SENATE—*Tuesday, March 18, 1997*

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Lord, forgive us when we envy the gifts, talents, and success of others rather than praise You for all You have given to each of us. Sometimes we covet the opportunities and skills of others when they seem to exceed our own. We admit we miss becoming the distinctively different persons You have in mind. A limiting formula results: Our comparisons multiplied by combative competition, equals the stress of envy. You do not play favorites, or pit Your people against one another. You are for us and not against us.

You have promised that if we humble ourselves in Your sight, You will lift us up. We know You will multiply our potential beyond our wildest expectations. So we press on with a liberating formula: An honest recognition of the assets You have given each of us, multiplied by Your indwelling power, will equal greater excellence without stress today. Thank You dear Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

Mr. NICKLES. Mr. President, thank you.

I thank the Chaplain, again, for an outstanding opening prayer.

SCHEDULE

Mr. NICKLES. Mr. President, today, following morning business, at 11:30, the Senate will resume consideration of Senate Joint Resolution 18, the Hollings resolution regarding the constitutional amendment on campaign funding. That debate will continue until 12:30 today, at which time the Senate will recess until the hour of 2:15 for the weekly policy conferences to meet.

When the Senate reconvenes at 2:15, there will be an additional 30 minutes for closing remarks, followed by a rollcall vote on passage of Senate Joint Resolution 18. Therefore, Senators can anticipate the rollcall vote at approximately 2:45 today.

Following that vote, the Senate will resume consideration of Senate Joint Resolution 22, the independent counsel resolution. We will be continuing discussions with the Democratic leader in the hope of reaching a consent agreement to allow us to complete action on this resolution. Also this week, it is possible that the Senate will consider a resolution regarding Mexico and their certification in the antidrug effort. In addition, the Senate may begin consideration of the nuclear waste legislation prior to our adjournment for the Easter recess.

Again, I remind my colleagues that since this is the last week of session prior to the adjournment, I hope all Senators will continue to cooperate and adjust schedules accordingly as we attempt to schedule legislation and votes. I thank my colleagues.

MEASURE PLACED ON THE CALENDAR—HOUSE JOINT RESOLUTION 58

Mr. NICKLES. Mr. President, I understand there is a resolution at the desk and it is due for its second reading.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator is correct.

The clerk will read the joint resolution for the second time.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 58) disapproving certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997.

Mr. NICKLES. Mr. President, I object to further proceeding in this matter at this time.

The PRESIDING OFFICER. The joint resolution will be placed on the calendar.

Mr. NICKLES. Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business until 11:30, with Senators permitted to speak therein for up to 5 minutes each.

Under the previous order, the Senator from Colorado is recognized to speak for up to 15 minutes.

(The remarks of Mr. CAMPBELL pertaining to the introduction of S. 457 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Chair observes, in my capacity as a Senator from Kansas, the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CAMPAIGN FINANCE REFORM

Mr. DASCHLE. Mr. President, I have not had the opportunity to come to the floor to talk about the pending matter. I want to devote a little time this morning to the constitutional amendment offered by the distinguished Senator from South Carolina, Senator HOLLINGS. I am a cosponsor of that legislation, and I proudly come to the floor in my advocacy of the passage of his amendment.

I give him great credit. He has come to the floor for years addressing, in myriad ways, the issue of campaign finance, the problems that we have associated with campaign finance, the difficulties, constitutionally and statutorily, in addressing all of the problems that he has so eloquently outlined now for a long period of time. Year after year, in Congress after Congress, fight after fight, Senator HOLLINGS has been extraordinary in his effort to address this issue in a consequential and comprehensive way.

I want to talk a little bit about the circumstances that I see facing all of us politically right now and my reasons for supporting the constitutional amendment. There are at least four primary reasons why I believe that the constitutional amendment needs to be addressed. I am of the view that statutorily we are incapable of adequately addressing every one of the nuances, every one of the problems that have arisen as a result of our efforts to address meaningful campaign finance reform in the past. I do not have with me the record that we have compiled, but we have spent hours and days and weeks in testimony and in hearings over the course of many Congresses grappling with this issue.

As I recall, there have been 49 hearings on campaign finance reform. There have been thousands and thousands of pages of reports. There have been over a score of filibusters on the floor keeping this issue from a vote. So the record in the Congress over the last 10 years has really been abysmal. The problems continue to mount and the circumstances continue to worsen and

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the situation involving Members is compounded.

In 1976, the total cost of all Federal elections was $310 million. That is total. That is what every House Member, every House candidate, every Senator, every Senate candidate, and every Presidential candidate spent—$310 million. In 1996, that amount had exploded—and I use that word intentionally—exploded to $2.7 billion. That is $2,100 a day for a Senate candidate. Every day, whether we generate the money all at once or whether we generate it day by day, we need to raise $2,100 a day.

Just yesterday I was over at my political office. I have a political office. I have a South Dakota office. I have a leadership office. I have three service offices. But now, without a doubt, one of the most important parts of any Senate infrastructure is the political office.

I was over in my political office yesterday dialing for dollars. I do not know how much I raised, but I made up yesterday for the fact that I had not raised $2,100 every day in the previous weeks.

Now the average cost of a Senate campaign is $4.5 million per Senator. I am in cycle now. I will be running in 1998. My budget, Mr. President, is $5 million. I have already indicated that. That is no secret. I will be raising and spending $5 million to be reelected.

I have heard colleagues on the Senate floor say, "Well, you know, the nation spends less than $2.7 billion on dog and cat food, so why should we be worried? We spend a lot more on dog and cat food than we spend in political races."

I do not think that is a proper comparison unless we have only 535 dogs and cats in this country. If you had 535 dogs and cats, that comparison would work. I tell you, if we were spending $2.7 billion on 535 designated dogs and cats, my sense is we would be outraged. There would be all kinds of complaints that dog and cat food is way too high. "I can't afford to keep a cat or a dog."

How is it we can afford a political process so denigrated today by practices that we all abhor that we are willing to spend $4.5 million per Senator? So, Mr. President, the cost is something that I think is very clearly an issue that we have to address, because it is only going to get worse.

We used the increases in campaign costs since 1976 to estimate what the cost of an election will be in the year 2025. Most of us, hopefully, will still be around. I will not be here, but I will be, hopefully, living. Our sons and daughters will be here seeking public office.

Our estimate is that a Senate race will cost $145 million in the year 2025. Now that is not any magical distortion of the amount. That is simply taking the inflation rate that we have experienced and costing it out to the year 2025—$145 million. We will be raising over $200,000 a day to meet that kind of cost in the year 2025.

So do we have a problem? I could rest my case on that alone. But there are other problems that I want to talk about this morning.

I have a friend I have known for 20 years, who ran for Congress. He is idealistic, has a wonderful family; and is extraordinarily helpful. My friend decided he wanted to run for Congress. He was at that point in life when he thought he could offer something. He cared deeply about the issues, and is very, very patriotic, an extraordinary young man in all respects.

But in order to meet his budget, my friend found himself holed up in a small cubicle with a desk and a phone calling for money about two-thirds to three-fourths of every day. Was he out there greeting the people sharing his ideas? No. Was he out there shaking hands, learning from the people? No. A campaign, anybody who has been through one will recognize, is really an educational experience.

Of course you impart your thoughts. But what I love about campaigns is how much you learn in return—the conversations with people in their homes, the opportunity to answer questions and hear concerns at Rotaries and chambers of commerce, the opportunity to shake hands at a plant gate and get comments about what families are thinking about. That education is lost when any candidate spends two-thirds to three-fourths of his time doing nothing but dialing for dollars.

WENDELL FORD, our distinguished colleague who sits right at this desk, said fundraising was a major factor in his determination not to run for reelection. We are going to lose an able public servant. When he was first elected to the Senate in 1974, his campaign cost $450,000. But he estimated he would have to raise $4.5 million for the race in 1998. He said, "I don't want to raise $4.5 million in Kentucky. I don't want to have to go through that. I don't think it is right. I don't want to have to sit in some cubicle called a 'political office' and dial for dollars day after day. I don't want to do that." So he is hanging it up.

How many more WENDELL FORDS, how many more talented public servants will hang it up or will not even start? So, Mr. President, this is a very serious problem from the point of view of candidates themselves—Republican or Democrat.

I recruit candidates, and one of the hardest things for me is to convince possible candidates to run knowing they have to raise $4.5 to $5.5 million. You go tell some businessman to give up his business, give up his family, give up his dignity, go tell them that "you ought to do that so you can take a seat here in the U.S. Senate." Tell them that. Convince them it is in the public interest. Here in the Senate, we have a wonderful opportunity to serve, but to get here you pay a heavy price, too heavy in the minds of more and more people. Too many good people are saying no to public life, no to public service because they do not want to do it. Frankly, I do not blame them.

In the third category are the implications of the money in the system. The implications of all of this money troubles me. Every day the front page has yet another story about White House difficulties. Obviously, it is now the subject of an investigation in the Governmental Affairs Committee and the Justice Department.

We are looking at all of that. We on the Democratic side have felt that many of the abuses the Republicans may be guilty of have not received adequate attention.

The media seem honed in on everything that happened in the White House. As a colleague has reminded me on several occasions, "Why hunt rabbits when you can hunt bear?" Well, there are some elephants that ought to be hunted, I think, given the circumstances.

There were reports in the Washington Post on January 23, 1997; the Wall Street Journal on January 9; Business Week on December 30, 1996; Roll Call on January 20, 1997; Inside Congress on December 20, 1996, that Republican leaders—including Republican National Committee Chairman Haley Barbour, NEWT GINGRICH, DICK ARMEY, TOM DELAY, and JOHN BOEHNER—summoned business leaders to a dinner to chastise them for donating money to Democrats and suggest that if they continue to do so, they would no longer have access to Republican leaders.

This is a quote—"'Companies that want to have it both ways,' said one top GOP strategist, 'no longer will be involved in Republican decisionmaking or invited to our cocktail parties.' They also demanded that the company fire all of its Democratic lobbyists and replace them with Republicans. A GOP leadership insider said, 'If companies send lobbyists to Republican offices, they will have GOP credentials or they won't be allowed in the room.' NRCC Chairman John Linder said, 'We're going to track where the money goes.'"

Mr. President, what does that mean? What are the implications of "money"? What do they mean when they say business leaders who contribute to Democrats will no longer be involved in Republican decisionmaking?

Here's another passage from Roll Call, October 30, 1995.

> Upon winning control of the 104th Congress, Congressman John Boehner, chair of the House Republican Conference, organized a leadership/lobbyist operation to help pass the Republicans' budget plan. Business lobbyists contributed at least $2,000 toward an advertising campaign to support the Republican budget. "In exchange, they got a seat in the inner circle that met every Monday in one of the Capitol's . . . meeting rooms."

So $2,000 for a seat in the inner circle meeting every Monday in the Capitol's meeting rooms.

Here's another example from Time magazine, March 27, 1995. Mr. Boehner also organized the Thursday group of "lobbyists representing some of the richest special interests in the country." The Republican leadership let these lobbyists use congressional office space and official resources to conduct their bill drafting and lobbying activities. The Thursday group served as command central for a million dollar campaign to enact items in the Contract With America. On tort reform, the group's efforts included "daily meetings of dozens of lobbyists on the seventh floor of the Longworth House Office Building, a budget of several million dollars raised under the guidance of a General Motors executive, and a vote-counting operation that was led by former top lobbyists for Ronald Reagan and George Bush."

Here is yet another example, this time from the Washington Post and Legal Times, dated October 29, 1996, and September 16, 1996, respectively: "Gingrich ally and foreign agent Grover Norquist's Americans for Tax Reform received a $4.6 million contribution from the RNC in October," 1 month before the election, "in October 1996 * * * the RNC contributed $4.6 million to the tax-exempt Americans for Tax Reform, which is headed by Gingrich ally Grover Norquist. Because it is not structured as a political committee, ATR is not required to disclose how it spends the money, as the RNC is. This $4.6 million in 'soft money' could be used by ATR directly on behalf of federal candidates—which would be scored as 'hard money' if spent by the RNC. Grover Norquist is a close ally of Gingrich and is also registered as a foreign agent for the Republic of Seychelles, and Jonas Savimbi, rebel leader of the National Union for the Total Independence of Angola."

Mr. President I could go on and on.

Perhaps I will end with this one just received yesterday: 1997 RNC Annual Gala, May 13, 1997. Cochairman—for a $250,000 fundraising requirement, you get "Breakfast and a Photo Opportunity with Senate Majority Leader Trent Lott and Speaker of the House Newt Gingrich on May 13, 1997." You get a luncheon with "Republican Senate and House leadership and the Republican Senate and House Committee Chairmen of your choice."

I am still reading from the document. You get a luncheon with the chairmen of your choice if you are willing to donate $250,000. If you only donate $100,000, you still get a luncheon with the chairmen of your choice, and you still get a breakfast and photo opportunity with "Senate Majority Leader Trent Lott and Speaker of the House Newt Gingrich." You do not get dais seating. For $45,000, amazingly, you are still entitled to lunch with the chairmen of your choice.

Mr. President, we do not need that. We do not need that in this institution or in our political system. This has to end. This will not go on without ultimately and directly affecting the quality and the historic standing of this institution.

Now let me address the last issue, and that is the constitutional issue. Mr. President, I have to say it is the hardest one. It is the hardest because there are a lot of people whose judgment I respect who are not willing to go as far as I am. But it is hard for me to understand what the Supreme Court said in Buckley versus Valeo. On the one hand, they said it is all right to limit how much you give; on the other hand, it is not all right to limit how much you spend. Why? If we are worried about free speech, why is it appropriate to limit giving but not limit spending? What is the constitutional premise that allows us to say we can limit how much you give, but we cannot limit how much you spend? It seems to me that once they decided to limit how much you give, they set themselves up, as well, for limiting how much you spend.

New York University law professor Ronald Dworkin and 40 other scholars wrote in a joint statement, "We believe that the Buckley decision is wrong and should be overturned. The decision did not declare a valuable principle that we should hesitate to challenge. On the contrary, it misunderstood not only what free speech really is but what it really means for free people to govern themselves."

The decision in Buckley and Colorado are a threat to the principle of one person, one vote. There are Senators who disagree, and there are many, many ways with which to express that disagreement. But I will say this: No one is guaranteed free money. Mr. President, free speech is not the same as free money. It is no more right for us to stand up in indignation with all of these problems and to say there is no problem, or that if there is a problem, we cannot address it because of the free speech argument on this issue.

Mr. President, we have limited speech in other ways. We have limited even the right of advertising in ways that have been demonstrated to be constitutional. When was the last time you saw a cigarette ad on television? When was the last time you saw ads for drugs on television? Obviously, there are restrictions on free speech. We all know that you cannot falsely yell "fire" in a crowded theater. Mr. President, I do not buy the argument that we cannot carefully restrict speech, because we restrict speech all the time.

I am out of time, and I know the distinguished Senator from West Virginia is about to speak as is required by the order. We will return to this issue again.

Let me close by saying we also know that this legislation, this amendment, is not going to pass. But we also know that there will be another day. There will be another day to offer bipartisan campaign reform legislation from a statutory perspective. I intend to be as aggressively supportive of that as I can be.

Let me say that this issue will not go away, not when our sons and daughters will be spending $145 million in the year 2025 just to walk in this door and vote.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the hour of 11 a.m. has arrived. The Senator from West Virginia is recognized to speak up to 30 minutes.

Mr. BYRD. Mr. President, I thank the Chair. I commend our leader who has just spoken. I agree with him, as I shall elaborate at this point.

THE HOLLINGS CAMPAIGN EXPENDITURE CONSTITUTIONAL AMENDMENT

Mr. BYRD. Ralph Waldo Emerson, in an oration delivered on August 31, 1867, said:

> This time, like all times, is a very good one, if we but know what to with it.

"This time, like all times, is a very good one, if we but know what to do with it."

As the Senate considers the proposed constitutional amendment offered by our distinguished colleague from South Carolina, Senator HOLLINGS, it is my fervent hope that each of us takes heed of Emerson's portentous words.

We have an opportunity to take an important step in the direction of restoring the people's faith in our ability to rise above partisanship and really do something about our present system of financing Federal campaigns. It is rotten. It is putrid. It stinks. The danger, as always, is that we will "circle the wagons," and avoid taking legal action aimed at meaningful reform.

Mr. President, as each day dawns, the public is confronted with new and increasingly garish allegations concerning the campaign financing practices that have become a way of life in our Nation.

Mr. President, we may be able to fool ourselves, but the time has come for all of us to stop trying to fool the American people. They are more than aware that both political parties—both political parties, not just one—abuse the current system and that both political parties fear to change because they don't want to lose their own perceived advantages. One party perceives certain advantages, and the other party perceives different advantages to its cause. But the insidious system of campaign fundraising and the increasing awareness by the people of our unwillingness to change it, will eventually

lead to the destruction of our very system of Government. For our own sakes and for the sake of our people we must find ways to stop this political minuet, and come to grips with the fact that we can't have it both ways. We can't continue to launch broadsides at each other and refuse to admit that we all bear the blame—all of us, in both parties. We have it in our power to change things and the excuses we creatively craft to duck that responsibility are utterly hollow and quite transparent.

The incessant money chase that currently permeates every crevice of our political system is like an unending circular marathon. And it is a race that sends a clear message to the people that it is money—money—money, not ideas, not principles, but money that reigns supreme in American politics. No longer are candidates judged fit for office first and foremost by their positions on the issues. No longer are they judged by their experience and their capabilities. Instead, potential candidates are judged by their ability to raise the millions, and tens of millions of dollars, and even hundreds of millions of dollars that it takes to run an effective campaign.

The average cost of a U.S. Senate race is $4.5 million. When I first ran for the U.S. Senate in 1958, I ran with Jennings Randolph, as the two candidates for the Senate. We were two candidates for two different Senate seats from West Virginia. Jennings Randolph ran for the 2-year term, the unexpired term of the late Matthew Mansfield Neely. I ran for the 6-year term. Each of us won the nomination, and then after the primary we joined together and we marshaled our monetary forces, which amounted to something like $50,000—$50,000 for two Senators. And that was more than had earlier been necessary in campaigns in West Virginia. We didn't have much television in those days. We didn't have political consultants. And so we ran on a war chest of $50,000. But the average cost of a U.S. Senate race today is $4.5 million. It can cost $10 million or $20 million or more to run for the Senate in some parts of the country today.

Now, how in the future can a poor boy from back in the sticks of West Virginia, or any other State, hope to become a United States Senator? How can a former welder in a shipyard, a former meatcutter in a coal mining community, a former produce salesman, a former groceryman—how can one hope to ascend the ladder to the high office of United States Senator? It will be beyond the means of such persons.

The American people believe that the way to gain access and influence on Capitol Hill is through money. And the American people are exactly right. The way to gain access on Capitol Hill, the way to get the attention of Members of this body is through money. The Bible says, "The love of money is the root of all evil." This campaign system that we now have bears that out.

Anyone who reads the daily newspaper would have no trouble coming to the conclusion that the best way to gain access to the White House is to be a so-called "fat cat contributor." Now, who can fault such logic? It is as plain as the nose on your face. We have to stop this madness. We must put an end to the seemingly limitless escalation of campaign costs and their pervasive influence of the special interests and the wealthy. We must act to put the United States Senate, the House of Representatives, and the Presidency of the United States back within the reach of anyone with the brains, the spirit, the guts, and the desire to want to serve. And the proposed constitutional amendment before us today is a necessary step on the way to accomplishing that goal.

Now, I am aware that opponents of this measure—and they have a right to their opinion—would say that it would be wrong to amend the Constitution in this fashion. They will say that, although I may be right about the need for change in our current fundraising system, I am just wrong about this proposed amendment. I am very reluctant to amend the Constitution, but I am not above amending it. The Constitution contains a provision, as we all know, that was included by the framers of that document that points the way and is the guide, the roadmap to amending the Constitution. It is well known that I believe that we tinker with the careful checks and balances of that document at our peril. But a Supreme Court decision in Buckley versus Valeo, a decision which I believe to be flawed, has all but doomed the prospects for comprehensive legislative reform of this campaign finance system otherwise. By equating campaign expenditures with free speech, Buckley versus Valeo has made it impossible for us to control the ever-spiraling money chase and to put anything but voluntary spending limits on Federal campaigns. This basic inflexibility makes any legislation intended to control the cancerous effects of too much money in politics complicated and convoluted. The contortions such legislation has to resort to, simply because we cannot mandate spending limits, create new opportunities for abuse as fast as we attempt to close down the old ones.

How do we pass any statute—any statute of consequence, that is—when the Supreme Court has told us that spending equals speech? Spending equals speech. Well, if that is the case, I don't have the equality of free speech that many Members in this body profess.

How do we place any kind of reasonable limit on fundraising and spending when the law of the land says that to do so violates the first amendment of the Constitution? How do we end $40 million Senate campaigns and $400 million Presidential campaigns when the Supreme Court tells us that those amounts are constitutionally protected? How do we really reform the system within the bounds of that judicial interpretation? The plain truth is that it cannot be done effectively unless we do amend the Constitution.

We can tinker around the edges, of course. But we cannot enact comprehensive legislation that will get at the heart of the problem. We cannot, consistent with the Court's ruling in Buckley versus Valeo, put an end to the hundreds of millions of dollars that are raised in "soft money" contributions, or the hundreds of millions of dollars that are spent through so-called "independent expenditures." I wish we could. But the fact is that we cannot get the kind of legislation we really need unless we first pass an amendment to the Constitution which nullifies Buckley versus Valeo.

We have heard the first amendment invoked in Buckley. We have heard the argument that we must not infringe upon freedom of speech. I believe that a continued failure to control campaign costs is actually what is injurious to free speech for all in political campaigns. Money has become the great "unequalizer"—the great "unequalizer"—in political campaigns. Money talks. Money talks, and a lot of money talks louder than a little money. Would anyone claim that the average citizen or the small contributor has the same access to, the same influence with, politicians as the major contributor or the big PAC representative? Well, take it from me, he doesn't. Whose opinions are heard? Whose free speech is heard? Whose "speech" gets through to the people who count in Washington?

In the case of elections, who is more likely to win but the candidate who can buy more TV time, the candidate who can afford more publicity, a bigger staff? So much for free speech. When it comes to our political system, speech is very, very, very expensive indeed.

In a very real sense, Buckley versus Valeo disenfranchised those of moderate and less than moderate means from having their views heard and weighted equally with those who can afford to contribute huge sums.

Who would stand here on the floor and tell me that the money that a poor coal miner is able to contribute will entitle that coal miner to the same freedom of speech and the same influence with his representatives in Washington as the wealthy can enjoy?

In a very real sense, Buckley versus Valeo, as I say, disenfranchised those of moderate means, the individual who works with his hands, who earns his bread by the sweat of his brow. He can't speak loudly enough to be heard in the corridors of his representatives in Washington.

The influence of money has completely contorted the intent of the first amendment when it comes to our political system. And Buckley versus Valeo has written that contortion into our organic law.

Additionally, Buckley versus Valeo further disenfranchised those who might endeavor to run for political office because it makes it practically impossible for most individuals to afford to run for office themselves unless they are either independently wealthy or a well-financed incumbent. What is that but an effective denial of the basic right of any capable, motivated citizen to stand for Federal office? And what is that but the setting up of classes of citizens, some of whom have more basic rights, some of whom have more freedom of speech because they have more money than others? It is nonsensical.

I believe that the Court in recent years, beginning with Buckley versus Valeo, has been far too dogmatic when it comes to the first amendment. First amendment rights are not absolute. Ever since Mr. Justice Holmes wrote that the right of freedom of speech does not include the right to falsely shout "fire"—it is all right to shout "fire" in a crowded theater if there is a fire. So there is a distinction. The right of freedom of speech does not include the right to falsely shout "fire" in a crowded theater. Ever since Mr. Justice Holmes wrote that, we have realized that there must and can be certain limitations on free speech. Certainly when there is a compelling Government interest in the prevention of corruption or the appearance of corruption, the Court has generally understood that limitations can be imposed. There could be few instances in which a compelling governmental interest in preventing corruption is more obvious than the example of the bedrock of our representative democracy—fair elections.

As the Court said in Gibney versus Empire Storage and Ice Co., ". . . It has never been deemed an abridgement of freedom of speech or press to make a course of conduct illegal merely because the conduct was in part initiated, evidenced or carried out by means of language, spoken, written or printed."

So, Mr. President, when it comes to modern political campaigns, it is only when there are no mandated expenditure limits that an inequality in free speech arises. The only real way to correct that inequity is to mandate limits on campaign expenditures. If the rules of the game are equal for all and fair to all, then no one is at a disadvantage simply because of purchasing power.

Mr. HOLLINGS' amendment would begin to correct the mechanistic, sterile jurisprudence that has reared its head in recent Court decisions regarding the first amendment and set us on a more correct course. The various ingenious forms of modern campaigning with their outlandish expenditures were never contemplated by James Madison and the other framers of the Constitution—never contemplated.

Only a blatant disregard for the obscene disadvantage which money can convey when not controlled in a political campaign could cause one to turn a blind eye to the need to respond to violence done to our Republic by a continued failure to put some limitations on campaign expenditures.

Mr. President, the time has come to stop. We have tried the legislative course. When I was majority leader during the 100th Congress, I tried eight times—eight times—to break a filibuster against campaign spending reform.

Robert Bruce, the great leader of the Scots, tried seven times, and it was after the seventh time—as he had lain in the loft of a barn and seen the spider attempt to spin his web from rafter to rafter, it was on the seventh time that the spider was successful in reaching the rafter—we are told that gave Robert Bruce the spirit and the inspiration and the faith he could try the seventh time and win. Well, I tried eight times. I was not successful in breaking the filibuster. I tried more times to invoke cloture than any leader has ever tried. It would not work. It is not going to work the next time.

The time has come to stop. It is time to set aside the partisan bickering, the constant sniping, the ceaseless one-upmanship, and the incessant covering, and do something that will give us the powers necessary to get at the root of the problem. Hiding behind the first amendment will not work. If we continue to try to hide behind the first amendment, we are going to destroy the trust of the people in our Government, in our system of Government. That is a system that is based on the people's trust.

It is not valid to hide behind the first amendment. This is about allowing more freedom of speech than less. It is about returning Government to the man in the street, to the woman who rocks the cradle and makes a home. Give them freedom of speech. It is about returning Government to that man and that woman and getting it out of the corporate boardrooms and the country clubs.

Fear is a very terrible thing. It is terrible because it paralyzes. Fear clouds judgment. Fear of losing advantage is what has driven both parties' reluctance to enact meaningful campaign finance reform in the past, and that same fear is what is driving the current reluctance. But the fixation with maintaining advantage is blinding us to a much greater and more serious peril: the total loss of credibility. Credibility is a precious commodity. We politicians have collectively squandered our credibility over the last several years because of the unchecked rise of the influence of money in politics. Already our people do not vote. They do not vote because they think politicians are all the same and that an individual vote does not matter anymore. Politicians are not trusted because all that concerns them, at least to the perception of the average citizen, is money and winning the next election.

I served as majority leader from the years 1977 through 1980 and again in the years 1987 and 1988, and I served as minority leader during the 6 years in between. It was a constant problem to be a leader and to program the Senate and to operate the Senate, and became increasingly a problem because of the money needs, the needs of the money chase. Senators had to go here; they had to go there; they had to raise money; they had to go for lunch; they had to go for dinner; they had to spend overnight. And it was virtually impossible to schedule votes at any time that would please any and everybody.

The thing that seemed to be most needful in this Senate during those years that I was the leader of my party was money, running around the country with a tin cup in one's hand raising money for a little, measly $134,000-a-year job. It is the most demeaning aspect of our lives as Senators, to have to run around and raise money. And it is getting worse.

The very fiber of what holds a Republic like ours together—trust—is ripping audibly with each new scandal, each new revelation in the press. And so I ask my colleagues to turn away from that course. We can start today. We can use what appears to be a low point in American politics to take an important step toward the good. We can remove this obstacle to real reform, crafted by a wrongheaded Supreme Court decision, and restore some precious equality to our political system.

Mr. President, I compliment the distinguished Senator from South Carolina, who is our leader in this effort. We probably won't win today. But it will be to the American people's loss. "This is a good time," as Ralph Waldo Emerson said, "if only we know what to do with it." Let us not squander an opportunity to begin to fix this thoroughly rotten campaign finance system once and for all. Let us not continue to disappoint the American people out there.

I urge my colleagues to take a stand and support this proposed amendment to the Constitution.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

CAMPAIGN FINANCE AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S.J. Res. 18, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (Senate Joint Resolution 18) proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

The Senate resumed consideration of the joint resolution.

The PRESIDING OFFICER. There will now be 1 hour equally divided between the Senator from Kentucky [Mr. MCCONNELL] and the Senator from South Carolina [Mr. HOLLINGS].

The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, let me first thank Senator BYRD our resident Senate historian. I do not say that lightly—because the distinguished Senator from West Virginia has been masterful in his analysis and been very, very cautious and careful. He has stood many a time for not amending the Constitution, that we don't do this, willy-nilly, for any and every problem. But, after 20 years, thousands of speeches and hours and effort made, he has given a very masterful analysis of the need for this amendment. The Senate and the Nation are indebted to him.

Mr. President, I ask unanimous consent that Senator DODD, of Connecticut, be added as a cosponsor.

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

Mr. HOLLINGS. Mr. President, although I commend the efforts of the minority leader and others seeking to statutorily reform our campaign finance laws, I am convinced the only way to solve the chronic problems surrounding campaign financing is reverse the Supreme Court's flawed decision in Buckley versus Valeo by adopting a constitutional amendment granting Congress the right to limit campaign spending.

We all know the score—we are hamstrung by that decision and the ever increasing cost of a competitive campaign. With the total cost for congressional elections, just general elections, skyrocketing from $403 million in 1990 to over $626 million in 1996, the need for limits on campaign expenditures is more urgent than ever. For nearly a quarter of a century, Congress has tried to tackle runaway campaign spending with bills aimed at getting around the disjointed Buckley decision. Again and again, Congress has failed.

Let us resolve not to repeat the mistakes of past campaign finance reform efforts, which have become bogged down in partisanship as Democrats and Republicans each tried to gore the other's sacred cows. During the 103d Congress there was a sign that we could move beyond this partisan bickering, when the Senate in a bipartisan fashion expressed its support for a constitutional amendment to limit campaign expenditures. In May 1993, a nonbinding sense-of-the-Senate resolution was agreed to which advocated the adoption of a constitutional amendment empowering Congress and States to limit campaign expenditures.

Now it is time to take the next step. We must strike the decisive blow against the anything-goes fundraising and spending tolerated by both political parties. Looking beyond the current headlines regarding the source of these funds, the massive amount of money spent is astonishing and serves only to cement the commonly held belief that our elections are nothing more than auctions and that our politicians are up for sale. It is time to put a limit on the amount of money sloshing around campaign war chests. It is time to adopt a constitutional amendment to limit campaign spending—a simple, straightforward, nonpartisan solution.

As Prof. Gerald G. Ashdown has written in the New England Law Review, amending the Constitution to allow Congress to regulate campaign expenditures is "the most theoretically attractive of the approaches-to-reform since, from a broad free speech perspective, the decision in Buckley is misguided and has worsened the campaign finance atmosphere." Adds Professor Ashdown: "If Congress could constitutionally limit the campaign expenditures of individuals, candidates, and committees, along with contributions, most of the troubles * * * would be eliminated."

Right to the point, back in 1974, Congress responded to the public's outrage over the Watergate scandals by passing, on a bipartisan basis, a comprehensive campaign finance law. The centerpiece of this reform was a limitation on campaign expenditures. Congress recognized that spending limits were the only rational alternative to a system that essentially awarded office to the highest bidder or wealthiest candidate.

Unfortunately, the Supreme Court overturned these spending limits in its infamous Buckley versus Valeo decision of 1976. The Court mistakenly equated a candidate's right to spend unlimited sums of money with his right to free speech. In the face of spirited dissents, the Court came to the conclusion that limits on campaign contributions but not spending furthered "* * * the governmental interest in preventing corruption and the appearance of corruption" and that this interest "outweighs considerations of free speech."

I have never been able to fathom why that same test—the governmental interest in preventing corruption and the appearance of corruption—does not overwhelmingly justify limits on campaign spending. The Court made a huge mistake. The fact is, spending limits in Federal campaigns would act to restore the free speech that has been eroded by the Buckley decision.

After all, as a practical reality, what Buckley says is: Yes, if you have a fundraising advantage or personal wealth, then you have access to television, radio and other media and you have freedom of speech. But if you do not have a fundraising advantage or personal wealth, then you are denied access. Instead of freedom of speech, you have only the freedom to say nothing.

So let us be done with this phony charge that spending limits are somehow an attack on freedom of speech. As Justice Byron White points out, clear as a bell, in his dissent, both contribution limits and spending limits are neutral as to the content of speech and are not motivated by fear of the consequences of the political speech in general.

Mr. President, every Senator realizes that television advertising is the name of the game in modern American politics. In warfare, if you control the air, you control the battlefield. In politics, if you control the airwaves, you control the tenor and focus of a campaign.

Probably 80 percent of campaign communications take place through the medium of television. And most of that TV airtime comes at a dear price. In South Carolina, you're talking between $1,000 and $2,000 for 30 seconds of primetime advertising. In New York City, it's anywhere from $30,000 to $40,000 for the same 30 seconds.

The hard fact of life for a candidate is that if you're not on TV, you're not truly in the race. Wealthy challengers as well as incumbents flushed with money go directly to the TV studio. Those without a fundraising advantage or personal wealth are sidetracked to the time-consuming pursuit of cash.

The Buckley decision created a double bind. It upheld restrictions on campaign contributions, but struck down restrictions on how much candidates with deep pockets can spend. The Court ignored the practical reality that if my opponent has only $50,000 to spend in a race and I have $1 million, then I can effectively deprive him of his speech. By failing to respond to my advertising, my cash-poor opponent will appear unwilling to speak up in his own defense.

Justice Thurgood Marshall zeroed in on this disparity in his dissent to Buckley. By striking down the limit on what a candidate can spend, Justice Marshall said, "It would appear to follow that the candidate with a substantial personal fortune at his disposal is off to a significant head start."

Indeed, Justice Marshall went further: He argued that by upholding the

limitations on contributions but striking down limits on overall spending, the Court put an additional premium on a candidate's personal wealth.

Justice Marshall was dead right and Ross Perot and Steve Forbes have proved it. Massive spending of their personal fortunes immediately made them contenders. Our urgent task is to right the injustice of Buckley versus Valeo by empowering Congress to place caps on Federal campaign spending. We are all painfully aware of the uncontrolled escalation of campaign spending. The average cost of a winning Senate race was $1.2 million in 1980, rising to $2.9 million in 1984, and skyrocketing to $3.1 million in 1986, $3.7 million in 1988, and up to $4.3 in 1996. To raise that kind of money, the average Senator must raise over $13,800 a week, every week of his or her 6-year term. Overall spending in congressional races increased from $446 million in 1990 to more than $724 million in 1994—almost a 70-percent increase in 4 short years. I predict that when the final FEC reports are compiled for 1996, that figure will go even higher.

This obsession with money distracts us from the people's business. It corrupts and degrades the entire political process. Fundraisers used to be arranged so they didn't conflict with the Senate schedule; nowadays, the Senate schedule is regularly shifted to accommodate fundraisers.

I have run for statewide office 16 times in South Carolina. You establish a certain campaign routine, say, shaking hands at a mill shift in Greer, visiting a big country store outside of Belton, and so on. Over the years, they look for you and expect you to come around. But in recent years, those mill visits and dropping by the country store have become a casualty of the system. There is very little time for them. We're out chasing dollars.

During my 1992 reelection campaign, I found myself raising money to get on TV to raise money to get on TV to raise money to get on TV. It's a vicious cycle.

I remember Senator Richard Russell saying: "They give you a 6-year term in this U.S. Senate: two years to be a statesman, the next 2 years to be a politician, and the last 2 years to be a demagogue." Regrettably, we are no longer afforded even 2 years as statesmen. We proceed straight to politics and demagoguery right after the election because of the imperatives of raising money.

My proposed constitutional amendment would change all this. It would empower Congress to impose reasonable spending limits on Federal campaigns. For instance, we could impose a limit of, say, $800,000 per Senate candidate in a small State like South Carolina—a far cry from the millions spent by my opponent and me in 1992. And bear in mind that direct expenditures account for only a portion of total spending. For instance, my 1992 opponent's direct expenditures were supplemented by hundreds of thousands of dollars in expenditures by independent organizations and by the State and local Republican Party. When you total up spending from all sources, my challenger and I spent roughly the same amount in 1992.

And incidentally, Mr. President, let's be done with the canard that spending limits would be a boon to incumbents, who supposedly already have name recognition and standing with the public and therefore begin with a built-in advantage over challengers. Nonsense. I hardly need to remind my Senate colleagues of the high rate of mortality in upper chamber elections. And as to the alleged invulnerability of incumbents in the House, I would simply note that well over 50 percent of the House membership has been replaced since the 1990 elections and just 3 weeks ago we swore in 15 new Senators.

I can tell you from experience that any advantages of incumbency are more than counterbalanced by the obvious disadvantages of incumbency, specifically the disadvantage of defending hundreds of controversial votes in Congress.

Moreover, Mr. President, I submit that once we have overall spending limits, it will matter little whether a candidate gets money from industry groups or from PAC's or from individuals. It is still a reasonable amount any way you cut it. Spending will be under control, and we will be able to account for every dollar going out.

On the issue of PAC's, Mr. President, let me say that I have never believed that PAC's per se are an evil in the current system. On the contrary, PAC's are a very healthy instrumentality of politics. PAC's have brought people into the political process: nurses, educators, small business people, senior citizens, unionists, you name it. They permit people of modest means and limited individual influence to band together with others of mutual interest so their message is heard and known.

For years we have encouraged these people to get involved, to participate. Yet now that they are participating, we turn around and say, "Oh, no, your influence is corrupting, your money is tainted." This is wrong. The evil to be corrected is not the abundance of participation but the superabundance of money. The culprit is runaway campaign spending.

To a distressing degree, elections are determined not in the political marketplace but in the financial marketplace. Our elections are supposed to be contests of ideas, but too often they degenerate into megadollar derbies, paper chases through the board rooms of corporations and special interests.

Mr. President, I repeat, campaign spending must be brought under control. The constitutional amendment Senator SPECTER and I have proposed would permit Congress to impose fair, responsible, workable limits on Federal campaign expenditures and allow States to do the same with regard to State and local elections.

Such a reform would have four important impacts. First, it would end the mindless pursuits of ever-fatter campaign war chests. Second, it would free candidates from their current obsession with fundraising and allow them to focus more on issues and ideas; once elected to office, we wouldn't have to spend 20 percent of our time raising money to keep our seats. Third, it would curb the influence of special interests. And fourth, it would create a more level playing field for our Federal campaigns—a competitive environment where personal wealth does not give candidates an insurmountable advantage.

Finally, Mr. President, a word about the advantages of the amend-the-Constitution approach that I propose. Recent history amply demonstrates the practicality and viability of this constitutional route. Certainly, it is not coincidence that five of the last seven amendments to the Constitution have dealt with Federal election issues. In elections, the process drives and shapes the end result. Election laws can skew election results, whether you're talking about a poll tax depriving minorities of their right to vote, or the absence of campaign spending limits giving an unfair advantage to wealthy candidates. These are profound issues which go to the heart of our democracy, and it is entirely appropriate that they be addressed through a constitutional amendment.

And let's not be distracted by the argument that the amend-the-Constitution approach will take too long. Take too long? We have been dithering on this campaign finance issue since the early 1970's, and we haven't advanced the ball a single yard. All-the-while the Supreme Court continues to strike down campaign limit after campaign limit. It has been a quarter of a century, and no legislative solution has done the job.

Except for the 27th amendment, the last five constitutional amendments took an average of 17 months to be adopted. There is no reason why we cannot pass this joint resolution, submit it to the States for a vote, and ratify the amendment in time for it to govern the 1998 election. Once passed by the Congress, the joint resolution goes directly to the States for ratification. Once ratified, it becomes the law of the land, and it is a Supreme Court challenge.

And, by the way, I reject the argument that if we were to pass and ratify this amendment, Democrats and Republicans would be unable to hammer out a mutually acceptable formula of

campaign expenditure limits. A Democratic Congress and Republican President did exactly that in 1974, and we can certainly do it again.

Mr. President, this amendment will address the campaign finance mess directly, decisively, and with finality. The Supreme Court has chosen to ignore the overwhelming importance of media advertising in today's campaigns. In the Buckley decision, it prescribed a bogus if-you-have-the-money-you-can-talk version of free speech. In its place, I urge the Congress to move beyond these acrobatic attempts at legislating around the Buckley decision. As we have all seen, no matter how sincere, these plans are doomed to fail. The solution rests in fixing the Buckley decision. It is my hope that as the campaign financing debate unfolds, the majority leader will provide us with an opportunity to vote on this resolution—it is the only solution.

I now yield 5 minutes to the distinguished colleague from California, Senator BOXER.

The PRESIDING OFFICER. The Senator from California is recognized to speak for 5 minutes.

Mrs. BOXER. Mr. President, I am proud to stand with Senator HOLLINGS and Senator BYRD and many other Senators today in support of Senate Joint Resolution 18. This measure proposes a constitutional amendment to allow the Congress to limit the amount of money that is spent on campaigns. I treasure the Constitution of the United States of America and never have I stood on the floor of the Congress supporting such a measure, except for the equal rights amendment and this measure. It is very rare that I stand to amend this Constitution. But we are about to lose our democracy. It is that serious. I think what Senator HOLLINGS has come up with here is a way to save this democracy. So, I am so proud to be a cosponsor of his measure.

Total campaign spending for general election congressional races has increased more than sixfold in the past 20 years. The total amount of money raised by Republicans and Democrats in 1996 was almost $900 million. In my own reelection campaign, I believe that it could cost at least $20 million. I come from California. We have 33 million people. And $20 million would actually be less than what was spent several years ago to win a U.S. Senate seat. It is an unbelievable amount.

So it is undeniable that there is an extraordinary amount of money in political campaigns. The amounts are growing and unfortunately, in my view, some partisan observers of our political system do not even see it as a problem. I have heard responses such as, "So what?" Or, "Money is the American way." Or "The problem isn't too much money, it is too little money." And the most ludicrous I thought, "We spend more advertising dollars on yogurt than we do on campaigns." I strongly disagree with the notion that money in politics is not a problem. It is a serious problem, undermining our democracy, depressing voter turnout, and, frankly, depressing the American people who should be depressed that their elected officials have to spend so much time away from their official duties.

Let me talk about the California race. Today, a Senate candidate in California can expect to have to raise up to $10,000 a day, including Saturday and Sunday, 365 days a year, for 6 full years. Imagine, $10,000 a day, 7 days a week, 365 days a year, for a full 6 years. That is too much time away from work, too much time away from doing the kinds of things that we want to do here, making life better for people. I resent it. And I am so proud to be able to support this constitutional amendment. Anyone who supports reform, therefore, has to support this. Because of the Supreme Court decision, we cannot control spending unless we pass this Hollings amendment. The Supreme Court decision discriminates against potential candidates who do not have a lot of personal wealth. The talent pool for the House and Senate is declining because of the amount of money that is needed to be raised.

