Capitol Hill deserve credit, including Republican Congressman Jim Kolbe of Arizona and Democratic Congressman Charlie Stenholm of Texas, co-chairs of a public pension reform caucus which now numbers more than 70 members of Congress, equally represented by both parties. Michigan Congressman Nick Smith has introduced legislation to address the problem, as have Reps. Mark Sanford of South Carolina, David McIntosh of Indiana, Mark Neumann of Wisconsin and John Porter of Illinois. Others safeguarding Social Security include House Ways and Means Committee Chairman Bill Archer of Texas and Subcommittee Chairmen, Reps. Bill Thomas of California, Dennis Hastert of Illinois and Jim Bunning of Kentucky. Surely, the latter, Jim Bunning, the big, burly Hall of Fame baseball pitcher—known as a fierce competitor in his playing days and now the father of nine and grandfather of 31 (at last count)—would be a formidable opponent for those who try to demagogue Social Security as they did in the 1980s when some Members of Congress courageously talked about reform in order to save it.

More than two dozen countries in South America, Europe and Asia, have adopted, or are in the process of adopting, a Chilean-style system. Even socialist Sweden is going that route. And here, workers in three Texas counties, before a loophole in the law was

closed, opted for privatization and their rate of return is making for a lot of serious discussion as they prepare for retirement. Moreover, a resolution recently passed both the House and Senate in Oregon asking the state to opt out of the Social Security system and create a separate retirement system for state workers.

So the slight spark across the sky of the Chilean experiment has become a bright constellation. It's a success story that I believe, with all my heart and soul, can be a guide for our own troubled system.

Incidentally, in the old days, the father of the Chilean plan, Dr. Jose Pinera, literally visited Washington in the dead of night because his untested plan was so controversial. But a few years ago, the Cato Institute gave a dinner in his honor and a number of Members of Congress allowed their names to be placed on the host committee. What a change in attitude. Of course, it was not lost on them that this former minister of labor was elected to office himself, with a major plank in his platform, his plan to privatize social security.

Having read an article years ago by Ed Crane, President of the Cato Institute, about the social security problem, we started searching for solutions. We kept being referred back to the Cato Institute itself, which has taken a pioneering road on this issue for more than a dozen years. One name kept coming up, time and again. That name was Michael Tanner, Cato's Director of Health and Welfare Studies, and the author of several books on health and welfare reform. Mr. Tanner has worked on the Social Security issue extensively, to say the least. Spoken on it. Written on it. Debated on it, around the world often with Dr. Pinera at his side. That's why 60 Plus, particularly Roger Zion and I, are so pleased that Mr. Tanner has not only eloquently embraced this new plan Mr. Hart proposes, but has joined us at today's official release of the proposal, along with an equally strong endorsement by today's other featured speaker, Fund for a New Generation's Adam Dubitsky.

Richard A. Hart takes up the challenge to find a solution in an insightful paper showing how Personal Retirement Accounts (PRAs) can assure both dignity and comfort for future generations of senior citizens. This paper, a variation on a theme advanced by others, should continue the dialogue on a system which urgently needs reform.

To those who fear Social Security's ruin, wise seniors know that there is no Social Security Trust Fund. 60 Plus calls it the Social Security Bust Fund as surpluses are used for other government programs. As Democratic Senator Ernest Hollings of South Carolina has said, "There is no trust. There is no fund." We need to alert people to keep at arm's length those politicians who spread fear among seniors, as we stand at a crossroads to which direction Social Security reform should go.

In the 60 Plus Association's opinion, some form of "personalization" remains the best and most feasible option. We must guarantee present retirees their benefits as part of a government promise to them, but we must also safeguard current generations paying into Social Security system so that the benefits will be there when they retire.

On August 14, 1935, President Roosevelt signed into law the Social Security Act. On May 2, 1997, the FDR Memorial was opened here in Washington, D.C. The Social Security system helped seniors escape poverty, but we now know there are major problems facing future generations. What more lasting commemoration to FDR can we embrace than the adoption of a system which will save it for a new age, a new era, and a new population.

CHINA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Mr. SOLOMON. Mr. Speaker, for my entire career as a Congressman, I have been extremely concerned about the capabilities and intentions of the People's Republic of China. I see a totalitarian dictatorship with nuclear weapons and the intent to provide weapons of mass destruction to terrorist nations. Of equal concern is the People's Republic of China's actions and desire to wage economic warfare against America by engaging in economic espionage. But even worse is their potential to improperly infiltrate and illegally manipulate capital markets through fraudulent market offerings. We cannot afford to let our guard down and allow them to hold hostage America's future growth and security by jeopardizing American retirement and pension funds.

For that reason, I commend to you the attached article from the Wall Street Journal and announce my intent to introduce legislation that will protect us from this latest form of assault on our national security.

[From the Wall Street Journal, Oct. 29, 1997]

HONG KONG'S MARKET STOPS BELIEVING IN 'MIRACLES'

(By Holman W. Jenkins Jr.)

Apropos of the turmoil that began in Hong Kong last week and spread through the world's stock markets, we have to admit to missing Zhou Beifang just a little.

Though he happens to be serving a life sentence in a Chinese prison these days, back in the early 1990s he was feted by Hong Kong's business elite as the "king of backdoor listings."

His story had an improbably epic quality: Growing up wild on the streets of Beijing during the Cultural Revolution, when his father, an old military comrade of Deng Ziaoping, was in disgrace; landing with a splash in Hong Kong in his early 40s, as head of the offshore arm of China's giant Shougang steel works, now led by his rehabilitated father.

The younger Zhou embodied all the yuppie striving of a generation robbed of education and privilege by Mao's class war. Soon everything he touched turned to gold for the Hong Kong investors who followed him. His trick was to take over moribund companies on the local stock exchange, and make their shares jump as he loaded them with mainland assets on preferential terms. In a very short time his empire was worth $1.4 billion.

"We don't know whether these transactions were approved by some authority in Beijing, or what it would mean if they were," an editorial in The Asian Wall Street Journal ruefully wondered at the time. Six months later Mr. Zhou had been recalled to Beijing and arrested.

It shouldn't be surprising that Asia turned out to be the knock that finally set the global bull market on its ear. Those who mistake chronology for explanation have tried to trace the dominoes back to the Thai baht. But the problem goes deeper.

For the Asian "miracle" had two solid pillars—the high savings and low wages of its workers—and a third illusory one: the supposed omni-competence of its elites.

Let us further note that much of the optimism embedded in the global share prices was, on some level, specifically China optimism. It was always obvious that bringing China aboard the global economy was the game at hand. To hear Boeing, Coca-Cola and Procter & Gamble tell it, China underlay their every hope of earnings as far as the eye can see.

In Hong Kong, where Western finance meets Chinese reality, the experts are belatedly now trying to sort out the fundamentals from the Zhou Beifangism in the China story.

Consider the deal Goldman Sachs and a bevy of lesser banks brought to market into the teeth of last week's mayhem. The offering consisted of government-owned cellular operators in two provinces cobbled into a package that gave a mere minority stake to private investors for $3 billion.

Amid much bickering between the Chinese and their bankers, the price was actually raised half-way through the offering, to a multiple far richer than what other Asian telecom giants are selling for. And then to stir up sagging demand the head of the Chinese telecom ministry hinted at juicy asset injections while talking to the press in Shenzhen. "The listing of China Telecom will be the first course of a big banquet and bigger courses will be served later," he promised.

Those are the kind of Zhouesque expectations that had small investors in Hong Kong lining up around the block this past summer for new offerings by mainland companies with no track record, little disclosure and managements that operate under an uncertain set of incentives.

That's a strange way to sell stock, because underlying it is an invitation to believe that you're in bed with some Chinese muckety-muck, who's going to use his connections for his own quick enrichment, and therefore yours. Yet small investors aren't the only ones who've fallen for this. Britain's Cable & Wireless earlier in the year sold the Chinese ministry a chunk of Hongkong Telecom at a substantial discount, in return for the promise of special access to the mainland phone market, in the form of C&W getting a piece of the China Telecom flotation.

C&W last week didn't get any of China Telecom. Instead, it was the usual suspects among China's cronies in the Hong Kong tycoon class who got discounted allocations of the new issue.

So many dreams end this way. Morgan Stanley, the most China-exuberant of U.S. banks, put up $35 million to capitalize Beijing's first joint-venture investment bank. In due course, it found itself squeezed out of a lead role in the China Telecom flotation by its inexperienced creation, and then last month learned that its offspring was coming to Hong Kong to compete with Morgan Stanley there, rather than opening the door so Morgan Stanley could become a player on the mainland, as it had feverently hoped.

Over lunch a few years ago, the local Chinese head of a Western investment firm explained that the mainland deals he was then busily underwriting were destined for fund managers in the U.S. who felt a indiscriminate need for "China exposure."

Asked if he owned any himself, he made a face that said: "Are you on drugs?"

Yet he quickly warmed to a favorite topic, how to make all this actually work for

China. His idea: Give Chinese managers stock options that vest only after a time, so they might at least be tempted to use their positions to grow real earnings rather than to launder assets offshore.

In the wake of crashing markets all around the globe, the words "accountability" and "transparency" are suddenly getting a workout by Western analysts in Hong Kong—although earlier in the year several had quietly been dismissed for voicing skepticism about Chinese offerings.

As it happened, the Red Chip bonfire of last summer was accompanied by insider wheeling and dealing and ramping of a type not seen since the Hong Kong market cleaned up its act in the late 1980s, with the formation of an anti-corruption task force. Western bankers, letting their standards drop in their eagerness to cultivate a big new client, have been the quiescent instruments of these shenanigans.

Well, "when in Rome" and all that. But still, these institutions are global brand-names now, with retail investors at home looking to them as guarantors of their retirement security. That ought to be reason enough for bankers to begin drawing more sharply the question of whether these deals are really financing China's development or merely financing capital flight.

Anyhow, now comes the moment when we find out whether all the billions China has been absorbing went to build skyscrapers without tenants and factories without customers.

Hong Kong remains Asia's best-disciplined economy, with its most professional class of managers outside of Tokyo. The current mess will work out for the best only if it leaves everyone in the region with a stronger taste for these qualities.

CONGRATULATIONS TO THE FLORIDA MARLINS

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Mr. SHAW. Mr. Speaker, I rise today to applaud Baseball's 1997 World Series Champions, the Florida Marlins. As a representative of South Florida and a native of Dade County, I am delighted to call the Marlins my "home team".

From the magnificent bald eagle's graceful flight into Pro Player Stadium to open Game One until Edgar Renteria's winning hit in the 11th inning of Game Seven, the World Series highlighted all that is great about the Florida Marlins and their fans. In five short years, this upstart expansion team has done what no other Major League team could do. The Marlins organization combined the talent, dedication, heart and fan support, to win not just the National League pennant, but to achieve the consummate prize in baseball.

This accomplishment was made possible through teamwork. The dream began with owners Wayne and Marti Huizenga and with Carl Barger. Team manager Jim Leyland and the players took on the challenge, and the organization and the fans provided the support and cheered them on. The Marlins are a team of destiny in the greatest sense of the word. Everyone involved since Day One made a crucial contribution to the team, and the result was the World Series Championship.

Mr. Speaker, the Florida Marlins fans are some of the most impressive I have ever seen. Each Series game at Pro Player broke the attendance record for the one before it, and last night's Rally broke all previous attendance records. The Miami Herald said it best: "nearly 70,000 South Florida baseball fans exploded, drunk on the joy that comes with earning baseball's biggest gleaming trophy."

Well done, Florida Marlins. The spirit of Carl Barger lives on, and your fans will never forget the thrill.

MIDDLE EAST PEACE

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I rise today to speak about the importance of maintaining peace in Israel. At $8.2 million per day, America's expenditures in Israel mean United States taxpayers have much at stake in the region. Frankly, I was shocked when I first learned how much our Government sends to Israel in the way of foreign aid. We also maintain a U.S. Embassy there of 200 employees, and provide other relief and assistance.

In August, I went to Israel with five other Members of Congress—all conservatives with lots of questions. The mission was sponsored and paid by a nonprofit education foundation. My 7 days there proved to be among the most fascinating as a new Congressman. I met with several experts in the Israeli-Palestinian peace process, United States-Israel defense cooperation, Israeli defense, economics, and history. I also met with clergymen, local elected leaders, and Israeli and Palestinian citizens. I visited Jewish settlements, military outposts, and Palestinian territories.

We arrived in Jerusalem just after the suicide bombings in the Mahane Yehuda market killed 13 and wounded 168. I began to understand almost instantly how complicated the peace process is and how culture, geography, history, and religion make the objective a difficult one to achieve. I also deepened my belief that peace in the region is important to the United States and critical in achieving global stability.

Separate meetings with Israeli Prime Minister Benyamin Netanyahu and Senior Palestinian negotiator Dr. Saeb Erekat revealed genuine frustration over recent actions of the other. Both expressed concern about the degree to which progress achieved between Israelis and Palestinians had been eroded due to the recent terrorism.

They knew our delegation wanted to see more progress, but optimism was nowhere to be found that week. Instead, both men did their best to defend their policies. Netanyahu did so credibly.

I reaffirmed America's desire for peace as firm and strong and I assured both sides that the United States partnership with Israel is a lasting one. Clearly, our financial support will, and should, continue—unfortunately the foreign operations appropriations bill is currently mired with other unrelated problems which must be resolved in the Senate.

Regarding Israel's future, I came away with several observations. What extremists and terrorists fear most is a durable desire for peace, certainly on behalf of the United States, but especially on behalf of those Israeli and Palestinian leaders who refuse to give in to terrorism. there is a political center which must work hard to render the extremes irrelevant.

Though aimed at Israel, the most recent episodes of extremist violence, in fact, threaten both societies. Palestinians are sometimes direct targets, and suffer economic hardship and restricted mobility to Israel retaliation. The hatred levied by Hamas and Islamic Jihad toward Israel, also has a devastating impact on ordinary Palestinians and their hopes for space. Successful resolution entails all sides standing firm against terrorism, returning to the bargaining table, and confirming an unyielding commitment to the negotiation process.

Last month, I met with Secretary of State Madeline Albright who, though she expressed frustration with the scarce results of her recent visit, restated the U.S. commitment to do all it can to promote peace. We will help Israel achieve real security addressing external threats and terrorism, by pursuing treaties establishing normal relations between Israel and her neighbors, namely Syria and Lebanon. Moreover, we will always be willing to facilitate, and when appropriate, mediate peaceful accords.

It is undeniable that the recent bombings have severely set back the peace talks that began in Oslo in 1993. The lax approach to suppressing terrorism on the part of the Palestinian Authority and Chairman Arafat's suspension of security cooperation further suppresses optimism, and his repeated calls for a jihad—holy war—belies his stated embrace of the peace process.

The United States must push the Palestinian Authority to fulfill the terms of past agreements in order to allow progress on interim agreements under Oslo with an eye toward accelerated permanent status talks. Other pressure must be put on Arafat to discontinue his inflammatory rhetoric and specifically amend the Palestinian Covenant regarding the destruction of Israel.

However, America must never confuse its role in the Middle East. We are not a party to the Arab-Israeli conflict. The chief responsibility rests in the hands of those who have the most at stake in achieving political and social harmony.

America cannot, nor should not dictate solutions and we must be confident that Arabs and Israelis are fully capable of forging the most durable agreements. Our role is predicated on the desire of both parties to have us work with them to secure peace.

PERSONAL EXPLANATION

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Mr. DEUTSCH. Mr. Speaker, I was unavoidably absent from the Chamber today during

rollcall vote No. 540, the vote on H.R. 1479. Had I been present, I would have voted "aye."

UNFUNDED MANDATES REFORM ACT

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Mr. PORTMAN. Mr. Speaker, today Mr. ENSIGN raised a point of order established by the Unfunded Mandates Reform Act of 1995 in connection with H.R. 1270, the Nuclear Waste Policy Act. I commend him for doing so. This is another example of how we envisioned this unfunded mandates legislation working. The goal of the Unfunded Mandates Act was not to prohibit Congress from ever considering or enacting legislation that contained unfunded mandates, but to do so after having cost information, a separate debate on whether and how to fund the mandate and a recorded vote on imposing such a mandate. Today, we did that. The House agreed to continue to consider this legislation, notwithstanding the mandates that exist in this bill, after having had full information, separate consideration, and accountability with a recorded vote. I believe the procedure worked well today and continues to be an effective mechanism to ensure that Congress is accountable to the American people for mandates this body may impose on State and local governments as well as the private sector.

MEXICO MUST ADHERE TO THE WTO ANTIDUMPING CODE

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Mr. BAKER. Mr. Speaker, I wish to express my serious concern with Mexico's unfair and illegal imposition of antidumping duties to protect its domestic producers from United States exports. Such protectionism is contrary to the WTO Antidumping Code, and negates the benefits granted U.S. exporters under the North American Free Trade Agreement.

Despite the fact that Mexico is a contracting party to the Antidumping Code, recent cases involving United States exports demonstrate that Mexico is not always following the legal requirements for imposing antidumping duties. For example, although the Antidumping Code has been in force for more than 2 years, Mexico still has not revised its law and regulations to reflect the code's provisions. A basic precept of the Antidumping Code is that duties must be based on an apples-to-apples comparison of prices. To that end, the code requires that certain adjustments be made to ensure that prices are compared under the same conditions of sale and levels of trade. The Mexican authorities have not given our exporters adequate guidance on how to qualify for such adjustment. Under these circumstances, the provisions of the Antidumping Code afford U.S. exporters no real protection from the improper imposition of antidumping duties.

Mexico also is not granting United States exporters all of the procedural rights provided under the Antidumping Code—rights that are routinely provided Mexican exporters subject to similar proceedings in the United States. For example, in the investigation of United States apple exports, Mexico simply ignored the information submitted by the United States exporters and assigned the exporters a preliminary dumping rate of more than 100 percent. Mexico claimed that it was justified in doing so because it had minor questions regarding the accuracy of certain sales data. That is, Mexico presumed that the United States exporters were dumping, rather than requesting clarification of the information, or waiting until visiting the exporters to determine whether the reported information was correct.

We in the U.S. Congress will be watching closely Mexican Government deliberation on the apples case, the most recently initiated investigation of U.S. paper exports, and other investigations. We will be vigilant in monitoring Mexico's abuse of its antidumping law in these investigations, and take swift action to address all abuses. Otherwise, the rights and benefits that U.S. exporters were granted under the WTO agreements and the NAFTA would be worthless.