I want to talk a minute about the Supreme Court decision—which I know my colleagues, who are attorneys, who understand it, perhaps, in a deeper fashion, have already done—but I want to talk about it from a commonsense point of view, and as someone who loves this Constitution. I think the Supreme Court was just completely wrong on this Buckley versus Valeo decision that said that Congress could not put a cap on campaign spending. Freedom of speech is the most precious and most important of all the rights guaranteed in our Constitution. But, it seems to me, if you equate money with speech you are demeaning speech. You are demeaning speech. Not everything can be equated with the dollar. Free speech goes far beyond that. And what about the speech of the candidates who do not have personal wealth? What about their speech? When someone comes in who is worth $200 million, $300 million, and throws $30, $40 million into a race—we have had that in California. What happens to the people who cannot afford to put their own money in a race? What happens to their speech?

So, it seems to me what the Court has done in Buckley is to support the speech of the wealthy candidates, not the speech of those of us who cannot afford to put those millions of dollars into place.

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

Mrs. BOXER. Mr. President, I ask for 2 additional minutes.

Mr. HOLLINGS. I so yield.

The PRESIDING OFFICER. The Senator from California is recognized for 2 additional minutes.

Mrs. BOXER. If money is speech, as the Supreme Court says, then more money must be more persuasive speech, and those ideas with the most money behind them will tend to prevail.

This is un-American. I am a product of public schools. I go toe to toe here with people who went to Harvard and Yale and all those expensive schools. My schooling was free, from kindergarten all the way through college. It is the American way, to give us all that level playing field. We do not have a level playing field if we have to live with Buckley versus Valeo. It is an un-American decision. It is wrong. It is elitist. Ideas should prevail because of their inherent worth, not because they were able to be hyped in 30-second commercials.

By the way, sometimes these commercials are not even ideas, they are terrible attacks on other candidates. So they are not even ideas, but somehow they are worth so much because an individual may have the money.

"Money is speech" subverts the notion that ideas, not commercials, are the heart of the expression that the first amendment protects.

My colleague, Senator HOLLINGS, who has been so eloquent and so persuasive in this debate was right when he said—and I quote—"Our democracy must be saved from this excess."

Mr. President, it is time to go back to the original meaning of the first amendment, overturn Buckley versus Valeo and allow Congress to set spending limits that are fair for all congressional races. I can think of no more important issue than this one to be dealing with at this time as the furor swirls around all these large campaign contributions. Well, folks, those are the rules. Those are the rules. We allow it in the current system. We need to change the current system. To do that we need to pass the Hollings resolution.

I thank you very much and I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Let me thank the distinguished colleague from California. She has spoken to the reality of what we really are confronting.

I do not know how you run a race in the State of California. Mr. Huffington, of your State, spent $30 million of his own money to run for Senate and lost. Last week the Senator from Nevada suggested that all Mr. Huffington needs to do would be come to Nevada. In Nevada he could run a fine campaign for $10 million. He could move, saving $20 million of his money, down to the State of Nevada and win, so to speak,

with the $10 million. We know we know as in warfare, he who rules the air controls the battlefield. And he who rules the airwaves in politics controls the election.

And it is just that cold, hard reality that the Senator from California has spoken to. I am most grateful for her leadership on this particular score.

Going right back, Mr. President, to 1974 and the passage of the Federal Election Campaign Act, in the aftermath of Watergate. We acted together—Republicans and Democrats and said with a strong vote that we shall not have the Government up for sale and that we had to limit spending in campaigns.

So in the 1974 act we limited the individual amount of a contribution. In short, we limited the free speech. Congress did that after a studied debate. We limited the spending of the independent groups at that particular time. We limited the spending of the political action committees. We limited the spending of the individual candidates' own personal wealth, and we limited the overall spending. So the manifest intent in 1974 was to limit what my opponents now characterize as free speech.

In the 1976, Buckley decision, the Court went along with Congress' effort to limit an individual's free speech. When it comes to an individual's contribution, they said fine, it is constitutional to limit the spending or free speech of independent groups or of political action committees.

On the other hand, the Court then said, expenditures, they are not limited. Any limit on expenditures would be a violation of the first amendment. Now, that left us with a dilemma, the rich candidate or the candidate with a fundraising advantage, he has got unlimited speech because he does not have limits. This and the unlimited spending by candidates has become a cancer on the body politic. Combined spending of both political parties has gone up, as the Senator from California said, to almost a billion dollars.

So, Mr. President, what we have here is a terrible dilemma. We wrestled with it for 10 years after that 1976 decision until the mid-1980's when I first introduced a joint resolution to amend the Constitution and provide Congress the authority to limit campaign spending. We did not have a Pavlovian kind of reaction of "Ipso facto, just run. Let's go ahead and amend the Constitution." We did it after numerous attempts to correct the problem. First it was Common Cause, they said we ought to publicly finance. Time and time again, Congress rejected public financing. Opponents characterized it as food stamps or welfare for politicians. So that is not going to fly.

We tried individual voluntary restrictions. If we voluntarily limited, then you can get free time, free television time, free mailings and other benefits.

We were never able to come to grips with reform largely because of the Buckley decision. As Chief Justice Burger said in his dissenting opinion, expenditures and contributions were two sides of the same coin, and to try to limit the one and not the other would not wash. That was Chief Justice Burger's characterization of the decision.

So we are not coming here as just politicians, but with the support of the best of jurists who have come over the years and criticized the Buckley decision. J. Skelly Wright in the Yale Law Journal said that there was nothing in the first amendment that commits us to the dogma that money is speech.

So after trying for 10 years I introduced a constitutional amendment. At that time, we believed perhaps the Court itself saw the practical and the scandalous effect the decision had had and that they would reverse their own decision.

But please, my gracious, Mr. President, they shot that idea with last years Colorado Republican Party versus FEC decision and now "Katie, bar the door. The sky is the limit."

Now what do we have? We have the practical effect of absolutely no limits. Business leaders now say, "Senator, you know, we thought that we sort of had done our part when we gave our $1,000. Now after that Colorado decision the telephone rings off the hook. Now I want $100,000." "What in the world has happened to you all here in Washington?"

They think this is the result of a congressional decision.

Back in 1974 the Congress agreed, in a bipartisan fashion—not partisan—that we could only ask for that $1,000. That is no longer the case.

I refer to an article in the Monday Washington Post, 'Parties' Congressional Campaign Committees Took in Millions in 'Soft Money' in 1995–96." This is the practical effect of the Colorado decision.

This soft money represents independent contributions that, under the Colorado decision, can be spent on congressional campaigns so long as you cannot prove categorically it was coordinated—even though it went for the benefit an individual candidate. In that case, they just started savaging a potential candidate way ahead of time on the radio.

Even though the Court is limiting the individual contributions, the PAC contributions, and right on down the line, now they say, "Well, after all, just go ahead with the so-called soft money," so that practically congressional committees have no limits. As the chart shows the committees received "donations of as much as $735,000 from a single corporation, $310,000 from a union, and $250,000 from an individual from January 1, 1995, through December 31, 1996."

The National Republican Senatorial Campaign Committee raised near $27 million in these unregulated donations in the election year, about three times the total 4 years earlier. The Democratic Senatorial Campaign Committee actively solicited soft money for the first time in the 1995–96 campaign, collecting about $14 million compared with the $566,111 in 1991–1992.

So, you see, both parties just went running amok.

In response to my distinguished friend from Texas, who last week said on this floor that the Republican Party was the poor party and the Democrats were rich, I suggest a look at this chart.

Mr. President, I ask unanimous consent that the article and the chart be printed in the RECORD.

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

[From the Washington Post, Mar. 17, 1997]

PARTIES' CONGRESSIONAL CAMPAIGN COMMITTEES TOOK IN MILLIONS IN "SOFT MONEY" IN 1995–96

(By Charles R. Babcock)

While congressional and public attention has been focused on the large donations the Democratic National Committee solicited for the 1996 elections, the congressional arms of both parties—whose stated purpose is helping to elect federal officials—were busy raking in unlimited "soft money" as well.

Corporations and labor unions may not give directly to federal candidates, and individuals are limited to giving $1,000 to a candidate per election and $20,000 a year to a party committee. But most national party committees have been raising money outside the federal limits, often in $50,000 and $100,000 chunks. This soft money is supposed to be used toward administrative costs and party-building activities such as get-out-the-vote drives.

Federal Election Commission records, analyzed by Common Cause, which is pushing to ban soft money as part of reforming the way federal campaigns are financed, show the congressional committees had donations of as much as $735,000 from a single corporation, $310,000 from a union and $250,000 from an individual from Jan. 1, 1995, through Dec. 31, 1996.

The National Republican Senatorial Committee raised nearly $27 million in these unregulated donations in the election cycle, about three times the total four years earlier. The Democratic Senatorial Campaigns Committee actively solicited soft money for the first time in the 1995–96 campaign, collecting about $14 million, compared with $566,111 in 1991–92.

On the House side, the National Republican Congressional Committee raised nearly $19 million in soft money, three times as much as it raised four years earlier. The Democratic Congressional Campaign Committee raised nearly $12 million, compared with $4.4 million in 1991–92.

FEC rules require that a percentage of the soft money the committees raised be transferred to state and local candidates. The practice has caused some controversy, with Sen. Dianne Feinstein (D–Calif.) complaining that the DSCC shouldn't be in that business after she learned it had spent more than $1 million on state candidates in California.

The NRSC transferred $2.7 million to New York state candidates and committees, with

state Democrats complaining that committee Chairman Alfonse M. D'Amato (R–N.Y.) did so to shore up the party structure for his reelection run in 1998.

	To DSCC	To DCCC
Gave $75,000 or more to one of the Democratic committees:		
American Federation of State County & Municipal Employees	$310,000	$272,500
Federal Express Corp	250,125	7,500
Philip Morris Cos	237,500	192,768
Peter B. Lewis (Progressive Corp.)	225,000	0
Connell Rice & Sugar Co	200,000	207,000
Association of Trial Lawyers of America*	193,500	32,800
Loral Corp.*	155,500	75,000
Bernard L. Schwartz	155,500	70,000
Archer Daniels Midland Co	155,000	80,000
RJR Nabisco Inc.*	143,353	97,550
RJ Reynolds Tobacco	75,853	51,300
Mashantucket Pequot Tribe*	139,000	105,000
American Airlines	121,333	97,033
MCI Telecommunications Corp	110,193	94,950
Sullivan & Liapakis PC*	100,000	125,000
Pamela Liapakis	75,000	0
AT&T Corp	99,980	20,500
Walt Disney Co.*	92,500	60,050
Summit Technology Inc	88,599	0
Orin Kramer (Kramer Spellman LP)	82,500	0
Joseph E. Seagram & Sons Inc.*	80,000	95,000
Edgar M. Bronfman Sr	80,000	80,000
MacAndrews & Forbes Holding Inc.*	76,000	10,000
NHCG Management Corp	50,000	0
Time Warner Inc.*	69,918	75,000
Eli Lilly & Co	61,500	113,100
AFL–CIO	52,000	122,500
Michael Bloomberg (Bloomberg Financial Markets)	50,000	100,000
SBC Communications	43,792	122,798
Flo-Sun Sugar Co.*	40,000	92,000
United Food & Commercial Workers	35,000	171,500
Laborers' International Union of North America	35,000	75,000
American Federation of Teachers	30,000	85,500
Atlantic Richfield Co	19,000	126,800
Wade E. Byrd (Berry & Byrd)	10,000	75,000
E. & J. Gallo Winery	7,500	80,700
Don Henley (musician)	0	150,000
Charles N. Davenport (SeaWest Inc.)	0	110,000
Service Employees International Union	0	100,000

*Includes contributions from executives and/or affiliates.
Source: Common Cause from Federal Election Commission records.

	To NRSC	To NRCC
Gave $75,000 or more to one of the Republican committees:		
Phillip Morris Cos	$735,338	$353,432
News Corp.*	518,200	201,500
Anna M. Murdoch	250,000	0
DLO Corp.	125,000	0
News America Publishing Inc.	65,000	150,000
RJR Nabisco Inc.*	287,500	175,950
R.J. Reynolds Tobacco Co.	107,500	19,500
Foster Friess (Friess Associates Inc.)	259,900	30,000
Atlantic Richfield Co.*	217,000	180,400
Union Pacific Corp.*	191,500	49,500
Anschutz Corp.	50,000	0
Tobacco Institute	187,100	84,000
Brown & Williamson Tobacco Corp.	170,000	282,500
Federal Home Loan Mortgage Corp.	165,000	85,000
Flo-Sun Sugar Co.*	164,500	59,500
American Financial Group]*	160,000	270,000
Carl Lindner	0	150,000
Bear Stearns & Co.	160,000	10,000
Archer Daniels Midland Co.	155,000	50,000
MacAndrews & Forbes Holding Inc.*	150,000	10,000
Revlon Group Inc.	100,000	10,000
924 Bel Aire Corp.	50,000	0
Chevron Corp.	145,200	133,850
Glaxo Wellcome Inc.*	141,100	0
CSX Corp.	139,712	42,500
Association of Trial Lawyers of America	138,600	37,500
MBNA Corp.*	135,000	0
AT&T Corp.*	133,295	78,545
Joseph E. Seagram & Sons Inc.*	130,000	140,000
Walt Disney Co.*	130,000	25,250
BankAmerica Corp.	128,700	105,500
U.S. Tobacco Co.	121,000	82,900
Time Warner Inc.	120,000	100,000
NYNEX Corp.*	119,600	191,750
Circus Circus Enterprises Inc.	115,000	25,000
United Technologies Corp.	115,000	95,500
Schering-Plough Corp.	112,585	135,000
Stephens Inc.*	112,500	47,500
PaineWebber Group Inc.*	110,000	50,000
Beneficial Corp.	109,500	15,000
TECO Energy	105,100	0
WMX Technologies Inc.	103,900	59,000
John J. Cafaro (Cafaro International)	103,200	0
Federal Express Corp.	103,000	46,900
Gateway 2000]*	100,000	0
Ronald S. Lauder (Estee Lauder Cosmetics)	100,000	100,000
Loews Corp.]*	100,000	120,000
CNA Financial Corp.	52,500	62,500
Lorillard Tobacco	47,500	57,500
Mirage Resorts Inc.	100,000	150,000
Blue Cross & Blue Shield Association]*	96,500	115,658
Exxon Corp.	95,000	45,000
British Petroleum (BP Oil)]*	94,000	55,829
BP Exploration & Oil Inc.	56,000	29,000
Public Securities Association	94,000	118,200
Goldman Sachs]*	91,390	2,250
Merrill Lynch & Co.	90,000	61,000
Sprint Corp.]*	89,673	41,400
Viacom International Inc.*	82,700	10,000
Great Western Financial Corp.	82,000	40,000
MCI Telecommunications Corp.	82,000	44,718
Prudential Insurance Co. of America]*	78,100	103,950
Prudential Securities Inc.	55,000	48,000
Occidental Petroleum Corp.]*	77,000	67,750
Federal National Mortgage Association	75,000	10,000
Forstmann Little & Co.*	73,000	162,000
Theodore J. Forstmann	50,000	150,000
Smokeless Tobacco Council Inc.	72,100	112,500
National Association of Realtors	67,200	93,000
Enron Corp.*	55,000	115,000
US West Inc.	53,000	98,400
Textron Inc.	51,500	134,700
Pfizer Inc.	50,000	71,000
Ashland Oil Inc.	48,000	88,810
Boeing Co.	47,000	115,700
Amgen Inc.	40,000	95,000
Pacific Telesis Group	37,200	75,200
American Insurance Association	36,100	75,250
SBC Communications]*	35,000	153,100
Anheuser-Busch Co.	27,500	107,750
Interface Group Inc.	20,000	100,000
Chemical Manufacturers Association	17,000	84,500

Note: This list includes contributions to the Republican Senate-House Dinner Committee and the Democratic Congressional Dinner Committee, which split their proceeds between their parties' House and Senate campaign committees.

Mr. HOLLINGS. Mr. President, according to the Federal Election Commission, the total amount of money raised overall, hard and soft money, in 1996, by the Republicans was $548.7 million and by the Democrats was $332.3 million.

So, the Democrats scramble everywhere. To the embarrassment of all of us both Democrat and Republican, but my opponents do not want to recognize that.

I got a call from my distinguished colleague, the Senior Senator from Alabama. I understand he took the floor yesterday. Five times he has been a cosponsor of this particular joint resolution for a constitutional amendment. Now he is worried about the freedom of speech. You see now, the Senator from Alabama seems to have lost his freedom of speech. It is a sad, sad, commentary, Mr. President, but that is exactly what is happening. The other side says, look, here we have the advantage of money overwhelmingly, and that is our advantage in politics, and we are not going to give it up, so let us hide behind the First Amendment. It is a very shameful performance, a dog-and-pony show, coming up here and saying we should not amend the Constitution, we should not think of it. The very people saying that and quoting Patrick Henry have voted to amend the Constitution relative to the burning of the flag—the very speakers that have taken the floor. I have seen hypocrisy before, but not like this.

Then they come saying "Well, you know, we are not spending enough money in campaigns. What could happen," under this amendment is, "the Congress could legislate us into incumbency, whereby you would never be opposed."

They use Patrick Henry to defend their actions. He once cried, "Peace, peace, there is no peace." Here today we cry "Free speech, free speech, there is no free speech." In politics it is paid speech we are talking about. As for me, give me this constitutional amendment to save democracy.

Justice Jackson said that the Constitution is not a suicide pact, Mr. President. In that context, I will review several of the most recent constitutional amendments and show their relative significance to the pending amendment. Amendment No. 27 has to do with the compensation of Senators and Representatives. Certainly, this is more important than the 27th amendment. The 26th amendment has to do with the voting age. If they can change the voting age, they can certainly change the money limit. This is more important than the 26th amendment. The 25th amendment had to do with the succession in office. This is far more important a problem. We deal with this each and every day—day in and day out, exacerbating, getting worse and worse, turning elections into auctions. And going right to the 24th amendment, the poll tax. Well, we said in the 24th amendment that you cannot separate voters financially. That is exactly what Buckley has done. Those who have the money can shout to the rooftops. Those without money can get lockjaw—just hush, you cannot compete. The last five or six amendments, Mr. President, we have shown have been adopted in about a 20-month period. You can bet your boots that this could easily be adopted in 1998.

What we have here is an amendment that is neutral. We do not say limit spending or not limit. We merely authorize the States and the Federal Government to limit spending. Here we are asking for a right.

Here this devolution crowd that keeps coming up here and saying, "return government to the states, return government to the people, let the people act," that is what I am trying to do. Pass my amendment, send it to the States and let the American people make the decision. We do not say "limit." We do not say "not limit." We just say give the people's representative body—namely, the Congress of the United States—the authority to limit. My opponents do not want to give the people a chance to vote on it.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Chair advises the Senator from South Carolina he has 5 minutes 45 seconds remaining. Senator MCCONNELL has 30 minutes.

The Senator from Utah.

Mr. HATCH. Mr. President, there is a right way and a wrong way of reforming our system of campaign finance. The Hollings proposal to amend our Constitution is simply the wrong way. It would, in effect, amend the first amendment to our Constitution to allow any reasonable restrictions to be

placed on independent campaign expenditures and contributions. Why does he propose that we amend the first amendment? Because the Supreme Court of the United States has held that restrictions on independent expenditures violate the first amendment's free speech protection and that such restrictions could only be justified upon a showing of a compelling—as opposed to any reasonable—reason.

The Hollings amendment would gut the free speech protections of the first amendment. It would allow the curtailing of independent campaign expenditures that could overcome the natural advantage that incumbents have. It would, thus, limit free speech and virtually guarantee that incumbents be reelected. Thus, the Hollings amendment could change the very nature of our constitutional democratic form of Government by establishing what the Founders of the Republic feared most: A permanent elite or ruling oligarchy that dominates us all. Let me explain.

The very purpose of the first amendment's free speech clause is to ensure that the people's elected officials effectively and genuinely represent the public. For elections to be a real check on Government, free speech must be guaranteed—both to educate the public about the issues, and to allow differing view points to compete in what Oliver Wendell Holmes called the market place of ideas.

Simply put, without free speech, Government cannot be predicated upon, what Thomas Jefferson termed, "the consent of the governed." Without free speech, there can be no government based on consent because consent can never be informed.

The Supreme Court of the United States recognized this fundamental principle of democracy in the 1976 case of Buckley versus Valeo, 424 U.S. 1 (1976). The Court in Buckley recognized that free speech is meaningless unless it is effective. In the words of Justice White, "money talks." Unless you can get your ideas into the public domain, all the homilies and hosannas to freedom of speech are just talk. Thus, the Supreme Court held that campaign contributions and expenditures are speech—or intrinsically related to speech—and that regulating of such funds must be restrained by the prohibitions of the first amendment.

The Buckley Court made a distinction between campaign contributions and campaign expenditures. The Court found that free speech interests in campaign contributions are marginal at best because they convey only a generalized expression of support. But independent expenditures are another matter. These are given higher first amendment protection because they are direct expressions of speech.

Consequently, because contributions are tangential to free speech, Congress has a sizeable latitude to regulate them in order to prevent fraud and corruption. But not so with independent expenditures. In the words of the Court:

> A restriction on the amount of money a person or group can spend necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached. This is because virtually every means of communicating in today's mass society requires the expenditure of money.

The Hollings amendment's allowance of restrictions on expenditures by Congress and State legislatures would impose direct and substantial restraints on the quantity of political speech. It would permit placing drastic limitations on both individuals and groups from spending money to disseminate their own ideas as to which candidate should be supported and what cause is just. The Supreme Court noted that such restrictions on expenditures, even if neutral as to the ideas expressed, limit political expression at the core of our electoral process and of the first amendment freedoms.

Indeed, even candidates under the Hollings proposal could be restricted in engaging in protected first amendment expression.

Justice Brandeis observed, in Whitney versus California, that in our Republic, "public discussion is a political duty," and that duty will be circumscribed where a candidate is prevented from spending his or her own money to spread the electoral message. That a candidate has a first amendment right to engage in public issues and advocate particular positions was considered by the Buckley Court to be of "particular importance . . . candidates [must] have the unfettered opportunity to make their views known so that the electorate may intelligently evaluate the candidates' personal qualities and their positions on vital public issues before choosing among them on election day."

Campaign finance reform should not be at the expense of free speech. This amendment, in trying to reduce the costs of political campaigns—a noble goal, I can say—could cost us so much more; it could cost us our heritage of political liberty. Without free speech, our Republic could become a tyranny. Even the liberal American Civil Liberties Union opposes Senator Hollings-type approaches to campaign reform and calls such approaches a "recipe for repression."

Mr. President, the simple truth is that there are just too many on the other side of the aisle that believe that the first amendment is inconsistent with campaign finance reform. That is why they are pushing the Hollings proposal. To quote House minority leader RICHARD GEPHARDT, "[w]hat we have is two important values in direct conflict: freedom of speech and our desire for a healthy campaign in a healthy democracy. You can't have both."

Well, I strongly disagree. You can have both. We have to have both. Without both, the very idea of representative democracy is imperiled. That is why I oppose the Hollings amendment. I think the distinguished Member of the House, Mr. GEPHARDT, is just absolutely wrong. I think if we change the Constitution to denigrate the first amendment, we would be absolutely wrong and it would fly in the face of what really ought to be done in campaign finance reform, which all of us would like to have. But until it can be done in a balanced, reasonable way that doesn't prefer one side over the other, it will never be done. That is one of the problems. We cannot get it done in a balanced, decent way that really evens the odds for everybody in our society, rather than stacking them in favor of one side or the other.

Having said all this, I want to pay tribute to my colleague, our floor leader on this matter. He has taken a lot of flack from the media that always seems to stand up for first amendment rights and freedoms, until it comes to this issue. Frankly, I have a lot of respect for our colleague from Kentucky and the guts he has had to stand up for free speech and for first amendment rights more than any other single Member of Congress. He did it in his campaign when they made this a major focal effort of the campaign, and he still won by a considerable margin over the opponent who was making this a focal point.

I think we can have campaign finance reform, but we won't have it until it is fair, balanced, until it effects all parties and candidates. And we won't have it, as far as I am concerned, unless we protect free speech rights the way they ought to be protected.

Again, I compliment my colleague and express my support for his position on the floor at this time. I express regret to my friend from South Carolina that I can't support him on this constitutional amendment.

I yield the floor.

(Mr. ALLARD assumed the chair.)

Mr. MCCONNELL. Mr. President, I thank my good friend from Utah for his wonderful contribution to this debate we have had. It has been a good debate about the first amendment. I also thank him very much for his kind remarks about my work on this issue.

The Senator from Utah is right. It hasn't been easy from time to time because, as he pointed out, our friends in the press sometimes think the first amendment only applies to them. The first amendment was not crafted just for the press. It was crafted for all Americans. The free speech provisions of the first amendment apply to individuals, candidates, parties, groups; it applies to all of these people.

What we have before us today, Mr. President, is an effort to cut a chunk out of the first amendment and say

that political discourse in this country is entitled to less freedom than all other kinds of speech, all other kinds of speech. Why, Mr. President, even pornography and flag burning would have more protection—more protection—than political discourse after this amendment. Because this amendment would grant to Congress the power to shut everybody up, Congress being composed of incumbents, it is reasonable to assume that Congress would want to shut up all those people who are criticizing Congress.

This amendment gives Congress the power to set reasonable limits—whatever that is—on expenditures made, presumably, by the candidates, in support of—by people outside the campaigns—in support of the candidate, or in opposition to the candidate, and the American Civil Liberties Union said it could apply to the press as well.

In short, this is a complete reversal of the kind of speech the Founding Fathers were the most concerned about. Mr. President, I am confident they were most concerned about political discourse, political discussion, political speech. They were beginning to have experiences with free press at that time. But I am confident that what they were mostly thinking about, when crafting the first amendment, was political discourse in the course of political campaigns.

So the question is, as the Senator from Utah and others have pointed out, it is not whether you are for reform, but whether you are for the first amendment. That is what is before us here today. This ought to be a no-brainer. Even Common Cause is against this proposal. Even the Washington Post is against this proposal. Even Senator MCCAIN and Senator FEINGOLD, I believe, are going to oppose this.

In short, this proposal doesn't have any constituency. Even the reform groups are not for it. Of course, it has many opponents. There is a coalition—in fact, I had a press conference with a coalition just Friday in opposition not only to this amendment, but also to McCain-Feingold. The coalition spans the American political spectrum. At this press conference Friday, we had the ACLU and the National Education Association on the left, and the Christian Coalition, Right to Life, and the NRA on the right, and all other groups in between. What did they all have in common? These people had never met each other before. They didn't want the Government shutting them up. They didn't want the Government taking them off the playing field in political discussion in this country. That is what they all had in common. They want to be free to criticize us. They think they have a constitutional right to do that. They believe this amendment begins to eliminate that right, and proposals like McCain-Feingold do the same.

So, Mr. President, this is a very, very important issue. This vote will be about whether you support the first amendment or not, whether you support political free speech in this country, not just by candidates, but by groups, individuals, and parties as well. This is at the core of our democracy, and we are having a legitimate discussion here about whether to carve that out and change that after 210 years.

Mr. President, this is a very, very significant step in the wrong direction. I hope that it will be defeated later this afternoon overwhelmingly. It deserves to be defeated overwhelmingly. The goal here is to reverse the Buckley decision, a well-thought-out, well-reasoned decision.

In the Buckley case, the Supreme Court said, "The first amendment denies Government"—that is us in here—"the Government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise."

The Court went on, "In a free society ordained by our Constitution, it is not the Government but the people, individually as citizens, candidates, and collectively as associations and political committees, who must retain control over the quantity"—how much we speak—"and the range of debate on public issues in a political campaign."

That pretty well says it all, Mr. President. At least Senator HOLLINGS, my good friend from South Carolina, understands that in order to change that ruling you really do have to change the first amendment. That is what is before us—to change the first amendment for the first time in 200 years to give the Government the power to shut up individuals, candidates, associations, and political committees; tell them how much they may speak, and maybe even what they may say. Who is to say how far the Government would go in seeking to quiet the voices of those who may oppose what we are trying to do?

The Court went on. It said, "A restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reach. This is because virtually every means of communicating ideas in today's mass society requires the expenditure of money."

The Court was recognizing the obvious, recognizing reality. The Court went on. It said, "Even distribution of the humblest handbill costs money." Further, the Court stated, "The electorate's increasing dependence on television and radio for news and information makes these 'expenditures' of modes of communication indispensable instruments of effective political speech."

The Court further said, "There is nothing invidious, improper, or unhealthy in a campaign spending money to communicate." Further, the Court said, "The mere growth in the cost of Federal election campaigns in and of itself provides no basis"—they didn't equivocate here, Mr. President—"provides no basis for government restrictions on the quantity of campaign spending." The Court further addressed the old level-playing-field argument that we hear so frequently. The Court said about the level playing field, "The concept that the government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the first amendment."

The Buckley case was good in 1976, and it is good in 1997. In fact, the Supreme Court in virtually every case in this field since 1976, since the Buckley case, has moved further in the direction of more and more openness in political discourse in this country. In other words, they have reaffirmed Buckley time and time again over the last 20 years. This is a position the Court isn't going to change. And the Senator from South Carolina, to his credit, understands that. He understands the Court is not going to shut up these individuals, groups, candidates, and parties. He understands the Court realizes that this kind of debate is at the heart of what makes America a great democracy.

The Senator from South Carolina looks at that and finds it unappetizing. He finds all of this political discourse offensive and says we ought to carve a chunk out of the first amendment for the first time in 210 years and give to us here in the Government the power to control all of this discourse. It makes us uncomfortable. We don't like being criticized. We certainly do not like these campaigns against us by our opponents. But we don't like these outside groups either. It makes us uncomfortable. They sometimes say bad things about us. This is a terrible condition, that anybody other than the press could actually muster the resources to criticize. We had better do something about it. We had better shut those folks up. So we will just amend the first amendment, and we will decide that political speech is somehow less worthy than other kinds of speech, and we will take those people off the playing field, or we will make them report to the Government in advance and salute before they get permission to speak.

That is what this is about, Mr. President. That is what this is about. This constitutional amendment ought to be defeated resoundingly. It is certainly my hope that it will be. As I said earlier, it has essentially no constituency even among those clamoring the loudest for some form of campaign finance reform.

So later this afternoon when we vote on amending the first amendment for the first time in 200 years, I hope the Senate will defeat it overwhelmingly.

Mr. ROTH. Mr. President, there's an old joke that might help us put the current activity surrounding campaign finance reform into some perspective. The joke concerns two men who hire a small plane to go hunting bear. The pilot, as he drops the hunters off, insists that the plane can only carry two passengers and one bear on its return trip. With that warning ringing in their ears, the hunters go off and eventually return with two bears.

The pilot protests that the huge second animal will overload the plane. The hunters remind him that that was just what he told them last year. They reminded him that they had given him an extra $100 the year before, and that he had let them load both bears. "So here's another $100," they say and then they pack both carcasses into the rear of the plane. The plane struggles down the runway and lifts uncertainly into the sky. It gets halfway home but then crashes in the forest. The hunters crawl from the wreckage and ask the bruised pilot, "Where are we?" The pilot looks around and replies, "Same place we crashed last year."

Today, the debris of scandal associated with campaign financing is strewn all about us. The White House is under siege as one news report after another brings new information about suspected improprieties. The Governmental Affairs Committee has now been asked to probe into the illegal and improper financial practices that may have taken place in this last election.

What I want to remind my colleagues is that this is not the first time we have addressed this issue. In fact, this is, as Yogi Berra would say, déja vu all over again.

More than two decades ago, Congress passed legislation on campaign finance reform. That legislation included limits on all contributions and on candidate expenditures. It placed limits on independent expenditures, required disclosure, and set limits on the amount of personal wealth a candidate could spend on his campaign.

This was done, Mr. President, in 1974. Following that legislation, however, the Supreme Court stepped in and decimated the reforms with its decision in Buckley versus Valeo.

While the courts upheld limits on campaign contributions, it struck down the limits on independent expenditures and on the use of personal wealth. This, in effect, increased the disparity between the wealthy and the not-so-wealthy in campaigns. It also increased the power and impact of independent expenditures, much of which focuses on negative advertising.

Each of these serious consequences of the Supreme Court's decision created conditions that were exactly opposite of what Congress had intended. For example concerning independent expenditures, this means that person or group has unlimited ability to spend money for or against any candidate, as long as they do not coordinate their efforts with the candidates.

Because of the Supreme Court's decision, and the rising costs of political campaigns—costs that can be prohibitive and exclusionary—I remained active in trying to find a remedy, a remedy that would result in the kind of real reform that Congress had intended. Because of Buckley versus Valeo, it was clear that such reform could not be achieved by statute, but that it required a constitutional amendment. In four consecutive Congresses, Senator HOLLINGS and I introduced constitutional amendments that would achieve Congress' goal of complete reform.

In this Congress, Senator HOLLINGS has reintroduced his constitutional amendment, and once again I intend to support it. I intend to support it because anything short of an amendment will fail to achieve the conditions necessary for real reform. Statutory reforms without a constitutional amendment will create even greater problems as political money will flow elsewhere to get around the statutory limitations.

In other words, as restrictions are placed on certain channels, money will find its way into other channels—it will flow through independent expenditures and unlimited personal contributions, which are protected by the Supreme Court's decisions.

Needless to say, this would further damage the ability of a sharp, qualified candidate to win office if he or she did not have the kind of money that a wealthy candidate—a candidate who may even come from out of State—can bring into a race. Small States like Delaware would be extremely vulnerable to the inequities created by these restrictions.

For over two decades now, reformers in Congress have been seeking to overturn Supreme Court decisions by simple statute even though the decisions were based on the first amendment. That effort is a waste of time for anyone seeking comprehensive reform. Of course, if one's goal is to incapacitate all candidates who are not wealthy and to allow the wealthy and the special interests to determine the outcomes of elections, then perhaps such statutory reforms will do. But if one's goal is to level the playing field, then the solution must effectively address all the players and not only the candidates.

So unlike some of my colleagues who support the pending constitutional amendment, I cannot support statutory proposals whose effect would be to weaken the role of candidates and to strengthen the role of those whose spending is constitutionally protected. No statute can limit what the Constitution, as interpreted by the Supreme Court, protects.

The Constitution gives us, in these circumstances, a simple choice: we can overturn the Supreme Court so that we can reenact the 1974 campaign finance law or we can live under the Supreme Court decision, powerless to enact comprehensive reform.

I am glad to see that this basic constitutional fact of life has now been embraced by the minority leaders in both Houses. But we need more support than theirs to achieve the supermajority in both Houses required to propose ratification. And that will happen when those organizations espousing reform stop blocking the only path to real reform.

Last week on the floor, opponents of the pending constitutional amendment argued that adoption of the proposal would allow Congress to do all sorts of unreasonable things, such as outlawing all campaign expenditures so that incumbents would be reelected. It may be helpful to recall that 10 years ago the Hollings proposal did not include the important word "reasonable" modifying the limits Congress could impose on campaign expenditures. At that time, I argued that adding the word "reasonable" would make clear that judicial review of congressional limits was intended.

Opponents seem to suggest that the pending proposal would give Congress unlimited discretion. That's not true. Courts now under the fourth amendment review what is "unreasonable" search and seizure. Under the pending proposal, courts would review what is or is not a "reasonable" limit on campaign expenditures.

Opponents also raised the question whether the proposal would authorize Congress to limit editorials. I must say that I never viewed editorials as campaign expenditures, and I believe that most people have the same view. If that point needed further clarification, I would think legislative history could make clear that editorial coverage is not intended to be included within the pending proposal.

Mr. President, campaign finance reform must be fair. A constitutional amendment will allow us to make it fair. Campaign finance reform must also look at making races less expensive and more accessible to fine candidates who are deterred from running because of money.

Campaigns can be made less expensive by shortening the campaign season, and by requiring television stations to grant free advertising time as a condition of their Federal licenses.

It's no secret that the major expense in the electoral process is buying media time. I have long been an advocate of free TV for campaigns—going back to the 1970's—and I have introduced legislation toward this end.

In 1993, I wrote to President Clinton seeking his support, and I'm now delighted to see that he has suggested requiring broadcasters to provide free time for candidates in exchange for new licenses to provide high-definition television.

This will be no easy feat. When I first broached this idea, I could only find three Senators who would support me. One was Majority Leader Mike Mansfield. That was many years ago, and I must admit we have seen some progress. The last time I brought this legislation to the floor, a few years ago, I received six votes. But perhaps, in light of the scandal plaguing the White House, as well as the outcry from our constituents, this is an idea whose time has come.

I have talked to my constituents, Mr. President. I know their feelings on campaign finance reform. They want reasonable limitations on campaign expenditures. They want reasonable limits placed on independent expenditures. And they want shorter campaigns.

It is my sincere hope that as we move forward in this important debate, we will achieve these three very basic objectives, and, unlike our bear hunters, we will not, in the years to come, find ourselves in the same situation we are in now.

Mr. CONRAD. Mr. President, I rise today in support of Senate Joint Resolution 18, the campaign finance reform constitutional amendment sponsored by Senators HOLLINGS and SPECTER. This constitutional amendment gives Congress and the States the power to limit campaign spending. Although I've supported similar constitutional amendments in the past, this is the first time I've cosponsored such an amendment.

Amending the Constitution is not something I take lightly. The Constitution is the basic law of our land, and the guarantor of our country's most precious rights and liberties. The Constitution has only been changed 27 times—only 17 times since the first 10 amendments, the Bill of Rights, were adopted in 1789. Voting to amend the Constitution is perhaps the most important vote I can cast as a U.S. Senator. However, it seems to me we have reached a crisis point with our current campaign finance system. To put it simply, campaign spending is out of control. It is my belief that this constitutional amendment will help us address in a fair and reasonable manner the chronic problems plaguing our current campaign finance system.

In 1974, 23 years ago, Congress passed the Federal Election Campaign Practices Act in response to the controversy surrounding the Watergate scandal. The Federal Election Campaign Practices Act required greater disclosure by candidates and parties, restricted cash contributions, and limited campaign expenditures. In 1976, the Supreme Court reviewed the constitutionality of the act in Buckley versus Valeo. In reviewing the case, the Court struck down the limits on campaign expenditures as an unconstitutional restriction on freedom of speech. The effect of this decision is that it equated the unlimited expenditure of campaign money with the exercise of free speech. In my view, this decision was a mistake.

Since that time, Congress has made numerous attempts at addressing this decision, particularly during the last 10 years, by putting forth various comprehensive campaign finance reform initiatives. Most of these bills attempted to address the campaign expenditure problem either by providing a system of public financing or providing inducements for voluntary spending limits. During my 10 years in the Senate, I have supported most of these proposals. Unfortunately, all of these initiatives were defeated.

The campaign spending problem was further exacerbated by the Supreme Court's decision last June in the Colorado Republican Party versus FEC. In that decision, the Court struck down the spending limits of political parties in congressional campaigns. This decision virtually wiped out the remaining Federal campaign spending limits.

Last year, we saw record amounts of money spent on campaigns. Republican and Democratic committees alone spent $881 million and it has been estimated that more than $4 billion was spent on campaigns at all levels during the last election cycle. There is every indication to believe that the costs of campaigns will continue to skyrocket. Some argue that the amount of money spent on campaigns is insignificant when compared with the amount we spend on other facets of our economy. I think this is a specious comparison.

The current campaign finance system is out of control and it threatens to push average Americans out of the process. Voter cynicism and apathy are on the increase. In the last election, voter turnout fell below 50 percent. Most people understand the corrosive effect the current campaign finance system has on our democracy.

The time has come for us to fix this system by placing reasonable limits on the amount of money that can be spent on campaigns. We must restore confidence in our political system. Voting for this constitutional amendment will allow us to do just that. I urge my colleagues to vote in favor of Senate Joint Resolution 18.

Mr. FAIRCLOTH. Mr. President, I rise in strong opposition to the constitutional amendment we are debating today.

Frankly, I think this amendment is very dangerous.

It is dangerous anytime you tinker with the first amendment, our right to freedom of speech.

I suppose what is most appalling to me is that we have the tenacity to even consider this amendment. Two weeks ago, the Senate could not muster the fortitude to pass a constitutional amendment to control Federal spending.

Now, here we are debating an amendment to limit an individual's spending.

Mr. President, this demonstrates just how backward our priorities are.

We can't control how much the Federal Government will spend—but we will presume to tell an individual how much he or she can spend on political campaigns.

That is simply unacceptable.

Also, Mr. President, I am not a lawyer. But the term "reasonable" limits used in this amendment appears to be pretty loose.

How can we reasonably restrict what someone can spend?

How can we reasonably restrict political speech?

And the very thought that the Federal Government—the Congress—would be setting a reasonable standard is troubling.

Further, Mr. President, we should call this for what it really is—the incumbent protection constitutional amendment.

Everyone knows that if you limit your opponent's spending—the better known incumbent has an advantage. And under this amendment, we can limit opposition spending.

This is absurd—the Congress setting how much our opponents can spend against us.

Who can possibly hope to challenge an incumbent if he or she is not allowed to use their own money—however little or much—in the campaign.

Of course, this amendment probably puts us on the path to Federal funding of political campaigns.

Mr. President, I cannot abide the fact that not only do we pay a politician's salary. Now some politicians expect the citizens to spend their tax dollars paying for the campaign as well.

We can't ask the working men and women of this country to do that.

Further, I would remind my colleagues that we have full Federal funding for Presidential races—and has this stopped the President from shamelessly raising money? The answer is no.

President Clinton didn't need to sell the Lincoln bedroom to pay for his campaign. The taxpayers of this country paid for every penny of his campaign. We did this so that the President wouldn't have to be bothered or be influenced by the fundraising process.

But that apparently did not matter. His goal was to raise as much money as possible—beyond that legally permissible for himself—to buy misleading ads on Medicare.

Federal funding has failed at the Presidential level—and it won't work at the congressional level.

Mr. President, I also have to question why the minority and the President is in such a hurry to enact campaign finance reform.

During 1996, they used the White House and the executive branch to squeeze money out of everyone from banks to Indian tribes.

Now the American public is finding out about it.

Suddenly, the No. 1 priority of the Democratic Party is campaign finance reform.

When the horse is out of the barn, a horsethief running down the street telling everyone about it isn't going to do any good.

If the front pages weren't covered in negative stories about the sordid tales of DNC and White House fundraising, I don't think we would be out here rushing to clutter the Constitution with supposed campaign reform.

Finally, Mr. President, we never seem to question why there is so much money in politics. One reason we have overlooked is because the Government is in everyone's business.

If we weren't threatening to legislate and regulate businesses on a daily basis, perhaps they wouldn't feel compelled to give large donations.

The best campaign finance reform we can make here is to get out of Americans' daily lives. They shouldn't have to buy access for the purpose of making their views heard on legislation that would be ruinous to the free enterprise system.

If we would stop the bad legislation and regulation—we could stop the bad campaign finance practices we don't like.

Mr. President, I have great respect for Senator HOLLINGS and Senator BRYAN, they are both fine Senators from the other party, but I believe that on this issue, they have taken a very dangerous approach by suggesting that we amend the Constitution.

Thank you, Mr. President.

Mr. MCCONNELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes.

Mr. MCCONNELL. I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I yield our remaining time to the distinguished Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair. I thank my distinguished colleague from South Carolina.

Mr. President, I am here to express my support for Senate Joint Resolution 18, introduced by the Senator from South Carolina and the Senator from Pennsylvania.

If I may, let me just briefly respond to the statement made by my friend from Kentucky that there are not any interest groups supporting this amendment on the left or on the right. I am not surprised by that. Do you know who is supporting this amendment? The unorganized mass of the American people who do not belong to special interest groups of the left or the right and who know that something fundamentally wrong is happening in our democracy that is depriving them of their equal and individual right to affect their government. What is happening is the unlimited, and I am afraid corrupting, use of money in America politics.

Mr. President, I do not come to supporting a constitutional amendment of any kind, certainly one affecting the first amendment, lightly. I do not believe that I have ever supported any other amendment to the Constitution that would alter the first amendment. But I think that the threat to our democracy from the excess of money in politics is so serious that it merits—in fact, it calls out for—support of this constitutional amendment.

Let's remember what we are doing here when we talk about the Buckley decision. To pass this constitutional amendment is not to contradict what the Framers of the Constitution did in their great work more than 200 years ago. It is to contradict five of the Members of the U.S. Supreme Court, who gave a rendering of the first amendment that I cannot imagine the Framers of our Constitution had in mind, which is that money is speech. It is hard to believe. The consequences are serious.

So it is only by supporting this amendment and giving us the right to limit the amount of money in politics that I think we can restore a sense of integrity and sanity to our campaign finance system and, if I do say so, to our democracy.

Mr. President, much of the debate over this proposed constitutional amendment has centered on this question of the threat to the principle of free speech. Of course, we all hold that principle dear. But free speech is not what is at issue here. Free speech is about the inalienable God-given right of all of us to express our points of view without governmental interference. That simply is not at issue here in this proposed amendment, or in our campaign finance system.

Mr. President, nothing in this amendment or in any campaign finance reform package that I have seen that could be passed here would diminish or threaten individual Americans' rights to express their views about candidates running for office, or about any problem or issue in American life. What would be threatened by this constitutional amendment is what should be threatened by it, and that is something entirely different—the ever-increasing and disproportionate power that those with money have over our political system. As everyone in this Chamber knows, the spiraling costs of running for office require all of us to spend more and more time raising money and more and more time with those who give it.

Barely a day goes by in which we do not learn of an event or a meeting with elected officials attended only by those who could afford to give $5,000 or $10,000 or $100,000 or more—sums of money that are obviously beyond the capacity of the overwhelming majority of the American people. And that is threatening a principle all of us also hold dear, as dearly as the principle of free speech, which is the fundamental underlying principle of our democracy. It is a sacred principle. I say it is sacred because of that line in the beginning of the Declaration of Independence: All men are created equal and we, men and women of America, are endowed not by Congress, not by some committee but by our Creator with the inalienable right to life, liberty and the pursuit of happiness.

That principle guarantees that every person has one vote and each and every one of us, rich or poor or in between, has an equal right and an equal ability to influence the workings of our Government. As it stands now, it is that sacred principle, the underlying principle of all of the rights expressed in the Bill of Rights in the Constitution, that is under attack from our campaign finance status quo system, and that sacred principle that promises to remain under attack until we do something to save it and protect it, and that something, I submit, is quite simply to limit the influence of money in politics. I do not see a way to do that without limiting the amount of money spent in political campaigns, and I do not see a way to do that constitutionally without passing this constitutional amendment.

Mr. President, nothing less than the future of our great democracy is at stake here. Unless we act to reform our campaign finance system, people with money will continue to have disproportionate influence in our system. People who are not even citizens of the United States will try to influence our Government's decision by their use of money. And the genius of America—that our citizenship based on our common creation by God, not our pocketbook, gives us each equal power to play a role in our governance—that genius will continue to be under seige.

Mr. President, I support the constitutional amendment. I thank the Chair.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Kentucky has the remaining time, 8 minutes.

Mr. MCCONNELL. Mr. President, my good friend from Connecticut acknowledged that there were no groups agitating for a constitutional amendment but the unorganized mass of people were.

Well, America is a seething cauldron of special interests. We all belong to one group or another, many of which have legitimate issues before the Government. And, of course, we do not think the group we belong to is a special interest. That is the other guy's group that is trying to do something I do not like. But the fact is, the Founders of this country envisioned that we would be a seething cauldron of interest groups all banding together to petition the Government, which is another part of the first amendment. These people do not want to be pushed off the playing field. They do not want to be pushed off the playing field. They think that their involvement in issues is important. They think it helps create a better America. They do not view themselves as pursuing some evil goal. After all, who is it that is going to have the wisdom to sort of sanitize America of all these special interests and who are we to be so arrogant as to preach to these groups that their interests are somehow evil. Who is not suspect? Whose interests are above reproach?

This amendment says we get to determine that right in here; we, the Government, get to decide what is reasonable speech. And you know what we will do, Mr. President. We will shut up all the people who are criticizing us. We will pull them off the playing field altogether. We will set a spending limit so low that all of us are guaranteed to be reelected. We will control the game all right.

This is a preposterous suggestion, with all due respect to those who will vote for it. It guts the first amendment. It takes citizens off the playing field and out of the process. This is exactly the wrong thing to do.

George Will, in a column in the Washington Post February 13, referred to this as a "Government Gag"—a "Government Gag." I ask unanimous consent that George Will's column be printed in the RECORD.

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

[From the Washington Post, Feb. 13, 1997]

GOVERNMENT GAG

(By George F. Will)

To promote the fair and effective functioning of the democratic process, Congress, with respect to elections for federal office, and States, for all other elections, including initiatives and referenda, may adopt reasonable regulations of funds expended, including contributions, to influence the outcome of elections, provided that such regulations do not impair the right of the public to a full and free discussion of all issues and do not prevent any candidate for elected office from amassing the resources necessary for effective advocacy.

Such governments may reasonably define which expenditures are deemed to be for the purpose of influencing elections, so long as such definition does not interfere with the right of the people fully to debate issues.

No regulation adopted under this authority may regulate the content of any expression of opinion or communication.—Proposed amendment to the Constitution

Like the imperturbable Sir Francis Drake, who did not allow the Spanish Armada's arrival off England to interrupt a game of bowling, supposed friends of the First Amendment are showing notable sang-froid in the face of ominous developments. Freedom of speech is today under more serious attack than at any time in at least the last 199 years—since enactment of the Alien and Sedition Acts. Actually, today's threat, launched in the name of political hygiene, is graver than that posed by those acts, for three reasons.

First, the 1798 acts, by which Federalists attempted to suppress criticism of the government they then controlled, were bound to perish with fluctuations in the balance of partisan forces. Today's attack on free speech advances under a bland bipartisan banner of cleanliness.

Second, the 1798 acts restricted certain categories of political speech and activities, defined, albeit quite broadly, by content and objectives. Today's enemies of the First Amendment aim to abridge the right of free political speech generally. It is not any particular content but the quantity of political speech they find objectionable.

Third, the 1798 acts had expiration dates and were allowed to expire. However, if today's speech-restrictors put in place their structure of restriction (see above), its anti-constitutional premise and program probably will be permanent.

Its premise is that Americans engage in too much communication of political advocacy, and that government—that is, incumbents in elective offices—should be trusted to decide and enforce the correct amount. This attempt to put the exercise of the most elemental civil right under government regulation is the most frontal assault ever mounted on the most fundamental principle of the nation's Founders.

The principle is that limited government must be limited especially severely concerning regulation of the rights most essential to an open society. Thus the First Amendment says "Congress shall make no law . . . abridging the freedom of speech," not "Congress may abridge the freedom of speech with such laws as Congress considers reasonable."

The text of the proposed amendment comes from Rep. Richard Gephardt, House minority leader, who has the courage of his alarming convictions when he says: "What we have is two important values in conflict: freedom of speech and our desire for healthy campaigns in a healthy democracy. You can't have both."

However, he also says: "I know this is a serious step to amend the First Amendment. . . . But . . . this is not an effort to diminish free speech." Nonsense. Otherwise Gephardt would not acknowledge that the First Amendment is an impediment.

The reformers' problem is the Supreme Court, which has affirmed the obvious: Restrictions on the means of making speech heard, including spending for the discrimination of political advocacy, are restrictions on speech. It would be absurd to say, for example: "Congress shall make no law abridging the right to place one's views before the public in advertisements or on billboards but Congress can abridge—reasonably, of course—the right to spend for such things."

Insincerity oozes from the text of the proposed amendment. When Congress, emancipated from the First Amendment's restrictions, weaves its web of restraints on political communication, it will do so to promote its understanding of what is the "fair" and "effective" functioning of democracy, and "effective" advocacy. Yet all this regulation will be consistent with "the right of the people fully to debate issues," and with "full and free discussion of all issues"—as the political class chooses to define "full" and "free" and the "issues."

In 1588 England was saved not just by Drake but by luck—the "Protestant wind" that dispersed the Armada. Perhaps today the strangely silent friends of freedom—why are not editorial pages erupting against the proposed vandalism against the Bill of Rights?—are counting on some similar intervention to forestall today's "reformers" who aim not just to water the wine of freedom but to regulate the consumption of free speech.

Mr. MCCONNELL. In addition to that, Mr. President, the American Civil Liberties Union in a letter to me dated March 6, 1997, also expressed their opposition to this constitutional amendment to amend the first amendment for the first time in 200 years. I ask unanimous consent that it be printed in the RECORD.

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

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, March 6, 1997.

DEAR SENATOR: The American Civil Liberties Union strongly opposes S.J. Res. 18, the proposed constitutional amendment that permits Congress and the states to enact laws regulating federal campaign expenditures and contributions.

Whatever one's position may be on campaign finance reform and how best to achieve it, a constitutional amendment of the kind here proposed is not the solution. Amending the First Amendment for the first time in our history in the way that S.J. Res. 18 proposes would challenge all pre-existing First Amendment jurisprudence and would give to Congress and the states unprecedented, sweeping and undefined authority to restrict speech protected by the First Amendment since 1791.

Because it is vague and over-broad, S.J. Res. 18 would give Congress a virtual "blank check" to enact any legislation that may abridge a vast array of free speech and free association rights that we now enjoy. In addition, this measure should be opposed because it provides no guarantee that congress or the states will have the political will, after the amendment's adoption, to enact legislation that will correct the problems in our current electoral system. This amendment misleads the American people because it tells them that only if they sacrifice their First Amendment rights, will Congress correct the problems in our system. Not only is this too high a price to demand in the name of reform, it is unwise to promise the American people such an unlikely outcome.

Rather than assuring that the electoral processes will be improved, a constitutional amendment merely places new state and federal campaign finance law beyond the reach of First Amendment jurisprudence. All Congress and the states would have to demonstrate is that its laws were "reasonable." "Reasonable" laws do not necessarily solve the problems of those who are harmed by or locked out of the electoral process on the

basis of their third party status, lack of wealth or non-incumbency. The First Amendment properly prevents the government from being arbitrary when making these distinctions, but S.J. Res. 18 would enable the Congress to set limitations on expenditures and contributions notwithstanding current constitutional understandings.

Once S.J. Res. 18 is adopted, Congress and local governments could easily further distort the political process in numerous ways. Congress and state governments could pass new laws that operate to the detriment of dark-horse and third party candidates. For example, with the intention of creating a "level playing field" Congress could establish equal contribution and expenditure limits that would ultimately operate to the benefit of incumbents who generally have a higher name recognition than their opponents, and who are often able to do more with less funding. Thus, rather than assure fair and free elections, the proposal would enable those in power to perpetuate their own power and incumbency advantage to the disadvantage of those who would challenge the status quo.

S.J. Res. 18 would also give Congress and every state legislature the power, heretofore denied by the First Amendment, to regulate the most protected function of the press—editorializing. Print outlets such as newspapers and magazines, broadcasters, Internet publishers and cable operators would be vulnerable to severe regulation of editorial content by the government. A candidate-centered editorial, as well as op-ed articles or commentary printed at the publisher's expense are most certainly expenditures in support of or in opposition to particular political candidates. The amendment, as its words make apparent, would authorize Congress to set reasonable limits on the expenditures by the media during campaigns, when not strictly reporting the news. Such a result would be intolerable in a society that cherishes the free press.

Even if Congress exempted the press from the amendment, what rational basis would it use to distinguish between certain kinds of speech? For example, why would it be justified for Congress to allow a newspaper publisher to run unlimited editorials on behalf of a candidate, but to make it unlawful for a wealthy individual to purchase an unlimited number of billboards for the same candidate? Likewise, why would it be permissible for a major weekly news magazine to run an unlimited number of editorials opposing a candidate, but impermissible for the candidate or his supporters to raise or spend enough money to purchase advertisements in the same publication? At what point is a journal or magazine that is published by an advocacy group different from a major daily newspaper, when it comes to the endorsement of candidates for federal office? Should one type of media outlet be given broader free expression privileges than the other? Should national media outlets have to abide by fifty different state and local standards for expenditures? These are questions that Congress has not adequately addressed or answered.

Moreover, the proposed amendment appears to reach not only expenditures by candidates or their agents but also the truly independent expenditures by individual citizens and groups—the very kind of speech that the First Amendment was designed to protect.

If Congress or the states want to change our campaign finance system, then it need not throw out the First Amendment in order to do so. Congress can adopt meaningful federal campaign finance reform measures without abrogating the First Amendment and without contravening the Supreme Court's decision in Buckley v. Valeo.

* * * * *

Rather than argue for these proposals, many members of Congress continue to propose unconstitutional measures, such as the McCain/Feingold bill that are limit-driven methods of campaign finance reform that place campaign regulation on a collision course with the First Amendment. . . .

The ACLU urges Senators to oppose S.J. Res. 18.

Sincerely,

LAURA W. MURPHY.

Mr. MCCONNELL. Mr. President, just today the Washington Times editorialized, saying "Save the First Amendment," very strongly in opposition to the Hollings amendment. I ask unanimous consent that this editorial be printed in the RECORD.

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

[From the Washington Times, Mar. 18, 1997]

SAVE THE FIRST AMENDMENT

"The First Amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive or unwise." So said the U.S. Supreme Court in what some now refer to as its "infamous" 1976 ruling in the landmark case Buckly vs. Valeo. The high court's decision struck down as unconstitutional post-Watergate reforms restricting campaign expenditures, and critics have been trying to get around the decision ever since.

Today, the U.S. Senate is scheduled to take up a proposed constitutional amendment to override the ruling and, in effect, reform the reforms. South Carolina Sen. Ernest Hollings, the amendment's chief backer along with Pennsylvania Sen. Arlen Specter, calls it the only "rational alternative" to a system that awarded public office to the highest bidder." Among other things it states Congress can set "reasonable" limits on contributions to and expenditures by candidates for federal office. It gives states similar powers to control state campaign spending.

The proposed amendment is but the first shot in a battle over campaign finance reform that gets hotter with each new story about the golden handshakes Mr. Clinton got from contributors during the last presidential campaign. Still to come is the McCain-Feingold bill to put "voluntary" limits on campaign contributions and an effort to provide for taxpayer financing of campaigns or, as critics refer to the idea, food stamps for politicians.

Arrayed against the Hollings amendment is a formidable coalition of interest groups ranging from the American Civil Liberties to the National Rifle Association, who have little in common other than the principle that limiting contributions and expenditures will restrict the right of their members to free speech. These days, some speech costs a lot, whether in the form of commercials, mailings or bumper stickers. Cutting off funds in this case inevitably means cutting off your ability to disseminate your message—free speech, in other words.

At the head of the coalition is Kentucky Sen. Mitch McConnell, whom Ellen Miller of Public Campaign calls the Darth Vader of campaign-finance reform, so successful has he been in blocking the proposed changes. Mr. McConnell is an unapologetic defender of the political debate that comes of campaign spending. Indeed, he considers such spending to be evidence of the robust debate indispensible to the well-being of the country.

If such a position makes him the Darth Vader of campaign reform, then here's hoping the force, so to speak, is with him. Campaign spending is one measure of the power government has to manipulate political and economic ends to the benefit of one group or another. If you want to limit spending, limit the power and watch how quickly the fundraisers dissipate.

Short of that, there is a danger that tightened regulations may tilt campaign laws to benefit one group or other. If you limit soft-money contributions to political parties, for example, you may end up giving an edge to organized labor, which favors candidates with in-kind and off-the-books contributions in the form of get-out-the-vote drives and phone banks.

There are also free-speech concerns with government campaign financing. Why should taxpayers have to see their hard-earned dollars go to support candidates with whom they disagree?

Does the current system really favor those candidates with deep pockets? Ask Oliver North, Michael Huffington and Steve Forbes, all of whom raised and spent huge sums of money, in some cases their own, without winning office.

The best kind of reform, long advocated here, would drop spending limits and increase disclosure. As University of Virginia professor Larry Sabato has put it, "Let a well-informed marketplace, rather than a committee of federal bureaucrats, be the judge of whether someone has accepted too much money from a particular interest group or spent too much to win an election. Reformers who object to money in politics would lose little under such a scheme, since the current system—itself a product of reform—has already utterly failed to inhibit special-interest influence."

Congress shouldn't aggravate the problem by gutting the First Amendment.

Mr. MCCONNELL. I referred earlier to a press conference that I happened to have had Friday with various groups opposed to this amendment and also opposed to McCain-Feingold. The press conference was really about both. Among the groups organized in opposition: the National Taxpayers Union, the National Right to Life Committee, the National Rifle Association, the American Civil Liberties Union, the Christian Coalition, the Direct Marketing Association, the National Association of Broadcasters, the National Assocation of Business PAC's, the National Education Association, the National Association of Realtors.

All of these groups, which represent over 15 million American citizens, are saying in effect to the Congress, do not amend the first amendment for the first time in 200 years. Do not pass a measure like McCain-Feingold. Do not shut us up. We are not part of the problem. We are busily at work expressing our point of view, arguing for the causes that we think are important.

This is totally American. This is the essence of America.

And so those groups came together last Friday in an effort to express themselves about this proposal to amend the first amendment and also McCain-Feingold. I think one of the most interesting speakers was from an organization with which I am seldom aligned, the National Education Association. Don Morabito, who is from the NEA, was at the press conference, and he said, "The fact is," referring to the groups in the room, "We don't represent the same people, don't contribute to the same candidates and don't believe in the same things," with one exception. We agree on the first amendment. We agree on the first amendment.

The ACLU, in referring to the proposal before us, said the constitutional amendment is "truly an abhorrent proposal," with "breathtaking implications, and McCain-Feingold is draconian regulation." "And if you want to talk 'unseemly,' added ACLU Washington director Laura Murphy, what about the current reform proposal's efforts to 'demonize' special interests and political action committees that follow the law?"

So I think it is important to remember what the current feeding frenzy is all about. We all thought it was about illegal, illegal activity, and there seems to have been a good deal of that particularly at the White House and in the Democratic campaign for President last year, but now the effort is to switch, change the subject and to pass either a constitutional amendment or some legislation to take American citizens out of the game.

Mr. GORTON. Mr. President, will the Senator from Kentucky yield for a question.

Mr. McCONNELL. Yes, I yield to the Senator from Washington.

Mr. GORTON. Mr. President, would it be appropriate to say, I ask my friend from Kentucky, that at the present time under the first amendment the American people are free to participate in their political system and in public affairs pretty much in any way they wish, that their freedom of speech is entirely unlimited?

And would it be fair also to say that the thrust of this constitutional amendment is that its sponsors are asking the American people to give the Congress of the United States the right to devise, to knit together a gag which is then to be applied to the American people themselves, not just candidates but to any American who wishes to express his views about a candidate, any organization that wishes to express its views about a candidate, for that matter, any newspaper or television station that wishes to express its view about a candidate; that this constitutional amendment says that what has been entirely free, an entirely free process, we now ask that you allow us to impose whatever we consider to be a reasonable gag upon your exercise of that right?

Mr. McCONNELL. I would say to my friend from Washington, he is absolutely correct. He describes the constitutional amendment with precision. And that is exactly what the sponsors of this proposal have in mind.

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

Mr. McCONNELL. I thank the Chair.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:30 p.m., the Senate recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. COATS].

CAMPAIGN FINANCE AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask for up to 10 minutes to speak on the joint resolution under the control of the distinguished Senator from South Carolina.

Mr. HOLLINGS. I yield to my cosponsor.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SPECTER. I understand the majority leader is on his way to the floor. Apparently there is a unanimous-consent request. As soon as he gets here, I will be glad to yield to him at that time.

Mr. President, I support this constitutional amendment for campaign finance reform and for overturning Buckley versus Valeo because I am convinced that only if we have such a constitutional amendment will we be able to have meaningful campaign finance reform. And that is urgently needed.

Those who oppose the amendment do so on a claim that there would be an invasion of inviolate first amendment protections. I suggest those arguments are not well founded as a matter of constitutional law or constitutional history.

The first amendment of the U.S. Constitution has been limited where there are important reasons for doing so. Perhaps the most famous decision is by Oliver Wendell Holmes on what is called the "clear and present danger" which would warrant limiting freedom of speech. The famous example was given of crying "fire" in a crowded theater.

And, Mr. President, I suggest that there is a clear and present danger today to America's political system if we do not have effective campaign finance reform.

The "fighting words" exception to freedom of speech is well recognized in a distinguished opinion by Justice Murphy. If someone says to another a racial slur or religious slur, that person may punch the speaker in the nose and not be charged with assault and battery, so that freedom of speech is limited by fighting words.

You have the examples of obscenity and moral standards, especially with children. There are limits as to what may be spoken or what may be put into printed context on obscenity.

It is my view, and really a prevailing view in America today, that there is an urgent necessity for campaign finance reform. It simply cannot be done if you have the Supreme Court decisions standing in the way, because they say that an individual may spend as much of his or her money as he or she may choose as a matter of freedom of speech but others cannot do so. Others are limited to $1,000.

I have cited a rather forceful example from my point of view of my own personal experience running in the primary in 1976 for the U.S. Senate when the 1974 law was in effect limiting expenditures for a candidate in the primary with the population size of Pennsylvania to $35,000. And my opponent in that race—who later was one of my very best friends and closest colleagues in the U.S. Senate, Senator John Heinz—we were opposing each other in that Senate primary.

The Supreme Court of the United States held that an individual could spend millions, and Senator Heinz did that, spent more than $3 million in that primary and general election. But at the same time, the Supreme Court upheld the limitation of $1,000 on what my brother could spend. Where was Morton Specter's freedom of speech if he was limited by the campaign finance law to $1,000?

What sense does it make to say that a candidate has more freedom of speech than some other contributor? But that is what the Buckley versus Valeo decision did.

Then you have this rule or exception on campaign expenditures which are independent. That has become a practical impossibility to define what is an independent expenditure.

You have the 1996 Presidential election. You have an enormous amount of soft money raised on both sides by Republicans as well as Democrats, but the Democrats did it with more finesse, more direction, and more success, when President Clinton used millions of dollars in soft money for advertising in 1995, which so set the stage to make it

impossible or at least virtually impossible to regain that ground. In this situation you had President Clinton personally editing the commercials which went over. Yet, they were supposed to be somehow immune from the Federal election laws, notwithstanding the fact that when a candidate runs for President there is a pledge that there will be no funds used on expenditures in addition to what the Federal Government is providing.

We have myriad rules on soft money. We have rules that are really impossible to apply on what is issue advocacy, where you can spend money, as opposed to advocacy for a candidate. Those commercials not only go right to the line, they really cross the line, with no enforcement possible, with a commercial saying everything but "vote for candidate John Doe."

The realism is that in the absence of an opportunity for Congress to legislate in this field, without this constitutional inhibition, campaign finance reform may not be achieved.

Then you had the recent decision of the Supreme Court of the United States in 1996 on the Colorado legal party where there are four opinions written and not one of the opinions commands the consent or concurrence of five Justices. So when you finish reading that opinion, it is absolutely impossible to say what the law is on the important campaign issues taken up in that case. The Supreme Court Justices are frequent in their criticism of what we pass in the Congress where they cannot find a clear-cut statement on our legislation and then they look to legislative intent. Some of the Justices say they cannot find legislative intent or they do not recognize legislative intent.

Our statutes are a model of clarity, and the worst of the statutes ever passed by the Congress of the United States is a model of clarity compared to what you had in the Supreme Court decision in the Colorado case, where you cannot possibly figure out what the law is, because among four opinions no five Justices have agreed on any set rationale to give guidance as to what the law should be.

In conclusion, Mr. President, since the majority leader has arrived, it is my view, after studying the Constitution for more than 40 years, that the decision of Buckley versus Valeo simply is not good constitutional law to equate speech with campaign spending. It impedes, obstructs, and prevents Congress from legislating in this important field. That is why I urge this amendment be adopted.

I have no doubt, Mr. President, about the outcome of today's vote. I say as a matter for the future we ought to build a record, one day, so that we will overturn Buckley v. Valeo, and then have some sensible legislation in this very critical area.

I thank the Chair and yield the floor.

UNANIMOUS CONSENT AGREEMENTS—SENATE JOINT RESOLUTION 22 AND SENATE JOINT RESOLUTION 18

Mr. LOTT. Mr. President, I ask unanimous consent that during the pendency of Senate Joint Resolution 22, no amendments or motions be in order other than a motion to table, and at the conclusion of the vote on passage of Senate Joint Resolution 18 at 2:45, approximately, today, there then be 90 minutes for remaining debate, to be equally divided between the two leaders or their designee, with an additional 10 minutes allocated to Senator SPECTER.

I further ask unanimous consent that following the use or yielding back of debate time for Senate Joint Resolution 22 on Tuesday, the joint resolution be temporarily laid aside, and Senator LEAHY or his designee be recognized to offer a joint resolution relative to the independent counsel, and no amendments or motions will be in order, other than a motion to table, and that there then be 90 minutes of debate to be equally divided between the two leaders or their designees, and an additional 30 minutes under the control of Senator FEINGOLD, 20 minutes under the control of Senator BYRD, 30 minutes under the control of Senator LEVIN, 20 minutes under the control of Senator NICKLES, and 40 minutes under the control of Senator COATS.

Finally, I ask unanimous consent that following the conclusion or yielding back of time today, the second joint resolution be laid aside.

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

Mr. LOTT. For the information of all Senators, this agreement would call for two rollcall votes on the independent counsel issue. However, the votes have not been ordered by consent yet. I hope to discuss further with the Democratic leader today exactly when that will occur so that we can schedule those two votes.

I should note that we have one Senator who had a death in the family. We want to make sure that he is able to be back here for that vote.

In light of this agreement, there will be no further votes after the 2:45 vote today. Members should be prepared to vote tomorrow around 10 o'clock on the independent counsel issue.

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.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. MCCONNELL. Mr. President, I listened with considerable interest to the observations of my friend from Pennsylvania, Senator SPECTER, about the, as he put it, ill-advised Buckley decision.

Let me say, Mr. President, I think the Buckley decision was an outstanding decision. Obviously, the Supreme Court feels it was because they have had a number of opportunities in the last 20 years to revisit it, refine it, cut it back, restrict it, and in each instance they have expanded it further in the direction of more and more freedom to speak in the political process in this country.

The essence of the Buckley decision was in several passages that bear repeating as we move here toward the vote on this constitutional amendment to, in effect, overturn the Buckley case. The Court said with regard to spending limits, "The first amendment denies Government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise. In a free society ordained by our Constitution, it is not the Government," said the Court, "not the Government, but the people individually as citizens and candidates, and collectively as associations and political committees who must retain control over the quantity and range of debate on public issues in a political campaign."

Now, Mr. President, that really sums it up here. Who will control the political discourse? The Court had that issue directly before it in the Buckley case, and the Court said the Government is not going to control political speech in this country consistent with the first amendment.

Now, Senator HOLLINGS understands that, and he is offering this constitutional amendment to allow the Government to control political discourse for the first time in the history of our country. It leads you to ask the question: Who will feel more comfortable if we, the Congress, are in charge of regulating and controlling political speech in this country? Well, I do not think our citizens will feel more comfortable with that. That is clearly the end result of this debate, because this amendment says, in effect, the Buckley case will be overridden so that the amount of expenditures that may be made by, that is, by the campaigns, in support of the campaigns or in opposition to the campaigns shall be regulated by the Government.

All of us in here will have the last word on just how much speech is allowed, not only the quantity of it but the range of it.

Now, the Buckley case went on to say that a restriction on the amount of money a person or group can spend on political communication during a campaign necessarily, Mr. President, reduces the quantity of expression. So what we have after this amendment is the Government with the power to control how much we get to speak.

The Court said: "* * * reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached." That pretty well says it all. Under the Hollings amendment, the Government will be able to decide how much we get to speak, how big an audience we get to reach. In short, the Government would control political discourse in this country. The Court went on to say that "this is because"—referring to their opposition to spending restrictions—"virtually every means of communicating ideas in today's mass society requires expenditure of money." It is a fact, whether we like it or not, to the extent that the Government defines what your financial outlays can be, if you are a candidate or if you are a group in support of or in opposition to a candidate, the Government is saying, in effect, you only get so much speech, a rationing of speech. And we here in the Congress get to determine how much everybody talks.

I don't think it is much of a reach to suggest that we are going to want to shut down those who criticize us. We don't like these independent expenditures in particular. We certainly don't like what our opponents are saying about us. So what we would do in the aftermath of the Hollings amendment is shut those people up. We would probably—in terms of independent groups—shut them entirely up. In terms of our opponents, we would set the spending limit so low they would not have a chance and never will be able to get the message across, because virtually every incumbent starts off ahead, and if the other fellow can't get resources, he is going to stay ahead.

The Court went on to say, in Buckley, "Even distribution of the humblest handbill costs money." Further, the Court stated, "The electorate's increasing dependence on television and radio for news and information makes these expensive modes of communication indispensable elements of effective political speech." Indispensable elements of effective political speech.

Now, the Buckley case was right on the mark. They understood what it takes to speak in today's modern American society. It is not a question of whether we like it or not. This is a fact. It is as certain as the Sun is going to come up tomorrow. It is as certain as the Sun is going to come up tomorrow. Without the resources to market the message in this society, your speech is quieted—under the Hollings amendment quieted by the Government, which will control your discourse.

The Court in the Buckley case further said, "There is nothing invidious, improper, or unhealthy in a campaign spending money to communicate." There is nothing unhealthy about that. Nothing is inherently unhealthy about that. With regard to the growth in campaign spending, which was anticipated in 1976 and certainly has occurred, the Court said, "The mere growth in the cost of Federal election campaigns in and of itself provides no basis for Government restrictions on the quantity of campaign spending."

In other words, the Court was saying a lot of speaking is not bad, and an effort to try to restrict the amount of speaking to some Government-prescribed formula is a clear violation of the first amendment, which is why we are now voting on the amendment of the Senator from South Carolina to give the Government the power to control political discourse in this country.

The Court also addressed the issue of the level playing field. We often hear that. Proponents of bills, for example, like McCain-Feingold, say they want to "level the playing field." This is what Buckley had to say about leveling the playing field. The Court said, "The concept that Government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the first amendment." In other words, the notion that the Government is wise enough to level the playing field is abhorrent to the first amendment.

After all, if you think about it, it would be impossible to level the playing field. How is the playing field leveled if you only leveled the amount of money? I would say that in my State of Kentucky, in order to have a remotely level playing field, you would have to get 600,000 people to change their registration and two major newspapers to leave the State. Then you might have, in some ways, a level playing field. Then, of course, what happens when your opponent is famous, maybe a well-known athlete or a war hero, or somebody who has a special place in the hearts of the American people? How is the playing field leveled then? The Government has prescribed how much you can speak in the campaign. Your opponent starts off 5 yards from scoring a touchdown, and you're way back on your own 20, and the Government says this is how much you get to communicate with the constituents. In what way is that a level playing field? In fact, the Court rejected out of hand the level playing field argument.

So the Buckley decision was a sound decision. The Supreme Court believes it is a sound decision. They have reinforced it time and time again over the last 20 years. This amendment basically has no constituency. Common Cause, the principal group supporting various kinds of campaign finance reform, opposes the Hollings amendment. The American Civil Liberties Union opposes the constitutional amendment. Even our dear colleague, Senator MCCAIN, who differs with me on this issue, opposes this amendment. This is an amendment without a constituency. The Washington Post, who is certainly interested in its version of campaign finance reform, opposes this amendment.

In short, Mr. President, regardless of how you may feel about which kind of campaign finance reform might be appropriate, amending the first amendment for the first time in 200 years to give the Government the power to control the political discourse in this country by individuals, groups, candidates, and parties is a substantial overreaching and a dangerous step in the wrong direction. I think it could probably be argued persuasively that this is the kind of speech that the Framers of our Constitution had most in mind when they were writing the first amendment. They were just beginning the process of having elections and dealing with the issue of campaigning. Certainly at the heart of what they had in mind when they talked about free speech was free political speech.

After this amendment, pornography and flag burning would have more protection under the first amendment than political discourse. Political discourse would be singled out among all the other kinds of expression that we are free to engage in in this country under the first amendment; political discourse would be singled out and handed over to Government control. Mr. President, this is clearly a step we should not take. I hope the amendment will be substantially defeated.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, it is rather amusing to hear my distinguished colleague say that this particular initiative is "without a constituency." The constituency started 10 years ago with the Commission on the Constitutional System. I have quoted a group of several hundred present and former legislators, executive branch officials, political party officials, professors, and civic leaders who are interested in analyzing and correcting the weaknesses that have developed under our political system since the Buckley case.

We have the support of 44 law professors, which I have inserted into the RECORD, as well as 24 State attorneys general. When I introduced this joint resolution some 10 years ago, it was only relevant and pertaining to the Federal Government. The States came and begged and said, "Amend the Buckley ruling and include protection for us also." The cities came and said, "Amend it, please, and include the protection for the cities also."

Yet, my distinguished colleague says that he has the endorsement of the Washington Post and the ACLU. He had better not let many on his side of the aisle hear that or they will start changing their votes. I know that crowd over there. I can tell you, Mr.

President, we need to examine the very authority that the distinguished Senator from Kentucky uses—the Buckley case—which he said was good. He said it was good in 1976 it is good in 1997. He says it's good and that "we don't want, need the Hollings resolution." Incidentally, it is the Hollings-Specter. I don't know whether they are ashamed to have a Republican cosponsor it. They don't mind saying "McCain-Feingold," but they don't want to say "Hollings-Specter." But I do appreciate the distinguished Senator from Pennsylvania joining in. I understand also that my colleague from Delaware, Senator ROTH, has asked for time. I was waiting to make sure he had a moment. But in any event, I admire their courage for joining me because apparently they have made this into a party position. When I lose my good friend, the Senator from Alabama, Senator SHELBY, who cosponsored this three times and now comes and says he is worried about the freedom of speech, I know the pressure is on. But, after saying Buckley is good, they then say vote against the Hollings initiative. They argue that my amendment would be the first time in 200 years we have limited the freedom of speech, whereby there is no question that this is exactly what the Buckley decision does. The Buckley decision limits the freedom of speech of those who wish to contribute in political campaigns. The Buckley decision limits to this very moment the freedom of speech of political action committees. He talks about this being the first time in 200 years, yet he has to acknowledge that their authority shows the spurious nature of their defense.

Mr. President, what we have is what the Senator from Utah, Senator HATCH, said would gut the freedom-of-speech provision for the first time. Yet, we have already had it gutted in the Buckley decision. Thereupon, as the Chief Justice said in his dissenting opinion, it is half a haircut. You can't deal with the contributions without dealing with the expenditures of those contributions—both sides of the same coin, as he expressed it.

So we have been at this now for 20 years. We have had over 240 votes in Congress on campaign finance reform. What we have finally come to is not the question of how but the question of whether or not we are going to really limit. Heretofore, for 20 years we have had Common Cause say that this measure is public financing. We have had McCain-Feingold say, if you will voluntarily limit yourself, you can get free time, free TV time, free mailing time, and everything. All of those initiatives were dealing with how to limit. But now, my good friend from Kentucky says really we should not limit it at all.

That is the vote. If you want to limit, this is the way to give the authority to the national Congress to limit it. If you do not want to limit it, then vote against it. If you want reform, if you want to really get on top of this problem, we don't tell you how to do it. But you have to have the authority within the people's national Congress to actually limit it. That is the resolution. A constitutional amendment which is just as significant—in fact, more important than—five of the last six amendments to the national Constitution dealing with elections. Adopt it, if you please, and in 18.5 months—the average of those five—I would dare say that with the constituency we have of the cities, the States, the interest, and the people, this would be ratified in the 1998 November election.

They have worked it pretty good in a partisan fashion to try to bring in the freedom of speech, by saying money is speech. But it can't be. But what we are talking about is paid speech, not free speech. You go down to the Washington Post, which he says endorses this, and ask them for a quarter page or half page, and see how much free speech you get out of that newspaper.

What we are talking about is the right to control the election. The war in the field of battle, as the distinguished Senator INOUYE knows, is won by those who control air over the battlefield. Those who control the airwaves win political elections. There isn't any question about it. Money talks here. If we can't get on top of this monster, as Elizabeth Drew has said, we will never be able to save the process. We will never be able to save the democracy itself. Chief Justice Jackson said that the Constitution is not a suicide compact. We can move after 20 years to address this important problem facing our nation. We should move.

I thank the Chair.

The PRESIDING OFFICER. All time has expired.

Mr. MCCONNELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass? 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 Montana [Mr. BURNS] is necessarily absent.

The yeas and nays resulted—yeas 38, nays 61, as follows:

[Rollcall Vote No. 31 Leg.]

YEAS—38

Akaka	Dorgan	Levin
Baucus	Feinstein	Lieberman
Biden	Ford	Mikulski
Bingaman	Glenn	Murray
Boxer	Graham	Reed
Breaux	Harkin	Reid
Bryan	Hollings	Robb
Byrd	Inouye	Roth
Cleland	Jeffords	Sarbanes
Cochran	Johnson	Specter
Conrad	Kerry	Wellstone
Daschle	Landrieu	Wyden
Dodd	Lautenberg	

NAYS—61

Abraham	Gorton	McConnell
Allard	Gramm	Moseley-Braun
Ashcroft	Grams	Moynihan
Bennett	Grassley	Murkowski
Bond	Gregg	Nickles
Brownback	Hagel	Roberts
Bumpers	Hatch	Rockefeller
Campbell	Helms	Santorum
Chafee	Hutchinson	Sessions
Coats	Hutchison	Shelby
Collins	Inhofe	Smith (NH)
Coverdell	Kempthorne	Smith (OR)
Craig	Kennedy	Snowe
D'Amato	Kerrey	Stevens
DeWine	Kohl	Thomas
Domenici	Kyl	Thompson
Durbin	Leahy	Thurmond
Enzi	Lott	Torricelli
Faircloth	Lugar	Warner
Feingold	Mack	
Frist	McCain	

NOT VOTING—1

Burns

The PRESIDING OFFICER. On this vote, the yeas are 38, the nays are 61. Two-thirds of the Senators voting, a quorum being present, not having voted in the affirmative, the joint resolution is rejected.

Mr. MCCONNELL. Mr. President, I move to reconsider the vote, and I move to lay that on the table.

The motion to lay on the table was agreed to.

Mr. MCCONNELL. Mr. President, just a couple of observations about the vote just completed.

The constitutional amendment to strip political speech out of the first amendment and give the Government the power to control said speech was just defeated 61 to 38. We have had previous votes on the Hollings amendment in other years.

I would just like to mention for the benefit of my colleagues this is the biggest vote against the Hollings amendment yet achieved in the Senate. The opponents of this amendment included all but 4 Republicans and 11 Democrats. So I think it was a very encouraging indication of growing support for protecting the first amendment.

I want to thank my colleagues for this overwhelming vote against the amendment. Also I thank Tamara Somerville and Lani Gerst for their continuing good work on this issue. They are both members of my staff.

I yield the floor.

APPOINTMENT OF AN INDEPENDENT COUNSEL TO INVESTIGATE ALLEGATIONS OF ILLEGAL FUNDRAISING

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of Senate Joint Resolution 22, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 22) to express the sense of the Congress concerning the application by the Attorney General for the appointment of an independent counsel to investigate allegations of illegal fundraising in the 1996 Presidential election campaign.

The Senate resumed consideration of the joint resolution.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, it is my understanding, under the previous unanimous consent agreement, that discussion and debate will be taking place on either the resolution that Senators just voted on or the pending independent counsel resolution. Is that a correct assumption?

The PRESIDING OFFICER. The Senator is correct. The Senator from Indiana has 40 minutes under the agreement.

Mr. COATS. Mr. President, I do not believe I will consume the full 40 minutes. In fact, I am sure I will not. And if I finish before that, I would be happy to yield that time back to expedite the process.

Mr. President, I generally believe that the Senate floor should be a place to talk about issues, not about scandals. So my first inclination is to voice my support for an independent counsel and hope the process will take its course. The need for this investigation should be beyond question, proven on the front page of the newspaper every morning.

Under normal circumstances, there would be little more to say. But this circumstance is not normal because it now concerns some of the most disturbing questions that can be asked in a democracy.

Was the executive power of the White House abused to improperly influence the outcome of an American Presidential election?

Were foreign governments invited by the Democratic Party and the Clinton administration to corrupt American elections?

Was the privilege of American citizenship distorted and undermined to serve the President's reelection?

And now we are forced to ask, were American intelligence services manipulated by this administration as part of its fundraising machine?

The revelations that began last October, and have continued until this morning, do not primarily concern the low standards of our current campaign finance system. Those standards, it has been argued, should be changed. We will be debating that in this body.

What the almost daily revelations we have seen do concern are the legal and ethical breaches of the current standards by the Clinton administration. And that charge is different in kind in the seriousness from the policy debate on campaign finance reform.

It is not the technical violation of campaign finance law that primarily concern me. Those are for lawyers and prosecutors to debate and decide. The issue is far greater than the sum of those ethical and legal problems. All of the strands of this scandal—high-pressure soft-money fundraising, illegal foreign contributions, the abuse of the Immigration and Naturalization Service and of the CIA—reveal an administration obsessed with reelection, indifferent to ethical rules and organized to skirt the law.

All of these efforts were directed toward one event, and one date: The Presidential election on November 5, 1996.

There are countless complex elements to this scandal, but only one central issue. Was the executive branch of Government corrupted and compromised by a rogue political election operation centered in the Democratic National Committee, the Office of the President, the Office of the Vice President, and the Office of the First Lady?

By definition—no matter what the justification—this would not just be a violation of legal and ethical standards regarding campaign financing, but arguably a crime against democracy itself.

The most recent revelation is one of the most damaging. We now know that the Central Intelligence Agency was used by the Democratic National Committee to encourage access to the President by Roger Tamraz, an international fugitive and major donor to the Democrat Party.

We know that Donald Fowler, chairman of the DNC, made a call to the CIA asking that that agency provide classified information to the White House about Mr. Tamraz and his business interests in a pipeline project funded partially by Chinese businessmen.

When the National Security Council refused to recommend a meeting between Mr. Tamraz and President Clinton, the White House eventually scheduled at least four that we know of. One meeting in April 1996 took place while Mr. Tamraz was being sought for questioning by Interpol, the international police agency, for bank fraud in Lebanon. Mr. Tamraz made $177,000 in donations to Democrat causes and maintained business ties with both Saddam Hussein's Iraq and Muammar Qadhafi's Libya.

The White House has responded by saying in effect, as they have said to every issue that has been raised regarding their ethics and regarding their fundraising operation, "Well, everyone is doing it."

Mr. President, unless there are things going on here in the Senate that I do not know about, the White House defense that "everyone is doing it" does not apply here.

It has been said that the confirmation process is at fault in the withdrawal of the Anthony Lake nomination, the individual who headed the National Security Council during these events.

The fault, in fact, Mr. President, lies elsewhere. The Lake nomination was eventually undermined because he was forced to operate in the heart of a political fundraising machine whose abuses are being revealed to us in expanded detail each day.

The White House blames partisan Republicans, but the final straw in the failure of this nomination came because our intelligence services were politicized for partisan political advantage.