A TRIBUTE TO LT. COL. CLAUDE V. "JIM" MEADOWS

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Mr. YOUNG of Florida. Mr. Speaker, I rise today to pay tribute to Lt. Col. Claude V. "Jim" Meadows, who retires this week after 25 years of faithful and honorable service to our Nation in the U.S. Army.

Lieutenant Colonel Meadows is a truly outstanding soldier whose career accomplishments reflect the type of military leader our Nation has depended upon during peace and war for more than 200 years. For the information of my colleagues, let me share with you some of Lieutenant Colonel Meadows' career milestones.

He enlisted in the U.S. Army in November 1966. After Basic Training at Fort Bragg, NC, Lieutenant Colonel Meadows was assigned to the 75th Engineers in Fort Lewis, WA, and from there reassigned to the 10th Transportation Battalion in the Republic of Vietnam. His arrival coincided with the onset of the Tet Offensive of 1968. Following 12 months of courageous duty in the Central Highlands, the Army recognized his exceptional abilities and reassigned Lieutenant Colonel Meadows to be an instructor at the United States Army Quartermaster School at Fort Lee, VA, where he helped train soldiers until he completed his enlistment and left the Army to attend college.

Lieutenant Colonel Meadows graduated from Old Dominion University's Reserve Officers Training Corps Program on May 11, 1975 and was commissioned as a second lieutenant in the Medical Service Corps. During the next seven years, he served in a mix of troop leading and hospital assignments at Fort Campbell, KY, the home of the 101st Airborne Division, Air Assault, and Fort Lee, VA.

While at Fort Campbell, he served as the field medical officer for the 20th Engineer Battalion. There he received the Division Commander's Award for Excellence for his work in providing medical support. Lieutenant Colonel Meadows pursued and completed his masters degree in systems management and his abilities in this field were quickly recognized by the medical community as he was reassigned to the hospital as the Administrator for the Department of Medicine. In the words of one staff physician, "Jim constantly afforded an air of encouragement. He remained patient with us when we, and I in particular, grew impatient. He demonstrated a self-sacrificing concern when detachment would have been far easier. He remained continually sensitive to needs which, at times, must have been very painful to reckon with. He persisted with remarkable endurance in pursuing objectives which frequently must have tempted him to give up."

Lieutenant Colonel Meadows once again demonstrated his excellence as a professional soldier and medical administrator as an operations officer at the Kenner Army Community Hospital. His commitment to duty and his strong leadership qualities led to his being identified to the Chief, Medical Service Corps as an extremely valuable asset to the Medical Service Corps and the Army. Lieutenant Colonel Meadows was selected for programs at military schools and additional graduate work and completed a masters degree in business administration. With his MBA, Lieutenant Colonel Meadows' career focus moved toward resource management and military comptrollership. As a resource manager, he served at the Tripler Army Medical Center, where he was awarded the Order of Military Medical Merit, an award for his exemplary contribution to the Army's Medical Department.

Lieutenant Colonel Meadows has spent the last 8 years of his Army career in the National Capital Area as the Comptroller of the hospital at Fort Belvoir, as a program and budget officer for the Army's Surgeon General, and for the past 4 years as the Army's liaison with my colleagues and I on the House Appropriations Subcommittee on National Security. As the chairman of the Subcommittee, I can tell you that Lieutenant Colonel Meadows has worked diligently with our members and staff through four complete legislative cycles in the areas of health care, personnel, and aviation programs. Through his work with our subcommittee, he has made a significant difference in the lives of his fellow soldiers and their families.

Lieutenant Colonel Meadows has been widely recognized and honored during his service. These awards include the Legion of Merit, five awards of the Meritorious Service Medal, the Army Commendation Medal, the Army Achievement Medal, the Vietnam Service Medal, the Republic of Vietnam Campaign Medal, a Meritorious Unit Citation, a Republic of Vietnam Gallantry Cross Unit Citation, the Expert Field Medical Badge, and the Army Staff Badge.

Mr. Speaker, it is a great honor to pay tribute today to the 25 years of service Lt. Col. Jim Meadows has given to our Nation. He is an officer who befits the Army's proudest traditions. He has dedicated himself to the peace and freedom that we as Americans enjoy

today. On behalf of my colleagues on the Appropriations Committee and our National Security Subcommittee, as well as all my colleagues in the House, I want to personally express our sincere appreciation to Lt. Col. Jim Meadows and wish him and his family all the best as he embarks on a new career.

IN RECOGNITION OF THE CREW OF THE U.S.S. "DALY"

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Mr. SOLOMON. Mr. Speaker, there are so many instances of patriotism and displays of courage beyond the call of duty that make up the framework of World War II that it is simply astounding. Even for those of us who lived through that demanding and challenging time period, it is hard to get a grasp on the sheer magnitude and extent of the massive war effort we undertook. Virtually all corners of the globe were impacted by either the effects of battle, the philosophical fight over the human spirit and forms of government, and the subsequent fallout of this war of all wars. And thanks to brave Americans like those who comprised the crew of the World War II destroyer, the U.S.S. *Daly*, democracy and human rights prevailed over tyranny and oppression.

Mr. Speaker, this Sunday, November 2, the members of the crew of that destroyer will gather once again, this time in peaceful celebration of all they have accomplished on behalf of our country. They will be reunited in Saratoga Springs, NY, of my congressional district. I can't begin to tell you how proud I am to have such a distinguished group gathering in my congressional district to reminisce and rekindle old friendships and camaraderie. And that camaraderie, trust, loyalty, patriotism and unity of purpose is what made not only the U.S.S. *Daly* so successful and effective, but it is what made the entire U.S. war effort so special, special enough that it defined the remainder of the century, better than 50 years. I doubt these brave sailors recognized then the full significance their efforts and their victories would have on the course of history and the composition of the world. Ever since, America, and the American way of life, have been a beacon for the oppressed and underprivileged around the globe. This Sunday, Mr. Speaker, I hope the surviving members of the 359 sailors who served on the U.S.S. *Daly* recognize just what they accomplished, and that those who can't be with us are remembered along with their comrades as what they are, American heroes.

Speaking of some of their feats, let me tell you a brief bit of the history behind the U.S.S. *Daly*. She was launched almost 55 years ago to the day, on October 24, 1942. And as a former Marine myself, I'm pleased to tell you that she was named after Sgt. Maj. Daniel Daly of the U.S. Marine Corps, from my home State of New York. He received, get this, not one but two Congressional Medals of Honor through his tours of duty in more than four distinct conflicts, including in China during the Boxer Rebellion in 1900 and in France during World War I.

Mr. Speaker, it was in Sergeant Major Daly's distinguished memory and record of valor and bravery that the crew of his namesake, the U.S.S. *Daly*, served. I can tell you this, they did him proud. There were a party to more than 15 distinct assaults, bombardments and occupations, including such daunting missions as at Iwo Jima and Okinawa, and the final occupation and evacuation of Allied prisoners of war from Nagasaki, Japan, before pointing her bow homeward bound on the 17th of November 1945. She had made two separate tours from the States during the war and had performed admirably. But mostly, Mr. Speaker, the crewmen did her proud and did America proud. In the course of their time at war, the U.S.S. *Daly* was responsible for eliminating 23 enemy bombardiers, 3 enemy ships, and 10 enemy planes.

Mr. Speaker, as those who put their lives on the line far away from home in strange waters aboard the U.S.S. *Daly* prepare to gather together again, I ask that you and all Members of Congress join with me in tribute to their tremendous service and sacrifice. They exemplify the spirit of patriotism, bravery, and volunteerism that helped make this country the greatest on Earth and put us in a position we enjoy today. By that measure, each and every one of them are truly great Americans. May our thoughts, best wishes and most importantly, our thanks, be with them this Sunday as always.

SILVER ANNIVERSARY OF STERLING PUBLIC SERVICE

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Mr. BARCIA. Mr. Speaker, the most difficult and admirable public service is that which is closest to the people that one serves. While the office may be open only during part of the day, there are those frequent meetings with citizens at church, at school, at shopping centers, or at sporting events. People who serve in these posts are to be admired, and this weekend, the people of the charter township of Monitor will be recognizing 25 years of devoted public service from their treasurer, William Kramer.

Elected in November, 1972, he has served continuously ever since. He has instituted professional recordkeeping in the treasurer's office, making sure that every dollar received or spent can meet a very demanding accounting. One of his most notable accomplishments is his work in the expansion of water and sewer service within the township. This was a most important undertaking, which required foresight and skilled management in order to make sure that this necessary project was implemented as frugally as possible.

Bill has been able to maintain this post based on the simple fact that he is very responsive to the people of the community. He is known for his most helpful nature. He has always had a most positive manner of directing people to those officials who could help in those cases where the matter wasn't his immediate responsibility. As we all should know, when a constituent calls for assistance, it is our job to provide them with information which lead to their problem being solved. Those officials who simply prefer to say "that's not my responsibility" soon find out that their bureaucratic narrow-mindedness cost them their position of responsibility.

Of course, Bill Kramer's careful management of money is no surprise to anyone who knows that for 35 years, up until 1977, he was a life insurance agent, who was a recognized sales achiever for many of his years. He learned early on the attention that people required when one deals with matters of finance, and he successfully carried forward that professional training as treasurer of Monitor Township.

At the same time, he also served his community as an active member of St. Paul's Lutheran church, where he served as chairman of the congregation for several years.

Mr. Speaker, public service done well is a model for all of us, and is an inspiration for those who may follow in years to come. I urge you and all of our colleagues to join me in congratulating Bill Kramer on his 25 years of service, and in wishing him the very best for the years to come.

IN RECOGNITION OF NATHAN L. HILL'S OUTSTANDING SERVICE TO ANNISTON ARMY DEPOT

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Mr. RILEY. Mr. Speaker, I rise today to recognize one of Alabama's finest, Nathan L. Hill. Today, Mr. Hill will receive the Department of Defense Civilian Service Award, which is presented annually by the Secretary of Defense to a small number of civilian employees whose careers reflect exceptional devotion to duty and extremely significant contributions of broad scope in scientific, technical, or administrative fields of endeavor that have led to increased effectiveness in the operation of the Department of Defense. Mr. Hill has been honored with the presentation of this award for his outstanding service to both his country and to Anniston Army Depot [AAD], located in Anniston, AL.

Mr. Hill, the only civilian employee within the Industrial Operations Command of the Army, has devoted over 30 years of his life to ensuring the security of our Nation. Mr. Hill began his service career as an enlistee in the Air Force in 1961. In August 1963, he was honorably discharged from the Air Force, and subsequently enrolled at Jacksonville State University. After receiving his undergraduate degree in accounting, Mr. Hill began working as an accountant for the Army Audit Agency in August 1967. Within 2 years, he was promoted to a GS–11 supervisor, which began his career of dedicated public service. For the next 6 years he held a variety of financial management positions culminating in his appointment as Anniston Deputy Comptroller, GS–13, in August 1975.

Nathan Hill's outstanding service to the depot has been marked by continued advancement through the ranks. His keen insight and understanding have made AAD the National Technical Center of Excellence for track and combat vehicles. Nathan Hill's innovative ideas, including partnership programs with the private sector to provide the military with state-of-the-art military hardware, will enable the depot to be at the forefront of the military as the new millennia approaches. This plan will allow for increased flexibility to pursue public-private partnerships and competitive smart-sourcing of depot maintenance. These partnering arrangements have been so successful at AAD that the U.S. Congress has adopted this model of public/private partnering for the remaining depots in this year's fiscal year 1998 defense authorization bill.

Mr. Hill's commitment to AAD extends beyond his official duties. He has spearheaded efforts to increase education for women and minorities in the area of electronics so that these individuals might qualify for better, higher paying jobs. Nathan Hill sits on the Equal Employment Opportunity Action Committee and he is active with the local lodge of the American Federation of Government Employees.

In addition to the role that Nathan Hill has assumed at Anniston Army Depot, he is also active throughout the community. Mr. Hill sits on the board of governors at Harry M. Ayers State Technical Colleges, he is a member of the Calhoun County Chamber of Commerce, the Salvation Army and the Exchange Club. He is active in his church, holding both the position of lay leader and chairman of the Council of Ministries at First United Methodist Church.

The accomplishments that Nathan Hill has achieved are unparalleled. Col. Jerry J. Warnement's, who recently retired as AAD's commanding officer, wrote, "To say that Mr. Hill is an invaluable asset to the depot, the Army and Department of Defense would be an understatement. His professionalism, devotion to duty, knowledge and expertise are exemplary and rare commodities in today's fast paced and rapidly changing environment. A more deserving individual for this prestigious award would be hard to find!"

I know that everyone who has met Nathan Hill shares this opinion. Few individuals have devoted and given as much to their country and its military as Mr. Hill. The bestowment of the Department of Defense Civilian Service Award is but a small token of the recognition the Nathan Hill deserves. His actions and commitment to his country are without peer, and I am proud to say congratulations.

THE DISMAL STATE OF HUMAN RIGHTS IN TURKEY

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Mr. SMITH of New Jersey. Mr. Speaker, yesterday several of my colleagues on the Helsinki Commission—Representatives HOYER, MARKEY, CARDIN, and SALMON—joined me in introducing a sense of the Congress resolution with respect to the human rights situation in the Republic of Turkey and that country's desire to host the next Summit Meeting of the Heads of State or Government of the Organization for Security and Cooperation in Europe [OSCE]. Turkey—an OSCE country since 1975—first proposed to host the next summit meeting nearly a year ago. Shortly after this proposal surfaced, I wrote to then-Secretary of State Christopher on November 22, 1996, together with the Helsinki Commission's co-chairman, Senator D'AMATO, to raise concerns over human rights violations in Turkey and to urge rejection of the Turkish proposal unless the human rights situation improved. We wrote to Secretary Albright on July 15, 1997 expressing concern over the lack of human rights progress in Turkey. Unfortunately, Turkey has squandered the opportunity to demonstrate its determination to improve implementation of Ankara's freely undertaken OSCE commitments over the past 11 months.

Without reciting the lengthy list of Turkey's human rights violations, including the use of torture, it is fair to say that Turkey's record of implementation of OSCE human dimension commitments remains poor. The Committee to Protect Journalists has documented the fact that at least 47 Turkish journalists—the largest number of any country in the world—remain imprisoned. Four former parliamentarians from the now banned Kurdish-based Democracy Party [DEP], including Leyla Zana, remain imprisoned. Turkey has pursued an aggressive campaign of harassment of non-governmental organizations over the past year. The Department of State has found that serious human rights problems persist in Turkey and that human rights abuses have not been limited to the southeast, where Turkey has engaged in an armed conflict with the terrorist Kurdistan Workers Party [PKK] for over a decade.

Last week, Mr. Speaker, the Congress honored His All Holiness Bartholomew, the leader of Orthodox believers worldwide. The Ecumenical Patriarchate, located in Istanbul—the city proposed by Turkey as the venue for the next OSCE summit, has experienced many difficulties. The Ecumenical Patriarchate, has repeatedly requested permission to reopen the Orthodox seminary on the island of Halki closed by the Turkish authorities since the 1970's despite Turkey's OSCE commitment to "allow the training of religious personnel in appropriate institutions." The Turkish Embassy here in Washington viewed the visit, according to its press release, "as an excellent opportunity to forge closer ties of understanding, friendship and cooperation among peoples of different faiths and ethnicities." Unfortunately, this spirit has not characterized the Turkish Government's relations with the Patriarchate and Orthodox believers in Turkey.

Mr. Speaker, the United States should encourage the development of genuine democracy in Turkey, based on protection of human rights and fundamental freedoms. Those who would turn a blind eye toward Turkey's ongoing and serious human rights violations hinder the process of democratization in that important country. Poised at the crossroads of Europe, the Caucasus, Central Asia and the Middle East, Turkey is well positioned to play a leading role in shaping developments in Europe and beyond. But to be an effective and positive role model abroad—as some have suggested Turkey might be for the countries of Central Asia—Turkey must get its house in order. Uncorrected, Turkey's human rights problems will only fester and serve a stumbling block along the path of that country's further integration into Europe.

It is also important to keep in mind, Mr. Speaker, that Turkey is not new to the OSCE process. The Turks are not the new kids on the block. Turkey's current President, Suleyman Demirel, was an original signer of the 1975 Helsinki Final Act. The time has come for Turkey to focus on putting into practice the human rights commitments Ankara has freely accepted over the past 22 years.

The privilege and prestige of hosting an OSCE summit should be reserved for participating States that have demonstrated steadfast support for Helsinki principles and standards—particularly respect for human rights—in word and in deed. Such linkage is not new in the OSCE. When, in the mid-1980's Moscow expressed an interest in hosting a human rights conference of Helsinki signatory states, the United States and several other OSCE countries insisted on specific human rights improvements before they would agree to the Kremlin's proposal. This approach contributed to a tremendous improvement in Russia's human rights record. Should we expect any less from our allies in Ankara?

For starters, the United States should insist that Turkey release the imprisoned DEP parliamentarians, including Leyla Zana, as well as journalists and others detained for the nonviolent expression of their views; end the persecution of medical professionals and NGO's who provide treatment to victims of torture and expose human rights abuses; abolish Article 8 of the Anti-Terror Law, Article 312 of the Penal Code, and other statutes which violate the principle of freedom of expression and ensure full respect for the civil, political, and cultural rights of citizens of Turkey, including ethnic Kurds; and begin to aggressively prosecute those responsible for torture, including members of the security forces.

A key ingredient to resolving these and other longstanding human rights concerns is political will. Developments in Turkey over the past few days underscore the sad state of human rights in Turkey. Last week we learned of the imprisonment, reportedly for up to 23 years, of Esber Yagmurdereli, for a speech he made in 1991. The same day, a three-judge panel backed down after police officers accused of torturing 14 young people back in 1995 refused to appear in court. Frankly, such developments have become almost commonplace in Turkey, dulling the appreciation of some for the human tragedy of those involved in such cases.

A decision on the venue of the next OSCE summit will require the consensus of all OSCE participating States, including the United States.

The resolution we introduced, Mr. Speaker, does not call for an outright rejection of Ankara's bid to host an OSCE summit, but urges the United States to refuse to give consensus to such a proposal until such time as the Government of Turkey has demonstrably improved implementation of its freely undertaken OSCE

commitments, including their properly addressing those human rights concerns I have touched on today. Our resolution calls for the President to report to the Congress by April 15, 1998 on any improvement in the actual human rights record in Turkey. We should be particularly insistent on improvements in that country's implementation of provisions of the Helsinki Final Act and other OSCE documents.

Simply put, Mr. Speaker, Turkey's desire to host an OSCE summit must be matched by concrete steps to improve its dismal human rights record. Promises of improved human rights alone should not suffice.