We are not entirely sure what Mr. Lake's role was in this. That is the reason why we requested interviews with NSC staff, interviews that were denied, and why we were going to seek today subpoenas to order those interviews to take place.

But we do know what the White House role was. And it was clearly inappropriate. If Anthony Lake is the victim of a political process gone haywire, that political process is to be found in the White House itself.

The most recent revelation is part of a pattern, a pattern of abusing executive power for political ends.

Concerning political solicitation at the White House, we now know that the Office of the President, the Office of the Vice President, and the Office of the First Lady were all involved in these efforts.

We know that the President's request for immediate action on fundraising in early 1995—the written message that read "ready to start overnights right away"—we know that this began a program of White House coffees and Lincoln Bedroom overnights that eventually raised nearly $40 million.

We know that an unsigned memo was written to Martha Phipps, deputy chief of staff to the chairman of the Democratic Party, which suggested 10 White House rewards for major donors: two seats on Air Force One, two seats on Air Force Two; six seats at all private dinners; six to eight spots at all White House ceremonies and events; official delegation trips abroad; better coordination on appointments to boards and commissions; White House mess privileges; White House resident visits and overnight stays; guaranteed Kennedy Center tickets; six radio address spots; photo opportunities with White House principals.

We know, Mr. President, that at least 7 of these 10 perks were actually used in fundraising efforts. We know that the administration, in its fundraising

efforts, applied few, if any, ethical standards to those who were given access to the White House.

Included in the White House coffees with President Clinton were a major drug dealer, a twice-convicted felon for theft and tax offenses, a Chinese arms dealer, and an international fugitive on conspiracy and embezzlement charges.

We know that the Vice President, Mr. GORE, solicited campaign contributions by telephone from his White House office on more than 50 occasions. One business figure who received a call recounts—and I quote—"There were elements of a shakedown in the call. It was very awkward. For a Vice President, particularly this Vice President who has real power and is the heir apparent, to ask for money gave me no choice."

We know that the First Lady's chief of staff, Margaret Williams, accepted a $50,000 political contribution at the White House.

We know that Harold Ickes, assistant to the President, wrote a memo to a major Democrat contributor advising him on ways to make a $5 million contribution to the Democratic National Committee tax deductible. The three-page document detailed how such a contribution could be filtered through 501(c)3 organizations that were helpful to Democrat reelection efforts. In the memo, Mr. Ickes wrote, "If possible, it would be greatly appreciated if the following amounts could be wired to designated banks."

We know there was a clear direction from the President and First Lady to use a White House computer database for political purposes. That database, by the way, was purchased with $1.7 million of taxpayer dollars. One memo marked "Confidential" from White House political aide Marsha Scott argues that the database be made available "to the [Democrat National Committee] and other entities we choose to work with for political purposes." On this memo are the handwritten words, "This sounds promising. Please advise." Signed HRC.

Another memo from Ms. Scott, to Erskine Bowles, the President's current chief of staff, outlines a plan to use the database to reward supporters with "trinkets" and access. The memo concludes, "This is the President's idea and it is a good one."

Another memo from Ms. Scott to Thomas McLarty, the President's former chief of staff, states of this plan, "Both the President and the First Lady have asked me to make this my top priority."

We know, Mr. President, that former White House counsel Bernard Nussbaum, early in the Clinton administration, had contributed a memo titled "Criminal Statutes." In that memo he wrote, "A number of criminal statutes prohibit the use of Federal programs, [Federal] property or employment for political purposes. Violation of these criminal statutes is punishable by imprisonment and/or payment of a substantial fine." The memo went on to outline the type of activities clearly prohibited by the law: "Soliciting or receiving campaign contributions on Federal property or in Federal buildings. This means that fundraising events may not be held [—may not be held—] at the White House; that no fundraising phone calls or mail may emanate from the White House or any other Federal buildings; and that no campaign contributions may be accepted at the White House or any other Federal buildings."

So, Mr. President, based on the Nussbaum memo, the former White House counsel memo, then White House counsel, we know this administration was fully informed of these ethical and legal standards, the standards of the current system, but we also know those standards were broadly and repeatedly violated at every level of the Clinton White House.

And then there is the issue of White House political involvement in foreign political contributions.

We know that many of the principal figures in the current scandal—including John Huang, Charlie Trie and Johnny Chung—have been longtime Clinton supporters, some brought to Washington from Arkansas. They have had open access to this administration —Huang visiting the White House 78 times in 15 months and Chung visiting at least 49 times.

We know that Johnny Chung took six Chinese businessmen to the White House to hear President Clinton's radio address on March 11, 1996, in exchange for a $50,000 contribution to the Democratic National Committee—the contribution that was given to Margaret Williams on March 17.

We know that Charlie Trie attempted to make a $460,000 contribution to the President's legal defense fund, claiming the money was collected from a variety of sources. Yet the serial numbers on the money orders were sequential and much of the handwriting was identical. Initially, only $70,000 of the money was returned. It took several months for the law firm overseeing the fund to return the remainder of the contribution.

We know, Mr. President, that John Huang was an official at the Clinton Commerce Department with a top-secret security clearance. While an official at Commerce, he recommended policies unfavorable to Taiwan and supported by China. We know that John Huang visited the Chinese Embassy at least two times during his tenure. In one instance, Mr. Huang requested top-secret documents on May 10, 1995, the day he was scheduled to meet the Chinese Ambassador.

We know that in an Oval Office meeting on September 13, 1995—including President Clinton, Bruce Lindsey, John Huang, and James Riady, the Indonesian head of the Lippo Group—a decision was made to transfer Mr. Huang to the Democratic National Committee where he became vice chairman of finance.

We know that John Huang approached officials of the Asian American Business Roundtable with a plan to channel more than $250,000 through roundtable members to the Democratic National Committee in return for a $45,000 kickback.

We know Huang helped arrange a California fundraiser at a Buddhist temple, attended by Vice President GORE, in which illegal contributions were transmitted to the DNC through third parties. One participant was paid $5,000 in cash in small bills and told to write a check. Vice President GORE claimed for 2 months he was unaware this event was a fundraiser. But a memo later surfaced that revealed that Vice President GORE's staff had briefed him on the fundraising purpose of the event.

We know that John Huang raised more than $3 million for Democrats in illegal contributions from Asian sources.

We know that the FBI, based on surveillance of the Chinese Embassy, expressed serious concerns that the Chinese Government was attempting to influence American elections through illegal contributions. That information was communicated to two officials at the Clinton White House in June of 1996. For reasons that for the moment are unclear, Mr. President, that information was not acted upon.

Another area of White House political involvement concerns the Immigration and Naturalization Service.

We know in September 1995 a Democrat activist from Illinois wrote to the First Lady to alert her of an "opportunity" presented by a new Immigration and Naturalization Service policy to increase the pace of naturalization. Daniel Solis wrote, "The people stuck in Chicago's naturalization bottleneck represent thousands of potential voters." He added that "similar backlogs exist in politically important States" like California and Texas.

We know the Vice President's office initiated a program called Reinventing Citizenship USA. We know the Vice President's office became involved in this project. A senior advisor to Vice President GORE sent an e-mail to a gentleman by the name of Dough Farbrother, another Gore aide, in March of 1996. Mr. Farbrother, being another Vice Presidential aide, received the memo in 1996, and that memo stated, "The President is sick of this and wants action."

We know that in a later message to the Vice President, Mr. Farbrother said that the Immigration and Naturalization Service is not doing enough to

"produce a million new citizens before election day."

He concluded that, "Unless we blast INS headquarters loose from their grip on the front line managers, we are going to have way too many people still waiting for citizenship in November."

We know that Mr. Farbrother later drafted a memo to President Clinton on behalf of Vice President GORE, which stated that "if we are too aggressive in removing the roadblocks to success, we might be publicly criticized for running a pro-Democrat voter mill and even having Congress stop us."

We know that as a result of these efforts 180,000 people were processed without criminal background checks. Clearly, the standards of citizenship were bent and broken for political purposes.

Mr. President, in the middle of all this political activity at the White House, designed to influence the Presidential election, Vice President GORE made the following statement: "The ethical standards established in this White House have been the highest in the history of the White House. You have a tougher code of ethics, tougher requirements, strictly abided by." When that statement was made last year, it was barely credible. Today, that statement is offensive and outrageous. Evidence piles upon evidence of legal and ethical wrongdoing in the Clinton administration.

Mr. President, each day, it seems, either the New York Times, or the Washington Post, or the Wall Street Journal, or other major, credible investigative organizations, detail new improper or illegal activity, or both, coming out of this administration, related to the campaign financing operation run in the White House during the last election. As a consequence of this, I believe we are forced to three conclusions by this unfolding scandal. First, the White House, in preparation for the election, was turned into a political machine—more like Tammany Hall than the most ethical White House in history. The staff of the President, the staff of the Vice President, the First Lady, the Immigration and Naturalization Service, and even the CIA were all involved. We are not sure exactly what the direct involvement was of the President. We know the Vice President, who was referred to as "solicitor in chief," was a key player in all of this, in one way or another, Mr. President, with fundraising or increasing the number of Democrat voters. There was even use of the CIA in the operation to fund this election, which was conducted in an unprecedented and extraordinary and very disturbing way. Clearly, all the advantages of the executive branch were employed in the President's reelection effort.

Mr. President, there is something deeply disturbing and inherently troubling about all of this. In a democracy, we prevent public officials from using their public office to improperly influence the outcome of elections because such practices are, perhaps, the most serious form of corruption in a democracy.

The second conclusion from all of this is that the return of illegal money by the Democrat National Committee comes after the benefits that it bought, after the election is past and after the damage is done. In reality, the money raised by Johnny Huang and others cannot be returned because it has already been used. The DNC will simply raise new money, which is then refunded. We must not fool ourselves that returning illegal money is sufficient punishment, or any kind of punishment at all. It turns illegal funds into a campaign loan to be repaid after the votes are counted. And now it is unclear just when that loan will ever be repaid, because despite public announcements that the DNC is returning illegal contributions, not a penny—at least a reported penny—has yet been returned.

Finally, this unfolding story of the White House improperly influencing the result of the national election is not politics as usual, as is so often alleged by the White House in response to each new allegation. This is something unique and something uniquely disturbing. This administration wants us to believe that its actions, if questionable, were normal practice, but we must never, Mr. President, become immune to illegality. This record of broken trust and broken rules does not primarily indicate the need for campaign finance reform; it indicates the need for further FBI investigation. It indicates the need for immediate firings in the White House. It may indicate the need for criminal prosecutions. It certainly indicates the need for independent counsel.

Every time the New York Times, Wall Street Journal, Washington Post, or other publication reports a new aspect of this scandal, the same response comes back from the White House: "Republicans are being partisan. This is just politics. We all do it, so let's clean up the mess together."

No one at the White House, in any context, seems willing to take responsibility for ethical and legal violations. If the White House will not assume that responsibility, then it must be imposed. Senator THOMPSON's committee will doubtlessly do good work, but its results will almost certainly be attacked and discounted by the Clinton administration as simply "partisan politics." I supported the effort to allow that committee to move forward in its investigation. But it is clear that the pattern of response from the White House now that whatever is said either by this Senator on this floor, or any Republican on this floor, or any Republican in a public statement, or conducted by any committee controlled by a Republican chairman—it's clear now that every question asked, every allegation made, and every statement offered is simply labeled as "partisan politics."

For that reason, it seems that in the end, we have no choice but to proceed with independent counsel. While far from perfect—and I have had my reservations about independent prosecutors—such a process, however, was designed to move questions of criminality outside the political process. And those questions of criminality in this case are serious questions—as serious as it gets—and may reach to the very highest levels of our Government.

This administration has maintained its power, but has squandered its integrity. It has actively undermined the integrity of an American Presidential election. This is a breathtaking act of political arrogance. Yet, the President insists it was justified because, in his words, "The direction of the country was at stake."

I wonder what the public response would have been, Mr. President, if during the Watergate investigation of then President Nixon the response from the President, the response from the Vice President, and the response from the administration had been that all the means that we took, all the things that we engaged in were justified because our political agenda and the direction of our country was at stake.

To overlook virtually every questionable, improper, illegal practice, and to overlook this 14 pages of what we know—who knows what we don't know?—and simply say that it was justified on the basis that the agenda of this administration was so important that any law could be violated, that any ethics rule could be overlooked, that any practice could be undertaken, simply to advance their political agenda for the future of America, puts this country in a dangerous, dangerous situation.

The ends do not justify the means. While the President and his party feel strongly about what the agenda should be for this country, it is clear that there are opposing agendas that are debated every day on the Senate floor and in the Congress, and debated among the American people. It is political arrogance to suggest that one party's political agenda for the future of this country justifies the kinds of campaign practices that took place in the reelection effort of this President.

The White House for years has chosen its own direction. That direction appears to be the corruption of the very democratic process itself.

Mr. President, I believe this situation has become so serious and so potentially threatening, and damaging to the political process and to the office of the Presidency that an independent

counsel is needed, and needed immediately. I, therefore, will join with many here in this body in a sense-of-the-Senate resolution calling upon the Attorney General to immediately name an independent counsel, someone who is above reproach, whose credibility is acceptable to the American people, whose integrity is unquestioned, to investigate the extraordinary serious allegations printed in major newspapers with great credibility. Just reading the quotes alone from memos obtained regarding some of these practices raises enough question I believe for the appointment of an independent counsel.

I hope my colleagues will join me in this effort. Clearly the administration and the White House has decided to follow the course of labeling every charge as simply a partisan attack, equating campaign financing in the last congressional election with what took place at the White House—and they are leagues apart in terms of degree—attempting to confuse the issue with phrases like "Mistakes were made"; "We promise we won't do it again, even though we are proud of what we have done." The phrases and comments that seem to indicate that we are all in the same pot together on this one; "You guys did it. We did it. Let's put behind us what was done and move forward to clean up the system."

I think it is time people began to take responsibility for their own actions. Since the White House refuses to do this, I think it is appropriate that we move forward with independent counsel. I will be supporting the resolution to be voted on tomorrow.

Mr. President, if I have any time left, I yield that time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. 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. NICKLES. Mr. President, I rise today to support the resolution of Senator LOTT calling for the Attorney General to appoint an independent counsel to investigate many of the allegations of illegal activity concerning the 1996 election cycle.

This statement—I will read most of it—is very serious. It bothers me as a Senator to do this. I am not a big proponent of the independent counsel statute, but I think clearly it was written to avoid a conflict of interest between the Attorney General and covered persons, those persons being the President, the Vice President, and heads of national committees. I think we have seen evidence in the last 2 or 3 months that there probably is a conflict of interest between the Attorney General and the President and the Vice President and other high officials within the Clinton administration.

In the New York Times there is an editorial that says:

> Disclosures about a Chinese plan to influence the election have taken the fund raising scandal to a new level of seriousness and clarity. Now it is clear that any citizen with a reasonable interest in the efficiency of the Federal investigative agencies and the integrity of the electoral process will want a full account of what went on.

I agree with that.

Recent news reports revealed conflicting accounts by President Clinton, the White House, and the FBI, concerning whether the President was made aware of intelligence information that the Chinese Government might be trying to influence the upcoming elections. The FBI believe they may attempt to funnel illegal donations into Presidential and congressional campaigns. The question whether the President was aware of this information and if not, why it was kept from the President, is just one of the numerous conflicts of interest pending before the Attorney General.

It is an important issue to determine whether President Clinton was aware of the Chinese Government's intended illegal actions before he approved White House coffees, lunches, and dinners with individuals known to have close ties to the Chinese Government. Charlie Trie, Pauline Kanchanalak, and Johnny Chung were allowed frequent access into the White House to attend various functions and one-on-one meetings with the President.

Mr. Chung came into the White House reportedly 49 times—and I have heard 51 times—and he donated over $366,000 that had to be returned. One of Mr. Chung's visits came only 1 day after he delivered a $50,000 check to Mrs. Clinton's Chief of Staff Maggie Williams in the White House. Mr. Chung brought six Chinese businessmen into the Oval Office to watch the President's radio address, one of which is the vice president of a Chinese company that trades weapons. They had their photos taken afterward. The White House was warned about handing over these pictures by the President's own NSC staff. They labeled Mr. Chung a "hustler" and warned that he might use the pictures to "enhance his business." In spite of this, Mr. Chung also brought Chinese beer executives into the White House who evidently obtained their pictures with the President since it was reported that one of these pictures was featured on a billboard advertisement for the beer company.

Pauline Kanchanalak visited the White House at least 26 times and donated approximately $250,000 to the DNC. On the day Ms. Kanchanalak brought some of her business clients to a White House coffee with the President, she donated $85,000 to the DNC and it was recorded that the donation was for "coffee with the President of the United States." Ms. Kanchanalak has not been available to answer questions about any of this. She apparently left the country after congressional subpoenas were issued and there were news reports that documents were destroyed.

Charlie Trie visited the White House up to 37 times and delivered $640,000 in checks and money orders to the President's legal defense fund. The money had to be returned since it was from unverifiable sources. About 1 month after Mr. Trie delivered the bulk of these checks, President Clinton expanded the number of members of the U.S.-Pacific Trade and Investment Policy Commission and Mr. Trie was appointed to that Commission. The White House denied any connection between the donations and the delivery of the money, but questions remain unanswered. Mr. Trie also arranged for Chinese arms merchant Wang Jun to attend a White House coffee with President Clinton. Wang Jun is a former officer of the Chinese People's Liberation Army and was chairman of a Chinese company suspected of trying to import illegal automatic weapons into the United States.

Did the President know about the Chinese Government's plan before his reelection campaign and his legal defense fund accepted hundreds of thousand of dollars in illegal donations?

Was the President aware of this information when he allowed a Chinese arms dealer and manufacturer into the White House?

Was Mr. Trie's appointment to the Trade Commission related to his generous donations to help pay the President's legal expenses and to aid his reelection efforts?

All of these examples show just how many conflicts of interest exist for the Attorney General and the Department of Justice to investigate these allegations. And that is just what they are at this point—allegations. However, the independent counsel statute clearly provides under section 591(c)(1) and (d) of title 28, United States Code, that the Attorney General may invoke the independent counsel process when the Attorney General has received specific information from a credible source sufficient to constitute grounds to investigate whether a violation of any Federal criminal law, other than a Class B or C misdemeanor or infraction, may have been committed by any other person if such investigation or prosecution by the Department of Justice may result in a personal, financial, or political conflict of interest.

The independent counsel statute is intended to allow the Attorney General to request the appointment of an independent counsel when this type of conflict of interest occurs involving those at the highest levels of our Government and top officers of the President's

political party. I believe that Attorney General Reno has ample information and should therefore, invoke this provision of the statute to immediately request appointment of an independent counsel.

Attorney General Reno testified before the Government Affairs Committee in favor of the reauthorization of the act. She testified that:

The reason that I support the concept of an independent counsel with statutory independence is that there is an inherent conflict whenever senior Executive Branch officials are to be investigated by the Department and its appointed head, the Attorney General. The Attorney General serves at the pleasure of the President. . . .

Section 591 (a) and (d) of the independent counsel law also contains a mandatory provision which requires the Attorney General to invoke the independent counsel process whenever the Attorney General has received specific information from a credible source sufficient to constitute grounds to investigate whether any Federal criminal law, other than a Class B or C misdemeanor or infraction, may have been violated by a covered person.

There has been specific credible information publicly reported that officers and agents of the Democratic National Committee were acting under the direction of and pursuant to instructions given by the President, Vice President, and other top level officials in the White House and the Clinton-Gore reelection campaign. The President, Vice President, the Clinton-Gore Reelection Campaign chairman and treasurer are named in the statute as covered persons.

If it is correct that certain officers and agents of the Democratic National Committee were acting under the direction of the reelection campaign and were in effect exercising authority for the campaign at the national level, then it is open to interpretation whether the chairman and top officers of the DNC would also be covered persons under the law.

The law also provides a list of other covered persons which includes the Attorney General, certain top Justice Department officials, Cabinet Secretaries, and other top level administration officials. Any person working in the Executive Office of the President with a salary of $133,500 or above is also a covered person under the law.

What this means is that if the Attorney General receives specific information from a credible source that any Federal criminal law, other than a Class B or C misdemeanor or infraction, may have been violated, Attorney General Reno must conduct a preliminary investigation and seek the appointment of an independent counsel if further investigation is warranted.

There are numerous Federal laws that may apply to the allegations we have heard about and seen reported in the news:

Title 18 of the United States Code, section 599 makes it unlawful for a candidate for Federal office to promise an appointment to any public or private position or employment in return for support of his candidacy.

Section 600 makes it unlawful to promise employment, a contract, or other benefit in exchange for any political activity or support for a candidate or political party.

Section 607 makes it unlawful for any person to solicit or receive any contribution intended to influence an election for Federal office in any [government] room or building.

This is the tone that has been related to the President's fundraising coffers and also to the Vice President's phone calls.

Section 641 makes it unlawful to convert Government property which includes telephones, copy machines, or Government computer records for one's own use.

Section 201 makes it unlawful to give or offer a bribe to a public official in order to influence an official act.

Section 205 makes it unlawful for a Government employee to act as an agent for anyone before a Federal agency on matters that the United States is a party or has a direct interest.

Section 793 makes it unlawful to communicate national defense information to anyone not entitled to receive it.

Section 794 makes it unlawful to communicate national defense information to a foreign government or representative of a foreign government.

Section 219 prohibits a Federal Government official or employee from acting as foreign agent by delivering money actually derived from foreign countries.

Sections 611–621 of the Foreign Agents Registration Act prohibit any person from acting in any capacity on behalf of a foreign government or foreign political party without registering with the Attorney General.

Section 1905 makes it unlawful for a Federal employee to make an unauthorized disclosure of proprietary business information.

Section 1956 is the money laundering statute.

Section 1505 makes it unlawful to obstruct an agency or committee proceeding.

All of these laws are subject to:

Title 18, section 371, conspiracy statute which makes it unlawful to conspire to commit any offense against the United States; and sections 1341 and 1342, mail and wire fraud statutes which make it unlawful to use the mails, radio, or telephones in connection with any scheme to defraud or obtain money by false pretenses.

Section 1001 false statements statute which makes it unlawful to make a false statement or use a document containing materially false statements in a matter before the executive branch and with some limitations, the judicial and legislative branches.

The Federal election laws make it unlawful to: Solicit or accept political contributions from foreign nationals in section 441e; it makes it unlawful to knowingly accept a contribution made in the name of another person; section 441f; or makes it unlawful to solicit any contribution from persons with contracts with any government agency; section 441c.

These are only a portion of the Federal laws that apply to the allegations currently under review.

Recent news accounts of solicitations of campaign contributions by the Vice President, and possibly the President or senior White House staff, occurring in White House offices not used for residential purposes, or onboard Air Force One, may have violated Federal criminal laws prohibiting soliciting or receiving political contributions in any Government room or office or conversion of Government property to one's own use.

There has been specific credible information publicly reported that the Cheyenne-Arapaho Indians of Oklahoma contributed $107,000 to the Clinton-Gore reelection campaign in order to meet with President Clinton to discuss the return of Federal lands. It also was reported that Clinton-Gore reelection campaign chief fundraiser Terrance McAuliffe may have offered a Government benefit of access in exchange for additional political support which may violate Federal law prohibiting the promise of a Government benefit in exchange for political activity or support.

There has been specific credible information publicly reported that President Clinton, Vice President GORE, Deputy Chief of Staff Harold Ickes, and other covered White House and Clinton-Gore campaign officers coordinated the solicitation and expenditure of independent Democratic Party funds which may be in violation of the Federal election laws. It was further reported that Democratic party advertising and expenditures were directed toward the reelection effort which may have had the effect to render these funds subject to campaign finance limitations to which they otherwise were not subject.

There has been specific credible information publicly reported that President Clinton met with Long Beach officials to advance a proposed contract between the city of Long Beach and the Chinese state-owned merchant fleet, the China Ocean Shipping Co., COSCO, to lease an abandoned United States Navy Station at Long Beach. It was also reported that individuals—Charlie Trie, Wang Jun, and Johnny Chung—with business interests linked to the Chinese shipping company made campaign donations to the Democratic National Committee and visited the

President at a White House coffee during the negotiations for this lease which may have violated Federal laws if any promise of a Government benefit was given in exchange for political activity or support or if a promise of money from a foreign government was given.

Yesterday, the Wall Street Journal reported that oil financier Roger Tamraz, who had an outstanding international arrest warrant for allegedly embezzling $200 million from a Lebanese bank, attended a White House coffee, a White House dinner and reception, and viewed a movie with President Clinton. All of these visits were allowed in spite of warnings from the President's own National Security Counsel Asian specialist's recommendation that Mr. Tamraz should have no future meetings or future access to the White House. Mr. Tamraz met with the NSC specialist in an attempt to obtain support from the administration for a multibillion dollar oil pipeline from the Caspian Sea to Turkey that he was negotiating to build. He then tried to set meetings with Vice President GORE and President Clinton.

The specialist's advice appears to have been followed until Mr. Tamraz made donations of $50,000 and then $100,000 to the Democratic National Committee. When the National Security Counsel determined that it was not in the best interest of the United States to support Mr. Tamraz's business proposal or for his return to the White House, he went to the Democratic National Committee.

Mr. Tamraz is quoted as saying that he thought that "through the DNC [he] could make a policy heard." DNC Chairman Don Fowler is reported to have personally called the White House's NSC specialist and asked her to drop her opposition to Mr. Tamraz meeting with President Clinton. Mr. Fowler apparently also managed to have the CIA send over a paper on Mr. Tamraz which Mr. Fowler said would show that Mr. Tamraz had helped the United States in the past. The requested meetings with the President did occur. It was reported that Mr. Tamraz had four meetings with President Clinton in spite of these warnings. What did Mr. Tamraz do to warrant such special access? We know that he donated at least $177,000 to the DNC and it was reported that he raised more money from other large donors.

Why was a man with an international arrest warrant, accused of embezzling $200 million from a foreign bank, allowed into the White House to meet with the President?

Why was this same man allowed to meet with President Clinton over the objections of his own National Security Council Asia specialist's warnings?

Why was the chairman of the Democratic National Party involving himself in foreign policy issues?

Why did he call the National Security Council to attempt to change a decision?

How did the chairman of the Democratic National Committee obtain a copy of a paper on a donor from the CIA and have it sent to the National Security Council?

On whose authority was this done?

Was the President aware of his party chairman's actions and did he approve?

If not, why did he continue to meet with this man?

What was requested in these meetings and was any benefit provided to Mr. Tamraz as a result?

There has been specific credible information publicly reported that a cocaine dealer convicted of transporting nearly 6,000 pounds of cocaine into this country, Jorge Cabrera, met with President Clinton in the White House. Eric Wynn, convicted of 13 counts of stock fraud which allegedly was to benefit the Bonano crime family, met with President Clinton. And a man alleged to have been associated with Russian organized crime, Gregori Loutchansky, also met with President Clinton. Mr. Yogesh Gandhi contributed $325,000 to the DNC and met with President Clinton to give him a World Peace Award although reports allege that he owed $10,000 in back taxes and filed divorce papers in court that he was a pauper and could not afford to pay the court's fees. Numerous other specific allegations surrounding John Huang and Webster Hubbell have been widely reported and raised questions about their activities in relation to Chinese interests.

All of these questions need to be answered. They clearly present a conflict of interest for the Attorney General and the Department of Justice. And they do involve credible information concerning covered persons that may have violated Federal law.

Mr. President, I urge the Attorney General to appoint a special counsel to investigate these charges. I think the law calls for it. I think it is very clear. I do not think it is close. So I urge the Attorney General to appoint an independent counsel immediately.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GORTON). The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. 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. DORGAN. Mr. President, I ask unanimous consent I be allowed to speak for 20 minutes as in morning business.

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

Mr. DORGAN. Mr. President, I ask unanimous consent following my presentation that Senator LEVIN from Michigan be recognized on the bill.

The PRESIDING OFFICER. Senator LEVIN has time reserved.

Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I come to the floor to discuss a piece of legislation that I and a couple of my colleagues intend to introduce, but I did want to comment first on the remarks that have been offered previously on the floor of the Senate, including the just-completed remarks by the majority whip.

It is certainly the case that a number of allegations about fundraising abuses are serious and ought to be investigated. The current campaign financing system in this country is in desperate need of revision and reform. The range of abuses that need investigation goes all the way around the spectrum. These include abuses by the major campaign committees, both the Republican National Committee and the Democratic National Committee, congressional campaigns, and the White House. There are a wide range of allegations surfacing almost daily now for several months about abuses in campaign financing. All of them deserve to be fully investigated. The American people deserve no less than that.

Last week, there was an attempt to do a congressional investigation resolution on the floor of the Senate. That resolution was attempting to put blinders on the investigation sufficient so that it would only investigate a little corner of the problem, and it was the majority party saying only investigate the opposition. It turned out that sufficient members of the Senate would not agree with that. So, finally it had to be broadened to say investigation of campaign finance abuses ought to be across the board, no matter which party is involved with those abuses. As a result the charter given last week to the Senate Committee that will investigate these abuses, is a broader charter rather than a narrower charter.

The same should hold true with the discussion about the resolution now before the Senate. This resolution, once again, attempts to narrow it. The resolution that will be offered by the Senator from Michigan, a substitute offered by Senator LEVIN, is what I will choose to support, largely because that resolution contemplates that abuses shall be investigated with respect to either party or any party in which there is an allegation of fundraising abuse.

The Senate Judiciary Committee already has petitioned the Attorney General on the question of an independent counsel. The law provides for that. The law does not provide for the Senate to intervene on a political basis to petition for an independent counsel. What is happening here is unprecedented. It has not happened previously.

Part of this debate is whether this is politics or substance. We already have

a congressional investigation that will now be organized and will be very well funded. We already have a letter from the Senate Judiciary Committee to the Attorney General. The question of whether this legislation now brought to the floor is a political missive, I suppose, is up to those who are looking at it and would make judgments about its narrow scope. I prefer that we consider the resolution and vote for the resolution offered by the Senator from Michigan.

I make one additional point. What is not on the floor of the Senate is campaign finance reform. It ought to be. Campaign finance reform ought to be brought to the Senate. We ought to debate it. We ought to reform the campaign finance system.

What is not on the floor of the Senate, and it must be, is the Chemical Weapons Treaty. That is very important business that is before the body. We must bring it to the floor and have a vote on it and have a debate on the Chemical Weapons Treaty. The attempt to end the spread of poison gases for warfare in this world is a noble attempt initiated first by President Reagan and then by President Bush, sent to us by President Clinton. Many countries have already signed the initiative. It is being held up in this body. Very soon we will have to take aggressive action to try to wedge that to the floor of the Senate and insist on a vote on the important Chemical Weapons Treaty.

(The remarks of Mr. DORGAN pertaining to the introduction of S. 465 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Under the previous unanimous-consent ordered, the Senator from Michigan is to be recognized. The Senator from Michigan is recognized for not to exceed 30 minutes.

Mr. LEVIN. Mr. President, there is only one reason the Senate is being asked by the majority leader's resolution to intervene in the independent counsel process which is being considered by the Attorney General. The reason is partisan politics, pure and simple. It is regrettable for many reasons, particularly following last week's determination by the full Senate to support a broad and fair and evenhanded investigation by the Senate Governmental Affairs Committee into campaign finance practices in the 1996 election—Presidential and congressional, House and Senate, Republican and Democratic. In doing that last week, we recognized as a body that abuses in campaign fundraising are not in the exclusive domain of either political party, or either end of Pennsylvania Avenue. We confirm the view, as stated in the Governmental Affairs Committee report, in support of funding a broad scope investigation that:

> The committee intends to investigate allegations of improper activities by all, Republicans, Democrats, or other political partisans. It will investigate specific activities, not the political party against which the allegations are made.

But now, in a partisan attempt to reestablish the focus of the press and the public on just the Democratic National Committee and just the Clinton-Gore campaign, the majority leadership brings this resolution to the floor. The very wording of the resolution reveals its partisan objective. Nothing in the resolution mentions activities in connection with the Republican National Committee, or the fundraising activities of Members of Congress. The resolution mentions possible Democratic problems exclusively and calls upon the Attorney General to seek the appointment of an independent counsel to investigate only allegations against Democrats. It is an unbalanced, partisan piece of work, and I expect it will receive the unbalanced partisan vote that it deserves.

But in addition to the reversal that it reflects of the Senate's unified position on a broad, bipartisan investigation into campaign finance reform, it does damage to the very law that it is seeking to invoke. For the past 18 years I have served as either chairman or ranking Democrat on the Subcommittee of the Governmental Affairs Committee with jurisdiction over the independent counsel law. I have been actively involved in three authorizations of this important statute. And having experienced and studied the history of this law, it is apparent to me that this resolution runs directly counter to the fundamental purpose of the independent counsel law.

The independent counsel law was enacted in the aftermath of Watergate. The Watergate Committee recommended, and Congress agreed, that we needed an established process by which criminal investigations of our top Government officials could be conducted in an independent manner free from any taint of favoritism or politics. This was necessary, we decided, in order to maintain the public's confidence in one of the basic principles of our democracy—that this is a country that follows the rule of law. We established a process whereby the Attorney General would follow certain established procedures in reviewing allegations of criminal wrongdoing by top Government officials and decide at certain stages whether to ask a special court to appoint a person from the private sector to take over the investigation and conduct it independently from the chain of command at the Department of Justice. We wanted the public to have confidence that investigations into alleged criminal conduct by top Government officials were no less aggressive—and I might add no more aggressive—than any such investigation of the average citizen. We particularly wanted to take any suggestion of partisanship out of the investigative and prosecutorial decisionmaking process.

So here is what we did. We established the requirement that if the Attorney General receives specific information from a credible source that a crime, other than a class B or C misdemeanor, has been committed by certain enumerated top Government officials, the Attorney General has to conduct a threshold inquiry lasting no more than 30 days, to determine if the allegation is frivolous or legitimate. The top officials who trigger this so-called mandatory provision of the act are the President and Vice President, the Cabinet Secretaries and Deputy Secretaries of the executive branch departments, plus very top White House officials who are paid a salary at least as high as Cabinet Secretaries or Deputy Secretaries, and in addition the chairman and treasurer or other top officials of the President's campaign committee.

If, after that threshold inquiry, the Attorney General determines that there is specific information from a credible source that a crime may have been committed, the Attorney General must then conduct a preliminary investigation lasting no more than 90 days in which she gathers evidence to determine whether further investigation is warranted. If, after the conclusion of the 90-day period, the Attorney General determines that further investigation is warranted with respect to a covered official, then she must seek the appointment of an independent counsel. The Attorney General is required by law to seek such appointment from a special court made up of three article III judges appointed for 2-year terms by the Chief Justice of the Supreme Court.

The independent counsel law also has a provision that gives the Attorney General the discretion—and I repeat the discretion—to seek an independent counsel where there is a criminal allegation against a noncovered official and the Attorney General determines that the Department of Justice has a political, personal, or financial conflict of interest with respect to the investigation. There must still be specific information from a credible source that a crime may have been committed and a preliminary investigation to determine whether further investigation is warranted. Use of this provision is contemplated where the Attorney General or top Justice Department employees may have been personally involved in the matters under investigation or where the Attorney General has an unusually close personal relationship with the subject of the investigation.

A third provision of the independent counsel law provides that the Attorney General may seek the appointment of an independent counsel relative to allegations against Members of Congress.

The independent counsel law provides that if the Attorney General receives specific information from a credible source that a crime may have been committed by a Member of Congress, she can determine whether the continued investigation of that allegation should be conducted by the Department of Justice or whether it is in the public interest that the investigation be conducted by an independent counsel. Like the conflict of interest provision, this is a discretionary authority, but it is one the Attorney General has available to her in matters involving Members of Congress.

In crafting the independent counsel law, Congress contemplated a role for Congress with respect to the appointment of an independent counsel in a specific case. We included a provision that is tailored to the purposes of the law. The independent counsel law explicitly provides that the appropriate avenue for congressional comment on the appointment of an independent counsel is through action of the Judiciary Committee. The law provides that either a majority of the majority party or a majority of the minority party may request the Attorney General to appoint an independent counsel acting in the Judiciary Committee. Upon receipt of such a letter, the law provides that the Attorney General must respond in writing to the authors of the letter explaining "whether the Attorney General has begun or will begin a preliminary investigation" under the independent counsel law setting forth "the reasons for the Attorney General's decision regarding such preliminary investigation as it relates to each of the matters with respect to which the congressional request is made. If there is such a preliminary investigation, the report shall include the date on which the preliminary investigation began or will begin."

The Attorney General is not obligated to trigger the statute when she receives such a letter. She is not required to initiate a threshold inquiry or conduct a preliminary investigation. She is only required to respond within 30 days, as I have indicated before. That is the process that we provided in the independent counsel law for Congress to express an opinion in triggering the statute.

Now, why did we adopt that procedure specifically in the statute? We wanted to provide an opportunity for congressional expression in a moderate way. We did not say the Senate or the House could trigger the required report by resolution, thereby raising the stakes and increasing the level of possible partisan bickering. We provided for members of the Judiciary Committee to make the request to the Attorney General, and we required of her only that she respond in writing to the letter in a 30-day period in the manner indicated. So we channeled congressional concerns about the appointment of an independent counsel into a low-key, limited process to keep partisan politics at bay.

We also established this limited process because central to this law is the constitutional requirement that the Attorney General control the triggering of the statute. Congress as a whole is constitutionally prohibited from forcing the Attorney General to seek an independent counsel. In fact, when the constitutional challenge to the independent counsel law was considered by the Supreme Court in the case of Morrison versus Olson, the Supreme Court based its finding of constitutionality for the law upon the fundamental principle followed in the statute that the Attorney General has full authority to exercise her discretion free of congressional control.

The Supreme Court said the following in Morrison versus Olson:

> We observe first that this case does not involve an attempt by Congress to increase its powers at the expense of the executive branch . . . Indeed, with the exception of the power of impeachment—which applies to all officers of the United States—Congress retained for itself no powers of control or supervision over an independent counsel. The act does empower certain members of Congress to request the Attorney General to apply for the appointment of an independent counsel, but the Attorney General has no duty to comply with the request, although he must respond within a certain time limit . . . Other than that, Congress' role under the Act is limited to receiving reports or other information and oversight of the independent counsel's activities, functions that we have recognized generally as being incidental to the legislative function of Congress.

The resolution before us would tend to undermine that basic principle of this law. It also does undermine the nonpartisan spirit which has been so important to this law's operation. This law has been reauthorized in this Chamber at the instigation, I believe, at least on the last three occasions, of then Senator Bill Cohen, Republican from Maine, and myself. We always did it on a bipartisan basis. We always told each other it was critical to this law's functioning that it be implemented carefully as written and not be undermined by bipartisan efforts to use it to its advantage in this most political body.

That is why as an alternative to the majority leader's resolution I have introduced, with Senator LEAHY, a resolution which simply urges the Attorney General to follow the law as it is written, to do her job with respect to all three of her powers to invoke the statute: The mandatory coverage of covered officials in the executive branch, the conflict of interest provision, and the Members of Congress provision. And it asks her to consider all allegations involving Federal elections, Democratic and Republican, Congress and the President, and to do so free of any political considerations.

The majority leader's resolution is problematic both for what it leaves out and what it includes. It leaves out any reference to allegations against Members of Congress and the Republican Party, and it includes conclusory language with respect to the allegations against the White House and the Democratic Party. The resolution leaps to judgment and purports to make the very judgments about possible criminality which the statute and the Constitution reserve for the Attorney General.

The majority leader's resolution very clearly leaves out the same group which some in this body tried to leave out of the Governmental Affairs Committee's investigation, allegations against Members of Congress.

Let us just look at some of the activity that the majority leader's resolution would rather the Attorney General ignore that is not referenced in this resolution at all.

A few months ago, when the 105th Congress first got underway, the media was filled with articles about Speaker NEWT GINGRICH and his misuse of alleged tax-exempt organizations to further partisan political ends.

On January 17, 1997, a specially-appointed investigative subcommittee of the House Ethics Committee released a unanimous bipartisan report which presented the following conclusions:

> The subcommittee found that in regard to two projects, Mr. Gingrich engaged in activity involving 501(c)(3) organizations that was substantially motivated by partisan political goals. The subcommittee also found that Mr. Gingrich provided the committee with material information about one of those projects that was inaccurate, incomplete and unreliable.

The two projects referred to, a television course called "American Opportunities Workshop," and a college course called "Renewing American Civilization," were largely paid for with tax-exempt donations to two tax-exempt groups, the American Lincoln Opportunity Foundation and the Progress and Freedom Foundation.

The House bipartisan report notes that tax-exempt groups are not allowed to engage in partisan political activities. It states that even Mr. GINGRICH's tax counsel, "said that he would not have recommended the use of 501(c)(3) organizations to sponsor the course because the combination of politics and 501(c)(3) organizations is an 'explosive mix,' almost certain to draw the attention of the IRS."

The unanimous bipartisan report of the House ethics investigative subcommittee went on to make the following notable findings:

> Based on the evidence, it was clear that Mr. Gingrich intended that the [American Opportunities Workshop] and renewing American civilization projects have substantial partisan political purposes.

This is a bipartisan finding, that Mr. GINGRICH "intended" that those two

projects have "substantial partisan political purposes." And the subcommittee went on:

In addition, he was aware that political activities in the context of 501(c)(3) organizations were problematic. Prior to embarking on these projects, [the committee wrote] Mr. Gingrich had been involved with another organization that had direct experience with the private benefit prohibition in a political context, the American Campaign Academy. In a 1989 tax court opinion [the subcommittee continued] issued less than a year before Mr. Gingrich set the [American Opportunities Workshop] projects into motion, the academy was denied its exemption under 501(c)(3) because, although educational, it conferred an impermissible private benefit on Republican candidates and entities. Close associates of Mr. Gingrich were principals in the American Campaign Academy. Mr. Gingrich taught at the academy, and Mr. Gingrich had been briefed at the time on the tax controversy surrounding the academy.

And the investigative subcommittee over in the House continued:

Taking into account Mr. Gingrich's background, experience, and sophistication with respect to tax-exempt organizations, and his status as a Member of Congress obligated to maintain high ethical standards, the Subcommittee concluded that Mr. Gingrich should have known to seek appropriate legal advice. . . . Had he sought and followed such advice . . . 501(c)(3) organizations would not have been used to sponsor Mr. Gingrich's [American Opportunities Workshop] and Renewing American Civilization projects.

Now, that unanimous, bipartisan report was issued 2 months ago. It raises, directly, explicitly, serious questions about the deliberate and illegal misuse of tax-exempt organizations by a prominent Member of Congress, and false statements to Congress. The House Ethics Committee report found that Speaker Gingrich intentionally used two tax-exempt organizations for partisan political purposes, even after having been specifically denied tax-exempt status for another organization in 1989 because of the partisan nature of that organization's work. How revealing it is that the resolution before us, of the majority leader, does not mention one word of that entire matter—not a word.

And even leaving aside the issue of Mr. GINGRICH, given the campaign season just behind us, it is also revealing that the resolution before us makes no mention in any way of the tax-exempt organizations that played so prominent a role in the 1996 election. Congress made a decision many years ago that we wanted to give a break to charities and civic organizations devoted to working for public purposes, but we didn't want to use taxpayer dollars to subsidize partisan political activities by these organizations. Blatant violations of the legal limits on partisan political activity appear to have taken place during the 1996 election cycle by a number of tax-exempt organizations. Let us just look at two examples.

In the last months of the 1996 election cycle, the Republican National Committee transferred $4.6 million to Americans for Tax Reform, an organization that is exempt from paying taxes. Grover Norquist, the president of tax-exempt Americans for Tax Reform, was quoted in one Washington Post article as stating that in the last weeks before the 1996 election, his organization sent out 20 million pieces of mail and paid for millions of phone calls in 150 congressional districts. Much of this last-minute activity was made possible by the Republican National Committee's $4.6 million contribution. That is according to the article.

An Associated Press article that came out in October of 1996 quoted Mr. Norquist as saying that his group was sending out a last-minute, $3 million mailing to reinforce Republican antitax messages and that "two-thirds of the money came from the GOP."

Mr. Norquist indicated in the Washington Post article that his group didn't pay for televised political ads, but there is evidence to the contrary. An ad broadcast in the New Jersey Senate campaign states that it was paid for by the tax-exempt Americans for Tax Reform. The ad directly attacks the Democratic candidate for missing votes. Here is a sample:

Taxpayers pay liberal Bob Torricelli $133,000 a year, but he doesn't show up for work. That's wrong.

That ad was broadcast in the final weeks of the campaign. It presumably cost a great deal of money to air and may have been paid for with those RNC funds.

Americans for Tax Reform also sponsored what was designated facetiously as a special award for Members of Congress, in the last weeks of the 1996 campaign. The award was called the "Enemy of the Taxpayer" award, and it was given to 34 Members of Congress, none of whom were Republicans. The press release issued by Americans for Tax Reform contained a quotes from Mr. Norquist, directly attacking the Democratic Party.

That is not all. A group called Women for Tax Reform, operating out of the same office as Americans for Tax Reform, was created in late August 1996, to launch a national television advertising campaign. It announced its first two ads, both of which consisted of a woman directly attacking President Clinton. One included the following statement:

When Clinton was running, he promised a middle-class tax cut. Then he raised my taxes. He was just lying to get elected. This year, he'll lie some more.

The activity that I have just described, TV ads, direct mail, phone calls, and Enemy of the Taxpayer awards, are as partisan as anything I have seen in my years in politics. These activities were directed at Federal candidates, they were timed to happen in the last weeks before the Federal elections, and they were apparently paid for by millions of dollars in contributions given to the tax-exempt Americans for Tax Reform, including millions from the RNC.

The president of Americans for Tax Reform, Grover Norquist, is routinely described by the Washington Times as a GOP strategist. In 1995, he published a book called "Rock the House" celebrating the Republican takeover of the House of Representatives, for which Speaker NEWT GINGRICH provided the introduction. The quotes inside the cover of his own book reveal much about the man running this tax-exempt organization.

Rush Limbaugh states, "Grover Norquist is perhaps the most influential and important person you've never heard of in the GOP today."

Haley Barbour, RNC chairman, writes, "¿¿'Rock the House' is a true insider's account of the Republican revolution of 1994."

Paul Gigot, a Wall Street Journal columnist and television commentator portrays Mr. Norquist as "one of the main power brokers in the new Republican majority."

Mr. Norquist is described by these persons—each of whom he chose to feature in quotations designed to promote his book—as a Republican insider and power broker. That isn't exactly the profile one would expect for what is supposed to be a nonpartisan, tax exempt group.

So, what are the possible violations? What are the possible violations of criminal law? The list might include: Knowing and willful violation of the Federal Election Campaign Act and false statements to the IRS in violation of 26 United States Code 7206 or 18 United States Code 1001.

Let me describe another tax-exempt group. This one has not been around for very long. It is called Citizens for Reform. It incorporated in Virginia in May 1996, was granted tax-exempt status in June 1996. Its articles of incorporation state that the group's purpose is:

. . . to serve the public interest and to promote the social welfare by fostering and developing greater public participation, on a nonpartisan basis, in the national debate concerning the size, scope, growth and responsibility of government and of the impact of government on the community, the private sector, and citizens in all walks of life.

This group stated that it expected to conduct conferences, seminars, public events, research, and studies. In its application for tax-exempt status, which is, by law, a publicly available document, the group states that it does not have any membership dues, contributions or gifts in 1996, and projects raising only $1,000 in revenue in 1997 and another $1,000 in 1998.

This group, Citizens for Reform, stated that it had no plans to spend "any money attempting to influence" any elections. Within months of its creation, this tax-exempt group, however,

spent hundreds of thousands of dollars on television and radio ads targeting Federal candidates, and brimming with the intensely partisan type of campaign rhetoric. Ads paid for by this group appear in California, Montana, New York, Kansas, Texas, Arkansas, and Pennsylvania. The group now, apparently, admits spending $2 million in the 5 months before election day.

One TV ad specifically targeted a Democratic candidate for Congress in Montana, Bill Yellowtail. Here is an excerpt from this ad:

He preaches family values, but he takes a swing at his wife. Yellowtail's explanation: he only slapped her once but her nose was not broken.

That is supposed to be nonpartisan activity?

Another TV ad directly targeting a Democratic Congressman, CAL DOOLEY in California. Here is a sample:

Cal Dooley said no to increased money for drug enforcement. Instead, Dooley gave your money to radical lawyers who represented drug dealers.

How is that for another nonpartisan ad?

One of their radio ads was broadcast just before the 1996 election in New York. The ad attacked Democratic Congressman MAURICE HINCHEY and lauded his Republican challenger. It was described in a Wall Street Journal column as follows:

Rep. Maurice Hinchey, the ad said, voted against "sensible welfare reform," [and] voted for "the largest tax increase in history" and took money from a union with ties to the mob. By contrast, it said, Rep. Hinchey's Republican challenger . . . supports "real welfare reform," would cut taxes and promises to "stop special-interest influence on Capitol Hill."

The Wall Street Journal article went on to say, "It is impossible to find out who put up the money for the ad; Citizens for Reform doesn't have to say." The president of Citizens for Reform, Peter Flaherty, said that his group has spent money in 15 different congressional districts in 10 States.

What happened to the statement of that group that it had no plans to attempt to influence any elections? That is a statement made to the IRS to get an exemption: "No plans to influence any elections"—that is the representation.

How did it happen that just months after receiving its tax exemption, this group had $2 million and the resources to sponsor patently political ads across the country? What happened to the conferences and the seminars that this group was going to hold? What happened to the statements it made to the IRS that it planned to raise no money in 1996?

Those questions give rise to others. Was there a knowing and willful violation of Federal campaign laws or false statements to the IRS?

But the majority resolution before us does not mention any investigation of Citizens for Reform or Americans for Tax Reform or any other tax-exempt group that was active in the 1996 elections in violation, allegedly, of the laws prohibiting those groups from engaging in partisan activities and whose tax-exempt millions paid for TV ads, voter education materials, get-out-the-vote activities that are just completely at odds, apparently, with what a tax-exempt organization is allowed by law to do.

For my part, I trust the Attorney General to conduct a thorough criminal investigation of all the allegations against Democrats and Republicans, members of the executive branch and the legislative branch. I think she will follow the evidence wherever it leads, as she should. I also trust her to follow the independent counsel law, to use it if she determines that there is specific information from a credible source that a crime may have been committed by a covered official, or to use it for anyone other than a covered official against whom there is such specific information the Department has a personal, financial, or political conflict of interest, or Members of Congress if she determines it is in the public interest to do so.

The majority leader's resolution omits what it should include, which is the Attorney General's review of activities of Members of Congress.

Mr. President, I ask unanimous consent that I be allowed 3 additional minutes.

Mr. LEAHY. I will give the Senator 3 minutes from the time reserved for this side.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator is recognized for 3 additional minutes.

Mr. LEVIN. I thank the Chair and my good friend from Vermont.

The majority leader's resolution omits what it should include, which is the Attorney General's review of activities of Members of Congress, and it includes what it should omit, by prejudging the very investigation by the Attorney General that it seeks. It thereby does a disservice to the Nation, which is awaiting an objective and fair review, and it undermines the independent counsel law which is dependent upon a nonpolitical application free from partisan pressure.

An alternative resolution that I and Senator LEAHY will be offering will urge the Attorney General to make a thorough and fair review of the allegations, free from political pressure, to reach whatever conclusion is appropriate as to the persons covered by the statute, as to persons not covered by the statute where there might be a conflict of interest, and as to Members of Congress where the public interest indicates that an independent counsel might be the proper course for her to pursue.

This alternative resolution we will be offering embodies the spirit of the independent counsel law. It permits the process invoked by the Judiciary Committee a few days ago to proceed without interference by this body. That letter was sent by Republican members of the Judiciary Committee to the Attorney General asking her to appoint an independent counsel. The law requires her to answer that request within 30 days. We should not prejudge that process that the law provides for, and we should not prejudge the Attorney General's answer. We should stand by the process which was established in the independent counsel law and not give in to this partisan effort.

I thank the Chair and yield the floor.

Mr. LEAHY. Mr. President, I see the distinguished Senator from Wisconsin on the floor. I wonder if it might be in order for me to speak for about 4 minutes and then it be in order for him to immediately reclaim his time. I would take this time from the time reserved to the Senator from Vermont as manager on this side.

Mr. FEINGOLD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I spoke for hours on this issue on Friday and again yesterday. I will not repeat what I said other than to compliment the distinguished Senator from Michigan and others for what they have said. I put into the RECORD the editorial from the Washington Post that reaches the same basic conclusion as the resolution of the distinguished Senator from Michigan.

I spoke of the fact that the resolution before us, the resolution introduced by the distinguished majority leader and others, is aimed just at the President, the Vice President and very, very carefully—very, very carefully—excludes the Republicans in Congress as it does the Democrats in Congress.

If we want to show real interest in justice, we should say, well, let us look at any activity of Members of Congress, too. Let us not act as though we are so above the law that we can only point our finger at the President. But that is not the point I am here to bring up, Mr. President.

I have had the privilege of serving with five Presidents: President Ford, President Carter, President Reagan, President Bush, and President Clinton. I have served here with a number of very distinguished majority leaders on my side of the aisle: Senator Mansfield, Senator BYRD, and Senator Mitchell, all as majority leader; and on the other side of the aisle, Senator Baker and Senator Dole. Of course, now I serve with the Senator from Mississippi [Mr. LOTT].

I mention these majority leaders, Senators Mansfield, BYRD, Mitchell, Baker and Dole, because there is one thing that I recall from each one of them in setting the agenda of the U.S. Senate. It was that if the President of

the United States was going to be abroad in a summit meeting, negotiating with other heads of state, the U.S. Senate would refrain from bringing forward matters directly aimed—especially partisan matters—directly aimed at the President of the United States.

This resolution is directly aimed at the President of the United States. And what is going to happen? We will arrange to make sure we vote on it almost within hours of the time he will sit down with the President of Russia, the leader of the only other nuclear superpower.

Mr. President, has this body and this town become so partisan that we are going to ignore the tradition of all Republican leaders and all Democratic leaders in this body, and that is, to show some unity behind the President while he is abroad representing not Democrats, not Republicans, but all Americans?

Never in my 22 years in the Senate have I seen such an egregious breach of tradition. That does not mean that a President, Republican or Democrat, is given a free ride. What that means is that the President of the United States will at least be able to demonstrate, when he is abroad representing this country, that he is shown some support back home during the time he is abroad. When he is back here, we will go back and forth and fight as we always have. Fine. That is the process. But the tradition has always been to be supportive of the President when he is at a summit with other leaders. Of all summits he might be attending, what could be more important than the one with the President of Russia?

It was tasteless enough to introduce this resolution and start the debate on it while the President was undergoing surgery at Bethesda. Now, that, at the very least, shows a tastelessness that also, I believe, is unprecedented in this body. That could be chalked up to tasteless partisanship that is not appropriate. It is as bad as making jokes at the President's expense when he is lying there in pain recovering. But we just assume that sometimes we have tastelessness in politics.

However, when we have votes designed to hit directly at the President while he is abroad in a summit, that, Mr. President, goes beyond tastelessness. That shows no regard for history. That shows no regard for the traditions of this body. That shows no regard for the importance of a President being abroad.

Now, I had differences with President Reagan on the way the Contra war was run. I recall we held off from any questions of that when he was going abroad for summits. I may have had differences with President Bush and some of his issues, but we held off on any discussion of that when he was going abroad for a summit.

Mr. President, with all due respect to my good friends on the other side of the aisle—and I have many—I ask them to at least take a few minutes if they are going to set the schedule, and I ask them to take a look at the history of the United States, the history of the Senate, the history of the Presidency, and know there are certain things we do in this country to demonstrate we are worthy of being only 1 of 100 men and women representing a quarter of a billion Americans.

I am deeply saddened by this. I hope this is only a momentary lapse in the kind of traditions that have kept the Senate, occasionally at least, the conscience of the Nation. I hope this is only a temporary lack of those things that show the Senate to be the best.

I thank my friend from Wisconsin.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Thank you, Mr. President. I rise today to speak on the two resolutions which the Senate is debating, the so-called Republican version and the Democratic version. I take this opportunity to explain why I intend to vote against both versions as they are now being offered.

At the outset, we should be clear that there is no reason for the Senate to actually consider either version. The statute authorizing the appointment of an independent counsel gives the authority to make the appointment to the Attorney General of the United States, and it also provides a mechanism for the House and Senate Judiciary Committees to invoke a procedure for the Attorney General to respond to a request for appointment of an independent counsel. Mr. President, that, in fact, is what has been used in recent days. Both the House and Senate Judiciary Committees last week voted to invoke that process. The Attorney General has 30 days to respond.

In effect, what we are doing today, since all of that has already happened, what we are doing today is really just shear theatrical maneuvering. On the one side, we have the Republican resolution, which carefully restricts the request and any implication of wrongdoing just to the Clinton White House. That resolution puts Congress off limits for an independent counsel investigation for its alleged wrongdoing. It puts the Republican National Committee off limits for an independent counsel investigation. The Republican resolution turns a blind eye to any allegations of impropriety beyond the White House itself.

On the other side, we have a Democratic resolution that stops short of even taking notice of the fact that there have been so many allegations of wrongdoing on the part of the Democratic Party that the public is crying out for an independent, impartial investigation.

Mr. President, both sides appear to be ignoring the degree to which the fundraising practices of the 1996 elections have gone beyond any limits and created the appearance of a system totally out of control. The improprieties are not limited to the fundraising activities in the White House. Both parties engaged in an almost mindless race to the bottom. The staggering amounts of money raised in the 1996 elections, more than $2.7 billion, compelled the kind of fundraising excesses which continue to shock the country each day. Day after day the front-page story is yet another tale of improprieties and new scandals. The stories encompass both parties, the congressional races as well as the Presidential races.

Mr. President, according to a poll released last week by the Wall Street Journal and NBC News, 91 percent of the American people believe that, if an independent counsel was appointed, the investigation should include all Federal elections, not just the Presidential race, but congressional races, as well.

Last fall, Common Cause filed a request with the Attorney General for appointment of an independent counsel to investigate the violations of law by both parties in the 1996 campaign.

At the time, I said that such action might be appropriate. More recently, I reached the conclusion that it was necessary because it had become clear that the seemingly endless scope of allegations arising from campaign fundraising activities touching all levels of our Government had grown so vast that the only manner in which the public's confidence can be ensured is, Mr. President, by the appointment of an independent counsel. In my view, given the breadth of the allegations, any investigation conducted by the Department of Justice is inevitably and unavoidably subject to the taint of political conflict in this context. To this end, I called upon the Attorney General to appoint an independent counsel.

However, an important distinction between the position I have taken and that offered by the majority in the form of this resolution is that I believe that any call for an independent counsel must necessarily include an investigation of all potential wrongdoers, be it on the part of the executive branch, the political parties, or the Congress. The Republican resolution takes the position that neither Congress nor the Republican National Committee should be subject to such an investigation. I believe the American people will see through this approach. How can anyone suggest to the citizens of this Nation that potential illegalities should be subject to an independent counsel, provided the target is the President but not the Congress? When the target is one party, but not the other, they will surely see such a ploy for exactly what it is, yet another partisan maneuver

designed to delude the public into believing that the problem is limited to a small group of people and not a systemic problem that demands a comprehensive overhaul of our system of campaign finance laws.

Mr. President, as a threshold, it is essential to understand the basis for the independent counsel as well as who is covered by the law. The underlying premise behind the independent counsel law, a premise which we should sustain and that is threatened by partisan gamesmanship, is that we have an inherent obligation to ensure the confidence of the American people and the public in investigations of the Government. This law, born of the Watergate scandal, was derived to restore and protect the public's confidence in these types of investigations, and in the process preserve and promote the public's confidence in the integrity of the U.S. Government.

Mr. President, the independent counsel law provides that the Attorney General must seek an independent counsel upon finding specific information, derived from a credible source, that a violation of Federal law has potentially occurred in regard to certain covered persons, such as the President, the Vice President, Cabinet members, certain high-level officials in the White House, among others. In addition to these mandatory provisions, the independent counsel law provides the Attorney General with certain discretionary power for other persons—those not covered by the mandatory provisions—and, Mr. President, to emphasize, Members of Congress. Members of Congress are included within these discretionary powers of the Attorney General with regard to the independent counsel. In regard to other persons, an independent counsel may be sought if, in the face of specific evidence of illegality, derived from a credible source, a personal, political, or financial conflict of interest exists or may arise as a result of a Department of Justice investigation. In regard to Members of Congress, the discretionary standard is a public interest standard. In other words, if the Attorney General has evidence of a violation of Federal law involving a Member of Congress, she may seek an independent counsel if she finds it to be in the public interest.

Mr. President, over the past few weeks, I have been approached by colleagues and others who argue that Members of Congress are simply not subject to the statute. Mr. President, that is simply incorrect. In fact, if one reviews the legislative history of this law, one finds that Congress had previously been covered, albeit not explicitly, under the other persons provision. In the 1994 reauthorization, Congress clarified this and added a separate section solely for Members of Congress.

The conference report accompanying the 1994 amendments to the independent counsel law states as follows:

> The 1987 law provided the Attorney General with the discretionary authority to use the independent counsel process for any person whose investigation or prosecution by the Department of Justice "may result in a personal, financial, or political conflict of interest." This discretionary authority permitted the Attorney General, if a conflict of interest were present, to use the independent counsel process to investigate Members of Congress. However, Members of Congress were not specifically identified as falling within that general category of coverage.

Mr. President, realizing the hypocrisy of a law that allows an independent counsel in regard to the executive, but not explicitly with regard to Congress, the Congress chose to act. The conference report continues:

> The Senate bill gives the Attorney General specific discretionary authority to use the independent counsel to investigate Members of Congress. It broadens the standard for invoking the process with respect to Members from requiring a conflict of interest to requiring the Attorney General to find it would be in the public interest. This broader standard would permit the Attorney General to use the independent counsel process for Members of Congress in cases of perceived as well as actual conflicts of interest.

Not only did the Congress then act to explicitly include Members of Congress, it took the additional step of making the standard for invoking the statute easier to apply than it had been previously. As the conference report stated, the statute may be invoked in the case of a perceived or actual conflict of interest. Now, this is a significant statement of congressional intent as to whether or not Congress falls within the ambit of the independent counsel statute.

Yet, Mr. President, the resolution brought to the floor of the Senate by a Republican leader chooses a different course and turns a blind eye to any potential illegal conduct on behalf of Members of Congress, be it real or perceived. It simply says to the Attorney General, appoint an independent counsel in regard to the Clinton administration, but not in regard to any illegality involving Congress or the Republican National Committee. Mr. President, I believe this approach is seriously flawed and should be rejected.

As I indicated previously, 9 out of 10 Americans want all illegality in regard to the 1996 elections investigated. Yet, this resolution chooses to ignore that which the American people seem to readily understand—that being that all illegality should be investigated.

Mr. President, when one looks at the myriad of allegations that have arisen in the wake of the 1996 Federal elections, it is not difficult to see why the American people feel that both political parties, and Congress, should be included in an independent counsel investigation.

There has been a lot of attention focused upon alleged wrongdoing by the Clinton White House. But equal attention needs to be focused upon similar allegations about the behavior of both national parties and the Members of the Congress during the fundraising explosion in the 1996 election.

At the outset, it should be understood that what is being sought here is an independent counsel to investigate allegations of wrongdoing in the 1996 election. The distinguished chairman of the U.S. Senate Judiciary Committee, Senator HATCH, stated during the debate on this issue on Friday as follows:

> The answer to whether criminal wrongdoing has occurred will of necessity turn on the resolution of disputed factual, legal, and state of mind determinations.

Repeating that, he said:

> The answer to whether criminal wrongdoing has occurred will of necessity turn on the resolution of disputed factual, legal, and state of mind determinations.

We have to stress what the Senator from Utah stated: At this stage, whether there was criminal wrongdoing turns on the resolution of factual, legal, and state-of-mind determinations. Obviously, those factual determinations can only be ascertained by an impartial investigation, and that statement applies equally to allegations regarding Republican conduct in fundraising activities as it does to Democratic conduct.

Without engaging in an extensive description of the allegations of improper conduct in the 1996 election, which goes well beyond the activities of the White House, let me highlight a few areas.

First, with respect to the soft money machines that were operated by both parties in the 1996 elections, the initial request filed by Common Cause last fall for appointment of an independent counsel alleged that both the Clinton and Dole Presidential campaigns, along with their respective political parties, knowingly and willfully violated Federal campaign finance laws. Common Cause specifically charged that both campaigns were engaged in illegal schemes to violate the Presidential primary spending limits and the ban on soft money being used directly to support a Federal candidate.

Mr. President, the Senator from Utah also alluded to this question in his remarks on Friday when he stated:

> There remains significant factual questions of the extent to which the allegedly improper fundraising activity was, in fact, directed toward benefiting Federal campaigns.

If, indeed, it is determined that there were knowing and willful schemes to use soft money in both Presidential campaigns, both parties, as Common Cause asserts, would have violated existing law prohibiting such activity. Of course, Mr. President, the answer cannot be ascertained until an independent investigation is conducted.

Mr. President, let me describe another piece of soft money activity that has been tied directly to the Republican National Committee; that is, the

transfer of some $4.6 million from the RNC to a tax-exempt organization headed by Grover Norquist, a close ally of the Republican Speaker of the House. This organization, according to a Washington Post story on December 10, 1996, then used the RNC money to flood voters in 150 congressional districts with millions of pieces of mail and phone calls.

Now, this story adds a rather peculiar twist to the concept of independent expenditures. There have been plenty of complaints about various groups, including labor organizations, running independent campaigns against particular candidates. But this story describes what appears to be what or what may have been a money laundering scheme, which allowed the RNC to raise soft money and then transfer it to this tax-exempt group, which then used the money for an independent expenditure campaign.

Was there coordination of these expenditures with the candidates themselves, or through the Republican National Committee? Was this transfer of money designed to allow the RNC to do indirectly what the law prohibits them to do directly—that is, spend soft money in a congressional campaign? Should we not be seeking the answer to that question? Was this a violation of tax laws as well as campaign finance laws? As the Senator from Utah stated in calling for an investigation of Democratic fundraising activities, there are significant factual questions involved here as to the extent to which this fundraising activity was directed toward benefiting Federal congressional campaigns. Mr. President, those questions cannot be resolved without an investigation.

With respect to the issue of foreign contributions being illegally funneled into Federal elections, I think we are all aware of the allegations that have been made that the People's Republic of China may have targeted Members of Congress, as well as the White House. How successful they were remains unknown. Certainly, we ought to have this question addressed in any independent counsel investigation with regard to Members of Congress, as well as the White House.

Finally, let's be candid about the fact that the allegations that campaign contributions were exchanged for special access to policymakers are not directed solely against the current administration. The newspapers have been filled with story after story of Members of Congress, and the political campaign committees of both parties, establishing various schemes to woo and impress large contributors.

For example, in 1995, the Republican National Committee is reported to have promised $15,000 donors four meetings a year with House and Senate Republican leaders, as well as participation in international trade missions. Of course, in fairness, similar charges have been made against the Democratic National Committee. Did these schemes cross the line in some cases? Was there illegal exchanges of access for campaign contributions? The answers can only be ascertained after factual investigations.

It is little wonder, Mr. President, that in light of these types of allegations, the American public would ask for a broad investigation. It is not difficult to understand why 91 percent of the American people think that all illegality, including that of Congress should be considered by an independent counsel.

Mr. President, I mentioned earlier that the statute provides a specific mechanism for congressional involvement in the appointment of an independent counsel. That mechanism is triggered by a request from the House and Senate Judiciary Committees. I also noted that both committees had already acted pursuant to that statutory authority to submit a request to the Attorney General.

Unfortunately, that process also broke down along partisan lines. As a Democratic Senator who had previously called for appointment of an independent counsel, I had hoped to be able to work on a bipartisan basis within the Judiciary Committee to formulate a request that would transcend party lines. Unfortunately, that effort failed.

In the Senate Judiciary Committee, the Republican members sent one letter; the Democratic members sent another. The respective letters resembled the resolutions before us today. As far as I am concerned, neither letter went far enough.

I choose not to sign either letter because the Democratic letter stopped short of calling for an independent counsel, while the Republican letter, much like this resolution, chose to focus solely on the administration and ignored the potential illegal conduct on behalf of the Congress. Instead, I sent my own letter asking for the appointment of an independent counsel in regard to all illegal activity in the 1996 Federal election, including Congress.

Mr. President, in calling as I have for an independent counsel, I have been taken to task by all sides—from those who do not want a special counsel and from those who, somehow, believe that by calling for an independent counsel to investigate all parties, I am somehow seeking to protect the administration. Notwithstanding these inconsistent conclusions, I remain firm in my belief that the scope of the allegations is such that the only way we can hope to salvage the confidence of the American people in any investigation of campaign fundraising illegalities is to appoint an independent counsel. In so doing, I do not mean to disparage or question the ability of our Attorney General, Janet Reno, to conduct a fair and evenhanded investigation. I simply feel that the scope of this problem is such that irrespective of her evenhandedness, her ultimate conclusion will be suspect and challenged on political grounds. In a sense, the political nature this debate has taken in the Senate makes my point.

In regard to many of my colleagues on this side of the aisle, I simply disagree with those who argue that an independent counsel should not be appointed. While I appreciate the sincerity of their perspectives, I have reached a different conclusion. The decision to call for an independent counsel is not one that any of us should take lightly. The statue exists for very specific reasons directed at promoting public confidence in the investigation of the Government. The statute does not exist to provide elected officials opportunities to score political points against officials of the other party as I fear has been attempted with this resolution.

In my view, we risk something far greater than short-term partisan advantage by engaging in a process as partisan as this. We risk the further erosion of the public's confidence in the Government and in particular the U.S. Senate to set aside partisanship and work for the good of the American people. At the same time, my friends on the Republican side of the aisle ought to be willing to expose their own parties to the same intense scrutiny that they urge for the opposite party. An evenhanded investigation into all aspects of fundraising improprieties in the 1996 election is the fair response.

This raises the final point I wish to make. That being the pressing need to set about doing the work of the people of this Nation in a bipartisan, constructive manner. As I travel to each county in Wisconsin, as I do each year, I talk with the men and women of my State and at each and every stop, be it in Milwaukee or Bayfield County, the people I listen to all want us to work together and help solve the problems that confront them each and every day.

Sadly, the short history of the 105th Congress, much like the 104th Congress, seems to ignore that call to action. Rather than setting about the hard work of actually balancing the Federal budget we debated for a number of weeks a constitutional amendment which would have forestalled the hard choices until well into the next century. In the meantime, the budget process itself, the process by which we can actually balance the budget, continues to languish. In fact, the 105th Congress has debated more constitutional amendments than it has confirmed Federal judges—three constitutional amendments, no judges. We have also debated a resolution dealing with the scope of the Governmental Affairs inquiry into campaign irregularities

and finally, after much public pressure, the scope of that inquiry was adjusted to cover not just illegality but improper conduct, but only after the Senate was needlessly tied up for a number of days. Although this resolution before us for the third day now should only be concerned with illegality, we are nonetheless at an impasse because the proponents of this nonbinding and unnecessary resolution refuse to include themselves in the scope of the inquiry. No wonder people are turned off by government.

Mr. President, in conclusion, I will not support this one-sided resolution calling for an independent counsel to investigate only one aspect of the 1996 elections. I have made clear my belief that one should be appointed and I did so long before the political exercises which have consumed the Judiciary Committee and this body were set in motion a few weeks ago. Further, I will not support the Democratic alternative because it fails to call for an independent counsel. While the Democratic alternative is correct that any investigation must necessarily cover Congress it falls short of calling for an independent counsel. But more importantly Mr. President, than how any one of us votes on these resolutions, it is my sincere hope that we can set aside the divisive partisan issues which have characterized the outset of the 105th Congress and move toward bipartisan solutions. We should balance the budget, we should address juvenile crime, we should strengthen educational programs, and we should reform the campaign laws which have created the unrelenting money chase that gives rise to so many of the problems which frame this debate.

The campaign finance system in this Nation is broken and in desperate need of repair and the American people understand that, even if some members of the Senate seem to believe the current, scandal-ridden system works fine, they certainly don't feel that way. Furthermore, the American people also understand that the responsibility for the current scandals regarding the campaign fundraising activities of the 1996 Federal elections lie at the feet of both parties, the administration and the Congress.

Yet what is ultimately more important than assessing blame and passing nonbinding resolutions is whether or not this body moves forward and adopts comprehensive, bipartisan campaign finance reform.

Mr. DORGAN. Mr. President, the majority is bringing to a vote a resolution that urges the Attorney General to begin the process of appointing an independent counsel to investigate allegations of illegal fundraising in the 1996 Presidential election campaign. I will oppose this resolution, if it remains unchanged, because it urges an overly narrow, one-sided investigation. Instead, I will support the alternative to be proposed by Senator LEAHY.

Let us remember that the independent counsel law places the authority to seek an independent counsel in the hands of the Attorney General, and her hands are tied unless certain thresholds are met. I have great faith in the independence and integrity of Janet Reno. She has already invoked the independent counsel process several times during this administration. If and when she believes that the law should be triggered, she will, I am confident, take appropriate action. Yet the majority seeks with this unfortunate resolution to tell her what to do.

I hope that the majority will instead accept the alternative resolution being proposed by Senator LEAHY. The Leahy amendment would change the majority's resolution in several ways, all for the better.

The Leahy amendment suggests that the Attorney General use her best professional judgment to determine whether to invoke the independent counsel process. It asks that she make her decision without regard to political pressures. It urges her to do so in accordance with the standards of the law and the established procedures of the Department of Justice. And it makes no distinction between presidential and congressional campaigns; it urges that potential illegalities by covered persons be investigated, regardless of which branch of government is involved.

In short, the Leahy alternative attempts to observe both the letter and the spirit of the law in this matter. It avoids prejudging the issue. Most importantly, it attempts to prevent the further politicization of the independent counsel process, a process that Congress established in order to take politics out of the investigation or prosecution of high government officials.

Fundamentally, that is why I urge my colleagues to oppose the majority's resolution and support the Leahy alternative. Let us not attempt to politically influence our Justice Department and Federal judiciary in this matter. Let us not make a bad situation worse. Let us repeat the bipartisanship that we showed last week. Let us respect the independent counsel law and the independence of the judiciary. And let us also proceed with a diligent and thorough congressional investigation.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. TORRICELLI. Mr. President, I yield myself 10 minutes of the time allotted to the minority.

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

Mr. TORRICELLI. Mr. President, I do not know whether in the coming weeks the Attorney General will determine whether or not the threshold has been reached to name independent counsel. But I do know, in her tenure of service, Attorney General Reno has had an uncompromising sense of personal integrity. She was called upon in a number of instances to reach a determination about investigating high officials in this administration, including President Clinton. She has never hesitated to act in the interests of justice. So, while I do not personally believe at the moment that the circumstances exist for independent counsel as defined by the law, it is important, again, to reassure ourselves about the quality of justice in this country under the leadership of the Attorney General and, just as important, in the great traditions of the Federal Bureau of Investigation under the able leadership of the Bureau's Director, Louis Freeh.

Though I recognize that today some disagree and in their own judgment believe that it would be better in the national interest to proceed to an independent counsel, whether you accept their evaluation on this day or perhaps mine in believing it should be left to another day, there is the question about whether or not the act is able to be properly implemented at this moment as intended in the independent counsel statute. It is my judgment that, while we may differ in this institution on whether or not the act should be applied, we should be able to agree on the underlying problem, and that is there is a problem in the court with the ability to appoint a special counsel.

The statute requires that the Chief Justice appoint judges to serve in the special division for a term of 2 years. Three judges are to serve on the council that will, in turn, name a special counsel in this or any other instance. It was the intention of the Congress to facilitate a rotation of these judges to ensure their independence so that no one dominates the appointing process, for purposes of the confidence of this Congress and the interests of justice. For whatever reasons, what were to be temporary assignments on the court in this special division appear to be becoming lifetime appointments. Judge Sentelle, who chairs the court, is in his third consecutive term. Judge Butzner is in his fourth. Judge Fay has now begun his second term.

Mr. President, this is not what was intended in the independent counsel statute, and as we debate today the relative merits of whether to appoint an independent counsel, every Member of the Senate needs to consider, if the Attorney General is requested to make

this appointment, who will be making the appointment and what confidence do we have the congressional intent of independence and the integrity of the judgments will meet the necessary standards of justice?

Most particularly is the question of Judge Sentelle. Judge Sentelle's position in leading this three-judge panel raises serious questions and, indeed, I believe inhibits the ability of the Attorney General to proceed with confidence when and if she reaches a determination the statutory requirements to name an independent counsel are reached.

During the 1993 debate over reauthorization of the independent counsel statute, Senator Cohen perhaps said it best. He said:

> The appearance of justice is just as important as justice itself, in terms of maintaining public confidence in our judicial system.

Mr. President, no one could possibly believe that the appearance of justice is served by having Judge Sentelle in these circumstances name an independent counsel. Judge Sentelle is a known political associate of two Republican Senators who have views on this issue. He has served as a member of Senator HELMS' National Congressional Republican Club and was chairman of the North Carolina State Republican Party convention. He stands accused of engineering the removal of Whitewater counsel, Robert Fiske, and replacing him with an independent counsel who clearly has exercised his position with questionable judgment and clear partisanship. I speak, of course, of Kenneth Starr.

The decision to appoint Mr. Starr came only days after Judge Sentelle had a private luncheon with two Members of this institution who had strong views on the subject, in what was an extrajudicial and clearly inappropriate meeting.

Mr. President, despite poor judgment, inappropriate actions, Judge Sentelle was recently reappointed to his third term on the court. As senior judge in this position, with the other two judges serving in this similar capacity, both on senior status, he clearly has an extraordinary influence over the operation of the appointing process.

Five former presidents of the American Bar Association considered these facts, these extrajudicial communications, and determined they give rise to appearance of impropriety.

As long as Judge Sentelle sits on the special division, there will always be questions regarding the objectivity of the independent counsel appointments. I believe, therefore, whether you share my judgment that the trust should be placed in the Attorney General to determine whether or not the requisite requirements have been reached in the statute before appointing or requesting the appointment of an independent counsel or you agree with other Members of the Senate that those criteria have already been reached, we certainly, in the interest of fairness, can reach a judgment today that Judge Sentelle should recuse himself from his current responsibilities. Failing that recusal, it is certainly incumbent upon Chief Justice Rehnquist, given his general responsibility for the administration of the courts, to remove Judge Sentelle or request that he temporarily remove himself from the appointment process.

I recognize the strong divisions in the Senate. I understand the passions that this issue brings to different Members of the Congress. But certainly despite our partisan differences or our interpretations of the facts, our common interest in justice should lead us to one determination. There is a need in our country and in this Senate to come away from this debate with a feeling that an impartial and a fair administrator of justice is required to implement the independent counsel statute, whether that determination in naming an independent counsel is to be reached now or whether the facts dictate that they are to be named later.

Mr. President, it is a simple question of fairness and justice. I hope other Members of the Senate will join with me in calling upon Judge Sentelle, in the best traditions of the American judiciary, to recuse himself now, but I also hope, before any other Members of this Senate need to rise and express themselves on these facts, the Chief Justice of the United States will exercise his responsibilities to ensure that the courts are true to their traditions of justice.

Mr. President, I yield the floor.

RELATIVE TO THE DECISION OF THE ATTORNEY GENERAL ON THE INDEPENDENT COUNSEL PROCESS

Mr. TORRICELLI. Mr. President, pursuant to the unanimous consent agreement, on behalf of Senators LEAHY and LEVIN, I call up Joint Resolution 23.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A joint resolution (S.J. Res. 23) expressing the sense of the Congress that the Attorney General should exercise her best professional judgment, without regard to political pressures, on whether to invoke the independent counsel process to investigate alleged criminal misconduct relating to any election campaign.

The Senate proceeded to consider the joint resolution.

Mr. TORRICELLI. Mr. President, I ask unanimous consent that all time for debate on the joint resolution be yielded back.

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

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent to speak as in morning business.

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

Ms. MOSELEY-BRAUN. I thank the Chair.

(The remarks of Ms. MOSELEY-BRAUN pertaining to the introduction of S. 456 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

IN SUPPORT OF THE CONFIRMATION OF ALEXIS HERMAN

Ms. MOSELEY-BRAUN. Mr. President, today the Labor Committee is considering the nomination of Alexis Herman to be Secretary of Labor. Alexis Herman has been a friend and a colleague for many years. I believe she would make an outstanding Secretary of Labor. She has always shown the leadership, good judgment, and high principles that the job requires. Her commitment to improving the condition of America's working people is second to none.

Alexis Herman has long dedicated her efforts to putting all Americans to work. She began her career by bringing together workers needing employment and employers needing workers. She did this by providing relevant, necessary training for potential employees so that they possessed the skills needed by employers.

Through her work, companies across America had access to employees who had the specific skills necessary for each company's particular jobs, and the people she trained were able to obtain work because they were trained for positions that actually existed.

As you know, she went on to head the Women's Bureau of the Department of Labor under President Carter. Her work there included helping displaced homemakers enter the work force, increasing opportunities for women to apprentice in skilled trades, and promoting women-owned businesses, something that has received strong bipartisan support in the Congress.

I would like especially to highlight her efforts at the Women's Bureau to provide job training opportunities for welfare recipients. Now, more than ever, we need to promote practical policies for putting people to work. Last year's welfare bill will mean that a flood of untrained, unskilled people will be searching desperately for work, or their families will go hungry. Without skills and training, however, their prospects for finding a job are bleak. We need Alexis Herman's practical experience working with employers and employees in the coming years if we are to put over a million people to work.

Alexis Herman's commitment to diversity will also enhance our work force. We, in this Nation, have the best work force in this world. Any time we retreat from providing equal opportunities to all of our citizens, however, we risk weakening our greatest asset, our workers. If we fail to utilize the talents of all of our people, we sell ourselves short as a nation. With her vast experience in increasing diversity in the workplace, Alexis Herman will ensure that no talent goes untapped.

In addition, as public liaison for President Clinton, Ms. Herman worked with Americans across the country—Americans with diverse backgrounds and concerns. She has served as a liaison with these many diverse groups and the President so successfully, because she is interested in, sympathetic to, and able to work with, the full spectrum of the American people.

I would also like to note Ms. Herman's commitment to continue the work of Secretary Reich in enhancing pension security. I have spent the last several years focusing on retirement security for all Americans, and for women in particular. Secretary Reich was a strong ally and we are beginning to make progress. Retirement security is one of the most important issues for our time, with baby boomers turning 50 every 9 seconds. If we allow a generation to retire into poverty, the Nation will lose a generation of consumers and gain a generation of dependents; an outcome that no one wants. I am confident that Alexis Herman's talent and experience will propel the efforts to improve retirement security forward and I would welcome the opportunity to work with her on this issue.

I would like to emphasize that I believe that one of Ms. Herman's greatest strengths is that she has formed partnerships with both business and labor in her many years working on employment issues. She understands the kind of investment business must make in human capital to improve productivity, increase profits, and create new jobs. She understands how difficult it is for small businesses to start up, and also how important these small businesses are to the economy as a whole. She understands that people want to work, and that they need the opportunity to be trained so that they can become productive members of the work force. She understands that we are all in this together.

Alexis Herman has spent many years serving the people and the country. I believe that there could be no better candidate for Secretary of Labor than Alexis Herman. She is an outstanding public servant. Her confirmation will make history; as Secretary of Labor she will make a difference in the lives of millions of Americans and workers throughout the world. I urge my colleagues to support the nomination of Alexis Herman to be Secretary of Labor and I look forward to her rapid confirmation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak therein for up to 5 minutes each.

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, March 17, 1997, the Federal debt stood at $5,363,306,532,631.89.

Five years ago, March 17, 1992, the Federal debt stood at $3,858,355,000,000.

Ten years ago, March 17, 1987, the Federal debt stood at $2,247,176,000,000.

Fifteen years ago, March 17, 1982, the Federal debt stood at $1,049,729,000,000.

Twenty-five years ago, March 17, 1972, the Federal debt stood at $429,286,000,000 which reflects a debt increase of nearly $5 trillion ($4,934,020,532,631.89) during the past 25 years.

CONGRATULATIONS TO DR. PAUL CURRIE ON HIS RETIREMENT

Mr. ASHCROFT. Mr. President, Senator Christopher S. "Kit" BOND and I would like to share with our colleagues in the U.S. Senate the example of a man who has been a model of citizenship, character, and service to humanity throughout his lifetime. The gentleman about whom I speak is Dr. Paul Currie, who will soon retire as pastor of the Presbyterian Church of Caruthersville.

On September 22, 1983, Dr. Paul Currie was present in this Chamber serving as Chaplain and offering the opening prayer. While this is historically an honor for any individual, we believe it was more of an honor for the U.S. Senate to have Dr. Currie serving in this chamber. Indeed, we believe the nearly four decades of service rendered to the community of Caruthersville, MO, serves as the real testimony to his compassion for his fellow man.

Since arriving in Caruthersville in 1958, Dr. Currie has always sought to reach beyond the lines of faith and unite all denominations in service to those in need. We can take faith that there are others who have been inspired by Dr. Currie and now live outside our great state, serving others.

Although Dr. Currie will be retiring, we will never forget his leadership. This veteran of the Korean war, this humble servant of God, community, and family, deserves to be recognized for his decades of service to his fellow man.

Senator BOND and I recognize today not only a lifetime of accomplishments by Dr. Currie, but also his inspiration of others. His example will inspire others to seek to enhance freedom, opportunity, and family life for generations to come.

In closing, I would like to quote a few words from Matthew 25:21, which I feel summarizes Dr. Paul Currie's many great deeds: "Well done, my good and faithful servant!"

We congratulate Dr. Currie on his retirement and extend him our best wishes for health and happiness for many years to come.

MESSAGES FROM THE HOUSE

At 4:29 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that pursuant to the provisions of section 274(b)(2) of Public Law 104–264, the Speaker appoints to the National Civil Aviation Review Commission the following members from private life on the part of the House: Mr. John J. O'Connor of Pennsylvania and Mr. D. Scott Yohe of Washington, DC.

The message also announced that pursuant to the provisions of section 274(b)(2) of Public Law 104–264, the minority leader appoints to the National Civil Aviation Review Commission the following members from private life on the part of the House: Col. Leonard Griggs (retired) of Missouri and Mr. John O'Brien of Virginia.

At 6:50 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 924. An act to amend title 18, United States code, to give further assurance to the rights of victims of crime to attend and observe the trials of those accused of the crime.

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

H.J. Res. 58. Joint resolution disapproving the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1436. A communication from the Secretary of Veterans' Affairs, transmitting, pursuant to law, the report on the Veterans Equitable Resource Allocation (VERA) plan; to the Committee on Veterans' Affairs.

EC–1437. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a request for supplemental relative to the National Transportation Safety Board; to the Committee on Appropriations.