Mr. Speaker, I ask that correspondence between the Helsinki Commission and the State Department be included in the RECORD.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE,
Washington, DC, July 15, 1997.

Hon. MADELEINE KORBEL ALBRIGHT,
Secretary of State,
Washington, DC.

DEAR MADAM SECRETARY: We write to reiterate and further explain our steadfast opposition to Turkey as the venue for an Organization for Security and Cooperation in Europe (OSCE) summit meeting and ask the Department, which we understand shares our view, to maintain the United States' refusal to give consensus to the Turkish proposal that the next summit should be held in Istanbul. We also observe that a rigid schedule of biennial summit meetings of the OSCE Heads of State or Government appears to be unwarranted at this stage of the OSCE's development and suggest that serious consideration be given to terminating the mandate which currently requires such meetings to be held whether circumstances warrant them or not.

Last November, the Republic of Turkey—an original OSCE participating State—first proposed Istanbul as the site for the next OSCE summit. At that time, we wrote to Secretary Christopher urging that the United States reject this proposal. A decision was postponed until the Copenhagen Ministerial, scheduled for this December, and the Lisbon Document simply noted Turkey's invitation.

The United States should withhold consensus on any proposal to hold an OSCE summit in Turkey until and unless Ankara has released the imprisoned Democracy Party (DEP) parliamentarians, journalists and others detained for the non-violent expression of their views; ended the persecution of medical professionals and NGOs who provide treatment to victims of torture and expose human rights abuses; and begun to aggressively prosecute those responsible for torture, including members of the security forces.

In addition, the United States should urge the Government of Turkey to undertake additional steps aimed at improving its human rights record, including abolishing Article 8 of the Anti-Terror Law, Article 312 of the Penal Code, and other statues which violate the principle of freedom of expression and ensuring full respect for the civil, political, and cultural rights of members of national minorities, including ethnic Kurds.

Regrettably, there has been no improvement in Turkey's implementation of OSCE human rights commitments in the eight months since our original letter to the Department. Despite a number of changes in Turkish law, the fact of the matter is that even these modest proposals have not translated into improved human rights in Turkey. Ankara's flagrant violations of OSCE standards and norms continues and the problems raised by the United States Delegation to the OSCE Review Meeting last November persist.

Expert witnesses at a recent Commission briefing underscored the continued, well-documented, and widespread use of torture by Turkish security forces and the failure of the Government of Turkey to take determined action to correct such gross violations of OSCE provisions and international humanitarian law. Even the much heralded reduction of periods for the detention of those accused of certain crimes has failed to deter the use of torture. The fact is that this change on paper is commonly circumvented by the authorities. As one U.S. official in Turkey observed in discussion with Commission staff, a person will be held in incommunicado detention for days, then the prisoner's name will be postdated for purposes of official police logs giving the appearance that the person has been held within the period provided for under the revised law. Turkish authorities also continue to persecute those who attempt to assist the victims of torture, as in the case of Dr. Tufan Köse.

Despite revisions in the anti-Terror Law, its provision continue to be broadly used against writers, journalists, publishers, politicians, musicians, and students. Increasingly, prosecutors have applied Article 312 of the Criminal Code, which forbids "incitement to racial or ethnic enmity." Government agents continue to harass human rights monitors. According to a recent report issued by the Committee to Protect Journalists, 78 journalists were in jail in Turkey at the beginning of 1997—more than in any other country in the world.

Many human rights abuses have been targeted at Kurds who publicly or politically assert their Kurdish identity. The Kurdish Cultural and Research Foundation offices in Istanbul were closed by police in June to prevent the teaching of Kurdish language classes. In addition, four former parliamentarians from the now banned Kurdish-based Democracy Party (DEP): Leyla Zana, Hatip Dicle, Orhan Doğan, and Selim Sadak, who have completed three years of their 15-year sentences, remain imprisoned at Ankara's Ulucanlar Prison. Among the actions cited in Leyla Zana's indictment was her appearance before the Helsinki Commission. The Lawyers Committee for Human Rights has expressed concern over the case of human rights lawyer Hasan Doğan, a member of the People's Democracy Party (HADEP), who, like many members of the party, has been subject to detention and prosecution.

The Government of Turkey has similarly pursued an aggressive campaign of harassment of non-governmental organizations, including the Human Rights Foundation of Turkey and the Human Rights Association. An Association forum on capital punishment was banned in early May as was a peace conference sponsored by international and Turkish NGOs. Human Rights Association branch offices in Diyarbakir, Malatya, Izmir, Konya, and Urga has been raided and closed.

As the Department's own report on human rights practices in Turkey recently concluded, Ankara "was unable to sustain improvements made in 1995 and, as a result, its record was uneven in 1996 and deteriorated in some respects." While Turkish civilian authorities remain publicly committed to the establishment of a rule of law state and respect for human rights, torture, excessive use of force, and other serious human rights abuses by the security forces continue. It is most unfortunate that Turkey's leaders, including President Demirel—who originally signed the 1975 Helsinki Final Act on behalf of Turkey—have not been able to effectively address long-standing human rights concerns.

Madam Secretary, the privilege and prestige of hosting such an OSCE event should be reserved for participating States that have demonstrated their support for Helsinki principles and standards—particularly respect for human rights—in both word and in deed. Turkey should not be allowed to serve as host of such a meeting given that country's dismal human rights record.

While some may argue that allowing Turkey to host an OSCE summit meeting might provide political impetus for positive change, we are not convinced, particularly in light of the failure of the Turkish Government to improve the human rights situation in the eight months since it proposed to host the next OSCE summit. We note that several high-level conferences have been held in Turkey without any appreciable impact on that country's human rights policies or practices.

Promises of improved human rights alone should not suffice. Turkey's desire to host an OSCE summit must be matched by concrete steps to improve its dismal human rights record.

We appreciate your consideration of our views on this important matter and look forward to receiving your reply.

Sincerely,

CHRISTOPHER H. SMITH,
Co-Chairman.

ALFONSE D'AMATO,
Chairman.

U.S. DEPARTMENT OF STATE,
Washington, DC, 20520 August 13, 1997.

Hon. CHRISTOPHER H. SMITH,
Co-Chairman, Commission on Security and Cooperation in Europe, House of Representatives.

DEAR MR. CHAIRMAN: I am responding on behalf of the Secretary of State to your July 15 letter regarding your concerns about the possible selection of Turkey as the venue for the next summit meeting of the Organization for Security and Cooperation in Europe (OSCE).

The Department of State shares your concerns about Turkey's human rights record. All states participating in the OSCE are expected to adhere to the principles of the Helsinki Final Act and other OSCE commitments, including respect for human rights and fundamental freedoms. The U.S. Government has consistently called attention to human rights problems in Turkey and has urged improvements. It does not in any way condone Turkey's, or any other OSCE state's, failure to implement OSCE commitments.

The OSCE, however, is also a means of addressing and correcting human rights shortcomings. As you note in your letter, the issue of Turkey's human rights violations was raised at the November OSCE Review Meeting, and will likely continue to be raised at such meetings until Turkey demonstrates that it has taken concrete measures to improve its record. Holding the summit in Turkey could provide an opportunity to influence Turkey to improve its human rights record.

As you note, the Turkish government has made some effort to address problem areas, through the relaxation of restrictions on freedom of expression and the recent promulgation of legal reforms which, if fully implemented, would begin to address the torture

problem. These measures are only a first step in addressing the problems that exist, but we believe they reflect the commitment of the Turkish government to address its human rights problems. We have been particularly encouraged by the positive attitude the new government, which came to power July 12, has demonstrated in dealing with human rights issues.

As you know, the fifty-four nations of the OSCE will discuss the question of a summit venue. As in all OSCE decisions, any decision will have to be arrived at through consensus, which will likely take some time to achieve. In the meantime, the Department of State welcomes our views, and will seriously consider your concerns about the OSCE summit site. I welcome your continuing input on this issue, and thank you for your thoughtful letter.

We appreciate your letter and hope this information is helpful. Please do not hesitate to contact us again if we can be of further assistance.

Sincerely,

BARBARA LARKIN,
Assistant Secretary,
Legislative Affairs.

CAMPAIGN FINANCE REFORM

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Mr. KIND. Mr. Speaker, another day has gone by and still no campaign finance reform.

My colleagues who oppose changing the current campaign finance system continue to argue that we must conduct exhaustive hearings on the abuses of the system during the 1996 election before we pass a reform bill. I agree that we must investigate violations of the law, and those who break the rules need to be prosecuted and brought to justice.

That very thing is happening in Virginia right now. The State of Virginia is charging the Republican National Committee for failure to disclose campaign contributions in excess of $600,000 to GOP candidates during this fall election in that State. The contributions are legal, but the failure to disclose those contributions are a clear violation of Virginia campaign law.

In the special congressional election in New York City the Republican Congressional Campaign Committee has announced it will be spending $800,000 in independent expenditures on behalf of the Republican congressional candidate. This "soft money" is being used to influence the outcome of the special election, even though campaign finance rules specifically prohibit direct expenditures on behalf of a candidate.

Mr. Speaker, we must investigate violations of the law by both parties, in the 1996 and 1997 elections. However, we also need to change the current rules that allow millions of dollars to be legally spent to buy elections in this country. It is time to stop the excuses and allow a vote on campaign finance reform. I refuse to take "no" for an answer.

THE CHINESE HUMAN RIGHTS RECORD AND THE VISIT TO THE UNITED STATES OF CHINESE PRESIDENT JIANG ZEMIN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. LANTOS. Mr. Speaker, this morning a number of us had a leadership breakfast with the visiting President of China, Jiang Zemin. In that meeting a number of very serious human rights concerns were raised with our Chinese guest by the participating Senators and Members of Congress. Mr. Speaker, it is important that President Jiang Zemin understand the seriousness of the concern, the strength of the interest of the American people in human rights.

Mr. Speaker, earlier this week, on the eve of President Jiang's arrival in Washington, DC, the Subcommittee on International Operations and Human Rights of the House International Relations Committee held a hearing on China's record on human rights under the leadership of Subcommittee Chairman CHRIS SMITH of New Jersey. That was a most appropriate and most important hearing at which a number of excellent witnesses discussed in some detail the appalling abuse of human rights by the Government of China.

I ask, Mr. Speaker, that my opening statement at that hearing be placed in the RECORD. As the President of China visits us here on Capitol Hill, it is important that he understand clearly and unequivocally the point of view of the elected representatives of the American people.

STATEMENT OF CONGRESSMAN TOM LANTOS OF CALIFORNIA—"U.S.-CHINA RELATIONS AND HUMAN RIGHTS," OCTOBER 28, 1997

Thank you very much, Mr. Chairman. First, I want to commend you for holding this hearing. I deeply regret that, apparently, this is the only hearing held on this general subject during the visit of the President of China, because I think it's extremely important that the public relations campaign so carefully constructed and so effectively executed by the paid propagandists of Beijing not be successful and that the true story about China be relayed.

Since I so strongly agree with most of the statements that you just made, Mr. Chairman, allow me to begin with a general observation that puts this visit in its proper perspective. I disagree with this administration's China policy. Having said that, however, let me state for the record that I'm convinced that the commitment to human rights of this administration is far stronger than was the commitment to human rights of the previous administration.

And while we can discuss *ad nauseam* and *ad infinitum* the human rights policies of the Clinton administration vis-a-vis many countries on the face of this planet, and while I share your concern, Mr. Chairman, with respect to the Clinton administration's human rights policy with respect to China, the record must show that the Clinton-Gore Administration has a far greater commitment to human rights than did Bush-Quayle; that Secretary Albright has a far greater commitment to human rights than did former Secretary Jim Baker; and that on balance, this administration is far more sympathetic to human rights concerns across the globe than was the previous administration.

Let me state at the outset that I look forward to listening to our witnesses as one who has unbounded admiration for China as a civilization and a culture. Chinese civilization and culture is obviously one of the great civilizations and cultures on the face of this planet. And nothing would please me more than the opportunity for that culture and that civilization to blossom in freedom and in growing friendship with the United States.

Let me also at the outset, Mr. Chairman, put to rest perhaps the most preposterous notion that many who oppose our position claim with respect to U.S.-China policy. There is an attempt on the part of many—and many in the administration—to juxtapose a policy of engagement with a policy of isolation.

That is a phony juxtaposition. No one is more committed to engagement with China than I am, and I believe you are, Mr. Chairman. What we are calling for is an engagement which is consonant with fundamental America principles and values. No one in his right mind is advocating isolating 1.2 billion human beings. All of us recognize the enormous importance China will play in Asia and in the Pacific. All of us are hoping for a prosperous, peaceful and democratic China. So, I reject categorically the juxtaposition of engagement versus isolation, however, high the authority may be who is pursuing that line.

Our problem with China, of course, is many fold. Today, we are dealing with human rights. But let me, for the record, state that I am—as I am sure you too, Mr. Chairman—profoundly concerned with China's role in the proliferation of weapons of mass destruction. I am profoundly concerned with the profoundly unfair trade relations between the United States and China—a trade imbalance which this year will exceed $40 billion. I am profoundly concerned with the subtle undermining of political democracy in Hong Kong. I am profoundly concerned with the onslaught on the free and democratic Taiwan. And of course, I am profoundly concerned about outrageous performance of this Chinese regime in Tibet.

Cynical photo opportunities by the President of China—seeking out the most sacred places of American democracy in Philadelphia or Williamsburg or elsewhere—will not suffice to cover up the shameful human rights record of the Chinese government. The record is clear. In addition to the litany of items you mentioned, Mr. Chairman, we will be hearing from my friend Harry Wu concerning the sordid traffic in organs of executed prisoners—one of the shabbiest aspects of China's policy anywhere on the face of this planet.

I have no doubt in my mind that the almost pathological opposition of this regime, to his holiness the Dalai Lama stems from the inherent fear of a sick and valueless system when it is confronted with ultimate moral authority. There is no rational explanation as to why this vast and powerful country of 1.2 billion people with a vast military apparatus should be afraid of a simple Buddhist monk in saffron robes—without a military, without economic power, without anything except his moral authority—which he juxtaposes to the powerful regime in Beijing.

Human rights have, in fact, deteriorated in China in recent years. Our decoupling of most-favored-nation treatment (MFN) issues from human rights—as you, Mr. Chairman, and I and our good friend, Congressman Wolf

so ably stated at the time—was a mistake when it occurred. And it is my, perhaps naive, hope that at least in the House of Representatives this next time around we will have sufficient votes with a new coalition emerging—covering the broad spectrum from human rights through the American labor movement to the religious groups—that we might in fact eke out a narrow majority for a victory for the moral position on that issue.

Let me just say in conclusion, Mr. Chairman, that long after the Jiang Zemin's of this world have been thrown on the dump heap of history, the heroes in China's prisons will continue to live in the minds of men and women across the globe who believe in human freedom and dignity, in religious freedom, in the right of people to select governments of their own choosing. This transitory regime will not be here for long in its present from because the people of China are as entitled to live in a free and open and democratically elected society, as are the people Taiwan today and as are the people of Hungary or the Czech Republic or Poland.

It was not too many years ago when those of us who expressed hope that the communist regimes will collapse in the Soviet Union and in the Soviet empire were labeled naive. Naivete is on the other side—mostly on the side of the leaders of the multi-national giant corporations who, for the sake of a few contracts, are ready to swallow all of the principles taught to them in schools here in the United States.

And our great democratic allies are no better. In France, in the United Kingdom and elsewhere, the pursuit of contracts with China is no less vigorous and shameless as it is by multi-nationals headquartered in the United States. But naivete is not on our side. It is on the side of those who hope that making deals with the devil is a long-term proposition for national prosperity.

In the not-too-distant future, I look forward to welcoming to Washington some leaders of China who will view the American shrines of democracy not merely as photo opportunities, but as fountains where they can replenish their yearning for freedom.

Thank you Mr. Chairman.

A TRIBUTE TO OUR SAVIOR LUTHERAN CHURCH ON ITS 40TH ANNIVERSARY

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. FORBES. Mr. Speaker, I rise today to pay tribute to Our Savior Lutheran Church, of Centereach, Long Island, as its congregants come together this Saturday to celebrate the 40th anniversary of the founding of this blessed house of the Lord.

Since Our Savior Lutheran Church opened its doors in 1956, its congregants have sought to fulfill the mission that it so proudly declares: "Proclaiming Christ to the Heart of Long Island." I truly believe, as many of my colleagues in this hallowed Chamber do, that our churches, temples, and mosques are the cornerstones of our community, the bedrock on which our faith, values, and sense of purpose rest. For my neighbors in Centereach, a close-knit, family-oriented community in the center of Long Island, Our Savior Church and School has been the spiritual cornerstone that has nurtured and supported their faith and good work that makes this community so vital.

Under the leadership of Rev. Ronald Stelzer, Our Savior Church has flourished as a beacon of Christian faith and good work. Assuming the pastorship in 1984, Reverend Stelzer has helped Our Savior Church grow in size and numbers, to serve more of our Long Island neighbors. Since 1984, the number of parishioners has grown more than threefold, and Our Savior now welcomes an average of 500 congregants each Sunday.

Most impressive has been the creation and subsequent growth of Our Savior School. Founded in 1992 with just 9 students, today the School serves 200 students between kindergarten and the 12th grade. With a growth capacity up to 325 students, Our Savior School offers a superior academic curriculum, deeply rooted in Christian principles and teachings.

So Mr. Speaker, I ask my colleagues in the U.S. House of Representatives to join me in honoring Our Savior Lutheran Church, of Centereach, for its 40 years of devoted service to God and man. We are fortunate to count this wonderful church among the crucial cornerstones of our Long Island community. Through the grace of God, may Our Savior Church continue to grow and flourish, so that it may continue to proclaim Christ to the heart of Long Island and beyond.

INTEGRITY AT THE BALLOT-BOX

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. PACKARD. Mr. Speaker, over the last several days, this House has been asked to consider repeated motions to end the investigation into possible voter-fraud in California's 46th Congressional District during the 1996 election. Unfortunately, our Democratic colleagues have repeatedly tried to make this into a political dogfight. Nothing could be further from the truth.

This investigation has absolutely nothing to do with either candidate in the 46th district election. This investigation is about integrity at the ballot-box and ensuring that the electoral process in America remains genuine.

This is not a partisan issue, this is not a personality issue, and this is not a political issue. Most of all, this should never be made into an issue of race. The investigation into this election is a defense of free and fair elections.

It could happen in California, it could happen in Montana. No matter where it occurs, we have a responsibility to pursue the facts vigorously and ensure that future elections are fair. The Constitution demands it and the American people deserve it.

Mr. Speaker, are we that far removed from our history as a nation to forget the importance free and fair elections? there is no excuse for fraud at the ballot box and there is no excuse for those here in Congress who turn their backs to it.

IN HONOR OF GUST SEVASTOS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. KUCINICH. Mr. Speaker, I rise today to honor Mr. Gust Sevastos. On Saturday, November 8, 1997 the Chios Society-Chapter No. 7 will gather to celebrate the 84th anniversary of Chian liberation from the Ottoman Turks. During this celebration, the Chios Society will honor Gust Sevastos, a recent recipient of the Chian Achievement Award.

Mr. Sevastos immigrated to Cleveland, in 1958 to live out the American dream. He got married, started a family, and initiated his own business. Mr. Sevastos also began a legacy of distinguished service to the Greek community. Mr. Sevastos became very involved in the Annunciation Church, serving as the president of the church, helping found the Annunciation Greek Heritage Festival and advising a local youth program. In 1987, Bishop Maximos honored Mr. Sevastos with a proclamation for his outstanding service to the church.

During the late 1970's, Gust Sevastos joined the Ohio-West Virginia Chapter of the Chios Society. As a member of the Chios Society, Mr. Sevastos held positions of leadership on both a local and national level. He served six terms as president of his local chapter. On a national level, Mr. Sevastos served as supreme vice president and supreme president. As a member of the Chios Society, Mr. Sevastos helped raise more than $250,000 for the eye clinic and Skilitsio hospital in his homeland; he also helped raise money for the underprivileged in Chios.

Over the years, the Greek Orthodox Church, the Secretary General of the Greek Government, Senator Howard Metzenbaum, the Cleveland Plain Dealer, and the Chios Omogenon Society in Greece have all honored Mr. Sevastos for his distinguished service to the Greek community.

I am proud to know Gust Sevastos and to consider him a friend. He is a remarkable individual, and his contributions to his community—and to the Nation—are noteworthy.

My fellow colleagues, please join me in congratulating Gust Sevastos. Through many years of hard work, Mr. Sevastos has made immeasurable contributions to the people of Cleveland and the Greek community as a whole.

HONORING JOHN N. STURDIVANT

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. DAVIS of Virginia. Mr. Speaker, it is with deep sadness that I rise today to announce the passing of John N. Sturdivant, whose contributions to our Federal Government and its workers are beyond measure. John died on October 28, 1997 after fighting a valiant battle against leukemia. It is hard for me to believe that such a vibrant and dynamic citizen is gone.

John served as the president of the American Federation of Government Employees [AFGE] since 1988. Since that time, he strengthened this union and ensured that our Federal employees had a much stronger voice in government. John fought to make sure that our civil service received the respect it deserved. When he took over the helm of the AFGE, it was a floundering union without a distinct mission or an activist style. John quickly changed that; it was not long before he was lobbying for amending the Hatch Act to give Federal employees a greater level of participation in the political process.

I often worked closely with John throughout the years and particularly during the two Government shutdowns in 1995 and 1996. I will miss the strong spirit and single-minded devotion that John brought to his mission. John recognized that it is easy for politicians to make Federal employees a faceless symbol of a large bureaucracy and he knew that this was simply unacceptable. Instead, he reminded elected officials at every level that civil servants often work for less compensation than the private sector. In fact, John was the leader who won locality pay for Federal workers to bring their salaries more in line with the private sector.

I know that John will be missed by those he served who were lucky to have his tireless energy working for them. My deepest condolences go to John's family. John will be a friend and advocate that I will never forget. A recent article in the Washington Post clearly illustrates Mr. Sturdivant's contributions to our region and the Federal Government.

[From the Washington Post]

John N. Sturdivant, 59, who as president since 1988 of the American Federation of Government Employees helped lobby Congress to ease a 57-year ban on political activities for federal workers and rallied public support to end two government shutdowns, died Oct. 28 at Inova Fairfax Hospital. He had leukemia.

AFGE, one of the largest federal unions, has about 178,000 active members in 1,100 locals and represents about 600,000 workers in 68 federal agencies. Many have jobs in the Defense Department, Veterans Affairs Department and Social Security Administration. They add up to more than one-third of the federal work force.

Mr. Sturdivant was a primary labor spokesman on Capitol Hill and with the Office of Management Budget, pushing for pay raises and improved conditions and retirement benefits. He worked with legislators to create "locality pay," a salary system that attempts to bring federal compensation into line with the private sector.

Downsizing of government and budget pressures constantly dogged Mr. Sturdivant's effort to preserve federal jobs. After Congress failed to agree on a budget in 1995, and many government operations were suspended, Mr. Sturdivant accused House Republicans of trying to destroy government and denigrate federal workers.

The changes he and other federal labor leaders helped bring about in the Hatch Act three years ago came as unions were launching a multimillion-dollar counterattack on the congressional Republicans. Off-duty federal employees had been barred from political activity that included holding office in a party, distributing campaign literature and soliciting votes.

The Hatch reforms permitted employees to contribute money, attend fund-raisers and volunteer for work such as staffing phone banks.

Mr. Sturdivant, of Vienna, had long been active in Democratic politics, serving on the party's national committee and the Virginia and Fairfax County central committees, and he encouraged his members to get involved.

He also directed AFGE to contribute $300,000 last year to organized labor's blitz against the GOP and assigned 22 of his organizers to get-out-the-vote effort.

This month he received the Spirit of Democracy award of the National Coalition on Black Voter Participation.

AFGE is a major affiliate of the AFL–CIO, and Mr. Sturdivant, who was one of the highest ranking African Americans in the labor movement, was vice president of the federation's executive council. He also was a trustee of its George Meany Center for Labor Studies.

ALF–CIO President John Sweeney said this year that Mr. Sturdivant had been at the forefront of helping the federation "focus more on diversity in the labor movement and in leadership development."

Mr. Sturdivant also was a member of the National Partnership Council, a Clinton administration initiative to improve labor-management relations in the executive branch. He came in for criticism after the 1996 election when he asked his staff to compile a list of career officials who could be "identified" as opposing the Clinton administration's labor-management policies. At the time, efforts where underway to reinvigorate the council concept, which had helped reduce the number of union grievances at some agencies.

Mr. Sturdivant fought against privatization of government work, which threatened to reduce the ranks of AFGE-represented employees by one-fourth. But this year he announced that AFGE had negotiated its first contract to represent employees of a private contractor, Hughes Electronic Corp. Hughes took over the work of the closed Naval Air Warfare Center.

While the union continued to oppose contracting federal work, Mr. Sturdivant said that where the battle was over individual agencies, "our policy is to pursue the work."

Labor Secretary Alexis M. Herman said yesterday that Mr. Sturdivant had been "one of the labor movement's brightest lights" and "one of its most articulate advocates for working families."

Mr. Sturdivant was born in Philadelphia and raised in Bridgeport, Conn. He was a graduate of Antioch University, and he studied law at George Washington University. He served in the Air Force.

He went to work for the government in 1961 in Winchester, Va., where he was an electronics technician with the Army Interagency Communications Agency, later part of the Federal Emergency Management Agency. He was president of the AFGE local in Winchester for eight years before being appointed to the national staff of the union in Washington.

He was organizing director and administrative assistant to two AFGE presidents in Washington and then was elected executive vice president in 1982. The union was on the brink of bankruptcy when he defeated Kenneth T. Blaylock, a 14-year incumbent, in 1988. Mr. Sturdivant imposed an austerity program, collected delinquent dues and was soon able to announce that he had balanced the budget.

He was reelected to a fourth term as president in August, along with Secretary-Treasurer Bobby L. Harnage, who will succeed him.

Mr. Sturdivant's marriage to Muriel T. Sturdivant ended in divorce.

Survivors include his companion, Peggy Potter of Vienna; a daughter, Michelle Sturdivant of Alexandria; his mother, Ethel Jessie of Bridgeport; and a brother, a stepbrother, and a sister.

EXPRESSING SORROW OF THE HOUSE AT THE DEATH OF HON. WALTER H. CAPPS, REPRESENTATIVE FROM THE STATE OF CALIFORNIA

SPEECH OF

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Mr. HAMILTON. Mr. Speaker, I rise today to pay tribute to Congressman WALTER CAPPS.

It was with shock and great sadness that we learned last evening of WALTER's sudden death.

WALTER enjoyed a remarkable career as a professor, teaching religious studies for 33 years at the University of California in Santa Barbara before coming to Congress in 1996.

WALTER loved being in Congress. He loved his work. He loved serving the people of the 22d District. He felt that he had spent his whole life preparing for this work. He was right.

WALTER had all the markings of a superb legislator. He combined a keen intellect with good judgment and a deep compassion for people. He was an extraordinary member of the freshman class. He was an extraordinary Member of Congress by any standard.

WALTER was fond of quoting a teaching from the Talmud: That we do not see the world as it is, but rather we see the world as we are. WALTER saw the world as a man of deep moral convictions. He brought that perspective to everything he did, whether it was fighting for human rights or just improving civility and bipartisanship in this institution.

In September of this year, WALTER managed the resolution that the House took up following the death of Princess Diana. He spoke with eloquence about her life. "To live in hearts we leave behind is not to die," he said, quoting from the poet Thomas Campbell. Heavy as our hearts may be today, we are ennobled by his presence. We are diminished by his passing.

I would like to extend my deepest sympathies to WALTER's family, his wife, Lois, and his children, Lisa, Todd, and Laura; to his staff; and to his constituents. He was a marvelous man, and I will miss him.

IN RECOGNITION OF TOM FLAHERTY AND CHATHAM HIGH SCHOOL

HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. DELAHUNT. Mr. Speaker, I am proud to recognize Tom Flaherty, a constituent of mine

from Eastham, MA, who has been actively involved in the government-sponsored civics education program known as "We the People." This program focuses on teaching students the importance of the freedoms guaranteed in our Bill of Rights and Constitution.

Each year, this program brings together high school students from across the Nation. In the spirit of competition, they test their knowledge of the Constitution and Bill of Rights learned through the "We the People" program. The program focuses on ways to challenge students to learn in creative and innovative ways, which make learning fun and help students retain what they have learned. They then have the opportunity to showcase their knowledge at the local, State, and national level.

Tom is a history teacher at Chatham High School on Cape Cod who also serves as the district coordinator of the "We the People" Program for the Tenth Congressional District of Massachusetts. His most recent competition this past spring yet again yielded winning results as his team returned to the national level, winning the category for "Best Team for Expertise on the Extension of the Bill of Rights." I was proud to welcome students and a teacher who are so committed to learning the fundamental fabric of our Nation's government.

Most recently, Tom also participated in the Civitas Program, which is jointly run by the U.S. Department of Education and U.S. Information Agency, along with teachers from the Council of Europe. This project seeks to provide teachers in Bosnia and Herzogovina with the tools to prepare students and their communities to be responsible citizens through participation in elections and by becoming actively involved in the political process. Tom went through an intensive 2-week program to train over 500 teachers throughout Bosnia and Herzogovina with materials and methods developed from "We the People" to educate and teach democratic principles.

Traveling to a war-torn area to help construct the fundamental building blocks for a burgeoning society truly shows Tom's commitment to our democratic principles and his genuine dedication to teaching these principles. Mr. Speaker, I commend Tom and his Chatham High School class for their passion for learning and hope they both realize they may be directly helping to build democracy in Bosnia and Herzegovinia.

A TRIBUTE TO FRANK AND BETTY STARK

HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. BLUNT. Mr. Speaker, I rise today to honor Frank and Betty Stark of Stafford, MO, who Roseann and I have known for many years. Frank and Betty are the founders of Raceway Ministries a unique ministry designed to share the Gospel with race car drivers, their families, crew members and fans. Just as someone is called to the mission field in another country, I believe that the Starks were called to minister to those in auto car racing.

Race car driving is one of American most popular and competitive sports. Racing demands much of its participants the drivers, the crew members and members of the driver's family. As with any sport everyone goes out to win and expends a tremendous amount of effort to make it happen. Given the tension created in preparing for a race and the enormous disappointment for those who do not win, it is easy to see why there is a need here to talk about faith based in Christ.

Frank and Betty have helped to organize worship services at 13 of the 19 NASCAR Winston Cup racing events. Full-time ministries have been established at the Talladega Super Speedway, Atlanta Motor Speedway, and at Daytona. Frank's efforts inspired others to establish similar ministries at other race car tracks. In southwest Missouri alone he has helped to place six chaplains at three area race tracks. He served as the chaplain for the Automobile Racing Club of America [ARCA] for a decade and, in 1996, they awarded him the Bondo Mar-Hyde Spirit Award. The Southern Baptist Convention, Home Mission Board recognized him as well with the Ken Prickett Award for creative and innovative ministries.

Roseann and I have been grateful for Frank and Betty and their friendship through the years. They have been a model of selfless service to others in the spirit of Christ. Thanks Frank and Betty for setting a great example.

SCOPE TAKES ACTIVE ROLE IN REDUCING CRIME IN SPOKANE COUNTY

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. NETHERCUTT. Mr. Speaker, I rise today to commend the Sheriff's Community Oriented Policing Effort [SCOPE] for its service to Spokane County in Washington State. This innovative and proactive volunteer program, coordinated by the Spokane County Sheriff's Office has energized citizens and empowered them to take an active role in reducing crime in the unincorporated and rural areas of Spokane County.

SCOPE trains and supports civilian volunteers in many aspects of law enforcement. Citizen patrols, fingerprinting, school watch, vacation watch, radar control, graffiti management, critical response, parks patrol, and domestic violence teams are just some of the services provided by SCOPE volunteers.

I would like to specifically recognize several SCOPE volunteers for their work leading to the apprehension of two serial burglars in the Spokane Valley. The following volunteers were directly involved in the SCOPE effort: Heinz Thiemann, Bob Burke, Don Chatterton, Brian Nam, Gerry Erickson, Mary Fry, Tom King, June King, Jan Geiger, and Billie Evers.

Mary Potts, Ruth Ottmar, Anne Lasalle, Jim Hoffman, Terry Carver, Scope Coordinator, Lt. Gary Watterhouse, Deanna Horman, Ed Jackson, Bob Jesse, Karl Lamont, and Clyde Starr.

These men and women who sacrifice their time and labor to make their community a safer place serve as examples for the rest of us and are deserving of our respect.

A TRIBUTE TO JOHN T. MOONEY ON HIS BIRTHDAY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to a very good friend from Chicago, IL, who is celebrating a special birthday on November 2.

Mr. John T. Mooney has lived a remarkable and fulfilling life. He served admirably as a soldier during World War II in the 2d Armored Cavalry Division and was part of the wave of brave Allied soldiers that participated in the successful invasion of Normandy. For the injuries he sustained during the treacherous and fierce fighting at Normandy, Mr. Mooney was awarded the Purple Heart. He was also awarded three overseas service bars, the American Campaign Medal, the European-African-Middle Eastern Ribbon with one silver star, the Good Conduct Medal, and World War II Medal for his participation in three other campaigns. Recently, Mr. Mooney and thousands of his comrades have been honored by the Regional Council of Normandy with the Jubile de la Liberte Medal, a decoration commemorating the 50th anniversary of the Battle of Normandy.

In addition to his patriotic service during World War II, Mr. Mooney has spent his entire life working to make his community a better place to live. He worked as a glazier in the private sector for 20 years and another 15 years in the same capacity with the Chicago Park District. Mr. Mooney first became involved in local politics as a precinct captain. In my capacity as an alderman and the committeeman of the 23d ward, he has assisted me as a district leader, community leader, and later as deputy committeeman of the 23d Ward Democratic Organization. When I first entered Congress, Mr. Mooney served as my administrative assistant and then my chief of staff. I was fortunate to have him assist me in opening a district office, setting up a Washington office, and assembling a staff. As an original member of my staff, I will be forever thankful for his hard work, dedication, and integrity. Today, Mr. Mooney remains an important part of the success of the 23d ward Democratic Organization by serving as its treasurer.

Most importantly, John Mooney is a dedicated family man and churchgoer. He was married to the late Gladyce for 47 fulfilling years. They have one daughter, Pamela, and a son-in-law, Tim Dryden. Mr. Mooney also extends his time and assistance to the various endeavors of St. Daniel the Prophet Catholic Church. Mr. Mooney and his family have been life-long residents of the southwest side of Chicago.

Mr. Speaker, I salute John Mooney for a truly remarkable life. I congratulate him on achieving this great milestone, and I extend to him my best wishes for many more healthy and happy years to be shared by his family and friends. He has a spirit that will never

grow old. May this special day remain with him throughout the coming year.

TRIBUTE TO SGT. WILLIAM S. KEIGHLY ON HIS RETIREMENT FROM LAW ENFORCEMENT

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. KLINK. Mr. Speaker, I rise to honor a good friend and retiring member of the Pennsylvania State Police. Sgt. William S. Keighly of New Wilmington, PA, retired on October 3, 1997, after more than 28 years of service to the State of Pennsylvania.

Sergeant Keighly's career spanned four decades and during that time he distinguished himself through performance and meritorious achievements. In addition to serving as a law enforcement officer, he also was an instructor at Indiana University of Pennsylvania.

Sergeant Keighly's career began as a patrol trooper in 1969. During his tenure, he held positions varying from criminal investigator to organized crime task for commander, to the position of station commander at the Mount Jewett State Police barracks where he oversaw the operations of the entire facility.

His accomplishments during his assignments were invaluable and his commitment to specialized training further emphasized his dedication to his profession. Mr. Speaker, Sergeant Keighly has earned the respect and admiration of all involved in law enforcement in the State of Pennsylvania. He is a credit to the people of New Wilmington, the residents of Lawrence County, and to all of my constituents in the Fourth Congressional District.

Sergeant Keighly, I would like to thank you for your service, and wish you the best of luck in your retirement. You've earned it.

IN RECOGNITION HARRY M. ROSENFELD

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. McNULTY. Mr. Speaker, one of the benefits of serving in this body is the opportunity to pay tribute to citizens who make positive contributions to their communities and their professions.

One such citizen is Harry M. Rosenfeld, the editor-in-large of the Albany Times Union and one of this Nation's most highly respected journalists. Mr. Rosenfeld, who is one of my constituents, has enjoyed a long and illustrious career. He came to this country as an immigrant, was educated at Syracuse University, served his Nation proudly during the Korean War and embarked on a career in newspaper work.

Mr. Rosenfeld served as foreign editor of the New York Herald-Tribune. He then moved to the Washington Post, where he directed the coverage of the Watergate story that earned the Post a much deserved Pulitzer Prize.