EC–1438. A communication from the Secretary of Defense, transmitting, pursuant to law, the notice concerning a retirement; to the Committee on Armed Services.

EC–1439. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a notice of approval for a personnel management demonstration project for the Department of the Navy; to the Committee on Armed Services.

EC–1440. A communication from the Secretary of Defense, transmitting, pursuant to law, the report on the Joint Demilitarization Technology Program; to the Committee on Armed Services.

EC–1441. A communication from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, a rule entitled "Government Securities Sales Practices," (RIN3064–AB66) received on March 14, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1442. A communication from the Managing Director of the Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled "Advances to Nonmembers"; to the Committee on Banking, Housing, and Urban Affairs.

EC–1443. A communication from the Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule relative to the Costal Service Costal Management, (RIN0648–ZA27) received on March 17, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1444. A communication from the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule relative to air bags, (RIN2127–AG59) received on March 17, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1445. A communication from the Secretary of the Health and Human Services, transmitting, pursuant to law, the report on Child Support Enforcement Incentive Funding; to the Committee on Finance.

EC–1446. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, a draft of proposed legislation to the authorize appropriations for the Department of State to carry out its authorities and responsibilities in the conduct of foreign affairs during fiscal years 1998 and 1999; to the Committee on Foreign Relations.

EC–1447. A communication from the Executive Director of the Japan-U.S. Friendship Commission, transmitting, pursuant to law, a draft of proposed legislation to privatize the Commission; to the Committee on Foreign Relations.

EC–1448. A communication from the Acting Secretary Secretary, Department of State, transmitting, pursuant to law, the 1996 annual report on voting practices at the United Nations.

EC–1449. A communication from the Assistant Secretary of Interior for Indian Affairs, transmitting, a draft of proposed legislation to provide for the division, use and distribution of judgment funds; to the Committee on Indian Affairs.

EC–1450. A communication from the Assistant Secretary of Interior for Indian Affairs, transmitting, a draft of proposed legislation to provide for the division, use and distribution of judgment funds; to the Committee on Indian Affairs.

EC–1451. A communication from the Secretary of Education, transmitting, a draft of proposed legislation entitled "The Partnership to Rebuild America's Schools Act of 1997"; to the Committee on Labor and Human Resources.

EC–1452. A communication from the Director of the National Science Foundation, transmitting, pursuant to law, the report of the Committee of Equal Opportunities in Science and Engineering; to the Committee on Labor and Human Resources.

EC–1453. A communication from the Director and Chairperson of the Office of Special Education and Rehabilitative Services, National Institute On Disability and Rehabilitation Research, Department of Education, transmitting, pursuant to law, the report entitled "Disability Research: Accomplishments and Recommendations For Federal Coordination"; to the Committee on Labor and Human Resources.

EC–1454. A communication from the Director of the U.S. Office of Government Ethics, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1455. A communication from the Chairman of the Farm Credit System Insurance Corporation, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1456. A communication from the Executive Director of the Interstate Commission on the Potomac River Basin, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1996 and the report of the Office of Inspector General for the period October 1, 1995 through September 30, 1996; to the Committee on Governmental Affairs.

EC–1457. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1996; to the Committee on Governmental Affairs.

EC–1458. A communication from the Acting Chair of the National Indian Gaming Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1459. A communication from the Chairman of the U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1460. A communication from the Acting Executive Director of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

EC–1461. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, three rules including a rule entitled "Inspection and Expedited Removal of Aliens" (RIN1115–AE24, AE02, AD74) received on March 14, 1997; to the Committee on the Judiciary.

EC–1462. A communication from the Maritime Administrator, Department of Transportation, transmitting, pursuant to law, the report on the Voluntary Intermodal Sealift Agreement; to the Committee on Commerce, Science, and Transportation.

EC–1463. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule relative to leased commercial access, received on March 18, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1464. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a rule entitled "Availability of Funds and Collection of Checks," received on March 18, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1465. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, nine rules including a rule entitled "Approval and Promulgation of Implementation Plans," (FRL5700–9, 5691–8, 5707–7, 5708–8, 5701–8, 5700–3, 5708–7, 5708–3, 5707–9) received on March 18, 1997; to the Committee on Environment and Public Works.

EC–1466. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of Revenue Ruling 97–14, received on March 17, 1997; to the Committee on Finance.

EC–1467. A communication from the Assistant Secretary for Legislative Affairs, Departmentof State, transmitting, pursuant to law, the report of Presidential Determination 97–19; to the Committee on Foreign Relations.

EC–1468. A communication from Chair of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1996; to the Committee on Governmental Affairs.

EC–1469. A communication from the Director of the Office of Government Ethics, transmitting, pursuant to law, a rule entitled "Standars of Ethical Conduct for Employess of the Executive Branch," (RIN3209–AA04) received on March 12, 1997; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POW–45. A resolution adopted by the city of Pulaski, TN relative to Poland; to the Committee on Foreign Relations.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Labor and Human Resources:

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Donna Holt Cunnginghame, of Maryland, to be chief financial officer, Corporation for National and Community Service (new position), to which position she was appointed during the last recess of the Senate.

NATIONAL COUNCIL ON DISABILITY

Dave Nolan Brown, of Washington, to be a member of the National Council on Disability for a term expiring September 17, 1998.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Arthur I. Blaustein, of California, to be a member of the National Council on the Humanities for a term expiring January 26, 2002.

Lorraine Weiss Frank, of Arizona, to be a member of the National Council on the Humanities for a term expiring January 26, 2002.

Susan Ford Wiltshire, of Tennessee, to be a member of the National Council on the Humanities for a term expiring January 26, 2002.

Nathan Leventhal, of New York, to be a member of the National Council on the Arts for a term expiring September 3, 2002.

U.S. INSTITUTE OF PEACE

Joseph Lane Kirkland, of the District of Columbia, to be member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2001.

NATIONAL INSTITUTE FOR LITERACY

Jon Deveaux, of New York, to be a member of the National Institute for Literacy Advisory Board for a term expiring October 12, 1998.

NATIONAL MEDIATION BOARD

Magdalena G. Jacobsen, of Oregon, to be a member of the National Mediation Board for a term expiring July 1, 1999.

NATIONAL SCIENCE FOUNDATION

M.R.C. Greenwood, of California, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002.

John A. Armstrong, of Massachusetts, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002.

Stanley Vincent Jaskolski, of Ohio, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002.

Jane Lubchenco, of Oregon, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 2000.

Richard A. Tapia, of Texas, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002.

Mary K. Gaillard, of California, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002, Bob H. Suzuki, of California, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002, Eamon M. Kelly, of Louisiana, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002, Vera C. Rubin, of the District of Columbia, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Mary Lucille Jordan, of Maryland, to be a member of the Federal Mine Safety and Health Review Commission for a term of 6 years expiring August 30, 2002. (Reappointment)

Theodore Francis Verheggen, of the District of Columbia, to be a member of the Federal Mine Safety and Health Review Commission for a term expiring August 30, 2002.

Mr. JEFFORDS. Mr. President, for the Committee on Labor and Human Resources, I report favorably two nomination lists in the Public Health Service which were printed in full in the CONGRESSIONAL RECORD of January 30, 1997, and ask unanimous consent, to save the cost of reprinting on the Executive Calendar, that this nominations lie at the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of January 30, 1997, at the end of the Senate proceedings.)

The following candidates for personnel action in the regular corps of the Public Health Service subject to qualifications therefor as provided by law and regulations:

To be medical director

Larry J. Anderson
John S. Andrews, Jr.
Kenneth W. Bernard
Richard D. Cannon
Robert H. Carlson
Jose F. Cordero
Jaime M. Diaz-Hernandez
Stephen W. Heath
David G. Hooper
Van S. Hubbard
T. Stephen Jones
Douglas N. Klaucke
Jeffrey A. Lybarger
Mark W. Oberle
Stephen B. Permison
Jeffrey J. Sacks
James H. Shelhamer
Dorothy D. Sogn
Edward Tabor
Michael H. Trujillo

To be senior surgeon

Robert F. Anda
Richard T. Caldwell
Jeffrey A. Cutler
Ruth A. Etzel
John T. Friedrich
George E. Graning
Joel R. Greenspan
Evan C. Hadley
Scott D. Holmberg
Michael J. Horan
Mark A. Kane
Jonathan E. Kaplan
Norris S. Lewis
Dorothy K. Macfarlane
Neil J. Makela
Richard A. Martin
Thomas R. Navin
Edward L. Petsonk
Frank D. Richards, Jr.
Cynthia D. Schraer
Mary K. Serdula
Phillip L. Smith
Hugh K. Tyson
Ronald J. Waldman
Allen J. Wilcox
Ray Yip

To be surgeon

Lynn A. Bosco
Ralph T. Bryan
William A. Calder IV
Richard J. Calvert
William E. Carter, Jr.
Philip E. Coyne, Jr.
Andrew M. Friede
Terence H. Hamel
George H. Hays, Jr.
Bradley S. Hersh
John R. Livengood
Adelina D. Marinberg
Diane A. Mitchell
John S. Moran
Neil J. Murphy
Mark G. Peterson
Michael Pratt
Sam S. Shekar

To be dental director

Harold A. Black
Thomas J. Decaro
Robert S. Enders
James W. Farrington
Douglas B. Fritz
Lawrence J. Furman
Robert H. Harry, Jr.
James A. Lipton
Donald W. Marianos
Robert A. Palmer
Steven H. Posner
Alan L. Sandler

To be senior dental surgeon

Victor R. Alos
Charles H. Detjen
Alan R. Deubner
M. Ann Drum
Robert F. Felker, Jr.
James D. Friday
Michael H. Hess
Richard T. Higham
Miguel Rico
Barry H. Waterman
Richard H. White
Russell C. Williams, Jr.
Benjamin F. Howard
James J. Jan
Mark Koday
Michael L. Mark
Gene J. McElhinney
Steven R. Newman
Forrest H. Peebles
Garry E. Pitts
Rodney Wong
David K. Wright
Stephen W. Wyatt

To be dental surgeon

Jerome B. Alford
Steven J. Baune
Robin S. Berrin
Samuel L. Bundrant
Billy D. Card, Jr.
James E. Code
Markus P. Eldred
Michael A. Foster
Kevin S. Hardwick
Mark S. Jacobson
Thomas E. Jordan
Jan T. Josephson
Margaret L. Lamy
Tad R. Mabry
Marilyn R. McKean
Howard W. Payne, Jr.
Peter M. Preston
Sandra L. Shire
Adele M. Taylor
John B. Veasley
Clifford D. White
Paul Young

To be nurse director

Janet M. Dumont
May B. Given
Lorraine A. Maciag
Lynn E. McCourt

To be senior nurse officer

Melissa M. Adams
Bruce C. Baggett
Martina P. Callaghan
Martha J. Coury
Roberta A. Holder-Mosley
Charles R. Mauch
Nancy E. Miller-Korth
Constance J. Overby
Marilyn K. Pierce-Bulger
Cristin O. Rodriguez
Carol A. Romano
Myra J. Tucker
Gale G. White
Beverly R. Wright
Sarah C. Zahniser

To be nurse officer

Robin E. Anderson
Ana M. Balingit-Clark
Doris L. Clarke
James E. Clevenger
Regena N. Dale
Joanne Derdak
Fern S. Detsoi
Thomas J. Edwards
Danny J. English
Maureen Q. Farley
Pamela R. Gallagher-Navarro
Clarice Gee
Alan D. Goldstein
Martha L. Haynes
Mark W. Hunt
Merrit C. Jensen
Donna M. Kenison
David L. Kerschner
Kathleen M. Kinsey
Mark P. Lecapitaine
Lynn M. Lowry
Judith E. Maeda
Kenda J. Mathews
Timothy E. Mathews
Sheryl L. Meyers
Michael G. Mikulan
Roger A. Monson
Susan J. Morris
Ernestine Murray
Robinson J. Myers
Barbara J. Myrick
Rebecca K. Olin
Maria C. Padilla
Gladys V. Perkins
James M. Pobrislo
Christine L. Rubadue
Beverly J. Sanders
Leslie A. Spousta, Jr.
Timothy R. Stockdale
Lauren C. Tancona
Diane R. Walsh
Mark S. Wessel
Janet L. Wildeboor

To be engineer director

Bruce P. Almich
Donald B. Bad
Moccasin

Samuel C. Bradshaw
Alvin Chun
Herbert W. Dorsey
Marius J. Gedgaudas
Alan J. Hoffman
Thomas T. Kariya, Jr.
Stephen B. Leighton
William H. Midgette
Dennis M. Obrien
Richard J. Waxweiler
Wayne E. Wruble

To be senior engineer officer

Gerald V. Babigian
Curtis C. Bossert
Alwin L. Dieffenbach
John R. Giedt
Robert M. Hayes
William A. Heitbrink
Gary A. McFarland
Joseph C. Cocalis
John T. Collins
Richard D. Melton
Elliot A. Shefrin
Michael Verschelden
Randy N. Willard
Bryan K. H. Yim

To be engineer officer

Randall L. Bachman
Jose F. Cuzme
Kennith O. Green
Valerie J. Haney
Daniel L. Heintzman
Kenneth F. Martinez
Ronald L. Mickelsen
Douglas C. Ott
George D. Pringle, Jr.
Roger G. Slape
Kelly R. Titensor
Robert L. Wilson

To be scientist director

Wilbur H. Cyr
Robert B. Dick
George C. Jan
Robert P. Klein
Kenneth Krell
Joseph M. Madden
Eve K. Moscicki
Annette W. Zimmern

To be senior scientist

Raymond F. Beach, Jr.
Gregory M. Christenson
Raquel A. Crider
William T. Dill
William A. Kachadorian
Alan C. Schroeder
Chung-Yui B. Tai
Richard W. Truman

To be scientist

John E. Abraham
Leslie P. Boss
John A. Elliott
G. Shay Fout
Sara Dee McArthur
Rogert R. Rosa
Mildred M. Williams-Johnson

To be sanitarian director

Richard M. Bryan
Douglas R. Jackson
Ralph J. Touch, Jr.

To be senior sanitarian

Larry E. Glaze
Randy E. Grinnell
John J. Hanley
Richard W. Hartle
Gregory M. Heck
Gary P. Noonan
John A. Steward

To be sanitarian

Byron P. Bailey
William D. Compton
Ralph F. Fulgham
Barry S. Hartfield
Robert F. Hennes
Joseph L. Hughart
Mark H. Mattson
John P. Sarisky
Jeffrey J. Smith
Kevin Tonat
L.J. David Wallace III
Paul T. Young

To be veterinary director

Michael J. Blackwell

To be senior veterinary officer

Marguerite Pappaioanou

to be veterinary officer

Peter B. Bloland

To be pharmacist director

David Barash
John A. Boren
Gary A. Erickson
Steven C. Garrett
J. Craig Hostetler
James E. Knoben
Jay D. McGath
Steven R. Moore
Richard E. Davis
Jimmy P. Dowdy
James C. Myers
Robert W. Parrish
Steven L. Pettitt
William B. Welch
Patricia T.L. Yee-Spencer

To be senior pharmacist

Russell E. Alger
Thomas L. Blumenberg
Robert W. Boyce
Anthony J. Brooks
Susan Carl
Anthony W. Decicco
Paul N. Deramo
Rogert D. Eastep
Roger A. Goetsch
Arden H. Hanson
Paul L. Hepp
William A. Hess
Francis J. Hussion
Michael F. Johnston
Ralph B. Lillie
James A. May
Jon A. McArthur
Thomas J. McGinnis
Robert C. Nelson
Nicholas P. Provost
Grover H. Rivenbark
Linda J. Shull
R. David Simpton
Ronnie D. Thomas
William P. Tyler, Jr.
Peter L. Vaccari
Robert L. West
Stephen W. Wickizer

To be pharmacist

Diane Centeno-Deshields
Paul A. David
Josephine E. Divel
Steven C. Doane
Mary B. Forbes
Eric D. Gregory
Martin Jagers
Danny C. Jones
James C. Jordan
Michael R. Lilla
Robert A. McGough
James W. Mitchell
Michael J. Montello
Cecilia-Marina Prela
Robert W. Rist
Renee J. Roncone
William D. Sage
Thomas J. Troshynski

To be dietitian director

Beverly G. Crawford

To be senior dietitian

Shirley R. Blakely
Sandra R. Robinson

To be dietitian

Diana M. Prince
Paulette D. Wicks

To be therapist director

Michael R. Huylebroeck

To be senior therapist

Charles L. McGarvey
Marie A. Schroeder

To be therapist

Terry T. Cavanaugh
Franklin D. Keel
Sherry L. Phillips
Bonnie C. Thornton

To be health services director

Evan R. Arrindell
Martin J. Bree
Robert N. Burns
William M. Chapin, Jr.
James E. Clair
Larry D. Edmonds
Jerry G. Gentry
Robert P. Kuhlthau
Michael A. Lopatin
John L. McCrohan, Jr.
Emmett E. Noll,
Margaret T. Roper
Harry A. Rosenzweig
Edwin L. Sensintaffar
Robert Soliz
Stuart M. Swayze
Dawn G. Tharr

To be senior health services officer

Mary P. Anderson
Kenneth R. Bahm
Stephen J. Balcerzak
Roger W. Broseus
Stephanie D. Bryn
Thomas F. Carrato
Vivian T. Chen
Robert L. Davidson
Carol A. Delany
Norman E. Dodds
Jean D. Doong
John D. Dupre
Alan S. Friedlob
John D. Gallicchio
Donald W. Gann
John M. Garber
Jesse L. Glidewell
Terence M. Grady
Richard P. Haskins
Gloria J. Holder
Ellen M. Hutchins
Debra Y. Lewis
Hector Lopez
George G. Martin
James D. McGlothlin
Carol Rest-Mincberg
S. Jay Smith
Francis P. Wagner, Jr.

To be health services officer

Eugenia Adams
Duane R. Beckwith
Francis J. Behan
Annie L. Brayboy-Fair
Robert G. Hammernik
Teresa C. Horan
Nina R. Lalich
W. Henry Macpherson
Robert J. Slayton
Rachel E. Solomon
Maria E. Stetter
Nancy A. Tollison
John N. Zey

The following candidates for personnel action in the regular corps of the Public Health Service subject to qualifications therefor as provided by law and regulations:

To be medical director

Dan L. Longo

To be senior surgeon

Michael A. Friedman
Jeffrey R. Harris
Douglas B. Kamerow
Henry C. Lane

To be surgeon

Enrique S. Fernandez
Dennis M. Klinman
Daniel G. Schultz
David L. Swerdlow

To be senior assistant surgeon

Alice Y. Boudreau
Joanna Buffington
Erlinda R. Casuga-Marquez
A. Russell Gerber
Douglas W. Kingma
Denise T. Koo
Eric D. Mintz
Mark J. Papania
David H. Sniadack
Judith Thierry
John C. Watson
Jane R. Zucker

To be dental surgeon

Rosemary E. Duffy

To be senior assistant dental surgeon

David L. Brizzee
Jeffrey M. Carolla
Michael E. Korale
Jana Cheryl McIntosh
Rebecca V. Neslund
William J. Perez
Linda C. Torres
John T. Zimmer

To be senior assistant nurse officer

Joyce A. Anderson
Victoria L. Anderson
Judith E. Arndt
Lori E. Bealle
Erica M. Boardman
Jeffrey N. Burnham
Laura M. Chisholm
Maria L. Dinger
Cindy E. Hamlin
Dennis R. Hammond
Roldie C. Jones
Christine M. Parmentier
Daniel Reyna
Cliffornia J. Rolle
Mary F. Rossi-Coajou
Leslie L. Royall
Rosemary J. Sullivan
James S. Whiting
Christine L. Williams
Tony M. Zorzynski

To be assistant nurse officer

Daniel J. Aronson
Robert C. Frickey

To be senior assistant engineer officer

Raymond M. Behel II
David M. Birney
Eric L. Crump
Gary S. Earnest
Michael G. Gressel
William R. Griffin
Michael J. Koehmstedt
Dennis J. Wagner
Louis A. Lightner, Jr.
Robert B. McVicker
Jacqueline M. Parker
Steven E. Raynor
Paul G. Robinson
George W. Styer
Daniel C. Tompkins
Maurice C. West

To be assistant engineer officer

Anthony G. Kathol

To be scientist

Donald H. Burr

To be senior assistant scientist

Dina Birman
Frank P. Gonzales
Bruce H. Grant
Neal R. McMann

To be sanitarian

Brenda J. Holman

To be senior assistant sanitarian

Gary J. Gefroh
Kevin W. Hanley
Michael P. Keiffer
Geoffrey G. Langer
John P. Leffel
Reva J. Melton
Edward Perez, Jr.
Frederick A. Ramsey
Doris Ravenell-Brown
Michael M. Welch

To be veterinary officer

Linda R. Tollefson

To be senior assistant veterinary officer

Tracey C. Bourke
Stephanie I. Harris

To be senior assistant pharmacist

Michael R. Allen
Maria T. Burt
Robert B. Carlile IV
John M. Coleman
L. Jane Duncan
Traci C. Gale
Jill G. Geoghegan
Karen G. Hirshfield
Ilene R. Ketter
David V. Larson
Keith E. Rost
Linda M. Schrand
Kassandra C. Sherrod
Thomas A. Sticht
Julie E. Warren

To be assistant pharmacist

Dana L. Hall
Eddie J. Winn

To be senior assistant dietitian

Young S. Song
Connie Y. Torrence-Thomas
Juli M. Whitson

To be senior assistant therapist

Bart E. Drinkard

To be senior assistant health services officer

Bradley L. Austin
Toni A. Bledsoe
Frank H. Cross, Jr.
Willard E. Dause
Jan Davis
Maureen E. Gormley
Steve Gurski III
R. Andrew Hunt
Winston L. Moorehead
Judith A. Nelson
Gay E. Nord
Kenneth B. Stewart

To be assistant health services officer

Lou A. Rector
Christopher R. Walsh

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs:

Susan R. Baron, of Maryland, to be a member of the National Corporation for Housing Partnerships for the term expiring October 27, 1997.

Jeffrey A. Frankel, of California, to be a member of the Council of Economic Advisers.

Charles A. Gueli, of Maryland, to be a member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1999.

Yolanda Townsend Wheat, of Missouri, to be a member of the National Credit Union Administration Board for the term of 6 years expiring August 2, 2001.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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 Ms. MOSELEY-BRAUN (for herself, Mr. KENNEDY, Mr. GRAHAM, Mr. KERRY, Mr. LEVIN, Mr. TORRICELLI, Mrs. MURRAY, Ms. MIKULSKI, Mr. DODD, and Mr. WELLSTONE):

S. 456. A bill to establish a partnership to rebuild and modernize America's school facilities; to the Committee on Labor and Human Resources.

By Mr. CAMPBELL:

S. 457. A bill to amend section 490 of the Foreign Assistance Act of 1961 to provide alternative certification procedures for assistance for major drug producing countries and major drug transit countries; to the Committee on Foreign Relations.

By Mr. FAIRCLOTH (for himself, Mr. KYL, Mr. WARNER, Mr. LUGAR, Mr. SHELBY, Mr. INHOFE, Mr. BENNETT, Mr. CRAIG, Mr. ENZI, and Mr. HAGEL):

S. 458. A bill to provide for State housing occupancy standards, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CAMPBELL (for himself, Mr. MCCAIN, Mr. DOMENICI, Mr. MURKOWSKI, and Mr. INOUYE):

S. 459. A bill to amend the Native American Programs Act of 1974 to extend certain authorizations, and for other purposes; to the Committee on Indian Affairs.

By Mr. BOND (for himself, Ms. SNOWE, Mr. NICKLES, Mr. BURNS, Mr. WARNER, Mr. FAIRCLOTH, Mr. MURKOWSKI, Mr. INHOFE, Mr. ENZI, Mr. HUTCHINSON, Mr. MACK, Ms. MIKULSKI, and Mr. GRAMS):

S. 460. A bill to amend the Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals, to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home, to clarify the standards used for determining that certain individuals are not employees, and for other purposes; to the Committee on Finance.

By Mrs. HUTCHISON (for herself, Mr. INHOFE, and Mr. HELMS):

S. 461. A bill to amend the Occupational Safety and Health Act of 1970 and the National Labor Relations Act to modify certain provisions, to transfer certain occupational safety and health functions to the Secretary of Labor, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MACK (for himself, Mr. D'AMATO, Mr. BOND, Mr. FAIRCLOTH, and Mr. GRAMS):

S. 462. A bill to reform and consolidate the public and assisted housing programs of the United States, and to redirect primary responsibility for these programs from the Federal Government to States and localities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. COATS:

S. 463. A bill to amend the Solid Waste Disposal Act to permit a Governor to limit the disposal of out-of-State solid waste in the Governor's State, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. MURRAY:

S. 464. A bill to amend title 38, United States Code, to allow revision of veterans benefits decisions based on clear and unmistakable error; to the Committee on Veterans Affairs.

By Mr. DORGAN (for himself, Mr. BYRD, and Mr. SARBANES):

S. 465. A bill to establish an Emergency Commission To End the Trade Deficit; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. KENNEDY, Mr. KERRY, Mrs. FEINSTEIN, and Mr. TORRICELLI):

S. 466. A bill to reduce gun trafficking by prohibiting bulk purchases of handguns; to the Committee on the Judiciary.

By Mr. WELLSTONE (for himself, Mrs. MURRAY, Mr. WYDEN, and Mr. DORGAN):

S. 467. A bill to prevent discrimination against victims of abuse in all lines of insurance; to the Committee on Labor and Human Resources.

By Mr. CHAFEE (for himself and Mr. MOYNIHAN):

S. 468. A bill to continue the successful Federal role in developing a national intermodal surface transportation system, through programs that ensure the safe and efficient movement of people and goods, improve economic productivity, preserve the environment, and strengthen partnerships among all levels of the government and the private sector, and for other purposes; to the Committee on Finance.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 469. A bill to designate a portion of the Sudbury, Assabet and Concord Rivers as a component of the National Wild and Scenic River System; to the Committee on Energy and Natural Resources.

By Mr. ROTH (for himself and Mr. MOYNIHAN):

S. 470. A bill to amend the Internal Revenue Code of 1986 to make a technical correction relating to the depreciation on property used within an Indian reservation; to the Committee on Finance.

By Mr. LEVIN (for himself and Mr. LEAHY):

S.J. Res. 23. A joint resolution expressing the sense of the Congress that the Attorney General should exercise her best professional judgement, without regard to political pressures, on whether to invoke the independent counsel process to investigate alleged criminal misconduct relating to any election campaign; read twice.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROBB:

S. Res. 64. A resolution to designate the week of May 4, 1997, as "National Correctional Officers and Employees Week"; to the Committee on the Judiciary.

By Mr. DURBIN (for himself and Mr. DORGAN):

S. Res. 65. A bill to express the sense of the Senate on consideration of comprehensive campaign finance reform; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MOSELEY-BRAUN (for herself, Mr. KENNEDY, Mr. GRAHAM, Mr. KERRY, Mr. LEVIN, Mr. TORRICELLI, Mrs. MURRAY, Ms. MIKULSKI, Mr. DODD, and Mr. WELLSTONE):

S. 456. A bill to establish a partnership to rebuild and modernize America's school facilities; to the Committee on Labor and Human Resources.

THE PARTNERSHIP TO REBUILD AMERICA'S SCHOOLS ACT OF 1997

Ms. MOSELEY-BRAUN. Mr. President, I send to the desk, and I am pleased to introduce, along with a number of my colleagues, the Partnership To Rebuild America's School Act of 1997. This legislation is designed to address one of the most fundamental problems that we currently face as a nation with regard to public elementary and secondary education: many of

our schools are literally falling down around our children. This legislation will help us address this problem, the crisis of crumbling schools in America.

On Friday, the President officially transmitted this legislation to the Congress. The bill is the result of months of work by the Department of Education, the Department of the Treasury, the White House, my office, and a number of other congressional offices.

At the outset, I commend and thank everyone who has participated in the development of this legislation for their efforts.

Mr. President, the Partnership To Rebuild America's Schools Act of 1997 will help States and local school districts finance the repair, renovation, modernization and construction of their schools. States and school districts will be able to use the Federal funds to assist them in financing their highest priority projects.

This bill will allow school districts to do more of what they need to be doing, educating our children for the 21st century.

In America, the rungs on the ladder of opportunity are still crafted in the classroom. High school graduates earn, on average, 46 percent more every year than those who do not graduate. College graduates earn 155 percent more every year than those who do not graduate from high school. Over the course of a lifetime, the most educated Americans will earn five times as much as the least educated.

Education, however, is not just a matter of individual benefit. It is a public good as well. It affects and correlates to the status and the quality of life for our entire community. It correlates to just about every indicia of economic and social well-being. Educational attainment can be directly tied to income, health, the likelihood of being on welfare, the likelihood of being incarcerated, and the likelihood of voting and participating in our democracy. Education, therefore, has both national as well as individual implications.

In a recent Wall Street Journal survey of leading U.S. economists, 43 percent of those surveyed said the single most important thing that we could do to increase our long-term economic growth rate would be to invest more in education and research and development. Nothing else even came close to education in the survey. One economist said, "One of the few things that economists will agree upon is the fact that economic growth is very strongly dependent on our own abilities."

In his State of the Union Address, President Clinton noted that education is a critical national security issue for our future. I believe this notion should be at the heart of our debate over education.

In order to compete with cheap, Third World labor in a global economy, in an information age, and to maintain the standard of living to which we have grown accustomed as Americans, we will have to have a work force that works smarter, that works better, that can hold its own in this global economy at the high end of the productivity scale.

So education then becomes a matter of national concern and, indeed, as the President pointed out, a matter of our national security, because it is directly linked to our ability to be able to maintain the standard of living that we have come to appreciate as Americans and our ability to compete in this global marketplace.

We all have a role to play. That is why this legislation starts off calling itself a partnership, because there must be a partnership between State, local and National Government to meet the challenge that this global economy, and changes in the world, have given us all to face.

The Partnership To Rebuild America's Schools Act of 1997 will help us to meet the challenge by investing in education in ways that preserve the fundamental tenet of local control of education.

By investing in bricks and mortar the Federal Government can contribute to a more balanced partnership among all levels of Government and in the private sector to rebuild and modernize our schools so they can serve all of our children in the 21st century. This legislation strikes that balance. This legislation does preserve local control, but, much to the point, it says that we at the national level have an obligation to participate in addressing those needs that can be most appropriately addressed at the national level; and that is rebuilding our crumbling schools.

The bill uses 5 billion Federal dollars to leverage an additional $15 billion worth of State, local and private resources. Half of the money will be apportioned to States using the existing Title I basic grants formula. The remainder will flow directly to the 100 school districts in the country with the largest numbers of children living below the poverty level.

Of the amount available for direct assistance to these impoverished communities, the Department of Education will apportion 70 percent by formula and will make the remaining 30 percent available on a competitive basis.

In addition, the bill will allocate 2 percent of the funds to the Secretary of the Interior for administration to Indian schools and to the Secretary of Education for the outlying territories.

Under both the State and local programs, States and school districts would have an enormous amount of flexibility in the use of these Federal funds to help finance school improvement projects. They could use the funds to subsidize State or local bond issues, certificates of participation, purchase or lease agreements, or other financial transactions used to finance school improvements.

In addition, the States would be allowed to capitalize on entities similar to the State infrastructure banks which are currently used by a number of States to help finance highway improvement projects. These infrastructure banks could be used to leverage additional resources.

This program is designed to stimulate new construction and renovation, and there are specific provisions in the bill to ensure that Federal funds are not used simply to finance school improvements that would have occurred anyway. The bill is designed to fill a real need that exists at both the State and local levels for school financing assistance, not to supplement districts that would have otherwise been able to finance their projects.

It is carefully crafted to minimize administrative costs at the Federal level and to maximize local control over decisions that must be made with regard to school improvements.

States and districts will be required to submit applications to the Secretary of Education describing their needs and the process that will be used to award the Federal funds. Once these applications are approved, grantees will immediately receive the full share of the $5 billion.

In addition, other than following certain criteria, States and local districts will be free to finance their top-priority projects. The Federal Government will not be in the business of dictating priorities and needs to State and local school districts who know their schools best.

This bill helps address a need that has completely overwhelmed States and local school districts. The magnitude of the school facilities problem is so great today that many districts cannot maintain the kind of educational environment necessary to teach all of our children the kind of skills they will need to compete in the 21st century, global economy.

The U.S. General Accounting Office, which at my request conducted an intensive 2-year study of the condition of America's schools, recently concluded that 14 million children attend schools in need of major renovations or outright replacement, and 7 million children attend schools with life-threatening safety code violations. They found that it will cost $112 billion to essentially bring schools up to code, not to equip them with new computers and cosmetic improvements, but just to address the toll that decades of deferred maintenance have taken on our Nation's school facilities.

That $112 billion price tag, as enormous as it may sound, does not include the cost of wiring schools for modern technology. One of the greatest barriers to the incorporation of modern

computers into the classroom is the physical condition of many school buildings. You cannot very well use a computer if you do not have the electrical system to plug it into the wall. Too many schools across the country do not have the physical capacity to provide our youngsters with the instruments they will need in order to be educated for this information age.

According to the General Accounting Office, almost half of all schools lack enough electrical power for the full-scale use of computers, 60 percent of them lack enough conduits in the walls to connect classroom computers to a network, and more than 60 percent lack enough phone lines for instructional use.

For this generation, computers really are the functional equivalent of books. My son sometimes is amazed that computers were not around when I was in school. The fact of the matter is, though, that many of our schools were built before the advent of these technologies, and they have not been upgraded so that modern teaching tools can be used in the classroom. Our youngsters need modern technology if they are to be prepared for this information age and for this global economy.

That $112 billion price tag also does not include the cost of expanding capacity to accommodate soaring enrollments. According to the U.S. Department of Education, just to keep up with growing enrollment, we will need to build 6,000 new schools over the next 10 years.

Teachers and parents know full well that these conditions directly affect the ability of children to learn. Recent research, however, has lent scientific proof to that intuitive knowledge. Two separate studies found a 10 to 11 percent achievement gap between students in good school buildings and those in poor school buildings after controlling for all other factors.

Other studies have found that when buildings are in poor condition, students are more likely to misbehave. That should come as no surprise to parents. Three leading researchers in this area recently concluded, "Based on our research, there is no doubt that building condition affects academic performance."

Mr. President, this legislation is in the interest, I believe, of not just the children of America who have to go to these school buildings, many of which are dilapidated and rundown and neglected, but it is also in the interest of communities that will need the help to finance school repairs, and it is in the interest of our Nation that will need to have an educated work force.

Mr. President, the current system of school finance, which relies primarily on local property taxes, is not flexible enough to meet the enormous needs of our Nation's schools. This country, I believe, needs a new approach to solve the problem of crumbling schools, a partnership among all levels of government and the private sector that preserves local control of education, but creates some balance, and infuses, frankly, a little more reason into our school finance system that does not now adequately serve the schools, the children, the country, or the local property taxpayers.

The Department of Education has looked closely at a number of communities around the country and assessed the effect that this legislation would have on their ability to finance their construction needs. The Department looked at, for example, Los Angeles. Most of the school buildings there are more than 40 years old and are not wired for technology. Mr. President, 245 schools need roof replacements, and 50 of them need new boilers. According to the Department, this legislation could accelerate many long overdue projects and facilitate the passage of bond referenda at the local level.

The Department also looked at the State of Maine, which has many 100-year-old buildings and one-room schoolhouses. According to the Department, most districts in that State cannot cover the total cost of bonds issued to finance repair and modernization projects. Again, this legislation would allow needed projects to go forward.

The Department also looked at a school district in southern Florida suffering from severe overcrowding. Mr. President, 34,000 students in that district do not have permanent desks. There are 10,000 new students added to the system each year. The district would have to build a new school every month to keep up with this demand. According to the Department this legislation will help this district move away from the use of portable classrooms, which do not provide as conducive a learning environment as real schools.

My own State of Illinois would benefit greatly from this legislation. As the GAO reported last week, my State has unfortunately one of the most inequitable school finance systems in the Nation. With a low State contribution to school resources, and with a poor State effort to target funds to the neediest districts, local property taxpayers in Illinois are saddled with almost 60 percent of the costs of educating their children. It is no wonder, then, that the State board of education estimates that Illinois' construction needs are $13 billion. Too many of Illinois' school districts have a difficult time even providing textbooks and pencils, let alone major capital improvements. This legislation would free up local resources in Illinois for education by providing Federal support for the construction, rehabilitation and renovation of the school buildings.

I urge all my colleagues to take a close look at the needs of the schools in their States and consider joining us in cosponsoring this legislation. This initiative is not about partisan politics. In fact, I think most Americans would agree wholeheartedly with the President when he said that partisan politics should stop at the schoolhouse door. This is something that transcends partisan differences and goes to the heart of our ability to provide for our children's well-being and their needs going into the 21st century.

Congress has a unique opportunity to take a fundamentally new approach to improving the quality of elementary and secondary education. This bill represents a chance to improve our system of school finance and help prepare our children for the 21st century. I believe this will be welcomed by taxpayers at the local level, particularly those who, at this point, are unfairly burdened with the costs of trying to keep up a school system that deserves the support of all levels of government in our country.

Mr. President, I have several documents from the Department of Education that I would like to have printed in the RECORD. I have the letter of transmittal from the Secretary of Education to the President of the Senate, a fact sheet regarding the correlation between building conditions and student achievement, and seven case studies assessing the impact this legislation would have on communities across America. I ask unanimous consent that these materials, as well as the text of the bill itself, be printed at this point in the RECORD.

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

S. 456

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Partnership to Rebuild America's Schools Act of 1997."

TITLE I—SCHOOL CONSTRUCTION ASSISTANCE PROGRAM

TABLE OF CONTENTS

SEC. 101. The table of contents for this Act is as follows:

TITLE I—SCHOOL CONSTRUCTION ASSISTANCE PROGRAM

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PART 1—PROGRAM AUTHORIZED

FINDINGS AND PURPOSE

SEC. 102. (a) FINDINGS.—The Congress finds as follows:

(1) According to the General Accounting Office, one-third of all elementary and secondary schools in the United States, serving 14,000,000 students, need extensive repair or renovation.

(2) School infrastructure problems exist across the country, but are most severe in central cities and in schools with high proportions of poor and minority children.

(3) Many States and school districts will need to build new schools in order to accommodate increasing student enrollments; the Department of Education has predicted that the Nation will need 6,000 more schools by the year 2006.

(4) Many schools do not have the physical infrastructure to take advantage of computers and other technology needed to meet the challenges of the next century.

(5) While school construction and maintenance are primarily a State and local concern, States and communities have not, on their own, met the increasing burden of providing acceptable school facilities for all students, and the poorest communities have had the greatest difficulty meeting this need.

(6) The Federal Government, by providing interest subsidies and similar types of support, can lower the costs of State and local school infrastructure investment, creating an incentive for States and localities to increase their own infrastructure improvement efforts and helping ensure that all students are able to attend schools that are equipped for the 21st century.

(b) PURPOSE.—The purpose of this Act is to provide Federal interest subsidies, or similar assistance, to States and localities to help them bring all public school facilities up to an acceptable standard and build the additional public schools needed to educate the additional numbers of students who will enroll in the next decade.

DEFINITIONS

SEC. 103. Except as otherwise provided, as used in this Act, the following terms have the following meanings:

(1) CHARTER SCHOOL.—The term "charter school" has the meaning given that term in section 10306(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8066(1)).

(2) COMMUNITY SCHOOL.—The term "community school" means a school, or part of a school, that serves as a center for after-school and summer programs and the delivery of education, tutoring, cultural, and recreational services, and as a safe haven for all members of the community by—

(A) collaborating with other public and private nonprofit agencies (including libraries and other educational, human-service, cultural, and recreational entities) and private businesses in the provision of services;

(B) providing services such as literacy and reading programs; senior citizen programs; children's day-care services; nutrition services; services for individuals with disabilities; employment counseling, training, and placement; and other educational, health, cultural, and recreational services; and

(C) providing those services outside the normal school day and school year, such as through safe and drug-free safe havens for learning.

(3)(A) CONSTRUCTION.—The term "construction' means——

(i) the preparation of drawings and specifications for school facilities;

(ii) erecting, building, acquiring, remodeling, renovating, improving, repairing, or extending school facilities;

(iii) demolition, in preparation for rebuilding school facilities; and

(iv) the inspection and supervision of the construction of school facilities.

(B) The term "construction" does not include the acquisition of any interest in real property.

(4) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given that term in section 14101(18) (A) and (B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(18) (A) and (B)).

(5) SCHOOL FACILITY.—(A) The term "school facility" means—

(i) a public structure suitable for use as a classroom, laboratory, library, media center, or related facility, whose primary purpose is the instruction of public elementary or secondary students; and

(ii) initial equipment, machinery, and utilities necessary or appropriate for school purposes.

(B) The term "school facility" does not include an athletic stadium, or any other structure or facility intended primarily for athletic exhibitions, contests, games, or events for which admission is charged to the general public.

(6) SECRETARY.—The term "Secretary" means the Secretary of Education.

(7) STATE.—The term "State" means each of the 50 States and the Commonwealth of Puerto Rico.

(8) STATE EDUCATIONAL AGENCY.—The term "State educational agency" has the meaning given that term in section 14101(28) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(28)).

FUNDS APPROPRIATED

SEC. 104. There are appropriated $5,000,000,000 for the purpose of carrying out this Act, which shall be available for obligation by the Secretary of Education from October 1, 1997 until September 30, 2001.

ALLOCATION OF FUNDS

SEC. 105. (a) RESERVATION FOR THE SECRETARY OF THE INTERIOR AND THE OUTLYING AREAS.—(1) The Secretary shall reserve up to two percent of the funds appropriated by section 104 to—

(A) provide assistance to the Secretary of the Interior, which the Secretary of the Interior shall use for the school construction priorities described in section 1125(c) of the Education Amendment of 1978 (25 U.S.C. 2005(c)); and

(B) make grants to America Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, in accordance with their respective needs, as determined by the Secretary.

(2) Grants provided under paragraph (1)(B) shall be used for activities that the Secretary determines best meet the school infrastructure needs of the areas identified in that paragraph, subject to the terms and conditions, consistent with the purpose of this Act, that the Secretary may establish.

(b) ALLOCATION OF REMAINING FUNDS.—Of the remaining funds appropriated by section 104—

(1) 50 percent shall be used for formula grants to States under section 111;

(2) 35 percent shall be used for direct formula grants to local educational agencies under section 126; and

(3) 15 percent shall be used for competitive grants to local educational agencies under section 127.

PART 2—GRANTS TO STATES

ALLOCATION OF FUNDS

SEC. 111. (A) FORMULA GRANTS TO STATES.—Subject to subsection (b), the Secretary shall allocate the funds available under section 105(b)(1) among the States in proportion to the relative amounts each State would have received for Basic Grants under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year if the Secretary had disregarded the numbers of children counted under that subpart who were enrolled in schools of local educational agencies that are eligible to receive direct grants under section 126 of this Act.

(b) ADJUSTMENTS TO ALLOCATIONS.—The Secretary shall adjust the allocations under subsection (a), as necessary, to ensure that, of the total amount allocated to State under subsection (a) and to local educational agencies under section 126, the percentage allocated to a State under this section and to localities in the State under section 126 is at least the minimum percentage for the State described in section 1124(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6334(d)) for the previous fiscal year.

(c) REALLOCATIONS.—If a State does not apply for its allocation, applies for less than its full allocation, or fails to submit an approvable application, the Secretary may reallocate all or a portion of the State's allocation, as the case may be, to the remaining States in the same proportions as the original allocations were made to those States under subsections (a) and (b).