In 1979, Mr. Rosenfeld came to the New York's capital district to serve as editor-in-chief of the Albany Times Union and Knickerbocker News. During his tenure as editor, the newspaper won countless awards for general excellence and community service.

Mr. Rosenfeld retires from journalism at the end of this week. For nearly a half-century, he has served as the living embodiment of the loftiest principles of his profession. In his community and in his industry, he enjoys a well-earned reputation for integrity and undying devotion to the highest standards of his craft.

Because of Harry Rosenfeld's commitment to honest, courageous reporting as the foundation of responsible journalism, he leaves his community a better place. I am proud to salute my friend Harry Rosenfeld for his distinguished journalistic service to the cause of democracy.

TRIBUTE TO THE HONORABLE SHARON L. GIRE

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. BONIOR. Mr. Speaker, I have had the pleasure to call Sharon Gire my friend and my State representative for many years. She is someone who has dedicated her life to serving the people of Michigan. Sharon was honored by her friends and colleagues in Clinton Township on October 29, 1997.

The State of Michigan has been fortunate to have Sharon Gire serve as a State representative since 1987. She has brought to this role a passion for social justice, consummate political skills and an unselfish commitment of time and energy. Sharon has been a fighter for our children and families. As chair of the education committee, Sharon puts politics aside and children first. Just recently, she organized a bipartisan effort to improve Michigan's high school proficiency test. In 1994, under her able leadership a special committee developed a 14 bill package on domestic violence that was signed into law helping millions of women and children deal with the pain of domestic abuse.

Sharon has not only been active in Lansing, she is deeply involved in Macomb County. Sharon had been an active member in organizations such as the Clinton Township Goodfellows, the Mount Clements Art Center, Macomb County Child Abuse and Neglect Information Council, Vietnam Veterans Chapter 154, and the Democratic women's caucus. Throughout the years, she has worked on issues that concern children, seniors, veterans, substance abuse and environmental causes. Sharon's expertise, developed from her work in counseling and social work, has given her a special talent for helping people.

Throughout the years, I have had the pleasure to work with Sharon on many issues and projects. She is a problem solver and strong leader. Few people have given to their community as Sharon has given to hers. Her vision and dedication has touched the lives of many people. I want to congratulate Sharon on her very distinguished career in the legislature. We will miss her very much in the State legislature but I am confident Sharon's vision will continue to touch our lives. I wish Sharon and her husband Dana all of the best and I look forward to working with them on many valuable projects in the future.

A TRIBUTE TO THE EASTERN CAMPUS OF SUFFOLK COUNTY COMMUNITY COLLEGE

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. FORBES. Mr. Speaker, I rise today to pay tribute to the Eastern Campus of Suffolk Community College as its students, professors, administrators, and friends celebrate the college's 20th anniversary of providing higher education to the communities of eastern Long Island.

Opened in 1977 on a 192-acre site in the rural Pine Barrens region of Southampton Town, near the Suffolk County seat in Riverhead, the Eastern Campus is the third and smallest campus of Suffolk County Community College system. But the dreams of those students who attend this 2-year institution of higher education are no smaller than those attending the most prestigious Ivy League school. For the past 20 years, the Eastern Campus of SCCC has provided a glorious opportunity to the diverse mix of students from the rural and suburban communities of Eastern Suffolk County to receive their college degrees and achieve their personal dreams.

The diversity of the Eastern Campus' student body is as deep as it is wide, ranking from those who have just graduated high school to a growing number of returning adults—be they displaced workers or former homemakers—who seek the advanced skills needed in today's marketplace. What they possess in common is a commitment to education and the work ethic as the path to a better life.

The dedication is evident in the 34 percent of students who work full-time while attending the college, and the 27 percent who drive more than 21 miles to attend classes at the Southampton campus. To serve this diverse range of students, the Eastern Campus of SCCC offers a wide array of 2-year associates degrees from accounting to technology, early childhood education to restaurant management.

Mr. Speaker, I ask that my colleagues in the U.S. House of Representative join me in honoring the Eastern Campus of Suffolk Community College on this special 20th anniversary celebration. We on eastern Long Island take special pride in our commitment and support for education, and we are privileged to have the Eastern Campus of Suffolk Community College here in our backyard, providing our family and neighbors with the opportunities they need to better themselves and make our community a better place for all of us to live and work.

FINISHING THE JOB OF REFORM IN LATIN AMERICA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. HAMILTON. Mr. Speaker, I would like to bring to my colleagues' attention my monthly newsletter on foreign affairs from October 1997 entitled Finishing the Job of Reform in Latin America.

I ask that this newsletter be printed in the CONGRESSIONAL RECORD.

The newsletter follows:

FINISHING THE JOB OF REFORM IN LATIN AMERICA

The President's recent trip to Latin America highlights the striking changes in relations between the United States and its neighbors in the hemisphere. There were no glaring disputes or major anti-American protests. There were many points of agreement between the President and his counterparts in the countries he visited—Venezuela, Brazil and Argentina. Reform has taken hold in Latin America, but much remains to be done to finish the job.

Democracy and free markets. Democracy and free markets—long time U.S. foreign policy goals for the region—have become the norm throughout Latin America during the past decade. These changes have had tangible benefits: U.S. exports to Latin America are growing twice as fast as those to any other region of the world.

In Venezuela, President Caldera has restored confidence in a government previously riddled by scandal. An emerging oil industry is rapidly absorbing U.S. investment and produces more oil for U.S. consumers than any other country. Through fiscal and monetary discipline, Venezuela is beginning to tame corruption and inflation.

In Brazil, military regimes are gone, replaced by and an elected president and an independent Congress. The Brazilian economy is the eighth largest in the world, and by far the largest in Latin America. No longer constrained by Brazilian protectionism, $7 billion in direct investment poured into Brazil from the United States last year alone. Brazil's 160 million consumers bought more U.S. goods last year than did China.

Argentina has also replaced military juntas with a succession of elected presidents and legislatures. Argentina's military—once a law unto itself—is now a model for international cooperation and participation in peacekeeping operations. President Clinton designated Argentina a major non-NATO ally based on its impressive peacekeeping record and responsible international role.

Incomplete reform. Reform in Latin America is not yet complete, and the progress made so far is fragile. Corruption continues to hinder investment and benefit the well-connected. Narcotics remains a dangerous and costly problem. Journalists do not have the freedom to expose official corruption, and justice systems lack credibility. Poverty and vast disparities of income still threaten economic reform and play into the hands of antidemocratic forces. These problems are widespread, and are especially evident in Colombia, where guerrillas threaten democracy, and Peru, where the greatest threat to democracy is the president.

U.S. Policy. The U.S. needs to take a clear-eyed view of both the achievements and shortcomings of reform in Latin America. Our policy toward the region should work to consolidate the substantial gains in democracy and civilian control of the military. Yet we need to do more to address narcotics, corruption, human rights abuses, and income disparities. U.S. leadership and sustained interest in the region can strengthen reformers and help move Latin America toward further reform.

First, the United States must lead on free trade and economic integration in the hemisphere. Opening Latin America's economies is the most important step we can take to help create a new middle class in Latin America and consolidate democracy. To make U.S. leadership on trade possible, Congress must grant the President fast-track negotiating authority and approve trade parity for the Caribbean economies.

Closer trade ties and market reforms will also help address the most critical internal problem in the region: low living standards and vast social economic disparity. Trade and liberalization will foster economic discipline and reduce inflation, which hurts the poor the most. They will also free up resources spent previously on inefficient state industries, providing funds to implement additional reforms in education and social programs. President Clinton should urge his fellow leaders to implement such reforms when he meets with them at the Summit of the Americas next year in Chile—having fast-track authority will boost his ability to do so.

Second, the United States must work more closely with its partners in Latin America. U.S. unilateral action—as with the Helms-Burton law on Cuba—undermines cooperation, and stands in stark contrast to the cooperative successes we have had elsewhere in the hemisphere. We need multilateral cooperation to address our common problems, including corruption, arms trafficking, environmental degradation and the flow of narcotics.

Narcotics not only lead to misery in North America, but are a leading source of corruption and a threat to democracy in Latin America. The issue can only be addressed as part of a multi-faceted U.S. policy of regional cooperation. To promote such cooperation, Congress should repeal the certification statute, which requires the President to sanction countries that don't measure up to U.S. counter-narcotics standards. That statute has outlived its usefulness.

Third, the United States should redouble efforts to strengthen the rule in Latin America. These advances depend on the political will of the region's leaders, but U.S. technical assistance programs can provide the support necessary once leaders decide to let independent institutions operate.

Fourth, regional and international organizations should be strengthened and encouraged to support reformers and build a consensus on democratic reform. The Organization of American States can play a central role in promoting press freedom, and the U.S. should encourage the Inter-American Development Bank to support educational reform and small enterprise.

Conclusion. Latin America has come a long way in a short time, much to the benefit of the United States. The President's trip put an important focus on the region, and the challenge now is to sustain the attention of U.S. policymakers. With strong support for reform from the United States, the region can consolidate the gains we have so long sought and help create a more stable, democratic and prosperous Latin America.

TRIBUTE TO RONALD BROOKS WATERS

HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. McINTYRE. Mr. Speaker, I am honored to pay tribute today to Mr. Ronald Brooks Waters of Lexington, SC, who displayed extraordinary courage and self-sacrificing assistance in the capture of two accused murderers in Cumberland County, NC.

On September 23, 1997, Cumberland County Sheriff's Deputy David Walter Hathcock and Highway Patrol Trooper Lloyd Edward Lowry were slain while attempting to apprehend two individuals who were operating a stolen vehicle. Mr. Waters was traveling north on Interstate 95 and witnessed the brutal shootings. He repeatedly put his own life in danger in order to relay valuable information to law enforcement personnel which led to the capture of these two armed and dangerous individuals. On two occasions, the suspects attempted to shoot him at point blank range. Had the weapon not jammed, Mr. Waters would surely have been wounded. Yet, through all of this, Mr. Waters displayed great courage as he continued to provide information that led to the capture of the suspects.

Mr. Waters is to be commended for his heroic actions, and I urge my colleagues to join me in recognizing and honoring this outstanding citizen who went above and beyond the call of duty with his self-sacrificing assistance to the Cumberland County law enforcement personnel.

FAST TRACK AUTHORITY

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. WAXMAN. Mr. Speaker, I appreciate this opportunity to share with my colleagues the reasons I am unable to support H.R. 2621, the Reciprocal Trade Agreement Authorities Act of 1997.

I support the principle of granting fast track authority to President Clinton to negotiate new trade agreements. Since our markets are the most open in the world, we have the most to gain by international agreements that pry open markets in countries with protectionist policies. In addition, we are uniquely positioned to forge relationships with our neighbors in this hemisphere that can help raise their standards of living and provide a significantly larger consumer base for our goods and services. Finally, since Mexico and Canada now enjoy special trade status with the United States under the North American Free Trade Agreement [NAFTA], it would seem illogical to deny a similar arrangement to other countries in the region.

Unfortunately, however, the debate on trade policy no longer encompasses simple unfair dumping and tariff barriers. Trade negotiations now have a direct impact on our country's ability to maintain strong health and environmental standards because these standards can be challenged as trade barriers.

The fast track language under H.R. 2621 is more regressive than that held by previous administrations and further restricts the authority of the President to negotiate trade agreements that include domestic and global environmental objectives. In addition, the language on food safety standards could reduce levels of risk to an international lowest common denominator. Third, the language would entitle companies to collect compensation if unjustified nontariff barriers restrict their activities. Since many environmental and health regulations have been interpreted as nontariff barriers to trade, governments could be required to compensate companies when public health and welfare regulations hinder capital flows. And finally, my longstanding concern that the broad rulemaking authority of international trade bodies is not instituted in a transparent, democratic manner has not been adequately addressed.

DIRECTLY RELATED TO TRADE LANGUAGE WOULD THREATEN ENVIRONMENTAL SAFEGUARDS

Since the fast track procedure was established in 1974, Presidents have been granted broad discretion to negotiate and include in fast tracked bills any terms the President has judged necessary or appropriate. Unfortunately, H.R. 2621 severely constrains President Clinton's ability to negotiate environmental, health, and labor provisions in trade agreements and leaves open to challenge many of the environmental and health protections we already have in place.

Under section 102(a)(2) of H.R. 2621, labor and environmental measures are considered overall trade objectives only if they are directly related to trade and decrease market opportunities for U.S. exports or distort U.S. trade. Under this legislation, funding for border clean-up projects, worker safety objectives, infrastructure and right-to-know requirements, enforcement of multilateral environmental agreements, and human rights standards would not be part of a trade agreement.

Further, even if the President wanted to negotiate an environmental provision, section 103(b)(3)(b) would prohibit its inclusion in the fast track implementing legislation unless it were necessary for the operation or implementation of the U.S. rights or obligations under such trade agreements.

In addition, the 1988 fast track language included "reducing or eliminating barriers, taking into account domestic objectives such as legitimate health and safety * * *" as a goal for trade in services and foreign investments. H.R. 2621, however, would "reduce or eliminate barriers to international trade in services including regulatory and other barriers that deny national treatment and unreasonably restrict the establishment and operation of service suppliers." (Section 102.2)

H.R. 2621 simply fails to protect our Nation's ability to maintain strong environmental and health standards. Although section 102(b)(7)(B) seeks "to ensure that foreign governments do not derogate from or waive existing domestic environmental, health, safety or labor measures * * * as an encouragement to gain competitive advantage," it contains no enforcement language and provides no incentives for trading partners to establish minimum levels of environmental, health, or safety protections. It also fails to address the competitive advantage that countries without environmental or labor laws would enjoy. Finally, the section contains an escape clause stating that the designation "is not intended to address changes to a country's laws that are nondiscriminatory and consistent with sound macroeconomic development." Consequently, a country could waive its environmental, health and safety laws to attract investment if such an action is considered sound macroeconomic policy.

POTENTIAL FOR LOWEST COMMON DENOMINATOR HEALTH AND SAFETY STANDARDS

H.R. 2621 could potentially invalidate U.S. safety standards and expose Americans to levels of risk set by an international lowest common denominator. This is especially troubling given our experience with NAFTA even though U.S. Trade Representative Kantor assured Congress in 1993 that "each government may establish those levels of protection for human, animal or plant life or health that the government considers to be appropriate."

In addition, the World Trade Organization's [WTO] ruling that rejected the European Union's [EU] ban on hormone-fed beef clearly contradicts that position. Under its ruling, the WTO determined that the EU had not provided a sufficient assessment of the hormone's risk. The EU was forced to accept international standards of risk as defined by the Codex Alimentarius Commission and denied its right to make its own societal determinations of public safety even though it presented credible scientific studies in support of its position.

This case sets a dangerous precedent for other sanitary and phytosanitary judgments on food safety, biotechnology, and food irradiation decisions. It is particularly threatening to U.S. food safety since some Codex standards permit residues of pesticides that have been banned in the U.S. and allows residues of others at much higher levels than the U.S. allows. Codex standards allow higher levels of residue than the U.S. on pesticides like DDT, heptachlor, aldrin, diazinon, lindane, permethrin, and benomyl.

H.R. 2621's provisions would exacerbate this problem by restricting Congress's ability to impose precautionary bans on unsafe products. U.S. domestic legislation has often relied on such precautionary measures to protect the public health and safety. For example, certain medical devices are not allowed on the market until they can be proven safe. H.R. 2621 would shift the burden of proof to consumers and health officials to first prove that devices are not safe before they could be restricted from the market.

Of additional concern is that NAFTA's implementing legislation rewrote poultry and meat safety regulations to allow countries to make food safety inspections if their inspections were equivalent to ours. This language replaced a standard that required inspections to be at least as rigorous as ours. NAFTA and the WTO provide for an equivalency standard, but no formal rulemaking has begun to define equivalency. Unfortunately, food safety protections have been substantially weakened under NAFTA. USDA food safety checks have been reduced to 1 percent at the Mexican border, while Mexican food exports to the U.S. have increased by 45 percent. Equivalency standards are also applied to nonfood standards, performance standards, and good manufacturing practices, which are similarly difficult to evaluate.

Instead of curing these serious problems, H.R. 2621 would endorse the continued erosion of U.S. sovereignty and make it even more difficult for Congress and the President to establish standards of risk that we believe are appropriate, based on sound science, and protect the American people.

EXPROPRIATION OF ASSETS

Another area of concern is the potential for corporations to sue under a takings mechanism for compensation of unrealized profits due to environmental or health regulations. Under article 1110 of NAFTA, the Ethyl Corporation is currently suing the Government of Canada for $251 million worth of damages in a claim that Canada's ban on the gas additive MMT constitutes an expropriation of company profits. MMT is banned in many U.S. States because of its harmful effects on children and its capacity to destroy catalytic converters.

Another case was recently filed against the Mexican Government by the Metal Clad Corporation. That company is suing on the basis that a governmental declaration of a marsh as a nature preserve is an expropriation of the company's potential assets had they been awarded a contract to built a toxic dump in that location.

Section 102(3)(D) of the foreign direct investment provisions of the fast track proposal endorses this takings approach and requires the U.S. to establish standards for expropriation and compensation for expropriation. Under NAFTA corporations are already granted authority to sue governments directly. The Multilateral Agreement on Investment, one of the multilateral agreements that could be covered under fast track authority, would allow business-dominated international arbitral panels to decide whether an environmental regulation is considered a taking of a property. H.R. 2621 would set a new precedent that could require governments to compensate companies if public health and welfare regulations reduce the value of investments, regardless of the impact on public health and welfare.

NO ADEQUATE DISPUTE RESOLUTION MECHANISMS, PUBLIC OVERSIGHT, OR ENVIRONMENTAL ASSESSMENT

During the NAFTA and GATT debates, I strongly supported a transparent dispute settlement that would allow outside parties an opportunity to present the dispute resolution panel with their views in writing. Unfortunately, this proposal was not adopted and the dispute mechanisms remain secret. Amicus briefs and other public comments are not permitted.

An open process for dispute resolution is particularly important because trade agreements can have such a significant impact on public health and welfare. Two American laws—the Clean Air Act and the Marine Mammal Protection Act—have already been changed as a consequence of international trade challenges. And, unlike any other area of international negotiations, decisions are enforceable by the ruling bodies through trade sanctions. Our fundamental rights—ones we have taken for granted in the U.S.—are severely diminished in this process.

Unfortunately, the calls in H.R. 2621 for increased transparency of the process are inadequate. Transparency should include public

notice and comment periods for all international trade rulemaking bodies and a legally-binding procedure for Enviromental Impact Assessments [EIA's] for all future trade and investment agreements. Further EIA's should be prepared early enough in the negotiation process to provide for public comment and full review by the negotiators. Final EIA's should accompany the trade bill sent to Congress for fast track review.

While I am unable to support H.R. 2621 for these reasons, I am interested in working with President Clinton and my colleagues on language that would provide the necessary structures to protect the public interest in trade agreements negotiated under fast track authority.

MOTION TO INSTRUCT CONFEREES ON H.R. 2267, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

SPEECH OF

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Mr. KOLBE. Mr. Speaker, a considerable amount of misinformation has dominated the 245(i) program debate. I'd like to set the record straight: 245(i) does not give anyone amnesty, it does not undermine the Immigration Reform and Control Act, and it does not jeopardize national security.

Section 245(i) of the Immigration and Nationality Act allows prospective family- and employment-based immigrants to adjust their status to that of permanent residents while remaining in the United States. That's the sole function of the program. The $1,000 adjustment fee that is collected from prospective immigrants is used by the Immigration and Naturalization Service [INS] to provide detention space for criminal aliens, and it pays for INS adjudication staff and improved customer service. Last year, the 245(i) program raised almost $200 million.

I do not favor a permanent extension of the 245(i) program. I do believe, however, that we must help those that have already petitioned for relief under the program. Fairness and humanitarian concerns call for no less. But we must identify a date certain in which no new petitions will be accepted. There appears to be some legitimacy to the claims that petitioners under the 245(i) program enjoy an advantage that other prospective immigrants do not. If we cease accepting new applications yet process all those currently in the system, then from that point forward all intending immigrants would be competing under the same rules. This is fair and equitable, and continues this great Nation's policy of reunification of families.

Therefore, I am going to vote against the motion to instruct conferees. As Ulysses found out, all is not what it appears to be. Such is the effort to instruct conferees. The motion is a not-so-veiled attempt to kill the 245(i) program. The motion would tie the hands of the conferees and limit our negotiating position in conference. We need to be placed in the situation where we can negotiate a reasonable, workable, and prudent solution. In fact, there are thousands of people expecting us to do so.

BRIAN ANDERSON: THE PRIDE OF THE TRIBE AND THE PRIDE OF GENEVA

HON. STEVE C. LaTOURETTE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. LATOURETTE. Mr. Speaker, today, I rise to salute our beloved Cleveland Indians on an outstanding season, and a gutsy, nail-biting trip through the playoffs and the World Series. It truly was an exceptional series, right down to the edge-of-your-seat, extra-innings' game seven finale. While we all wish we could have enjoyed a different outcome, we have every reason to be extremely proud of this team and all it accomplished this year. We also have reason to be especially proud of one of our hometown heroes, and one of the stars of the 1997 American League Champion Cleveland Indians—Brian Anderson.

Tribe pitcher Brian Anderson grew up in Geneva and graduated from Geneva High School in 1990. He played ball in college at Wright State University near Dayton, and was selected by the California Angels in the first round of the draft in 1993. In fact, he was the third pick overall, and was named the American League's Rookie Pitcher of the Year in 1994 by the Sporting News.

Much to the delight of Anderson's loyal fans, he was traded to the Indians in February 1996, and has proven himself to be one of the Tribe's most reliable pitchers, and is a part of a formidable bullpen that is admired throughout the league. Every young boy who grows up near Cleveland and spends his days playing catch with his dad dreams of one day playing for his hometown team. Brian Anderson not only achieved that dream, he surpassed it this year when he pitched in front of his hometown in the World Series. Each time he stepped on the mound, he displayed the guts, brawn, and tenacity that are the hallmarks of Indians' baseball, and showed the world that he is a force to be reckoned with.

Brian Anderson didn't bow to the pressure of the playoffs or the World Series. Instead, he showed remarkable composure, and didn't seem the least bit fazed by the magnitude of the task that was before him. Two performances in particular stand out—when he pitched 3.2 innings of game 3 of the World Series and gave up just two hits, and when he and Jaret Wright combined for a 6-hitter in game 4.

Brian Anderson and the Tribe had 49 years of cruel history placed squarely on their shoulders this season, as the Tribe has not won the World Series since 1948. Next year, half a century of history will be the burden the Tribe must carry, and it is the belief of Tribe fans everywhere that the Indians will rise to the challenge and assume their rightful place as World Series champions. As a lifelong Tribe fan, it will be a great comfort for Brian Anderson to be a part of the new generation of Indians who will guide us into the next century.

On behalf of the 19th Congressional District, I congratulate Brian Anderson on his exemplary play this season, and I congratulate his folks, Jim and Janice, for raising such an outstanding young man. We all look forward to many more years of witnessing Brian's greatness on the field as an integral member of the Cleveland Indians.

Brian Anderson has made his family, friends, and fans burst with pride, and he is living proof that with hard work and perserverance, and the loving encouragement of a fine family, no dream is too great and the biggest dreams of all can come true.

TRIBUTE TO WENDELL J. CHAMBLISS

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. HILLIARD. Mr. Speaker, I rise today before this august body to bid farewell to a young man who has been one of the most outstanding staff members I have employed, Mr. Wendell J. Chambliss, my legislative director. Wendell has been my L.D. for the past 2 years, and in that time he has written for me many excellent pieces of legislation which will benefit Alabama and the Nation for many years to come.

Wendell has worked on Capitol Hill for over 10 years. During that period, he has worked for a U.S. Senator, as well as two Members of the U.S. Congress. Needless to say, he has excelled in all of these positions.

I am afraid that Wendell's reputation as a fine legislative director and attorney has spread far and wide, for as many Congressmen will tell you, the good ones always get hired away from you. The same is true with Wendell J. Chambliss. A big-time, big-city, law firm from Alabama has hired Mr. Chambliss away from us.

Although we will miss the acumen and expertise Wendell Chambliss has brought to our office, we are happy for his family in Alabama, and especially for his wonderful mother, Hilda Chambliss of Alex City, AL.

In closing, allow me to say that this is just so-long and not, good-bye. I am sure that with his wonderful personality, his intellectual acumen, and his acute political instincts, Washington has not seen the last of Wendell J. Chambliss.

TRIBUTE TO THE MEMORIAL SCHOOL OF MAYWOOD

HON. STEVE R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. ROTHMAN. Mr. Speaker, I rise today to honor the Memorial School of Maywood, NJ, a recipient of the prestigious Blue Ribbon Award.

To the Memorial School, I extend my sincere congratulations for its commitment to education and excellence. The students and faculty should feel a tremendous amount of pride for their diligence, outstanding demeanor and teamwork. While the students exhibit a desire for learning, their quest for knowledge is enhanced by the curriculum and extraordinary instruction at the Memorial School. The award could not have been achieved without strong leadership, especially that of Mr. Lex Greenwood, principal of the Memorial School. I also want to congratulate all of the parents of the Memorial School children. Parental involvement creates an atmosphere of support for both children and faculty. Both parents and teachers plant the seeds in our young people for intellectual fruition while helping children to believe in themselves.

I understand the importance of education for all American children. Before I was elected as the representative of the Ninth Congressional District, I told the people of Bergen and Hudson counties that education would be a priority for me in Congress. Please know that I have maintained that commitment. A quality education for every American child opens the gateway to a lifetime of opportunities. And the Memorial School of Maywood, NJ serves as an exemplary learning institution for Bergen County, the Ninth Congressional District, the State of New Jersey, and the United States.

As a recipient of the Blue Ribbon Award, the Memorial School reflects the aims of President Clinton's GOALS 2000 by exhibiting academic excellence and by providing examples of outstanding programs and practices. The Blue Ribbon Award officially recognizes that the Memorial School has an outstanding teaching and student environment, curriculum, teaching faculty, leadership, parent and community support, in addition to organizational vitality. Recognition at a local, State and national level will enable the Memorial School to serve as a model learning institution. Such increased exposure not only makes the Memorial School a microcosm of learning excellence, but boosts public confidence, along with parental and community involvement.

Once again, I wish to extend my congratulations to the Memorial School and look forward to working with the school in the future.

CONGRATULATIONS TO JUANITA HAUGEN

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mrs. TAUSCHER. Mr. Speaker, I rise today to extend my heartfelt congratulations to my constituent and friend Juanita Haugen from Pleasanton for serving as the California School Board Association's president for the past year.

We are extremely fortunate to have someone as dedicated as Juanita Haugen serving in the 10th Congressional District. I applaud her for her continuous efforts on behalf of children and their education in Pleasanton and in the State of California as a whole.

Juanita Haugen has served as a school board member in Pleasanton for over 16 years. A member of the California School Board Association's delegate assembly since 1981, Juanita has sat on a number of the association's committees, including the Legislative Network, Federal Relations Network, Finance, Legal Alliance Steering, and Budget and Resolution. She has chaired the Small School Districts Task Force, the Role of the Board Leadership Committee, the Audit Committee and the Legislative Committee on Restructuring and Reform. Juanita is also past president of the California Suburban School Districts Association and has been a representative of the Association's board of directors since 1989.

She has been the recipient of awards from many civil organizations in Pleansanton. Some of the organizations that have recognized her include the Pleasanton Chamber of Commerce, who presented her with the Excellence in Education Award, and the Soroptimist International of Pleasanton, who presented her with the Woman of Distinction Award.

Though Juanita is leaving her post as president of the California School Board Association, I take great comfort in knowing that she will continue to serve on the Pleasanton School Board. She is an incredible resource, and you can certainly expect me to continue to take advantage of her knowledge. Let me again offer my warmest congratulations to Juanita for her efforts on behalf of the students of California's public schools and the constituents of the 10th Congressional District.

JOHNSON'S BOOKSTORE: A LANDMARK IN SPRINGFIELD, MA, SERVES COMMUNITY FOR MORE THAN 100 YEARS

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. NEAL of Massachusetts. Mr. Speaker, it is with mixed emotions that I address this House today as Johnson's Bookstore, a landmark in Springfield for more than 100 years, announced that it will close its doors by the end of the year.

Johnson's Bookstore, a family-run book shop located on Main Street in downtown Springfield, has long been a cultural and literary hub for children, students, and avid readers of all ages. Established in 1893 by brothers Henry and Clifton Johnson, this business has been run consistently by the Johnson family. Committed to the value that the written word has in civilized society, the third and fourth generations of Johnsons embodied Henry and Clifton's legacy by continuing to bring a large selection of quality books and stationary to western Massachusetts.

In addition to the many new releases and best sellers featured in the store, Johnson's Bookstore has brought innovative programs and initiatives to Springfield. The second-hand bookstore at Johnson's was a staple to countless students and bookworms in the area. Johnson's continues to provide the forum for Springfield's native literary talent to shine.

Esteemed authors, including Joseph Conrad, Dr. Seuss (Theodore Geisel), and Robert Frost, and other notable celebrities, including entertainer Whoopi Goldberg and the late Boston Pops conductor Arthur Fiedler have all thumbed through the shelves of Johnson's selections. They now know what those of us in Springfield have known for years; the charm, character and quality of a local, community-oriented bookstore like Johnson's is a treasure in today's modern society.

Mr. Speaker, I rise today both as a Member of this House and as a frequent patron to say goodbye and thank you to Johnson's Bookstore. The legacy you have left in Springfield will last for generations, and you will certainly be missed.

TENTH ANNIVERSARY OF THE NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. ETHERIDGE. Mr. Speaker, this month we celebrate the National Board for Professional Teaching Standard [NBPTS] 10th anniversary. Since its foundation, the National Board for Professional Teaching Standards has made tremendous strides in recognizing our nation's outstanding teachers and elevating the performance level of our public educators. I am extremely proud that North Carolina's Governor, the Hon. Jim Hunt, who has been committed throughout his esteemed public service career to ensuring that our children obtain a quality public education, was the driving force in the creation of this important organization and has served as the NBPTS chair since the board's creation in 1987.

Prior to the foundation of the National Board for Professional Teaching Standards no national consensus existed as to the criteria for accomplished teachers. The NBPTS recognized that strengthening the quality of our teachers is the most direct action our Nation can take to improve our students' performance. The board created a rewarding professional development program and a stringent certification process for teachers. Thirty two states have incorporated the national board certification process into their school systems. Board certification effectively challenges and encourages talented teachers to stay in the classroom as well as providing an incentive for high caliber new teachers to enter the profession. Governor Hunt exemplifies the mission of the NBPTS, "Ultimately, all learning comes down to what goes on between teachers and students. By raising standards and encouraging teachers to improve, the National board is channeling education improvement into the classroom to benefit students."

After 10 years at the helm of the National Board for Professional Teaching Standards, Governor Hunt is passing the torch to Barbara Kelly, an experienced educator from Maine. I would like to take this opportunity to express my gratitude for Governor Hunt's distinguished leadership of this important organization. Governor Hunt has worked tirelessly in his unprecedented four terms as the Governor of North Carolina to improve the quality of public education in our State and across the Nation. He

broke new ground in educational development when he helped ignite the national board, as he has with numerous other education programs in North Carolina and across the Nation. I applaud Governor Hunt's impressive leadership of the National Board for Professional Teaching Standards and his continued dedication to the improving and strengthening educational standards, and thus brightening our Nation's future.

ARMING AND TRAINING BOSNIAN FEDERATION FORCES—MAINTAINING A BALANCE OF POWER

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. MURTHA. Mr. Speaker, earlier this month, the article below appeared in the New York Times. It was around this time that I had just returned from Bosnia visiting our troops and U.N. officials. I take exception to the article, which left a strong impression that the United States policy of arming and training the Bosnian Federation Army has reversed the balance of power in Bosnia and created a potent military force that is now capable of crushing the Bosnian Serb forces. An unnamed European NATO commander also is quoted making the irresponsible statement that "the question no longer is if the Muslims will attack the Bosnian Serbs, but when."

I have been involved in military affairs for a good portion of my life having served in the Marine Corps during the Korean and Vietnam wars and on the Defense Appropriations Subcommittee of the House of Representatives since 1979. I have been in Bosnia nine different times over the last 5 years including visits during the war when the UNPROFOR mission was on the verge of collapse. I have discussed our "train and equip" policy in detail with NATO commanders on the ground in Bosnia, with American, British, Bosnian, Croatian, OSCE, and U.N. diplomats, with intelligence analysts in Washington, with the military trainers doing the actual training, and with United States sergeants who patrol the streets of Brcko. I get a far different picture from most of these experts than what was stated in the article.

Most knowledgeable experts agree that the Bosnian Federation army is years away from being an effective fighting force capable of combined arms maneuvers. During the devastating Bosnian conflict, the Muslim army was personnel-rich but equipment-poor. The Bosnian Serb army was the reverse, equipment-rich but manpower-poor. The Bosnian Serb military also enjoyed large advantages in organization, training, leadership, and logistics since the preponderance of the force was from the old Yugoslav National Army. The Muslim army avoided utter defeat only by being able to replace its casualties and fill the gaps faster than the smaller Serb army was able to fully exploit its battlefield successes. But even near the end of the conflict when Muslim forces achieved their greatest success, the weakened Bosnian Serb army was still able to counterattack effectively and retake some key contested areas.

It is too simple to conclude that upgrading Bosnian Federation army equipment and providing a little more than a year's worth of fundamental training will reverse the military balance in Bosnia. The experts I talked to believe the Federation is years away from developing a trained and cohesive army capable of armored maneuvers. They still have not developed a professional NCO corps necessary to any modern army. They have no ability to supply or sustain the equipment they have received. Their officer corps—which is being taught defensive tactics, not offensive tactics—is still in its infancy. They have no intelligence capability and only a fledgling communications system.

While the Bosnian Serb army has been substantially degraded, it is no secret that supplies, modern equipment, and other warfighting assets could quickly become available to them if renewed hostilities broke out, especially if the Bosnian Federation were seen as the aggressor. While morale among the Bosnian Serbs is low at this time and there are deep division, I believe that this would quickly change if they were attacked. Even if the Federation forces were to have initial military success, they know that such early successes could easily evolve into a wider regional conflict in which the Federation would have few international supporters.

This is not to say that we should turn a blind eye towards how the "train and equip" program is progressing. There is wisdom in achieving rough military parity between the adversaries in this region. It would be a serious blunder if, in the name of achieving this parity, we were to actually reverse the balance and create a new military power capable of offensive action that was bent on revenge.

I am satisfied that our experts in the region understand this delicate situation. They are working hard to ensure that the new Bosnian Federation military is a professional, defensive-minded force that understands both its capabilities and limitations.

[From the New York Times, Oct. 3, 1997]

BOSNIAN MUSLIMS SAID TO INTENSIFY EFFORTS TO REARM IN SECRET

(By Chris Hedges)

SARAJEVO, BOSNIA-HERZEGOVINA.—The Muslin-led government in Sarajevo appears to be intensifying a clandestine program to arm and train its military, and senior NATO officials say it is close to—or may already have achieved—the ability to mount a crushing offensive against the Bosnian Serb-held part of Bosnia.

"The question no longer is if the Muslims will attack the Bosnian Serbs, but when," said a senior European NATO commander. "The only way to prevent such an attack, at this point, is for the peacekeeping mission to extend its mandate."

The NATO officials were united in favoring an extension of the NATO peacekeepers' mandate, and none of them suggested that the Sarajevo government would attempt a military offensive with NATO troops still in place. The peacekeepers are scheduled to leave next June, but the Clinton administration, recognizing the slow pace of reconciliation in Bosnia, has recently joined other NATO allies in favoring an extension of the NATO force, which includes American troops.

U.S. congressional opposition, the strength of which has yet to be tested, appears to be the only remaining obstacle to a continued NATO presence that the officials agreed would offer the best chance of averting a resumption of the 1992–1995 Bosnian war. It appeared that the NATO officials willingness to talk about the Muslim buildup was an attempt to influence the debate on Capitol Hill.

NATO aside, all other factors point toward renewed military confrontation. The NATO officials noted that while the Muslims are busy building a formidable military machine, the Bosnian Serb army is imploding under the weight of the current power struggle, a lack of funds, poor morale, a severe shortage of spare parts and high desertion rates.

There have been several indications over the last few weeks that the Bosnian government's secret weapons acquisition program and clandestine training has been stepped up. For example, an Egyptian freighter sailing under a Ukrainian flag sits quarantined under NATO guard in the waters off the Croatian port of Ploce, its hold filled with 10 Soviet-built T-55 tanks, half were to be delivered as part of a secret arms shipment to the Bosnian Muslim army.

All weapons deliveries are supposed to be shared between Muslim and Croatian units in the united force established under the peace accord. The Muslim-Croat force exists largely on paper, however, and NATO officials said the T-55s were to be delivered only to the Muslims.