ELIGIBLE STATE AGENCY

SEC. 112. The Secretary shall award each State's grant to the State agency, such as a State educational agency, a State school construction agency, or a State bond bank, that the Governor, with the agreement of the chief State school officer, designates as best able to administer the grant.

ALLOWABLE USES OF FUNDS

SEC. 113. Each State shall use its grant under this part only for one or more of the following activities to subsidize the cost of eligible school construction projects described in section 114:

(1) Providing a portion of the interest cost (or of another financing cost approved by the Secretary) on bonds, certificates of participation, purchase or lease arrangements, or other forms of indebtedness issued or entered into by a State or its instrumentality for the purpose of financing eligible projects.

(2) State-level expenditures approved by the Secretary for credit enhancement for the debt or financing instruments described in paragraph (1).

(3) Making subgrants, or making loans through a State revolving fund, to local educational agencies or (with the agreement of

the affected local educational agency) to other qualified public agencies to subsidize—

(A) the interest cost (or another financing cost approved by the Secretary) of bonds, certificates of participation, purchase or lease arrangements, or other forms of indebtedness issued or entered into by a local educational agency or other agency or unit of local government for the purpose of financing eligible projects; or

(B) local expenditures approved by the Secretary for credit enhancement for the debt or financing instruments described in subparagraph (A).

(4) Other State and local expenditures approved by the Secretary that leverage funds for additional school construction.

ELIGIBLE CONSTRUCTION PROJECTS; PERIOD FOR INITIATION

SEC. 114 (a) ELIGIBLE PROJECTS.—States and their subgrantees may use funds under this part, in accordance with section 113, to subsidize the cost of—

(1) construction of elementary and secondary school facilities in order to ensure the health and safety of all students, which may include the removal of environmental hazards; improvements in air quality, plumbing, lighting, heating and air conditioning, electrical systems, or basic school infrastructure; and building improvements that increase school safety;

(2) 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.);

(3) construction activities that increase the energy efficiency of school facilities;

(4) construction that facilitates the use of modern educational technologies;

(5) construction of new school facilities that are needed to accommodate growth in school enrollments; or

(6) construction projects needed to facilitate the establishment of charter schools and community schools.

(b) PERIOD FOR INITIATION OF PROJECT.—(1) Each State shall use its grant under this part only to subsidize construction projects described in subsection (a) that the State or its localities have chosen to initiate, through the vote of a school board, passage of a bond issue, or similar public decision, made between July 11, 1996 and September 30, 2001.

(2) If a State determines, after September 30, 2001, that an eligible project for which it has obligated funds under this part will not be carried out, the State may use those funds (or any available portion of those funds) for other eligible projects selected in accordance with this part.

(c) REALLOCATION.—If the Secretary determines, by a date before September 30, 2001 selected by the Secretary, that a State is not making satisfactory progress in carrying out its plan for the use of the funds allocated to it under this part, the Secretary may reallocate all or part of those funds, including any interest earned by the State on those funds, to one or more other States that are making satisfactory progress.

SELECTION OF LOCALITIES AND PROJECTS

SEC. 115. (a) PRIORITIES.—In determining which localities and activities to support with grant funds, each State shall give the highest priority to—

(1) localities with the greatest needs, as demonstrated by inadequate educational facilities, coupled with a low level of resources available to meet school construction needs; and

(2) localities that will achieve the greatest leveraging effect on school construction from assistance under this part.

(b) ADDITIONAL CRITERIA.—In addition to the priorities required by subsection (a), each State shall consider each of the following in determining the use of its grant funds under this part:

(1) The condition of the school facilities in different communities in the State.

(2) The energy efficiency and the effect on the environment of projects proposed by communities, and the extent to which these projects use cost-efficient architectural design.

(3) The commitment of communities to finance school construction and renovation projects with assistance from the State's grant, as demonstrated by their incurring indebtedness or by similar public or private commitments for the purposes described in section 114(a).

(4) The ability of communities to repay bonds or other forms of indebtedness supported with grant funds.

(5) The particular needs, if any, of rural communities in the State for assistance under this Act.

(6) The receipt by local educational agencies in the State of grants under part 3, except that a local educational agency is not ineligible for a subgrant under this part solely because it receives such a grant.

STATE APPLICATIONS

SEC. 116. (a) APPLICATION REQUIRED.—A State that wishes to receive a grant under this part shall submit an application to the Secretary, in the manner the Secretary may require, not later than two years after the date of enactment of this Act.

(b) DEVELOPMENT OF APPLICATION.—(1) The State agency designated under section 112 shall develop the State's application under this part only after broadly consulting with the State board of education, and representatives of local school boards, school administrators, the business community, parents, and teachers in the State about the best means of carrying out this part.

(2) If the State educational agency is not the State agency designated under section 112, the designated agency shall consult with the State educational agency and obtain its approval before submitting the State's application.

(c) STATE SURVEY.—(1) Before submitting the State's application, the State agency designated under section 112, with the involvement of local school officials and experts in building construction and management, shall survey the need throughout the State (including in localities receiving grants under part 3) for construction and renovation of school facilities, including, at a minimum—

(A) the overall condition of school facilities in the State, including health and safety problems;

(B) the capacity of the schools in the State to house projected enrollments; and

(C) the extent to which the schools in the State offer the physical infrastructure needed to provide a high-quality education to all students.

(2) A State need not conduct a new survey under paragraph (1) if it has previously completed a survey that meets the requirements of that paragraph and that the Secretary finds is sufficiently recent for the purpose of carrying out this part.

(d) APPLICATION CONTENTS.—Each State application under this part shall include—

(1) an identification of the State agency designated by the Governor under section 112 to receive the State's grant under this party;

(2) a summary of the results of the State's survey of its school facility needs, as described in subsection (c);

(3) a description of how the State will implement its program under this part;

(4) a description of how the State will allocate its grant funds, including a description of how the State will implement the priorities and criteria described in section 115;

(5)(A) a description of the mechanisms that will be used to finance construction projects supported by grant funds; and

(B) a statement of how the State will determine the amount of the Federal subsidy to be applied, in accordance with section 117(a), to each local project that the State will support;

(6) a description of how the State will ensure that the requirements of this part are met by subgrantees under this part;

(7) a description of the steps the State will take to ensure that local educational agencies will adequately maintain the facilities that are constructed or improved with funds under this part;

(8) an assurance that the State will use its grant only to supplement the funds that the State, and the localities receiving subgrants, would spend on school construction and renovation in the absence of a grant under this part, and not to supplant those funds;

(9) an assurance that, during the four-year period beginning with the year the State receives its grant, the combined expenditures for school construction by the State and the localities that benefit from the State's program under this part (which at the State's option, may include private contributions) will be at least 125 percent of those combined expenditures for that purpose for the four preceding years; and

(10) other information and assurances that the Secretary may require.

(e) WAIVER OF REQUIREMENT TO INCREASE EXPENDITURES.—The Secretary may waive or modify the requirement of subsection (d)(9) for a particular State if the State demonstrates to the Secretary's satisfaction that that requirement is unduly burdensome because the State or its localities have incurred a particularly high level of school construction expenditures during the previous four years.

AMOUNT OF FEDERAL SUBSIDY

SEC. 117. (a) PROJECTS FUNDED WITH SUBGRANTS.—For each construction project assisted by a State through a subgrant to a locality, the State shall determine the amount of the Federal subsidy under this part, taking into account the number or percentage of children from low-income families residing in the locality, subject to the following limits:

(1) If the locality will use the subgrant to help meet the cost of repaying bonds issued for a school construction project, the Federal subsidy shall be not more than one-half of the total interest cost of those bonds, determined in accordance with paragraph (4).

(2) If the bonds to be subsidized are general obligation bonds issued to finance more than one type of activity (including school construction), the Federal subsidy shall be not more than one-half of the interest cost for that portion of the bonds that will be used for school construction purposes, determined in accordance with paragraph (4).

(3) If the locality elects to use its subgrant for an allowable activity not described in paragraph (1) or (2), such as for certificates of participation, purchase or lease arrangements, reduction of the amount of principal to be borrowed, or credit enhancements for individual construction projects, the Federal

subsidy shall be not more than one-half of the interest cost, as determined by the State in accordance with paragraph (4), that would have been incurred if bonds had been used to finance the project.

(4) the interest cost referred to in paragraphs (1), (2), and (3) shall be—

(A) calculated on the basis of net present value; and

(B) determined in accordance with an amortization schedule and any other criteria and conditions the Secretary considers necessary, including provisions to ensure comparable treatment of different financing mechanisms.

(b) STATE-FUNDED PROJECTS.—For a construction project under this part funded directly by the State through the use of State-issued bonds or other financial instruments, the Secretary shall determine the Federal subsidy in accordance with subsection (a).

(c) NON-FEDERAL SHARE.—A State, and localities in the State receiving subgrants under this part, may use any non-Federal funds, including State, local, and private-sector funds, for the financing costs that are not covered by the Federal subsidy under subsection (a).

SEPARATE FUNDS OR ACCOUNTS; PRUDENT INVESTMENT

SEC. 118. (a) SEPARATE FUNDS OR ACCOUNTS REQUIRED.—Each State that receives a grant, and each recipient of a subgrant under this part, shall deposit the grant or subgrant proceeds in a separate fund or account, from which it shall make bond repayments and pay other expenses allowable under this part.

(b) PRUDENT INVESTMENT REQUIRED.—Each State that receives a grant, and each recipient of a subgrant under this part, shall—

(1) invest the grant or subgrant in a fiscally prudent manner, in order to generate amounts needed to make repayments on bonds and other forms of indebtedness described in section 113; and

(2) Notwithstanding section 6503 of title 31, United States Code or any other law, use the proceeds of that investment to carry out this part.

STATE REPORTS

SEC. 119. (a) REPORTS REQUIRED.—(1) Each State receiving a grant under this part shall report to the Secretary on its activities under this part, in the form and manner the Secretary may prescribe.

(2) If the State educational agency is not the State agency designated under section 112, the State's report shall include the approval of the State educational agency or its comments on the report.

(b) CONTENTS.—Each report shall—

(1) describe the State's implementation of this part, including how the State has met the requirements of this part;

(2) identify the specific school facilities constructed, renovated, or modernized with support from the grant, and the mechanisms used to finance those activities;

(3) identify the level of Federal subsidy provided to each construction project carried out with support from the State's grant; and

(4) include any other information the Secretary may require.

(c) FREQUENCY.—(1) Each State shall submit its first report under this section not later than 24 months after it receives its grant under this part.

(2) Each State shall submit an annual report for each of the three years after submitting its first report, and subsequently shall submit periodic reports as long as the State or localities in the State are using grant funds.

PART 3—DIRECT GRANTS TO LOCAL EDUCATIONAL AGENCIES

ELIGIBLE LOCAL EDUCATIONAL AGENCIES

SEC. 121. (a) ELIGIBLE AGENCIES.—Except as provided in subsection (b), the local educational agencies that are eligible to receive formula grants under section 126 and competitive grants under section 127 from the Secretary are the 100 local educational agencies with the largest numbers of children aged 5 through 17 from families living below the poverty level, as determined by the Secretary using the most recent data available from the Department of Commerce that are satisfactory to the Secretary.

(b) CERTAIN JURISDICTIONS INELIGIBLE.—For the purpose of this part, the local educational agencies for Hawaii and the Commonwealth of Puerto Rico are not eligible local educational agencies.

GRANTEES

SEC. 122. For each local educational agency described in section 121(a) for which an approvable application is submitted, the Secretary shall make any grant under this part to the local educational agency or to another public agency, on behalf of the local educational agency, if the Secretary determines, on the basis of the local educational agency's recommendation, that the other agency is better able to carry out activities under this part.

ALLOWABLE USES OF FUNDS

SEC. 123. Each grantee under this part shall use its grant only for one or more of the following activities to reduce the cost of financing eligible school construction projects described in section 124:

(1) Providing a portion of the interest cost (or of any other financing cost approved by the Secretary) on bonds, certificates of participation, purchase or lease arrangements, or other forms of indebtedness issued or entered into by a local educational agency or other unit or agency of local government for the purpose of financing eligible school construction projects.

(2) Local expenditures approved by the Secretary for credit enhancement for the debt or financing instruments described in paragraph (1).

(3) Other local expenditures approved by the Secretary that leverage funds for additional school construction.

ELIGIBLE CONSTRUCTION PROJECTS; REDISTRIBUTION

SEC. 124. (a) ELIGIBLE PROJECTS.—A grantee under this part may use its grant, in accordance with section 123, to subsidize the cost of the activities described in section 114(a) for projects that the local educational agency has chosen to initiate, through the vote of the school board, passage of a bond issue, or similar public decision, made between July 11, 1996 and September 30, 2001.

(b) REDISTRIBUTION.—If the Secretary determines, by a date before September 30, 2001 selected by the Secretary, that a local educational agency is not making satisfactory progress in carrying out its plan for the use of funds awarded to it under this part, the Secretary may redistribute all or part of those funds, and any interest earned by that agency on those funds, to one or more other local educational agencies that are making satisfactory progress.

LOCAL APPLICATIONS

SEC. 125. (a) APPLICATION REQUIRED.—A local educational agency, or an alternative agency described in section 122 (both referred to in this part as the "local agency"), that wishes to receive a grant under this part shall submit an application to the Secretary, in the manner the Secretary may require, not later than two years after the date of enactment of this Act.

(b) DEVELOPMENT OF APPLICATION.—(1) The local agency shall develop the local application under this part only after broadly consulting with parents, administrators, teachers, the business community, and other members of the local community about the best means of carrying out this part.

(2) If the local educational agency is not the applicant, the applicant shall consult with the local educational agency, and shall obtain its approval before submitting its application to the Secretary.

(c) LOCAL SURVEY.—(1) Before submitting its application, the local agency, with the involvement of local school officials and experts in building construction and management, shall survey the local need for construction and renovation of school facilities, including, at a minimum—

(A) the overall condition of school facilities in the local educational agency, including health and safety problems;

(B) the capacity of the local educational agency's schools to house projected enrollments; and

(C) the extent to which the local educational agency's schools offer the physical infrastructure needed to provide a high-quality education to all students.

(2) A local educational agency need not conduct a new survey under paragraph (1) if it has previously completed a survey that meets the requirements of that paragraph and that the Secretary finds is sufficiently recent for the purpose of carrying out this part.

(d) APPLICATION CONTENTS.—Each local application under this part shall include—

(1) an identification of the local agency to receive the grant under this part;

(2) a summary of the results of the survey of school facility needs, as described in subsection (c);

(3) a description of how the local agency will implement its program under this part;

(4) a description of the criteria the local agency has used to determine which construction projects to support with grant funds;

(5) a description of the construction projects that will be supported with grant funds;

(6) a description of the mechanisms that will be used to finance construction projects supported by grant funds;

(7) a requested level of Federal subsidy, with a justification for that level, for each construction project to be supported by the grant, in accordance with section 128(a), including the financial and demographic information the Secretary may require;

(8) a description of the steps the agency will take to ensure that facilities constructed or improved with funds under this part will be adequately maintained;

(9) an assurance that the agency will use its grant only to supplement the funds that the locality would spend on school construction and renovation in the absence of a grant under this part, and not to supplant those funds;

(10) an assurance that, during the four-year period beginning with the year the local educational agency receives its grant, its expenditures for school construction (which, at that agency's option, may include private contributions) will be at least 125 percent of its expenditures for that purpose for the four preceding years; and

(11) other information and assurances that the Secretary may require.

(e) WAIVER OF REQUIREMENT TO INCREASE EXPENDITURES.—The Secretary may waive or modify the requirement of subsection (d)(10) for a local educational agency that demonstrates to the Secretary's satisfaction that that requirement is unduly burdensome because that agency has incurred a particularly high level of school construction expenditures during the previous four years.

FORMULA GRANTS

SEC. 126. (a) ALLOCATIONS.—The Secretary shall allocate the funds available under section 105(b)(2) to the local educational agencies identified under section 121(a) on the basis of their relative allocations under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) in the most recent year for which that information is available to the Secretary.

(b) REALLOCATIONS.—If a local educational agency does not apply for its allocation, applies for less than its full allocation, or fails to submit an approvable application, the Secretary may reallocate all or a portion of its allocation, as the case may be, to the remaining local educational agencies in the same proportions as the original allocations were made to those agencies under subsection (a).

COMPETITIVE GRANTS

SEC. 127. (a) GRANTS AUTHORIZED.—The Secretary shall use funds available under section 105(b)(3) to make additional grants, on a competitive basis, to recipients of formula grants under section 126.

(b) ADDITIONAL APPLICATION MATERIALS.—Any eligible applicant under section 126 that wishes to receive additional funds under this section shall include in its application under section 125 the following additional information:

(1) The amount of funds requested under this section, in accordance with ranges or limits that the Secretary may establish based on factors such as relative size of the eligible applicants.

(2) A description of the additional construction activities that the applicant would carry out with those funds.

(3) Information on the current financial effort the applicant is making for elementary and secondary education, including support from private sources, relative to its resources.

(4) Information on the extent to which the applicant will increase its own (or other public or private) spending for school construction in the year in which it receives a grant under this section, above the average annual amount for construction activity during the preceding four years.

(5) A description of the energy efficiency and the effect on the environment of the projects that the applicant will undertake, both with its grant under this section and its grant under section 126, and of the extent to which those projects will use cost-efficient architectural design.

(6) Other information that the Secretary may require.

(c) SELECTION OF GRANTEES.—The Secretary shall select grantees under this section on the basis of criteria, consistent with the purpose of this Act, that the Secretary may establish, which shall include—

(1) the relative need of applicants, as demonstrated by inadequate educational facilities and a low level of resources to meet their school construction needs;

(2) the commitment of applicants to meet their school construction needs and the leveraging effect that assistance under this part would have, as demonstrated by the additional resources that they will provide, from non-Federal sources, to meet those needs, in accordance with subsection (b)(4).

AMOUNT OF FEDERAL SUBSIDY

SEC. 128. (a) AMOUNT OF FEDERAL SUBSIDY.—For each construction project assisted under this part, the Secretary shall determine the amount of the Federal subsidy in accordance with section 117(a).

(b) NON-FEDERAL SHARE.—A grantee under this part may use any non-Federal funds, including State, local, and private-sector funds, for the financing costs that are not covered by the Federal subsidy under subsection (a).

SEPARATE FUNDS OR ACCOUNTS; PRUDENT INVESTMENT

SEC. 129. (a) SEPARATE FUNDS OR ACCOUNTS REQUIRED.—Each grantee under this part shall deposit the grant proceeds in a separate fund or account, from which it shall make bond repayments and pay other expenses allowable under this part.

(b) PRUDENT INVESTMENT REQUIRED.—Each granteee under this part shall—

(1) invest the grant funds in a fiscally prudent manner, in order to generate amounts needed to make repayments on bonds and other forms of indebtedness; and

(2) notwithstanding section 6503 of title 31, United States Code or any other law, use the proceeds of that investment to carry out this part.

LOCAL REPORTS

SEC. 130. (a) REPORTS REQUIRED.—(1) Each grantee under this part shall report to the Secretary on its activities under this part, in the form and manner the Secretary may prescribe.

(2) If the local educational agency is not the grantee under this part, the grantee's report shall include the approval of the local educational agency or its comments on the report.

(b) CONTENTS.—Each report shall—

(1) describe the grantee's implementation of this part, including how it has met the requirements of this part;

(2) identify the specific school facilities constructed, renovated, or modernized with support from the grant, and the mechanisms used to finance those activities; and

(3) other information the Secretary may require.

(c) FREQUENCY.—(1) Each grantee shall submit its first report under this section not later than 24 months after it receives its grant under this part.

(2) Each grantee shall submit an annual report for each of the three years after submitting its first report, and subsequently shall submit periodic reports as long as it is using grant funds.

TITLE II—GENERAL PROVISIONS

TECHNICAL EMPLOYEES

SEC. 201. For the purpose of carrying out this Act, the Secretary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, may appoint not more than 10 technical employees who may be paid without regard to the provisions of chapter 51 and subchapter IV of chapter 5 of that title relating to classification and General Schedule pay rates.

WAGE RATES

SEC. 202. (a) PREVAILING WAGE.—The Secretary shall ensure that all laborers and mechanics employed by contractors and subcontractors on any project assisted under this Act are paid wages at rates not less than those prevailing as determined by the Secretary of Labor in accordance with the Act of March 3, 1931, as amended (40 U.S.C. 276a et seq.). The Secretary of Labor has, with respect to this section, the authority and functions established in Reorganization Plan Numbered 14 of 1950 (effective May 24, 1950, 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(b) WAIVER FOR VOLUNTEERS.—Section 7305 of the Federal Acquisition Streamlining Act of 1994 (40 U.S.C. 276d-3) is amended—

(1) in paragraph (5), by striking out the "and" at the end thereof'

(2) in paragraph (6), by striking out the period at the end thereof and inserting a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) The Partnership Rehabilitate America's Schools Act of 1997.".

NO LIABILITY OF FEDERAL GOVERNMENT

SEC. 203. (a) NO FEDERAL LIABILITY.—Any financial instruments, including but not limited to contracts, bonds, bills, notes, certificates of participation, or purchase or lease arrangements, issued by States, localities or instrumentalities thereof in connection with any assistance provided by the Secretary under this Act are obligations of such States, localities or instrumentalities and not obligations of the United States and are not guaranteed by the full faith and credit of the United States.

(b) NOTICE REQUIREMENT.—Documents relating to any financial instruments, including but not limited to contracts, bonds, bills, notes, offering statements, certificates of participation, or purchase or lease arrangements, issued by States, localities or instrumentalities thereof in connection with any assistance provided under this Act, shall include a prominent statement providing notice that the financial instruments are not obligations of the United States and are not guaranteed by the full faith and credit of the United States.

CONSULTATION WITH SECRETARY OF THE TREASURY

SEC. 204. The Secretary shall consult with the Secretary of the Treasury in carrying out this Act.

U.S. DEPARTMENT OF EDUCATION,
THE SECRETARY
March 13, 1997.

Hon. ALBERT GORE, Jr.,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed for consideration of the Congress is the Partnership to Rebuild America's Schools Act of 1997, a bill that would provide a one-time Federal stimulus to help States and localities bring all public school facilities up to acceptable standards and build the additional schools needed to serve increasing enrollments. Also enclosed is a section-by-section analysis summarizing the contents of the bill. I am sending an identical letter to the Speaker of the House.

Mr. President, a number of factors have led the Administration to conclude that the Federal Government must assist the States and localities in providing the school facilities that our children will need if they are to achieve to challenging educational standards. First of all, recent General Accounting Office reports have documented the deplorable condition of too many of the Nation's schools. According to the GAO, one-third of all schools, serving more than 14 million students, need extensive repair or renovation of one or more buildings. Students are attending schools that have antiquated heating,

plumbing, and electrical systems and even fail to meet local health and safety codes. Some schools do not provide full access to individuals with disabilities, and many do not have the infrastructure needed to adopt new educational technologies. All of these problems are most prevalent in urban districts.

In addition to making repairs and renovations to their existing schools, many districts will have to build new schools in order to accommodate increasing enrollments. In fact, the Department has projected that States and localities will need to build 6,000 more schools in order to serve an additional 2.9 million students who will enroll in the next decade. This need will put further pressure on already strained school budgets.

Clearly, school construction is, and will remain, primarily a State and local responsibility, and the vast majority of facilities needs will have to be met with non-Federal resources. Unfortunately, however, for a variety of reasons State and local governments have not been making substantial progress even in clearing the existing backlog of construction needs. The Federal Government can play a crucial role in addressing this problem by providing limited resources, on a one-time basis, in a manner that spurs States, communities, and even the private sector to bear the burden and provide adequate school facilities for all children. That is the purpose of the enclosed legislation.

In order to have maximum impact, our bill would leverage State, local, and private support for school construction, rather than paying for 100 percent of the cost of construction projects. The proposal would provide interest subsidies for school construction bonds, or other financing mechanisms, to States and major urban school districts. States would, in turn, pass these subsidies along to localities, use them to reduce the servicing costs of State bonds or other financing vehicles, use them to capitalize State revolving funds for school construction, or use them for other, similar purposes. The maximum amount of Federal subsidy would be the equivalent of 50 percent of the interest cost on bonds. Through this mechanism, every dollar of Federal money would be matched by a minimum of three dollars of State, local, or private money.

The Federal Government would not determine the specific construction projects that would be funded. Rather, States and localities would use the Federal subsidy for the costs of construction projects that reflect their highest needs, such as addressing health and safety problems or problems with air quality, plumbing, heating, and lighting; removal of architectural barriers in order to ensure access for individuals with disabilities; projects to increase energy efficiency; construction to facilitate the use of modern educational technologies; and new construction needed to accommodate increased enrollments. While the State and local recipients would have the flexibility to determine which of these types of construction activities are their highest priority, they would have to base their use of the Federal funds on a thorough survey of State or local school construction needs and use the funds in a manner consistent with several other general criteria such as, at the State level, awarding the subsidy to communities with the greatest construction needs and the least ability to meet those needs with their own resources.

Under the program, the Department would allocate one-half of a $5 billion mandatory appropriation to States using the existing "Title I" basic grants formula. The remainder would flow directly to the 100 districts that enroll the greatest numbers of children living in poverty; those urban districts, according to the GAO data, have far and away the greatest school construction needs. Of the amount available for direct assistance to urban districts, the Department would allocate seventy percent by formula, again on a Title I basis, and make the remainder available competitively to districts that have particularly severe needs and are willing to provide the most support for infrastructure improvements from non-Federal resources.

Under both the State and local programs, a critical objective would be to spur additional construction paid for with non-Federal dollars. For this reason, the bill would prohibit recipients from using the Federal funds to supplant State and local support for school construction. In addition, each State or locality receiving assistance would have to assure the Department that it will increase, over a four-year period, the amount of school construction paid for with non-Federal funds compared to the level expended during the preceding four-year period. These provisions would ensure that a one-time Federal stimulus has an impact far beyond the immediate benefit attributable to the Federal expenditures.

Administration of the program would be kept simple. The Department would make a single award to each State and locality receiving direct assistance. We would allow the recipients to invest the Federal funds in a prudent manner, and use the returns from that investment to meet bond payments and other costs. All of the mandatory appropriation would become available in fiscal year 1998, and all the payments would be made within a four-year period.

To summarize, our bill reflects the following principles: (1) The Federal Government should make available a one-time $5 billion mandatory appropriation to address the major national problem of inadequate school infrastructure; (2) The Federal funds will have their greatest impact if they are used to leverage additional State, local, and private effort rather than for direct support for the entire cost of construction projects; (3) Because the largest cities have the most school construction needs, and often the fewest resources for meeting those needs, they should receive a major share of the funding; and (4) States and localities should have the flexibility to use the Federal subsidy to carry out the construction projects they deem most important, but they should do so only after completing a careful survey of their construction needs. Further, both the States and the Federal Government should direct the subsidy to the most needy communities.

I urge the Congress to take prompt and favorable action on this proposal. Its enactment would spur States and communities nationwide to bring their school facilities up to the standard our children need and deserve.

The Office of Management and Budget advises that there is no objection to the submission of this proposal to the Congress and that its adoption would be in accord with the program of the President.

Yours sincerely,

RICHARD W. RILEY.

IMPACT OF INADEQUATE SCHOOL FACILITIES ON STUDENT LEARNING

A number of studies have shown that many school systems, particularly those in urban and high-poverty areas, are plagued by decaying buildings that threaten the health, safety, and learning opportunities of students. Good facilities appear to be an important precondition for student learning, provided that other conditions are present that support a strong academic program in the school. A growing body of research has linked student achievement and behavior to the physical building conditions and overcrowding.

PHYSICAL BUILDING CONDITIONS

Decaying environmental conditions such as peeling paint, crumbling plaster, nonfunctioning toilets, poor lighting, inadequate ventilation, and inoperative heating and cooling systems can affect the learning as well as the health and the morale of staff and students.

Impact on student achievement

A study of the District of Columbia school system found, after controlling for other variables such as a student's socioeconomic status, that students' standardized achievement scores were lower in schools with poor building conditions. Students in school buildings in poor condition had achievement that was 6% below schools in fair condition and 11% below schools in excellent condition. (Edwards, 1991)

Cash (1993) examined the relationship between building condition and student achievement in small, rural Virginia high schools. Student scores on achievement tests, adjusted for socioeconomic status, was found to be up to 5 percentile points lower in buildings with lower quality ratings. Achievement also appeared to be more directly related to cosmetic factors than to structural ones. Poorer achievement was associated with specific building condition factors such as substandard science facilities, air conditioning, locker conditions, classroom furniture, more graffiti, and noisy external environments.

Similarly, Hines' (1996) study of large, urban high schools in Virginia also found a relationship between building condition and student achievement. Indeed, Hines found that student achievement was as much as 11 percentile points lower in substandard buildings as compared to above-standard buildings.

A study of North Dakota high schools, a state selected in part because of its relatively homogeneous, rural population, also found a positive relationship between school condition (as measured by principals' survey responses) and both student achievement and student behavior. (Earthman, 1995)

McGuffey (1982) concluded that heating and air conditioning systems appeared to be very important, along with special instructional facilities (i.e., science laboratories or equipment) and color and interior painting, in contributing to student achievement. Proper building maintenance was also found to be related to better attitudes and fewer disciplinary problems in one cited study.

Research indicates that the quality of air inside public school facilities may significantly affect students' ability to concentrate. The evidence suggests that youth, especially those under ten years of age, are more vulnerable than adults to the types of contaminants (asbestos, radon, and formaldehyde) found in some school facilities (Andrews and Neuroth, 1988).

Impact on teaching

Lowe (1988) interviewed State Teachers of the Year to determine which aspects of the physical environment affected their teaching the most, and these teachers pointed to the availability and quality of classroom equipment and furnishings, as well as ambient features such as climate control and acoustics

as the most important environmental factors. In particular, the teachers emphasized that the ability to control classroom temperature is crucial to the effective performance of both students and teachers.

A study of working conditions in urban schools concluded that "physical conditions have direct positive and negative effects on teacher morale, sense of personal safety, feelings of effectiveness in the classroom, and on the general learning environment." Building renovations in one district led teachers to feel "a renewed sense of hope, of commitment, a belief that the district cared about what went on in that building." In dilapidated buildings in another district, the atmosphere was punctuated more by despair and frustration, with teachers reporting that leaking roofs, burned out lights, and broken toilets were the typical backdrop for teaching and learning." (Corcoran et al., 1988)

Corcoran et al. (1988) also found that "where the problems with working conditions are serious enough to impinge on the work of teachers, they result in higher absenteeism, reduced levels of effort, lower effectiveness in the classroom low morale, and reduced job satisfaction. Where working conditions are good, they result in enthusiasm, high morale, cooperation, and acceptance of responsibility."

A Carnegie Foundation (1988) report on urban schools concluded that "the tacit message of the physical indignities in many urban schools is not lost on students. It bespeaks neglect, and students' conduct seems simply an extension of the physical environment that surrounds them." Similarly, Poplin and Weeres (1992) reported that, based on an intensive study of teachers, administrators, and students in four schools, "the depressed physical environment of many schools . . . is believed to reflect society's lack of priority for these children and their education."

OVERCROWDING

Overcrowded schools are a serious problem in many school systems, particularly in the inner cities, where space for new construction is at a premium and funding for such construction is limited. As a result, students find themselves trying to learn while jammed into spaces never intended as classrooms, such as libraries, gymnasiums, laboratories, lunchrooms, and even closets. Although research on the relationship between overcrowding and student learning has been limited, there is some evidence, particularly in high-poverty schools, that overcrowding can have an adverse impact on learning.

A study of overcrowded schools in New York City found that students in such schools scored significantly lower on both mathematics and reading exams than did similar students in underutilized schools. In addition, when asked, students and teachers in overcrowded schools agreed that overcrowding negatively affected both classroom activities and instructional techniques. (Rivera-Batiz and Marti, 1995)

Corcoran et al. (1988) found that overcrowding and heavy teacher workloads created stressful working conditions for teachers and led to higher teacher absenteeism.

Crowded classroom conditions not only make it difficult for students to concentrate on their lessons, but inevitably limit the amount of time teachers can spend on innovative teaching methods such as cooperative learning and group work or, indeed on teaching anything beyond the barest minimum of required material. In addition, because teachers must constantly struggle simply to maintain order in an overcrowded classroom, the likelihood increases that they will suffer from burnout earlier than might otherwise be the case.

CASE STUDIES

BROWARD COUNTY/FT. LAUDERDALE

The problem

Broward County is located in Southern Florida and is the fifth largest school district in the nation. Its schools suffer from severe overcrowding: 34,000 students without permanent desks; approximately 10,000 new students added to the school system each year; and in the past nine years, Broward has built 36 new schools and rebuilt 23 schools, and continues to have a difficult time meeting its demand.

Broward would have to build a new school every month to meet this demand adequately. Citing the approximately 2,000 portable classrooms in the county, the budget director for the county public schools described Broward as "the portable capital of the world." One high school has 46 portable classrooms in use during this school year alone.

Needs and available resources

A recent needs analysis estimated Broward's capital construction needs at $2.4 billion, $200 million of which is needed for technology improvements alone. The last bond approved for school construction was for $317 million in 1987. Mobilizing local support for new tax or bond referenda has been difficult. In fact, in September, 1995, a tax referendum to increase the sales tax by one penny to raise $1 billion for school construction was defeated.

Potential impact of the Partnership to Rebuild America's Schools Act

Under the President's legislative proposal, approximately $16.4 million would be allocated to the county school district. Broward could use these funds to subsidize interest costs for a local bond to cover a substantial part of its school construction costs. This funding could support nearly $70 million in leveraged funds to assist in rebuilding a number of local schools.

These new funds would be used primarily to ease overcrowding in schools by funding new schools as well as renovations and additions to existing schools that would expand seating capacity. Broward also wants to reduce its reliance on portable classrooms due to the fact that—with a life expectancy of approximately 20 years—portables are not a good long-term investment compared to a traditional school structure. In addition, portables cannot be wired for technology the same way as a traditional classroom.

LOS ANGELES UNIFIED SCHOOL DISTRICT

I. The problem/current needs

The Los Angeles Unified School District is one of the largest institutions of any kind in the nation with an enrollment of 670,000 students. The prevalence of aging school facilities in Los Angeles poses a number of expensive problems for the district, which estimates its current deferred maintenance costs at more than $600 million. A majority of Los Angeles school buildings are more than 40 years old. As a result, most schools are not wired for technology, and most are not equipped with modern security systems, telecommunications systems, or air conditioning. Many facilities face similar repair needs—roof replacement is needed for 245 schools, repainting at more than 600 schools, boiler replacement at more than 50 schools, and playground re-pavement at almost 400 schools.

A rebounding economy and an influx of immigrants is driving steady growth in the Los Angeles schools. The number of students grew by 18,000 this year, and school officials predict enrollment will grow another 15,000 next year.

A State of California mandate to lower class size in the earliest grades consumed the limited number of vacant classrooms that existed. The need for more classrooms is illustrated by the fact that the district transports about 12,000 students a day to more distant schools because of overcrowding in their area school.

II. Needs versus available resources

The State of California school construction program uses two mechanisms to provide funds to local districts for new construction and modernization. In the more common approach, the state pays one-half of the "allowable" costs as defined by the state. Otherwise, the state pays the full bill, but in a very limited number of projects. Additionally, the state offers a small deferred maintenance program in which it provides matching funds of up to one-half of 1 percent of the district's general funds. In recent years, the Los Angeles district has been eligible for about $17 million through this program, but the state has not fully funded it in recent budgets.

District officials in Los Angeles report that a significant impediment to raising funds for construction is the requirement imposed by the state Constitution, which requires a two-third majority vote for the passage of school bonds financed by property tax increases. The last time the Los Angeles Unified School District passed a bond measure was 1971. (This vote came shortly after the Sylmar earthquake closed many schools and raised serious safety questions about others. The measure received 66.5 percent of the vote, but under state law, this bond required only a majority vote because it pertained to buildings deemed structurally unsafe.)

III. The impact of the President's initiative

A $2.4 billion school bond measure on the ballot in November 1996 for school construction and modernization received 65.5 percent of the vote, just missing the two-thirds majority needed for passage. In December 1996, the board of Education voted to put another $2.4 billion bond measure on the ballot in April 1997. The President's initiative could accelerate the development of the long overdue projects that would be financed by this bond.

THE STATE OF MAINE

I. The problem/current needs

Maine is struggling to cope with two major factors related to school facilities—booming economy driving explosive growth in the southern part of the state, and the continued use of one-room schools and other antiquated buildings—some dating 100 years—throughout the state.

The Bowdoin Community School offers an instructive example. The dozen portable classrooms now in use exceed the number of permanent classrooms inside the main structure. A proposed expansion of the school has been shelved since 1987 because of insufficient state funding to support the project.

II. Needs versus available resources

Support from the state of Maine for local school construction projects is restricted to debt service subsidies, and the level of available support is extremely limited. In fiscal 1998, school districts requested such subsidies for 83 projects. However, the $65.8 million authorized by the state is expected to be

consumed by the four projects given the highest priority.

Schools districts in Maine are generally successful in getting voter approval for bond measures, but most districts in the state cannot cover the total cost of the bond. The lack of support from the state for debt service is cited as the leading reason why school districts fall short in raising financing, leading to the deferment of these sorely needed projects.

III. The potential impact of the Presidential Initiative

The executive director of the Maine Municipal Bond Bank noted that the President's school construction initiative could help Maine schools in two ways. The state could choose to use its allocation all at once to supplement its debt service subsidy program, or it could use that money to establish a revolving loan fund that would commit its revenues to debt service subsidies.

THE STATE OF MARYLAND

I. The problem/current needs

There are two primary problems facing Maryland school facilities: aging structures and rising enrollments.

A review of the list of Capital Improvement requests to the state for the coming year reveals the extent of aging school facilities. Requests are filled with descriptions of items in need of repair or replacement, such as roofs as much as 44 years old, HVAC systems that are 25 years old or more, boilers and chillers that date to the 1950s, and windows and doors in use since the 1960s.

Over the last decade, enrollment in Maryland schools has grown by approximately 150,000 students. State officials expect enrollment to continue climbing by another 30,000 or so annually over the next five to ten years. Overall, local districts requested approximately $310 million for 459 construction and renovation projects for FY 1998. While a district might request more than one project for a school, these figures suggest that districts are seeking assistance with construction and renovation projects that could affect a third of the state's 1,280 schools.

II. Needs versus available resources

The Maryland State Public School Construction Program is designed to help local districts with costs related to planning and funding of school construction and renovation projects.

Early in the program, the state covered 100 percent of eligible costs for approved projects. However, since the mid-1980s, the state use a sliding scale based on need to determine how much assistance a district receives.

Since the program's inception,the amount of funds requested each year by local districts has exceeded program allocations. For example, in FY 73, the program funded 72 percent of district requests—the highest proportion in the program's history. In FY 89, the state supported an all-time low of 24 percent of requests. In the current fiscal year, the state funded 51 percent of requests, totaling $274 million.

III. The potential impact of the Presidential initiative

State officials see three possibilities for the use of federal funds from the proposed School Construction Initiative.

First, the funds could subsidize additional state general obligation bonds. Therefore, the amount of assistance going to local districts with eligible costs would increase, and more projects would be funded. The federal funds could be targeted at poorer districts with larger projects that have been delayed due to fiscal constraints. It should be noted that an increase in the state funds for the Public School Construction Program might lead more districts to seek state assistance for additional projects. At this time, there are projects for which local districts do not submit requests because the district senses these projects will be deferred due to state fiscal constraints.

A second option would allow the state to use a portion of the funds to subsidize a combination of additional state bonds and country general obligation bonds. Finally, the state could use all the federal funds to subsidize additional county general obligation bonds.

NEW YORK CITY SCHOOL DISTRICT

I. The problem/current needs

New York is experiencing enrollment growth of 20,000 to 23,000 students a year. In addition, more than half of the over 1,000 school buildings are 50 years old or more. The district must upgrade these facilities and accommodate its burgeoning student population.

There are limits to the amount of money the district can raise through general obligation bonds, and this mechanism is not sufficient to meet the district's needs. There is a state constitutional limit on the amount of debt the district can issue (as a percentage of total assessed property value), and the district is running up against this limit.

The fiscal year 1997 capital expenditures budget for the Board of Education is just over $1 billion, out of a total city capital budget of just over $4 billion. A proposed 10-year capital plan has just been put forth for $12.6 billion, which includes an amount contingent on receipt of federal funds. One of the main emphasis of this plan is to address the district's overcrowding, using strategies such as new construction, other ways of handling seating capacity, and converting some schools to a year-round schedule, which could increase seating capacity by 25 to 33 percent.

II. The potential impact of the Presidential initiative

New York expects that it could leverage federal funds to address several needs. Among the most dire needs is for additional seats for children. The districts proposed 10-year plan was increased by about $700 million to address seating capacity needs. The district envisions six different avenues for the use of this money to increase seating capacity: Leasing new facilities, transportables, modular construction, rehabilitation of existing facilities to increase size, new construction, and converting schools to a year-round schedule (which necessitates putting in air-conditioning.)

PHILADELPHIA SCHOOL DISTRICT

The problem/current needs

The Philadelphia story has two strands. First, the district estimates that it will need about two-thirds of a billion dollars to bring its 257 existing building sites up to standard. This includes major renovations, repairs, improvements, and technology needs (schools need to be wired for computers, but 60 of Philadelphia's schools are over 70 years old.)

Second, to accommodate expected population growth, approximately one-quarter of a billion dollars in additional funding may be necessary. In the past five years, the public school population has grown 9.2 percent, and in the past seven years it has grown 12.6 percent. The district expects this growth to continue by 1.4 percent the next year and by 2.5 percent the following year. In one area, the district deals with overcrowding through a combination of classrooms under stairwells, walling off the ends of hallways to create classrooms, and portables.

II. Needs versus available resources.

The district knows that its capital needs in the next 5 to 10 years seriously exceed its current budgeted capital capacity. A Long Range Facilities Plan is being developed, and it is expected that the total need will ultimately be between $1–$1.4 billion.

III. The potential impact of the Presidential Initiative

The district says that federal funds could be extremely helpful by supporting preventive maintenance projects. With shrinking operation budgets, it is preventive maintenance that gets cut from the budget. These projects include minor roof and gutter repair, HVAC system cleaning, and yearly boiler maintenance. These activities get pushed aside for emergency projects and educational needs. Yet today's preventive maintenance project is tomorrow's capital project. Roofs, boilers, and heating systems wear out years before their time because preventive maintenance funds are scarce. The failure of these systems also causes additional capital damage, such as water and pipe damage. Much of this could be avoided and long-term capital budget could be brought down with additional resources for preventive maintenance.

SANTA ANA UNIFIED SCHOOL DISTRICT

I. The problem/current needs

Santa Ana is an extremely densely populated area. In its 24 square miles, there are 350,000 resident, and 52,000 students. There is a school approximately every two blocks.

The primary problem in the district is school overcrowding, the result of a lack of construction funding during a period of raid enrollment growth. The district has grown from 31 thousand student in 1980 to 52,000 students in 1996.

The school district has converted 22 of 31 elementary schools and four of seven intermediate schools to multi-track, year-round schedules. Although other school districts in California and around the country use year-round schooling, it is unusual to have such a high percentage of schools on this tract. The district has 534 portable classrooms on existing sites, which is the equivalent of 24 free standing elementary schools. Santa Ana estimates that it now spends $1 million to lease portable classrooms.