A spokesman from the State Department's Task Force on Military Stabilization in the Balkans reached in Washington described the impounded weapons as a "procedural" problem that "will be resolved shortly."

But senior NATO officials described the Americans at being angry about the shipment, and said that other shipments have managed to elude NATO monitors and have been delivered. There have been reports in recent weeks of heavy arms shipments arriving in the Croatian port of Rjeka which is not monitored by NATO soldiers as Ploce is, senior officials said.

These officials also said that an Iranian Revolutionary Guard general was posted to the Iranian Embassy in Zagreb, Croatia's capital, and that since his arrival in August he has apparently been working out deals with the Croats to smuggle more weapons to the Muslims. And NATO officials say they have received several intelligence reports of clandestine infantry training for Bosnian Muslim soldiers in Iran and Malaysia.

The clandestine effort to build up the Bosnian army is in violation of the Bosnian peace agreement which sets strict limits on the number of heavy weapons possessed by each side. The rearmament effort comes in parallel to a Washington-backed program, known as "equip and train," that provides instruction and NATO armor and artillery to the Bosnian Croats and Muslims. The $300-million program, which has included the delivery of advanced American tanks two generations ahead of anything in the Bosnian Serb arsenal; has in the eyes of many senior NATO officials including the British, already tipped the military balance in favor of the Muslims.

Senior Russian commanders, who are increasingly nervous about the Muslim buildup against their traditional Serbian allies, recently met with senior Bosnian Serb generals and handed them classified NATO satellite photos of military training camps set up for Bosnian Muslims in an effort to warn the Serbs of the impending debacle, according to Western diplomats.

"The Bosnian Serb generals were stunned," said a senior Western diplomat who was informed of the meeting. "The mood in the room was very black."

The Bosnian Muslims insist that they are only acquiring weapons and training under the strict limits set down by the Bosnian peace agreement and under the guidelines of the "equip and train" program.

"A needle can't get in here without NATO knowing about it," said Mirza Hajric, and adviser to President Alija Izerbegovic of Bosnia, "Anyone who believes this stuff can be smuggled in here is a fool. Apparently the Ministry of Defense did not properly inform the U.S. officials about this ship, but NATO was informed. It is just poor communications. I assume it was a mistake. As far as training goes there is no military training of Bosnians in Iran or other countries. All training is done under equip and train."

NATO strategists, who expect the Muslims to first try to seize the Serb-held lands in eastern Bosnia, say the region could fall "in a matter of days."

"We also expect most all of the Serbs there to be driven into Serbia," said a senior NATO commander, an event that could force Belgrade, even against its will, to intervene. This is a high-risk operation."

The officials also outlined a scenario in which the Bosnian Muslims and Croatia would resume the joint offensive in northwestern Bosnia that they pursued with such success in the final months of the war. The Muslims and Croats recaptured large chunks of territory in August and September 1995 and threatened Banja Luka, the largest town under Bosnian Serb control, before Washington imposed a cease fire. Muslim and Croatian commanders often speak bitterly of Washington's decision to intervene.

Croatia, which has a larger military budget at $1.4 billion than Poland, a much larger country, is as busy rearming as the Muslims, cutting arms deals worth tens of millions of dollars with companies in Turkey and Israel, these NATO officials said.

"The Croats are very interested in getting their hands on western Bosnia," said a NATO official. "The attitude is that they will get whatever they can get now by helping the Muslims drive out the Serbs. They think they can deal with the Muslims later."

Washington's "equip and train" program, despite all the mounting danger signs, plows ahead as if the peace agreement was on the verge of fulfillment. It is touted by Washington as an effort to build a joint 45,000-strong force of ethnic Croats and Muslims. The Bosnia Croats and Muslims are normally part of a federation, but their continued antagonism has so far made a mockery of American efforts to form joint units and commands.

Military Professional Resources, a Virginia-based private contractor that is carrying out the training, has 200 American trainers, all retired U.S. Army officers or noncommissioned officers, currently in Bosnia. Since Aug. 1, 1996, the contractor has trained close to 5,000 soldiers, most of them Muslims under the 70-30 ratio that is supposed to exist between Muslims and Croats in the putative federation army.

The trainers, accompanied by translators, conduct classes on the operation and maintenance of the donated equipment each day at the old Yugolsav tank base in Hadzici, 15 miles south of Sarajevo.

The warehouses on the base, once filled with old Soviet-style tanks, are now occupied with modern weapons, including 45 American M-60A3 tanks, 12 130mm field guns, 12 122mm howitzers, 36 105mm howitzers, 80 M-113A2 armored personnel carriers, 31 French troop transport vehicles, and 31 French armed scout vehicles donated by the United States, Egypt, and the United Arab Emirates.

A factory in Travnik, controlled by the Muslims, is producing about 50 more 122mm howitzers and the United States is scheduled to provide 116 of the biggest guns in its field artillery arsenal, 155mm howitzers.

The federation is permitted, under the quota imposed by the Dayton agreement, to have 273 battle tanks and 1,000 pieces of artillery.

The trainers said the hardware being provided to the federation outclassed anything the Bosnian Serbs could put in the field. The M-60A3 tank's gun has a longer range than that of the T-84, a Ukrainian variant of a Soviet design that is the Bosnian Serbs' best tank.

"This gun can put out four to five rounds a minute with a good crew," said John Reed, 40, from Killeen, Texas. "I would put it up against a T-84 or a T-72 in a minute. It is the best tank in Bosnia."

PERSONAL EXPLANATION

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mrs. KELLY. Mr. Speaker, yesterday, October 29, I was detained for health reasons and missed Rollcall Votes 535 through 544.

Had I been present, I would have voted: "no" on Rollcall No. 535, "yes" on Rollcall No. 536, "yes" on Rollcall No. 537, "yes" on Rollcall No. 538, "yes" on Rollcall No. 539, "yes" on Rollcall No. 540, "no" on Rollcall No. 541, "yes" on Rollcall No. 542, "yes" on Rollcall No. 543, and "yes" on Rollcall No. 544,

In addition, Mr. Speaker, on Rollcall No. 547 today, I was mistakenly recorded as voting "yes". I meant to be recorded as voting "no" on Rollcall No. 547, and I ask that this be reflected in the RECORD.

AMERICA'S OFFSHORE OIL AND GAS INDUSTRY

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. ORTIZ. Mr. Speaker, in 1947, on a simple platform more than 10 miles out in the Gulf of Mexico, a thriving industry was born. America's domestic offshore oil and gas industry is a significant and crucial component of the U.S. economy.

The industry came of age as our country was moving from a wartime to a peacetime economy. Companies, trying to meet the enormous public demand for oil and gas during this time, turned their sights from dry land to the frontier just beyond the water's edge and its ensuing problems. Offshore exploration posed new challenges, such as underwater exploration, weather forecasting, tidal and current prediction, drilling location determination, and offshore communications.

Despite the difficulties in such an undertaking, Kerr-McGee Corp. struck oil on a beautiful Sunday morning on October 4, 1947. This monumental event on Ship Shoal Block 32 in the Gulf of Mexico marked the birth of the offshore petroleum and natural gas industry as it is known today. Kerr-McGee was a small yet determined exploration and production company that predicted the eventual outcome of their daring feat and discovered commercial oil in the world's first well drilled in the open water.

Comparisons with yesterday always compel us. Fifty years ago, the cost of the first offshore project exceeded $450,000. Today, the costs can reach around $1.2 billion per project. The first year of production netted 99,371 barrels; today's new deepwater offshore facilities can produce over 100,000 barrels of oil per day. In 1947, the first effort to extract oil from the outer continental shelf occurred 10½ miles from shore in 18 feet of water; today the industry is developing oil and gas reserves over 168 miles from shore in thousands of feet of water.

Today, there are nearly 200 drilling rigs currently producing gas and oil energy for the United States. Since their exploration began, the industry has developed 3-dimensional seismic translation of geophysical data which uses high speed computers to provide scientists a clear picture of energy reserves beneath the seafloor. The industry has also pioneered the development and application of remotely operated vehicles and is at the forefront of the development and use of a satellite positioning system.

So who is driving the advance of domestic offshore industry? It is the men and women of Aker Gulf Marine of Ingleside, TX, who built Shell's record-setting Mars facility. It is the employees of Halter Marine shipyard in Sabine, TX, who specialize in construction, repair and modification of mobile offshore rigs. It is the workers in Chiles Offshore and the AMFELS yard in Brownsville, TX, who are building a jack-up rig capable of drilling in 360 feet of water.

The industry provides nearly 40,000 petroleum-related jobs located offshore and another 46,000 jobs indirectly related to Gulf of Mexico oil and gas operations. As we enter the 21st century, our Nation is facing the challenge of protecting our environment and wisely using our natural resources. I am confident that the offshore industry will continue to provide reliable and affordable energy supplies to meet America's evolving needs. I ask my colleagues to join me in recognizing the 50th anniversary of the offshore industry and the 25th anniversary of the National Ocean Industries Association.

TRIBUTE TO FRIEDA HARDIN

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mrs. TAUSCHER. Mr. Speaker, I rise today to honor a very special veteran in my district, Frieda Hardin. On October 18, Yeoman Hardin, a resident of Livermore's veterans center,

was one of six featured speakers and one of two female World War I veterans in attendance at the dedication of the new Women in Military Service for America Memorial in Washington, DC.

At 101 years of age, Frieda Hardin may be the nation's oldest living female veteran. She enlisted with the Navy in 1918 at the age of 22, just 2 days after she learned the Navy was accepting women. During the war, she was assigned to Portsmouth, VA, and the Norfolk Navy Yard where she was a Yeoman Third Class working as a clerk checking document receipts in the freight office. At that time there was not yet military housing for women so she lived in a boarding house in town. After the war ended, Yeoman Hardin completed her 2 years of service with the Navy in Bremerton, WA. She went on to raise four children and has since been involved with many veterans' events.

Frieda Hardin is truly a pioneer. At the time she joined the Navy, women were not yet allowed to vote. She did not let that deter her. She wanted, as she puts it, "to do something more, something bigger and better" for herself and her country. She encourages women in the military to "carry on!" and believes they are doing a wonderful job. She is proud to have been able to serve her country and has great admiration for those who do so today. Her speaking role at the dedication of the Women in Military Service for America Memorial is an honor well deserved. She is a role model for women veterans everywhere. I would like to thank Yeoman Hardin for her dignity, courage, and service to our country.

OCTOBER 29, 1997—EXPRESSING SORROW OF THE HOUSE AT THE DEATH OF HON. WALTER H. CAPPS, REPRESENTATIVE FROM THE STATE OF CALIFORNIA

SPEECH OF

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Mr. MARTINEZ. Mr. Speaker, I join my colleagues today to mourn the untimely passing of Congressman WALTER CAPPS.

WALTER possessed great moral integrity and deep rooted religious values which he combined with a devotion to his community and our country. WALTER CAPPS was a community leader, not a career politician. If there were conflicting political differences, WALTER would seek common ground.

On an ideological level, WALTER CAPPS and I were political allies, on a personal level we were good friends and I will sorely miss him. I own a trailer on a hunting ranch in WALTER's district and every time I made it up there, I would try to stop by and visit him. Everybody admired WALTER for his vitality and conviction to issues like quality schools, safe streets, affordable health care, and financial security for the elderly.

WALTER CAPPS brought a fresh perspective to Congress, a desire to improve the lives of his constituents, enrich his community, and restore the bond of trust between our Government and the people. WALTER always believed that our Government should be as good as the people it serves.

My condolences go out to WALTER's wife, Lois, who has lost a great husband, to Lisa, Todd, and Laura who have lost a great father and to the thousands of people who's lives WALTER has touched.

INDIAN POLICE FIRE AT CHRISTIAN RELIGIOUS FESTIVAL

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. TOWNS. Mr. Speaker, India may dress like a democracy for Halloween, but it is only a costume. That was proven again last week when a Christian religious festival in Ludhiana was shut down by police gunfire.

According to the Tribune of Chandigarh, 19 police and 9 Christians were injured in the incident. Two vehicles were also damaged, the newspaper reported. Those Christians were merely holding a five-day festival on the theme "Jesus Christ is the answer." Is there something wrong with this in a secular democracy? Apparently, the Indian authorities think so.

The festival was met with protests by the Bharatiya Janata Party, Shiv Sena, and the Bajrang Dal. These are militant Hindu political organizations that do not believe in religious tolerance. It was at their instigation that permission to hold the festival was withdrawn. However, when assurances were given that no "magical healing" would occur and no conversions would take place, the festival was allowed to go on.

That's right, Mr. Speaker, the festival was only allowed to take place in the secular democracy of India after the authorities were assured that no conversions would take place. In other words, if people became Christians as a result of what they saw and heard at the festival, then the festival would be closed. Secular democracy in action.

On October 22, activists from the militant Hindu organizations tried to set the festival's location on fire. The electric lights were damaged. These religious terrorists were not punished. No action was taken against them. Is this how India protects its secular tradition?

While this was going on, the Indian regime is attempting to arrest the Jathedar of the Akal Takht, the spiritual leader of the Sihk Nation. Here is another fine example of religious tolerance by the world's largest democracy.

Finally, the Christian festival was closed by the authorities. the attendees then began a dharna, or what we would call a sit-in. For this act of peaceful resistance, the tyrannical forces of Indian theocracy opened fire on them.

Mr. Speaker, such a country is unworthy of the label "democracy." We rightly protest human-rights violations in China, including the mistreatment of Christians, Buddhists, and others. Yet India is 100 times more oppressive than China. We must take strong measures to bring democracy to South Asia by cutting off U.S. aid to this theocratic satrapy, placing an embargo against it, and declaring our support for the self-determination of the Christians of Nagaland, the Sikhs of Punjab, Khalistan, the Muslims of Kashmir, and the other South Asian people and nations struggling for their freedom. We must also include India in any sanctions taken against countries that fail to observe religious freedom. Those measures will stand as our contribution to political, cultural, and religious freedom in South Asia.

I am introducing the story from the Tribune of Chandigarh into the RECORD.

[From the Chandigarh (India) Tribune, July 16, 1997]

DSP HURT IN BRICKBATTING

LUDHIANA, October 26.—The police opened fire in the air and resorted to a lathi charge to disperse an agitated mob of Christians last night as many as 19 policemen, including a DSP and nine Christians were injured in the brickbatting and lathi charge. Two vehicles were also damaged. The Christians had started a five-day programme on "Jesus Christ is the answer" festival from October 22, to October 26 on the Chandigarh Road. They claimed that they were holding their prayers and thousands of Christians were participating in the same. On the other hand BJP activists of the Shiv Sena and the Bajrang Dal objected to the holding of the festival alleging that the Christians were resorting to conversions and indulging in "magical healing." The administration on the first day withdrew permission to hold the festival but on the assurance that no magical healing would be done and no conversions would take place, it relented. However, groups opposed to the holding of the festival continued their protest dharna near the venue of the festival. The police had made elaborate security arrangements. According to a spokesperson for the Christians, the district administration yesterday forced them to wind up the festival as tension was brewing up in the town. He said that on October 22 an attempt was made to set the venue on fire and electric lights were damaged. But the administration did not take any action against the rioters. He said as the announcement for the cancellation of the festival was made the youngster started a dharna on the Chandigah Road. The police lathi charged them and chased them to the CMC Chowk were other Christians had collected in protest against the cancellation of the festival. The spokesman said a deputation of the Christians had also met the Chief Minister, Mr. Parkash Singh Badal, at a village in Muktsar district two days ago and apprised him of the situation. The SSP, Mr. Dinkar Gupta, said as many as 19 policemen were injured in the brickbatting. He said the police force was outnumbered at the CMC Chowk and had resort to a lathi charge and open fire in the air to protect themselves.

INDIA SHOWS RELIGIOUS "TOLERANCE" BY FIRING ON CHRISTIAN FESTIVAL AND BEHEADS A CATHOLIC PRIEST

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. BURTON of Indiana. Mr. Speaker, once again the mask of Indian "democracy" has slipped off and the grisly reality underneath has been exposed. Just weeks after the state

funeral of Mother Teresa earned India fawning media coverage, it has fired on innocent Christians who were merely holding a 5-day festival called "Jesus Christ is the Answer." According to official reports, 9 Christians and 19 police officers were injured.

This unconscionable act of religious tyranny took place after the militant Hindu parties complained of possible conversions of Hindus to Christianity during the festival in Ludhiana, Punjab. India used to have a law against religious conversions of Hindus. Although it claims that this law has been repealed, in practice it is still enforced.

Hindu militant rioters tried to sabotage the festival by setting fire to the soundstage and other equipment. According to newspaper articles, no action was taken against the persons responsible for these acts. Instead, the authorities closed down the festival based on the allegation that conversions were occurring. What kind of "secular democracy" allows its police to shoot at people merely because they may be persuading people to adopt their religious views.

That is not secularism, and Mr. Speaker that is not democracy. It is militant, fundamentalist theocracy of the same kind that operates in Iran.

And finally Mr. Speaker, I sadly report that a Catholic priest was found beheaded in the northern India state of Bihar. This was the third Catholic clergyman killed in the past 2 years in this religion. The colleagues of the Reverend A.T. Thomas said that he was killed for aiding the region's "untouchables." There were further reports that the police in the area were offering a $28 reward for the return of the priest's missing head.

Mr. Speaker, these gruesome facts make it imperative that this Congress continue to support the inclusion of India as a major violator of religious rights in the Wolf-Specter Freedom From Religious Persecution Act of 1997.

I would like to conclude by thanking Dr. Gurmit Singh Aulakh, president of the Council of Khalistan, for bringing these atrocities to my attention. I am introducing the Council of Khalistan's press release and the AP article on this matter into the RECORD.

INDIAN POLICE OPEN FIRE ON CHRISTIAN FESTIVAL JUST WEEKS AFTER MOTHER TERESA'S STATE FUNERAL

WASHINGTON, D.C., October 30—Several police and Christians were injured after police used firearms, tear gas and baton charges to disperse Christians who were holding a five-day festival entitled "Jesus Christ is the Answer" in Ludhiana, Punjab. Indian authorities dispersed the festival by force after allegations that organizers were engaging in conversions of Hindus to Christianity.

Indian authorities allowed the Christian festival only after assurances by organizers that no conversions would take place. However, in the course of the five-day festival, Hindu protests organized by political leaders turned more militant as rioters attempted to set fire to the soundstage and other equipment. It was reported that Indian authorities took no action against the Hindu rioters.

When allegations arose that the Christian festival was actually converting Hindus, Indian authorities closed down the festival. Christians conducted a sit-in protest on the Chandigarh Road. Police responded by using tear gas and batons to beat the protestors, police gunfire was also reported. Official figures place the injuries at 9 Christians and 19 police officers, however, Christian casualties may be much higher.

"This is secular democracy in action," said Dr. Gurmit Singh Aulakh, President of the Council of Khalistan. "Unless you are Mother Teresa, this is how most Christians in India are treated." Christians in Nagaland have faced religious and political persecution since Indian independence, over 200,000 Christian Nagas have been murdered since 1947. Punjab State Magistracy and human rights groups have stated that since 1984, over 250,000 Sikhs were killed by Indian security forces. 53,000 Kashmiris have been killed since 1988 and tens of thousands of Dalits, India's dark skinned aboriginals relegated to untouchable status, have also been killed.

"Although the Indian Government has publicly declared that their law against converting Hindus is no longer in force, these Christians were attacked by Indian police because of charges that they were converting Hindus and that should indicate how the Indian Government feels about Christians and about Hindus converting to Christian faith," concluded Dr. Aulakh.

[From the Tribune News Service, Oct. 27, 1997]

DSP HURT IN BRICKBATTING

LUDHIANA, October 26—The police opened fire in the air and resorted to a lathi charge to disperse an agitated mob of Christians last night as many as 19 policemen, including a DSP and nine Christians were injured in the brickbatting and lathi charge. Two vehicles were also damaged. The Christians had started a five-day programme on "Jesus Christ is the answer" festival from October 22 to October 26 on the Chandigarh Road. They claimed that they were holding their prayers and thousands of Christians were participating in the same. On the other hand BJP activists of the Shiv Sena and the Bajrang Dal objected to the holding of the festival alleging that the Christians were resorting to conversions and indulging in "magical healing." The administration on the first day withdrew permission to hold the festival but on the assurance that no magical healing would be done and no conversions would take place, it relented. However, groups opposed to the holding of the festival continued their protest dharna near the venue of the festival. The police had made elaborate security arrangements. According to a spokesperson for the Christians, the district administration yesterday forced them to wind up the festival as tension was brewing up in the town. He said that on October 22 an attempt was made to set the venue on fire and electric lights were damaged. But the administration did not take any action against the rioters. He said as the announcement for the cancellation of the festival was made the youngster started a dharna on the Chandigah Road. The police lathi-charged them and chased them to the CMC Chowk where other Christians had collected in protest against the cancellation of the festival. The spokesman said a deputation of the Christians had also met the Chief Minister, Mr. Parkash Singh Badal, at a village in Muktsar district two days ago and apprised him of the situation. The SSP, Mr. Dinkar Gupta, said as many as 19 policemen were injured in the brickbatting. He said the police force was outnumbered at the CMC Chowk and had resort to a lathi charge and open fire in the air to protect themselves.

[From the Washington Post, Oct. 29, 1997]

PRIEST BEHEADED IN INDIA FOR WORKS

NEW DELHI, INDIA (AP)—A Catholic priest was found beheaded in a forest in northern India, apparently killed for aiding the region's no-caste untouchables, colleagues said today.

A search part from the Australian-run mission that employed the Rev. A.T. Thomas found his decapitated body Monday near Sirka village, three days after Thomas was abducted from the village's meeting place.

He was the third Catholic clergyman killed in the past two years in Bihar, India's least-developed state, where caste-based gang wars have killed hundred of residents in recent years.

Thomas, an Indian working for Province of the Society of Jesus, had established 15 schools and health projects for Harijans, or untouchables, who occupy the lowest rung in the hierarchy of the Hindu caste system.

"He was working for uplifting the Harijans in remote areas. That may have been a threat to the upper castes," the Rev. George Pereira of the Catholic Bishops' Conference of India said in New Delhi.

Police were looking into Thomas' past mediation in land disputes, police Superintendent Bihuthy Pradhan said in Bihar.

The priest earlier had been involved in a successful court fight by the untouchables to cultivate land claimed by upper caste Hindus.

"It looks like an act of revenge," the Rev. Father Phil Crotty said in Melbourne.

Police were offering a $28 reward—a month's wages in that area—for the return of the priest's missing head.

CAMPAIGN FINANCE REFORM

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. KIND. Mr. Speaker, today hearings began in the Government Reform and Oversight Committee on campaign finance reform. In the Senate an agreement has been worked out to allow a vote on campaign finance reform before March 6 of next year. On the floor of the House 168 Members, Democrats and Republicans, have signed a discharge petition to bring a vote forward. It looks like campaign finance reform is gaining momentum here in Washington.

I for one am not yet satisfied. There are only a few weeks left before the House adjourns for the year. Next year will be an election year. It will be too late to deal with this issue when we come back next year.

The House leadership needs to commit itself to allowing a vote before we leave this year. Those Members who care about this issue should join me and sign the discharge petition. The recent action on campaign reform is not enough. We must be given a chance to vote on this issue on the floor of the House of Representatives and we must do that in the next few weeks. I refuse to take "no" for an answer.

TRIBUTE TO THE BLACK ARCHIVES, HISTORY AND RESEARCH FOUNDATION OF SOUTH FLORIDA, INC. ON ITS 20TH ANNIVERSARY

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mrs. MEEK of Florida. Mr. Speaker, I rise to pay tribute to the Black Archives, History and Research Foundation of South Florida, which is celebrating its 20th anniversary on Saturday, November 15, 1997.

This is Indeed a milestone in the history of this organization, given the countless struggles and challenges that ushered its humble beginnings. And as I join my community in recalling the role of Miami's Black Archives Foundation, I also would like to honor Dr. Dorothy Jenkins Fields who serves as the catalyst behind its emergence as a respected institution. Almost singlehandedly, Dr. Fields helped turn around a neglected part of Miami's cultural heritage into a living, breathing lesson about the black experience in south Florida for students, adults, and researchers alike.

In preparation for the celebration of our Nation's 200th birthday, she conceived and developed the concept that hastened the establishment of this cultural institution. Incorporated in November 17, 1977, as a private nonprofit organization, the Black Archives, History and Research of South Florida, Inc. is presently governed by a board of directors and supported by a board of trustees. Funded solely by its members, donations and grants, the foundation is dependent upon its volunteer help.

This institution serves as a manuscript/photographic respository of south Florida's African-American communities. The materials in this repository are collected for educational purposes for users, which include students, teachers, scholars, researchers, the media, and the public-at-large. The memories of the pioneers, family albums, photographs, documents, souvenir programs from churches and organizations are preserved in its burgeoning files. Additionally, it identifies historic sites for nomination to local, state and national designation. As a result of the collected documentation, the historic Overtown Folklife Village and Dade County's Black Heritage Trail came to fruition.

It also works in conjunction with the Dade County public schools by providing content for the infusion of African-American history into existing curriculum utilizing source materials for schoolchildren of all races throughout the school year. It also initiated the restoration of several historic sites including the Dr. William A. Chapman, Sr., residence. Located on the campus of Booker T. Washington High School, the house was restored for reuse as the Ethnic Heritage Children's Educational Center.

One of the more recent joint ventures it worked out with the Dade County public schools is the creation of a districtwide, multicultural and multiethnic research and educational facility for students, teachers, and the community. The objective is to provide opportunities for students at all grade levels to celebrate the rich variety of cultures in Dade County. This program enables students to record the past in relation to the present, as well as ponder the possible events of the coming century.

The documented materials that now form the wealth of the Black Archives Foundation collectively represent a stirring graphic journey into the inner sanctum of some of the most vivid life-experiences of African-Americans in Dade County. The soul-searching representation captivated by its historic documents personify not so much the black destination, as much as the episodic journey of our pioneers to that destination. Together they evoke the truism of a revered African Ashanti proverb that "* * * until the lions get their own historian, the story of the hunt will always glorify the hunter."

Mr. Speaker, I am truly proud of the pioneering efforts and resilient spirit of Dr. Dorothy Fields that nurtured the spirit of the Black Archives Foundation in South Florida. The significance of the role of the foundation is premised on the paradigm in that when you stifle the remembrance of your people's past, you will have silenced the promise of their future. Conversely, however, I am exultant that under the aegis of this revered institution our community has truly become redemptive and knowledgeable of the struggles and sacrifices of our African-American forebears.

As we honor them through the celebration of the 20th anniversary of the Black Archives Foundation, we will have become once again their partners in exploring the journey they have begun. In the convergence of our spirits and memories with theirs, we will be enriched because through our understanding of the many and varied messages they left us through their life journeys, we will be inextricably linked closer to them.

On this occasion I want to congratulate the board of directors and the board of trustees for their steadfast efforts and genuine resilience throughout the Black Archives Foundation's 20-year history. I would like to reiterate our community's utmost gratitude for giving us the privilege of maximizing our knowledge of the vast richness and nobility of our African-American heritage.

PERSONAL EXPLANATION

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. DEUTSCH. Mr. Speaker, I was unavoidably absent from the Chamber today during rollcall Vote Nos. 546 and 547. Had I been present, I would have voted "aye" on each of these votes.

MOTION TO INSTRUCT CONFEREES ON H.R. 2267, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

SPEECH OF

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Mr. SERRANO. Mr. Speaker, I rise in opposition to the motion to instruct conferees and in strong support of immigrants' rights. I believe family reunification should be one of the highest priorities of our immigration policy and that the process of naturalization of legal residents needs to be more efficient. Letting 245(i) sunset would be morally wrong and economically unwise. It would separate thousands of families and disrupt thousands of businesses. Furthermore letting 245(i) sunset is not fiscally sound. The receipts from the penalty fee help pay for important INS activities.

Mr. Speaker, 245(i) is not amnesty. It does not reward those who purposefully broke our laws. Instead, it is for people who are sponsored by close family members or by employers who cannot find eligible U.S. workers, and whose "priority date" is current under existing quotas. It does not change the order in which a person's claim is adjudicated. In short, section 245(i) allows business to keep valued employees and allows families to stay together.

It is just inhumane to force immigrants who have families in this country to leave the U.S. and to apply and wait for their visas in a foreign country. This instills fear and promotes division of immigrant families.

Mr. Speaker, this whole debate is not really about fighting illegal immigration. This is just another attempt by some members on the other side of the aisle to sharply restrict or even eliminate immigration to the United States. Republican members claim they uphold family values. But when it comes to poor families and immigrant families, Republicans have demonstrated time and again that they want to make it more difficult for immigrants who have been living, working, and paying taxes in this country to reunite with their loved ones.

A policy which divides thousands of families of U.S. citizens and legal residents seems preposterous at a time when family unification and family values are a strong concern of the American people.

Immigrants have contributed to the wealth and success of this nation. They are an asset to our nation. I have in the past supported measures aimed at removing barriers to legal immigration and I will continue to do so. I voted for the Family Unity and Employment Opportunity Act of 1990 (P.L. 101–649), the first comprehensive revision of U.S. immigration policy since 1965, which was signed into law by President Bush on November 29, 1990, and which made long-overdue improvements with regard to the admission into the United States of family members of legal residents and highly skilled professionals.

Similarly, last year I voted against H.R. 2202, the Immigration and Nationality Act of

1996, because many of the provisions of the immigration "reform" of 1996 are simply wrong and, furthermore, we have little to fear from people immigrating. Immigrants come to our country to escape the hardships of war and political persecution or to work to improve their lives and those of their families.

We, in turn, benefit from the cultural diversity their inclusion brings to our society and the boost their working, spending, and paying taxes bring to our economy. New York City has been revitalized by newcomers to America.

Mr. Speaker, I ask my colleagues to put politics aside and do justice for these hard working, tax paying, law-abiding people. Vote no on the motion to instruct.

IN SUPPORT OF OXI DAY

SPEECH OF

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Mrs. MALONEY of New York. Mr. Speaker, today I join people of Greek descent in Astoria, NY, the country, and the world in saluting the courageous acts of the Greeks against Mussolini and Hitler. October 28, 1997, marks the 57th anniversary of a very historic day in Greek history.

On October 28, 1940, the Italian Minister in Athens gave an ultimatum to the Prime Minister of Greece, demanding the unconditional surrender of Greece. His answer was "Oxi," which means "no" in Greek.

Military success for the Italians would have sealed off the Balkans from the south and helped Hitler's plan to invade Russia. In fact, the Italian army that was fully equipped, well supplied, and backed by superior air and naval power. They were expected to overrun Greece within a short time.

Fortunately, the Greek Army proved to be well trained and resourceful despite their lack of military equipment. In less than a week after the Italians first attacked, it was clear that their forces had suffered a serious setback in spite of having control of the air and fielding armored vehicles.

On November 14, the Greek Army launched a counteroffensive and quickly drove Italian forces far back into Albania. On December 6, the Greeks captured Porto Edda and continued their advance along the seacoast toward Valona. By February 1, 1941, the Italians had launched strong counterattacks, but the determination of the Greek Army coupled with the severity of the winter weather, nullified the Italians' efforts.

The Italians launched another offensive on March 12, 1941, but after 6 days of fighting, the Italians made only small gains and it became clear that German intervention was necessary if the Italians were going to win.

On March 26, Hitler shouted "I will make a clean sweep of the Balkans." It took him 5 weeks, until the end of April, to subdue Greece. It turned out to be an important 5 weeks, until the end of April, to subdue the Greeks. These 5 weeks delayed Hitler's invasion of Russia and contributed to the Germans failure in Russia.

The victory of the Greek Army against the Italians astonished the world. The heroic stance by the Greeks against insurmountable odds, was the first glimmer of hope for the Allies, and today we can take great pride in those who risked their lives to defend their country.

THANKS TO THE BOYS AND GIRLS CLUB FOR THEIR YEARS OF SERVICE TO HOUSTON

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. GREEN. Mr. Speaker, we celebrate the opening of the Greater Houston Boys and Girls Club on October 14, 1997. When I was younger, I was a member of the Boys and Girls Club. This group gave me the opportunity to find myself and to grow into an adult.

The Houston Boys and Girls Club has been in service since 1952. With this new Shell Branch, we will have a total of five facilities in the Greater Houston area. There is an incredible variety of activities at these centers from basketball to baseball to soccer to arts and crafts. There is something for everyone.

I would personally like to applaud the efforts of the staff and volunteers at the Boys and Girls Club throughout Houston. They bring a strong commitment and dedication that we should all try to emulate.

The Boys and Girls Club strive to instill in our youth a sense of competence, usefulness, belonging and of power and influence.

Their mission takes our community's at-risk-youths off the street and provides them with a safe and positive environment that will lead them toward achieving a brighter future.

The Boys and Girls Clubs build character. It helps our children to realize what is right and what is wrong. It helps them to make better informed decisions. It also helps to build relationships with other people.

Programs such as Smart Moves and Smart Kids—which is an early prevention program has won national acclaim—keeps our young people off the street and away from drug, alcohol and tobacco. Additional Boys and Girls Club Programs provide young people with skills to develop into adults today. While one program—the Power Hour—is an extensive tutoring and education development program, another program—the Keystone Club—is dedicated to providing community and leadership skills to the young. These are just three of many programs offered by the Boys and Girls Club.

With the opening of this fifth facility, we can see the dedication of the staff, volunteers and the community. The Boys and Girls Club is dedicated to developing the youth of this city and making them the best that they can be.

I would ask that we return that same commitment to the Boys and Girls Clubs, and we make the extra effort to help them with whatever they need.

MOURNING THE PASSING OF RESPECTED COLLEAGUE, FORMER MEMBER JOEL PRITCHARD

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 1997

Mr. GILMAN. Mr. Speaker, today in the House there was a Memorial Service for our former Member, Joel Pritchard, who passed away October 9, 1997. Congressman Pritchard was an outstanding legislator and, more importantly, a wonderful human being. He will be sorely missed by those of us who knew and worked with him.

Joel's legacy will be that of the dedicated work he did on the behalf of his constituents in the first district of the State of Washington. In his six terms on Capitol Hill, Congressman Pritchard was one of America's most valuable spokesman for the environment. His district, which included the region around Puget Sound, is regarded as an environmental gem, even with the rising nearby metropolis of Seattle and its suburbs. Congressman Pritchard's advocacy for our Nation's natural treasures helped instill further an awareness among his fellow Congressmen on this important issue.

I knew Joel Pritchard from the time we spent together on the House Foreign Affairs Committee, where we both served on our Subcommittee for International Operations. His caution and keen eye were a valuable asset in evaluating the policies of the United States in a global setting.

The spirit of Congressman Joel Pritchard will live on in this body, joining the memory of respected leaders of past generations. Mr. Speaker, I invite my colleagues to join with me in extending our condolences to Joel Pritchard's family as we salute this great American who selflessly devoted himself to his country and his community.

MOTION TO INSTRUCT CONFEREES ON H.R. 2267, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

SPEECH OF

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to express my profound disapproval at the proposed agreement reached by Representatives LAMAR SMITH and LINCOLN DIAZ-BALART. This agreement unfairly distinguishes between Central Americans who entered the United States before December 1995 and Guantanamo Haitians who entered the United States during 1991 and 1992.

My disagreement with this proposed legislation is based on the exclusion of the Guantanamo Haitians from the proposed amnesty. It is shocking to find that this proposed law grants relief to Central Americans, without regard to the plight of those 11,000 or more Haitians who were admitted to the United States. After being processed in Guantanamo in 1991.

One of the arguments used to favor the Central Americans is that they are in the United States for political reasons. I believe this is the same argument for the Guantanamo Haitians who fled their country by boat to escape a violent military dictatorship, headed by General Cedras and Michel Francois. Many of them were reportedly killed by this military junta. Those who escaped were intercepted at sea, and were brought to Guantanamo for screening. They were determined to have credible claims for political asylum and were permitted to enter the United States just like the Central Americans.

Besides the Guantanamo Haitians, many other Haitians escaped to the United States in search of peace and freedom. However, they were sent back to Haiti because they were considered economic refugees. Today, even the Haitians who were determined to be political refugees will be deported unless they are given the same consideration proposed for the Central Americans.

Mr. Speaker, the fact is, there is no legitimate reason to discriminate between the Haitians seeking asylum, and the Central Americans who seek asylum. While I commend the Clinton administration's leadership in proposing legislation which provides that the pending asylum applications of Nicaraguans, Guatemalans, and Salvadorans be considered under the standards of the old immigration law, their proposal falls far short of what must be done.

Extending to Haitian refugees the same benefits that we extend to Central American refugees is the only just and moral thing to do. This legislation is flawed and has a double standard penalizing Haitians while favoring Latinos.

As is etched in marble on the U.S. Supreme Court: "Equal justice under the law". This proposed agreement fails this test. I demand equity for all refugees and will settle for nothing less.