A secondary, but also severe problem is maintaining ill-equipped and deteriorating facilities. The district prepared a state-mandated five-year plan to deferred maintenance needs, which is updated annually—the currently version projects a $15 million need.

II. Needs versus available resources

Santa Ana Unified has a need for three elementary schools plus a new high school. Enrollment growth has averaged over 1300 students annually since 1980. The need is accentuated by the fact that the State School Building Program is, "broke" and it is not clear when there will be another bond measure.

III. The potential impact of the President's initiative

President Clinton's initiative would potentially provide major benefits to the Santa Ana Community. The district needs adequate classrooms equipped with up-to-date education technology will be available to educate the rapidly growing student population. If the district received an estimated six million dollars from the federal government, it

could leverage those funds to pay for additional elementary schools.

Ms. MOSELEY-BRAUN. I would also like to call to my colleagues' attention the reports and the work done by the General Accounting Office recently, both with regard to the condition of America's schools, State efforts to address the issue of crumbling schools, and the most recent GAO report on school finance generally. These reports speak to the ability or the efforts taken by State and local governments to address the disparities between wealthy and poor and middle-class school districts.

The fact of the matter is that this disparity, this gap in school funding, does not serve our national interest, does not serve the interest of taxpayers, and does not serve the interest of our children.

I believe we have an obligation to put aside the old debates of whether or not school funding should happen here or happen there, and we should look at developing a partnership in which everybody plays a part, in which all levels of government collaborate, in which communities, parents, property taxpayers, and income taxpayers cooperate to prepare our people for the 21st century and the challenges they face.

Mr. KENNEDY. Mr. President, I give my strong support to President Clinton's Partnership to Rebuild America's Schools Act of 1997, introduced today by Senator MOSELEY-BRAUN.

The Nation's schools are facing enormous problems of physical decay. Fourteen million children in one-third of the schools are learning in substandard school buildings. Half the schools have at least one unsatisfactory environmental condition.

Massachusetts is no exception. Forty-one percent of Massachusetts schools report that at least one building needs extensive repair or should be replaced; 75 percent report serious problems in buildings, such as plumbing or heating defects; 80 percent have at least one unsatisfactory environmental factor.

It is difficult to teach or learn in dilapidated classrooms. Student enrollments are at an alltime high and are continuing to rise. We cannot tolerate a situation in which facilities deteriorate while enrollments escalate.

GAO estimates that schools need $112 billion just to repair their facilities. Obviously, the Federal Government cannot meet all of these needs. The Partnership to Rebuild America's Schools Act encourages State, local, and private support by providing interest subsidies for school construction bonds. The Federal Government will pay up to 50 percent of interest on bonds used to finance school repair, renovation, modernization, and construction.

Half of the $5 billion in Federal funds earmarked for this program over the next four years will be allocated to States using the existing title I formula. States and localities will distribute these funds to communities with the greatest construction needs and the least ability to meet their needs with their own resources. Massachusetts would receive $48 million for grants to local communities.

The rumaining Federal funds will be distributed by the U.S. Department of Education among the 100 school districts that enroll the greatest number of students living in poverty. Thirty percent of this funding will be allocated competitively to school districts that have particularly severe needs and obtain the most support for their construction projects from non-Federal sources. Under this part of the bill, Massachusetts would receive an estimated $25 million.

I hope that the Partnership To Rebuild America's Schools Act will receive the bipartisan support it deserves, so that it can be in place for the beginning of the next academic year. Investing in education is investing in a stronger America here at home and around the world. I look forward to working with my colleagues on both sides of the aisle to enact this important measure.

By Mr. CAMPBELL:

S. 457. A bill to amend section 490 of the Foreign Assistance Act of 1961 to provide alternative certification procedures for assistance for major drug producing countries and major drug transit countries; to the Committee on Foreign Relations.

THE MEXICO PROBATIONARY CERTIFICATION ACT

Mr. CAMPBELL. Mr. President, this month Congress has been considering the important issue of whether to uphold or overturn the President's certification of Mexico as fully cooperating with the United States to fight drug trafficking. I am concerned that without congressional action, the Senate must choose between two less than ideal options: First, to support the President's certification of Mexico and continue business as usual, thereby downplaying serious deficiencies in Mexico's efforts; or second, to decertify Mexico, with or without a waiver, which might destabilize an important country along our southern border.

Under current law, notice provided to the target country is often too late and not specific enough to fix the problems. Moreover, access to more timely and specific information would assist Congress in exercising its legislative and oversight responsibilities.

Therefore, today I propose a bill to provide an alternative approach. This legislation would provide the administration a new option to certify countries such as Mexico on probationary status for 7 months, which extends from March 1 through September 30, the end of the fiscal year. However, during this time period, the country on probationary certification is expected to comply with certain conditions stipulated by the President. If these conditions are not met at the end of this 7-month period, the United States will act firmly, such as by cutting off aid.

This alternative would put countries on notice that the United States has serious concerns about their lack of cooperation. But, it would provide a fair period of time during which those countries could address U.S. concerns.

This constructive notice period would be less disruptive to our bilateral relations. We saw last week some of the damage which could occur in our relationship with Mexico after the House voted to decertify Mexico within 90 days if certain criteria are not met. News reports quoted Mexico's President, Ernesto Zedillo, as stating: "This is where we draw the line. Our sovereignty and dignity as a nation are not negotiable."

My bill also provides better notice to Congress. Under this alternative, Congress would be informed about those specific concerns which the President identified regarding a country's lack of cooperation. Congress also would be able to track that country's progress during the 7-month probationary period and, of course, maintain its prerogative to pass legislation as it deems necessary. I believe this would help avoid the contentious battle in which the Congress and the administration currently are engaged this month over Mexico.

It is no surprise that many Senators feel strongly about decertifying Mexico. Reports indicate that as much as 70 percent of the cocaine entering the United States comes through Mexico; up to 30 percent of the heroin used in the United States comes through Mexico; and 80 percent of imported marijuana comes through Mexico.

Recent developments in that country have exacerbated what is already a serious flow of illegal drugs into the United States. For example, according to a news report in the March 2 San Diego Union Tribune, Mexican authorities are now preventing our DEA agents and law enforcement officers from carrying their weapons into Mexico. In response, the DEA reportedly pulled its agents out of cross-training and intelligence-gathering projects in Mexico along the border. Agents and officers now fear they will become targets for gangs and drug traffickers, especially if Mexico's certification is revoked. This is intolerable.

Further motivating the push to decertify Mexico is the recent arrest of Mexico's drug czar, Gen. Jesus Gutierrez Rebollo, on allegations he was being paid to protect one of Mexico's top drug lords. The general is reported to have extensive drug ties, dating back to at least 1993, at the same time he was supposed to be fighting drug use and trade in his country.

Any information that the general may have possessed has been compromised. Nor is he alone in being corrupt. According to a Los Angeles Times report on March 3, court documents from two drug gang assassins indicate that approximately 90 percent of the law enforcement officers in Tijuana and the State of Baja California in Mexico are corrupt.

These developments raise serious concerns among DEA agents, who cannot adequately do their job if they do not receive the help of their Mexican counterparts. During his testimony before the House Subcommittee on National Security on February 27, 1997, Thomas Constantine, the Administrator of the DEA, called fighting drug trafficking without assistance from other countries nearly impossible.

In light of these disturbing developments, I wrote to the President last Friday expressing my concern with his certification of Mexico. I also urged the administration to take all necessary steps to ensure Mexico does its fair share in controlling the flow of illicit drugs across its border into the United States.

Decertifying Mexico will not make this process any easier. Yet, we cannot risk the implication that we condone Mexico's failed drug policy by fully certifying Mexico without certain conditions. Certification of Mexico in light of the compelling facts of that country's involvement in drug trafficking also makes a mockery of the certification provisions of the Foreign Assistance Act.

In light of these facts, I am concerned that the President has certified Mexico as fully cooperating with the United States. However, I am also concerned that decertifying Mexico could destabilize a country important to us and cause a potential crisis on our southern border. Unfortunately, that is the choice the administration has under existing law.

Therefore, the bill I introduce today would amend the existing law to avoid this type of problem in the future. The current certification process is set forth in section 490 of the Foreign Assistance Act of 1961. It requires the President to submit to Congress by March 1 of each year a list of major illicit drug producing and transiting countries which he certifies are fully cooperating with the United States. This bill offers a good middleground—I urge support.

Under existing law, the President has three options: One, certify a country which has cooperated fully with U.S. anti-drug efforts or has taken adequate steps on its own to comply with the 1988 U.N. antidrug trafficking convention. Two, decertify a country for not fully cooperating. Or three, decertify a country but provide a waiver because it is in the national interests of the United States to continue to provide aid.

Under this law, when a country is decertified, at least 50 percent of U.S. bilateral foreign aid is suspended in the current fiscal year. In fact, that county may lose more than 50 percent of its current funding if the State Department has not yet released the aid. Unless the country is recertified, all U.S. aid is suspended in subsequent fiscal years. And, the United States is required to vote against loans in the multilateral development banks, such as the World Bank and the Inter-American Development Bank.

Congress has 30 days from receipt of the President's certification to enact a joint resolution disapproving the President's action. If Congress passes such a resolution, the President can veto it and require a two-thirds majority vote in Congress to override the veto.

Congress also has its prerogative to pass a resolution with other timeframes, which would be subject to a Presidential veto. We saw this last week when the House passed a resolution to decertify Mexico within 90 days if certain criteria are not met.

On February 28, 1997, the President submitted his annual list to Congress. This report indicated that 23 countries, including Mexico, are certified as fully cooperating; three countries were determined not to be fully cooperating, but were deemed in the national interest—Belize, Lebanon, and Pakistan—and six countries were decertified (Afghanistan, Burma, Colombia, Iran, Nigeria, and Syria.

The impact of this process on Mexico could be dramatic. If Congress were to pass a resolution of disapproval within the 30-day review period and the President does not exercise his waiver authority, the impact would include: Suspension of at least 50 percent of United States assistance for the current fiscal year; total suspension of aid in the next fiscal year, unless Mexico were recertified; and the United State would vote against loans to Mexico in the multilateral development banks. Mexico receives $17 million in bilateral aid from the United States and, according to the Export-Import Bank, 56 applications from Mexico could be affected which total $3.24 billion.

The alternative that I am proposing today provides a middle ground because it revisits the certification issue more often during the course of the year. The President also is given more flexibility in labelling countries more accurately.

I'm also concerned that under existing law, we are giving a free ride to countries which are decertified but then are granted a waiver and continue to receive aid because it is deemed in the national interest of the United States. These waivers, in essence, allow the provision of aid year after year to countries not fully cooperating with the United States. What incentive do these countries have to improve their cooperation?

My legislation builds on the existing carrot and stick approach in the certification process. This type of approach has been successful with other problems in the past, and I think it would go a long way to avoid similar controversies in the future like the one we have seen surrounding the Mexico certification this month.

Under my bill, the carrot is certification, although for a finite period of time of 7 months. During this probationary period, all U.S. aid continues to flow and the United States remains supportive in international development banks. The President also stipulates which specific conditions must be met by that country to improve its cooperation with the United States and to continue receiving U.S. aid. Not only is sufficient notice provided to the country, but to the Congress as well.

The stick is a penalty similar to that under existing law. If after 7 months the country does not comply with the stipulations made by the President to improve its cooperation with the United States, 100 percent of U.S. bilateral aid is cut off. The United States also would vote against aid in the multilateral development banks if the country does not comply with U.S. stipulations, as provided for under current law. These penalties would remain in effect until the President notifies Congress that the country has complied with the stipulations made in the President's original probationary certification.

In my opinion, this alternative approach would force fuller compliance by countries and, in future cases similar to Mexico, help avoid a potential crisis in those countries.

We need to send a very strong message to our neighbors in Mexico and similarly situated countries when we do not believe that they are fully cooperating with United States efforts to combat drug trafficking. But, to risk a crisis along our own border is asking for greater trouble.

I believe that a compromise solution, as outlined in my proposal, is the most reasonable way to address similar circumstances in the future, and I urge my colleagues to support this 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. 457

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

SECTION 1. ALTERNATIVE CERTIFICATION PROCEDURES FOR ASSISTANCE FOR MAJOR DRUG PRODUCING AND DRUG TRANSIT COUNTRIES.

(a) IN GENERAL.—Section 490 of the Foreign Assistance Act of 1990 (22 U.S.C. 2291j) is amended by adding at the end the following:

"(i) ALTERNATIVE CERTIFICATION PROCEDURES.—

"(1) IN GENERAL.—In lieu of submitting a certification with respect to a country under subsection (b), the President may submit the certification described in paragraph (2). The President shall submit the certification under such paragraph at the time of the submission of the report required by section 489(a).

"(2) CERTIFICATION.—A certification with respect to a country under this paragraph is a certification specifying—

"(A) that the withholding of assistance from the country under subsection (a)(1) and the opposition to assistance to the country under subsection (a)(2) in the fiscal year concerned is not in the national interests of the United States; and

"(B) the conditions which must be met in order to terminate the applicability of paragraph (4) to the country.

"(3) EFFECT OF CERTIFICATION IN FISCAL YEAR OF CERTIFICATION.—If the President submits a certification with respect to a country under paragraph (1) for a fiscal year—

"(A) the assistance otherwise withheld from the country pursuant to subsection (a)(1) may be obligated and expended in that fiscal year; and

"(B) the requirement of subsection (a)(2) to vote against multilateral development bank assistance to the country shall not apply to the country in that fiscal year.

"(4) EFFECT OF CERTIFICATION IN LATER FISCAL YEARS.—

"(A) IN GENERAL.—Subparagraph (B) shall apply to a country covered by a certification submitted under this subsection during the period beginning on October 1 of the year in which the President submits the certification and ending on the date on which the President notifies Congress that the conditions specified with respect to the country under paragraph (2)(B) have been met.

"(B) PROHIBITION ON ASSISTANCE.—

"(i) BILATERAL ASSISTANCE.—During the applicability of this subparagraph to a country, no United States assistance allocated for the country in the report required by section 653 may be obligated or expended for the country.

"(ii) MULTILATERAL ASSISTANCE.—During the applicability of this subparagraph to a country, the Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to vote against any loan or other utilization of the funds of such institution to or by the country.

"(5) DEFINITION.—For purposes of this subsection, the term 'multilateral development bank' shall have the meaning given the term in subsection (a)(2).".

(b) CONFORMING AMENDMENTS.—Subsection (a) of such section is amended by striking "subsection (b)" each place it appears and inserting "subsections (b) and (i)".

By Mr. FAIRCLOTH (for himself, Mr. KYL, Mr. WARNER, Mr. LUGAR, Mr. SHELBY, Mr. INHOFE, Mr. BENNETT, Mr. CRAIG, Mr. ENZI and Mr. HAGEL):

S. 458. A bill to provide for State housing occupancy standards, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE HOUSING PROTECTION ACT

Mr. FAIRCLOTH. Mr. President, I am pleased to introduce today a bill to protect housing. This bill will ensure that all residents have a peaceful, well-maintained, and managed community with the services they deserve.

The Housing Protection Act prohibits the Department of Housing and Urban Development [HUD] from establishing a national occupancy standard and transfers the authority to set those standards to the States. In the absence of a State standard, a two-person-per-bedroom standard would be presumed reasonable.

In 1995, Senator KYL and I introduced this same piece of legislation, after HUD's General Counsel Nelson Diaz issued a memorandum which, in effect, attempted to supplant the reasonable two-person-per-bedroom standard with conditions which could have forced housing owners to accept six, seven, even eight people in a two-bedroom apartment. The House of Representatives passed it as part of its public housing reform bill, but the bill failed to pass out of conference last year.

Too often apartments are crowded with excessive numbers of people. When this happens, apartment complexes experience excessive noise, lower levels of safety and most often deterioration of the units. Building codes are in place for a reason. They are designed to determine the maximum amount of people who may safely exit a building during a fire or other emergency. Occupancy standards, on-the-other-hand, determine how many residents can be accommodated and for whom they can properly provide services on the premises.

The purpose of occupancy standards is to provide decent, safe, comfortable housing and a peaceful living environment for all residents. They also help maintain properties in excellent condition. While housing providers set their own occupancy standards, such private standards are in effect limited by state-set laws or policies which establish the minimum occupancy levels at which housing providers achieve safe harbor from charges of familial discrimination.

This bill is widely supported by housing industry associations such as the National Association of Homebuilders and the National Apartment Association, among others. Many of our colleagues have joined us in support of this bill, and I urge others to consider cosponsoring it.

Mr. KYL. Mr. President, I am pleased to introduce the State Housing Protection Act. I thank Senator FAIRCLOTH for his leadership on this issue and joining in sponsoring this bill. This bill prohibits the Department of Housing and Urban Development [HUD] from enforcing a complaint of discrimination on the basis of a housing provider's occupancy standard, and thereby, transfers from HUD to the States the authority to set occupancy standards.

Mr. President, in July 1995, HUD General Counsel Diaz issued a memorandum which, in effect, tried to supplant the traditional two-per-bedroom occupancy standard, and could have forced housing owners to accept six, seven, eight, or even nine people in a two-bedroom apartment. HUD should not be establishing national occupancy standards.

In 1995, Senator FAIRCLOTH and I blocked HUD from imposing national occupancy standards until it completed an official rule. Soon thereafter, along with Representative MCCOLLUM, we introduced our bill to permanently transfer authority back to the States. The House passed it as part of its public housing reform bill, but it died in the conference committee late last year.

By pursuing a policy that encourages overcrowding, thereby depreciating housing stock that is scarce to begin with, HUD is poorly serving lower income families and defeating its own charter. Our bill will help correct the problem. It is supported by the Council for Affordable and Rural Housing, the Council of Larger Public Housing Authorities, the Multi Housing Institute, the National Apartment Association, the National Assisted Housing Management Association, the National Association of Home Builders, the National Association of Housing and Redevelopment Officials, the National Leased Housing Association, the National Multi Housing Council, and the Public Housing Authorities Directors Association.

Several States have an occupancy standard; the one in my own home State of Arizona has worked well. The intrusion of a Federal bureaucracy often does more harm than good. That is why Senator FAIRCLOTH and I have reintroduced this bill. I urge my colleagues to join us and cosponsor it.

By Mr. CAMPBELL (for himself, Mr. MCCAIN, Mr. DOMENICI, Mr. MURKOWSKI, and Mr. INOUYE):

S. 459. A bill to amend the Native American Programs Act of 1974 to extend certain authorizations, and for other purposes; to the Committee on Indian Affairs.

THE NATIVE AMERICAN PROGRAMS ACT OF 1974 REAUTHORIZATION ACT OF 1997

Mr. CAMPBELL. Mr. President, I am pleased to introduce a bill to extend the authorization for certain programs under the Native American Programs Act of 1974. This bill is critical to continue the availability of a modest amount of grant funds used by native communities nationwide to foster economic growth, develop tools for good governance methods, and promote social welfare.

The authorization for most of these programs has expired and though the administration has requested funding for fiscal year 1998 at fiscal year 1997 levels, it has not introduced legislation to reauthorize the act. The legislation I am introducing today would do just that.

These programs are administered through the Administration for Native Americans [ANA] located within the Department of Health and Human Services. By awarding annual grants on a competitive basis, the Native American Programs Act promotes self-sufficiency and self-determination by encouraging tribes, villages, and other native communities to develop and plan local strategies in economic and social development. The program is designed to build greater capacity at the tribal level for better governance, more vibrant and diversified economies, and social development.

The ANA Program has proven successful for native communities since its inception and has generated widespread support by America's native communities. The centerpiece of the program are grants made under the Social and Economic Development Strategies (SEDS) Program; grants to tribes enhance tribal environmental regulatory capabilities; and grants made to preserve and rehabilitate native languages.

This legislation will simply extend for 4 years until fiscal year 2000 the authorization for these modestly funded yet very successful programs to strengthen and rebuild tribal communities around the United States.

I urge my colleagues to join with me in enacting this reauthorization so that these proven tools for development can again be made available to native peoples around the Nation. I ask unanimous consent that a section-by-section summary and the bill language be printed in the RECORD.

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

BILL LANGUAGE

SECTION 1. AUTHORIZATION OF CERTAIN APPROPRIATIONS UNDER THE NATIVE AMERICAN PROGRAMS ACT OF 1974.

Section 816.—Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) in subsection (a), by striking "for fiscal years 1992, 1993, 1994, and 1995." and inserting "for each of fiscal years 1997, 1998, 1999, and 2000";

(2) in subsection (c), by striking "for each of the fiscal years 1992, 1993, 1994, 1995, and 1996," and inserting "for each of fiscal years 1997, 1998, 1999, and 2000,"; and

(3) in subsection (e), by striking "$2,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, 1996, and 1997." and inserting "such sums as may be necessary for fiscal years 1997, 1998, 1999, and 2000."

SECTION-BY-SECTION ANALYSIS

The purpose of this bill is to amend the 1974 Native American Programs Act, P.L. 93–644 (42 U.S.C. 2991 et seq.) to extend to fiscal year 2000 the authorization of appropriations for three grant programs administered by the Administration for Native Americans (ANA) in the Department of Health and Human Services (HHS).

Section 1. Authorization of Certain Appropriations Under the Native American Programs Act of 1974.

Section 816.—

(a) this subsection provides for a four year extension to fiscal year 2000 of the present authority to appropriate such sums as may be necessary to carry out the general grant provisions of the Native American Programs Act of 1974 (42 U.S.C. 2992d). The bill would continue the current "such sums as may be necessary" language contained in current law.

(c) this subsection provides for a four year extension to fiscal year 2000 of the present authority to appropriate funds for the purpose of carrying out the provisions related to grants for tribal regulation of environmental quality (42 U.S.C. Sec. 2991b(d). The bill would continue the current authorized level of $8 million for such grants.

(e) this subsection provides for a four year extension to fiscal year 2000 of the present authority to appropriate such sums as may be necessary for the purpose of carrying out the provisions related to grants for the preservation of Native languages (42 U.S.C. Sec. 2991b-3). The bill would strike the current authorized appropriaitons level of $2 million for Native language grants and instead would substitute "such sums as may be necessary".

Mr. DOMENICI. Mr. President, I am pleased to join my colleagues Senators CAMPBELL, MCCAIN, and MURKOWSKI in sponsoring this act to extend the authorization of several important programs for American Indians. The U.S. Department of Health and Human Services [HHS] administers these programs through the Administration for Native Americans [ANA]. Over the past 5 years, funding has ranged from $34.5 million to $38.6 million. In fiscal year 1997, the funding was $34.9 million.

Our bill will reauthorize important programs to promote economic development, strengthen tribal governments, and provide for the better coordination of social programs available to tribes. The ANA funding policy is to assist Indian Tribes and Native American organizations to plan and implement their own long-term strategies for social and economic development. The aim is to increase local productivity and reduce dependence on government social services.

Competitive grants are the means for distributing these vital funds. In New Mexico, the Pueblos of Laguna ($382,000), Picuris ($167,000), Pojoaque ($120,000), Sandia ($133,890), Tesuque ($125,000), San Juan ($232,000), Santa Ana ($112,000), and Santo Domingo ($110,464) all received grants from fiscal year 1996 funds. New Mexico Tribes and Pueblos have participated in ANA grant activity for about three decades.

The Social and Economic Development Strategies [SEDS] program fosters the development of stable, diversified local economies. SEDS grant funds are used to develop the physical, commercial, industrial and/or agricultural components necessary for a functioning local economy. Social infrastructure includes the maintenance of a tribe's cultural integrity. Pojoaque Pueblo's Cultural Center is the beneficiary of an ANA grant.

Other ANA grants are used to establish or expand business activity or to stabilize and diversify a tribe's economic base. Micro enterprises and other private sector development are encouraged.

Mr. President, I thank Chairman CAMPBELL of the Senate Committee on Indian Affairs for his good work to extend the authorization for these valuable resources to improve tribal opportunities for self-sufficiency. I urge my colleagues to support the reauthorization of these Administration for Native Americans Programs.

Mr. INOUYE. Mr. President, I rise today to cosponsor a measure to reauthorize the Native American Programs Act of 1974. The purpose of this bill is to amend the Native American Programs Act to extend the authorization of appropriations for programs administered by the administration for Native Americans within the Department of Health and Human Services to fiscal year 2000.

In 1974, the Native American Programs Act was enacted by the Congress to assist tribes and other Native American entities with developing social, economic, and governance strategies in order to become viable and economically self-sufficient communities.

In the decades since its enactment, hundreds of tribes, reservation communities, and native organizations have benefited from the programs funded under this act. In fiscal year 1994 alone, the administration for Native Americans provided 215 grants for governance, social, and economic development projects, several dozen grants to assist with tribal recognition efforts, 26 grants for projects to assist tribes in their capacity to meet environmental requirements, 18 grants to support projects assisting the survival and preservation of Native American languages, and funds to support the Native Hawaiian revolving loan fund. These projects have served to improve the quality of living for thousands of Native American families and communities.

Over 2 years ago, on March 7, 1995, Senators MCCAIN, CAMPBELL and I introduced S. 510, a bill which reauthorized programs under the Native American Programs Act. On May 11, 1996 this body passed S. 510, as amended in committee, by unanimous consent, but the bill was subsequently not acted upon by the House prior to the adjournment of the 104th Congress.

The bill being introduced today is substantially similar to S. 510, as introduced in the last Congress. I am pleased that once again, the chairman, as his predecessor did, is willing to consider the inclusion of provisions that would reauthorize for a period of 1 year, the Native Hawaiian revolving loan fund.

Mr. President, the programs authorized in this measure are critical to fostering Native American social and economic self-sufficiency—a goal shared by this Congress as we move toward greater fiscal responsibility.

I urge my colleawues to act favorably and expeditiously on this measure.

By Mr. BOND (for himself, Ms. SNOWE, Mr. NICKLES, Mr. BURNS, Mr. WARNER, Mr. FAIRCLOTH, Mr. MURKOWSKI, Mr. INHOFE, Mr. ENZI, Mr. HUTCHINSON, Mr. MACK, Ms. MIKULSKI and Mr. GRAMS):

S. 460. A bill to amend the Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals, to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home, to clarify the standards used for determining that certain individuals are not employees, and for other purposes; to the Committee on Finance.

THE HOME-BASED BUSINESS FAIRNESS ACT OF 1997

Mr. BOND. Mr. President, home-based businesses are a significant and often overlooked part of this country's economy. Some people may be surprised to learn that over 9 million men and women in this country now operate home-based businesses, and over 14 million individuals earn income through home-based businesses. Even more impressive is the fact that a majority of these enterprises are owned by women, and the Small Business Administration estimates that women in this country are starting over 300,000 new home-based businesses each year.

There are a number of reasons for the explosive growth of home-based businesses. Recent innovations in computer and communication technology have made the virtual office a reality and allow many Americans to compete in marketplaces that a few years ago required huge investments in equipment and personnel. In addition, many men and women in this country turn to home-based business in an effort to spend more time with their children. By working at home, these families can bring in two incomes, while avoiding the added time and expense of day-care and commuting. Corporate downsizing, too, contributes to the growth in this sector as many skilled individuals convert their knowledge and experience from corporate life into successful enterprises operated from their homes.

The rewards of owning a home-based business are also numerous. The added independence and self-reliance of having your own business provides not only economic rewards but also personal satisfaction. You are the boss: you set your own hours, develop your own business plans, and choose your customers and clients. In many ways, home-based businesses provide the greatest avenue for the entrepreneurial spirit, which has long been the driving force behind the success of this country.

But with these rewards comes a number of obstacles, not the least of which are regulations and burdens imposed by the Federal Government. In fact, the tax laws, and in particular the IRS, are frequently cited as the most significant problems for home-based businesses today. Changes in tax policy must be considered by this Congress to ensure that our laws do not stall the growth and development of this successful sector of our economy.

Mr. President, in answer to this call for help, I am introducing today the Home-Based Business Fairness Act of 1997. This legislation is the product of extensive input from actual home-based business owners and the efforts of my colleagues Senators OLYMPIA SNOWE and DON NICKLES. The bill is designed to address three tax issues that currently pose significant problems for home-based businesses.

DEDUCTIBILITY OF HEALTH-INSURANCE COSTS FOR THE SELF-EMPLOYED

First, the bill addresses the deductibility of health-insurance costs for the self-employed. During the 104th Congress, we made significant progress in this area. First, we made the deduction permanent after years of uncertainty. Then, last summer, we passed legislation that will increase the deduction for these health-care costs to 80 percent incrementally by 2006. While I fully supported that increase, the self-employed cannot wait 10 years for partial deductibility when their large corporate competitors can fully deduct such costs today.

With the self-employed able to deduct only 40 percent of their health-insurance costs today, it comes as no surprise that nearly a quarter of the self-employed, many of whom operate home-based businesses, do not have health insurance. In fact, 4 million households in this country headed by a self-employed individual do not have health insurance.

In order to make it easier for home-based business owners and their families to have health insurance, we must level this playing field. My bill will increase the deductibility of health insurance for the self-employed to 100 percent beginning this year. A full deduction will make health insurance more affordable to home-based business owners and help them and their families get the health insurance coverage that they need and deserve.

HOME-OFFICE DEDUCTION

Second, the Home-Based Business Fairness Act will restore the home-office deduction and further level the playing field for home-based businesses. After the Supreme Court's 1993 Soliman decision, the only home-based businesses that can deduct the costs associated with their home office are those that see their clients in the home and that generate their income within the home office. That narrow interpretation of the law denies the home-office deduction to service providers like construction contractors, landscaping professionals, and sales representatives, who must by necessity perform their services outside of the home.

It is patently unfair to prevent these individuals from deducting their utility costs, property taxes, and other expenses related to the home office, when they could do so if they rented an office separate from the home. I thank my colleague from Utah, Senator HATCH, for his willingness to allow us to work together on this issue. My bill incorporates the legislation that Senator HATCH introduced earlier this month and will permit a home office to include one where the individual performs his essential administrative and management activities such a billing and record keeping. In order to qualify for the deduction, the bill requires that the business owner perform these activities on a regular, on-going, and nonincidental basis and have no other office in which to perform them.

The restoration of the home-office deduction for home-based businesses not only puts them on an equal footing with their larger competitors, but also frees important capital that can be used to expand the business. For too long home-based businesses have lived with the fear of an IRS audit fueled by the Soliman decision. It is time to eliminate this obstacle to the continued success of these important entrepreneurs.

CLARIFICATION OF INDEPENDENT-CONTRACTOR STATUS

The final element of the Home-Based Business Fairness Act is relief for entrepreneurs seeking to be treated as independent contractors and for businesses needing to hire independent contractors. As the chairman of the Small Business Committee, I have heard from countless small business owners who are caught in the environment of fear and confusion that now surrounds the classification of workers. This situation is stifling the entrepreneurial spirit of many small business owners who find that they do not have the flexibility to conduct their businesses in a manner that makes the best economic sense and that serves their personal and family goals.

Mr. President, the root of this problem is found in the IRS' test for determining whether a worker is an independent contractor or an employee. Over the past three decades, the IRS has relied on a 20-factor test based on the common law to make this determination. On first blush, a 20-factor test sounds like a reasonable approach: if a taxpayer demonstrates a majority of the factors, he or she is an independent contractor. Not surprisingly,

the IRS' test is not that simple. It is a complex set of extremely subjective criteria with no clear weight assigned to any of the factors. As a result, a small business taxpayer is not able to predict which of the 20 factors will be most important to a particular IRS agent, and finding a certain number of these factors in any given case does not guarantee the outcome.

To make matters worse, the IRS' determination inevitably occurs 2 or 3 years after the parties have determined in good faith that they have an independent-contractor relationship. And the consequences can be devastating. The business recipient of the services is forced to reclassify the independent contractor as an employee and must pay the payroll taxes the IRS says should have been collected in the prior years. Interest and penalties are also added on. The result for many small businesses is a tax bill that bankrupts the company. And that's not the end of the story. The IRS then goes after the service provider, who is now classified as an employee, and disallows a portion of his business expenses—again resulting in additional taxes, interest, and penalties.

Mr. President, all of us in this body recognize that the IRS is charged with the duty of collecting Federal revenues and enforcing the tax laws. The problem in this case is that the IRS is using a procedure that is patently unfair and is doing so on an increasingly frequent basis. Between 1988 and 1994, the IRS' use of the 20-factor test resulted in some 11,000 audits, 483,000 worker reclassifications, and $751 million in back taxes and penalties. These facts make me wonder whether the IRS is using this test as a de facto source of enhanced revenue collection when the classification decision does not alter the aggregate tax liability to the Federal Government at all.

For its part, the IRS has just released its revised worker classification training manual. In the Commissioner's accompanying memo, she describes the manual as an "attempt to identify, simplify, and clarify the relevant facts that should be evaluated in order to accurately determine worker classification. . . ." There can be no more compelling reason for immediate action on this issue. The revised manual is over 150 pages—even longer than the original draft. If it takes this many pages to teach revenue agents how to simplify and clarify this small business tax issue, I think we can be fairly sure how simple and clear it is going to seem to the taxpayer who tries to figure it out on his own.

The Home-Based Business Fairness Act removes the need for so many pages of instruction on the 20-factor test by establishing a clear safe harbor based on objective criteria. Under these criteria, if there is a written agreement between the parties, and if an individual demonstrates economic independence and independence with respect to the workplace, he will be treated as an independent contractor rather than an employee. And the service recipient will not be treated as an employer. In addition, individuals who perform services through their own corporations will also qualify for the safe harbor as long as there is a written agreement and the individuals provide for their own benefits.

The safe harbor is simple, straightforward, and final. To take advantage of it, payments above $600 per year to an individual service provider must be reported to the IRS, just as is required under current law. This will help ensure that taxes properly due to the Treasury will continue to be collected.

Mr. President, the IRS contends that there are millions of independent contractors who should be classified as employees, which costs the Federal Government billions of dollars a year. This assertion is plainly incorrect. Classification of a worker has no cost to the Government. What costs the Government are taxpayers who do not pay their taxes. My bill has two requirements that I believe will improve compliance among independent contractors using the safe harbor. First, there must be a written agreement between the parties—this will help the independent contractor know from the beginning that he is responsible for his own tax payments. Second, the safe harbor will not apply if the service recipient does not comply with the reporting requirements and issue 1099's to individuals who perform services.

My bill also provides relief for businesses and independent contractors when the IRS determines that a worker was misclassified. Under the bill, if the business and the independent contractor have a written agreement, if the applicable reporting requirements were met, and if there was a reasonable basis for the parties to believe that the worker is an independent contractor, then any IRS reclassification upheld in court will only apply prospectively. This provision gives important peace of mind to small businesses that act in good faith by removing the unpredictable threat of retroactive reclassification and substantial interest and penalties.

A final provision of this legislation, Mr. President, is the repeal of section 1706 of the 1986 Tax Reform Act. This provision effectively barred an entire group of independent contractors from the protection available in section 530 of the Revenue Act of 1978. When section 1706 was enacted, its proponents argued that technical service workers—such as engineers, designers, and computer programmers—were less compliant in paying their taxes. Later examination of this issue by the Treasury Department found that technical service workers are in fact more likely to pay their taxes than most other types of independent contractors. This revelation underscores the need to repeal section 1706 and level the playing field for individuals in these professions. In the 104th Congress, proposals to repeal section 1706 enjoyed wide bipartisan support, and it is my hope that the 105th Congress will finally act on this proposal to restore equality for these professionals.

Mr. President, the importance of adding clarity to the independent-contractor situation is underscored by the fact that the 2,000 delegates to the 1995 White House Conference on Small Business voted to designate it as their top priority. At that conference, IRS Commissioner Richardson noted that either classification—independent contractor or employee—can be a valid and appropriate business choice as long as the individual pays his taxes. This conclusion was later affirmed in the IRS' new worker classification training manual. It is time that the law reflect this conclusion and allow small businesses to hire employees or independent contractors as their business needs demand, without the fear and uncertainty that now prevails.

The Home-Based Business Fairness Act is a common-sense measure that will provide tax fairness for the increasing number of individuals who operate their businesses from home and contribute so significantly to the strength of our economy. These business owners have waited far too long. I urge the members of the Finance Committee to work with Senator NICKLES and to report out a bill that provides these three much needed changes in the tax law so that we do not keep them waiting any longer.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

S. 460

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 "Home-Based Business Fairness Act of 1997".

SEC. 2. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS INCREASED.

(a) IN GENERAL.—Section 162(l)(1) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—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 amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, the taxpayer's spouse, and dependents."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 3. CLARIFICATION OF DEFINITION OF PRINCIPAL PLACE OF BUSINESS.

(a) IN GENERAL.—Subsection (f) of section 280A of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) PRINCIPAL PLACE OF BUSINESS.—For purposes of subsection (c), a home office shall in any case qualify as the principal place of business if—

"(A) the office is the location where the taxpayer's essential administrative or management activities are conducted on a regular and systematic (and not incidental) basis by the taxpayer, and

"(B) the office is necessary because the taxpayer has no other location for the performance of the essential administrative or management activities of the business."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 4. SAFE HARBOR FOR DETERMINING THAT CERTAIN INDIVIDUALS ARE NOT EMPLOYEES.

(a) IN GENERAL.—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by adding after section 3510 the following new section:

"SEC. 3511. SAFE HARBOR FOR DETERMINING THAT CERTAIN INDIVIDUALS ARE NOT EMPLOYEES.

"(a) SAFE HARBOR.—

"(1) IN GENERAL.—For purposes of this title, if the requirements of subsections (b), (c), and (d), or the requirements of subsections (d) and (e), are met with respect to any service performed by any individual, then with respect to such service—

"(A) the service provider shall not be treated as an employee,

"(B) the service recipient shall not be treated as an employer,

"(C) the payor shall not be treated as an employer, and

"(D) compensation paid or received for such service shall not be treated as paid or received with respect to employment.

"(2) AVAILABILITY OF SAFE HARBOR NOT TO LIMIT APPLICATION OF OTHER LAWS.—Nothing in this section shall be construed—

"(A) as limiting the ability of a service provider, service recipient, or payor to apply other applicable provisions of this title, section 530 of the Revenue Act of 1978, or the common law in determining whether an individual is not an employee, or

"(B) as a prerequisite for the application of any provision of law described in subparagraph (A).

"(b) SERVICE PROVIDER REQUIREMENTS WITH REGARD TO THE SERVICE RECIPIENT.—For purposes of subsection (a), the requirements of this subsection are met if the service provider, in connection with performing the service—

"(1) has the ability to realize a profit or loss,

"(2) incurs unreimbursed expenses which are ordinary and necessary to the service provider's industry and which represent an amount at least equal to 2 percent of the service provider's adjusted gross income attributable to services performed pursuant to 1 or more contracts described in subsection (d), and

"(3) agrees to perform services for a particular amount of time or to complete a specific result or task.

"(c) ADDITIONAL SERVICE PROVIDER REQUIREMENTS WITH REGARD TO OTHERS.—For the purposes of subsection (a), the requirements of this subsection are met if the service provider—

"(1) has a principal place of business,

"(2) does not primarily provide the service at a single service recipient's facilities,

"(3) pays a fair market rent for use of the service recipient's facilities, or

"(4) operates primarily with equipment not supplied by the service recipient.

"(d) WRITTEN DOCUMENT REQUIREMENTS.—For purposes of subsection (a), the requirements of this subsection are met if the services performed by the service provider are performed pursuant to a written contract between such service provider and the service recipient, or the payor, and such contract provides that the service provider will not be treated as an employee with respect to such services for Federal tax purposes.

"(e) BUSINESS STRUCTURE AND BENEFITS REQUIREMENT.—For purposes of subsection (a), the requirements of this subsection are met if the service provider—

"(1) conducts business as a properly constituted corporation or limited liability company under applicable State laws, and

"(2) does not receive from the service recipient or payor benefits that are provided to employees of the service recipient.

"(f) SPECIAL RULES.—For purposes of this section—

"(1) FAILURE TO MEET REPORTING REQUIREMENTS.—If for any taxable year any service recipient or payor fails to meet the applicable reporting requirements of section 6041(a) or 6041A(a) with respect to a service provider, then, unless the failure is due to reasonable cause and not willful neglect, the safe harbor provided by this section for determining whether individuals are not employees shall not apply to such service recipient or payor with respect to that service provider.

"(2) BURDEN OF PROOF.—For purposes of subsection (a), if—

"(A) a service provider, service recipient, or payor establishes a prima facie case that it was reasonable not to treat a service provider as an employee for purposes of this section, and

"(B) the service provider, service recipient, or payor has fully cooperated with reasonable requests from the Secretary or his delegate,

then the burden of proof with respect to such treatment shall be on the Secretary.

"(3) RELATED ENTITIES.—If the service provider is performing services through an entity owned in whole or in part by such service provider, the references to 'service provider' in subsections (b) through (e) may include such entity, provided that the written contract referred to in subsection (d) is with such entity.

"(g) DETERMINATIONS BY THE SECRETARY.—For purposes of this title—

"(1) IN GENERAL.—

"(A) DETERMINATIONS WITH RESPECT TO A SERVICE RECIPIENT OR A PAYOR.—A determination by the Secretary that a service recipient or a payor should have treated a service provider as an employee shall be effective no earlier than the notice date if—

"(i) the service recipient or the payor entered into a written contract satisfying the requirements of subsection (d),

"(ii) the service recipient or the payor satisfied the applicable reporting requirements of section 6041(a) or 6041A(a) for all taxable years covered by the agreement described in clause (i), and

"(iii) the service recipient or the payor demonstrates a reasonable basis for determining that the service provider is not an employee and that such determination was made in good faith.

"(B) DETERMINATIONS WITH RESPECT TO A SERVICE PROVIDER.—A determination by the Secretary that a service provider should have been treated as an employee shall be effective no earlier than the notice date if—

"(i) the service provider entered into a contract satisfying the requirements of subsection (d),

"(ii) the service provider satisfied the applicable reporting requirements of sections 6012(a) and 6017 for all taxable years covered by the agreement described in clause (i), and

"(iii) the service provider demonstrates a reasonable basis for determining that the service provider is not an employee and that such determination was made in good faith.

"(C) REASONABLE CAUSE EXCEPTION.—The requirements of subparagraph (A)(ii) or (B)(ii) shall be treated as being met if the failure to satisfy the applicable reporting requirements is due to reasonable cause and not willful neglect.

"(2) CONSTRUCTION.—Nothing in this subsection shall be construed as limiting any provision of law that provides an opportunity for administrative or judicial review of a determination by the Secretary.

"(3) NOTICE DATE.—For purposes of this subsection, the notice date is the 30th day after the earlier of—

"(A) the date on which the first letter of proposed deficiency that allows the service provider, the service recipient, or the payor an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent, or

"(B) the date on which the deficiency notice under section 6212 is sent.

"(h) DEFINITIONS.—For the purposes of this section—

"(1) SERVICE PROVIDER.—The term 'service provider' means any individual who performs a service for another person.

"(2) SERVICE RECIPIENT.—Except as provided in paragraph (4), the term 'service recipient' means the person for whom the service provider performs such service.

"(3) PAYOR.—Except as provided in paragraph (4), the term 'payor' means the person who pays the service provider for the performance of such service in the event that the service recipient does not pay the service provider.

"(4) EXCEPTIONS.—The terms 'service recipient' and 'payor' do not include any entity in which the service provider owns in excess of 5 percent of—

"(A) in the case of a corporation, the total combined voting power of stock in the corporation, or

"(B) in the case of an entity other than a corporation, the profits or beneficial interests in the entity.

"(5) IN CONNECTION WITH PERFORMING THE SERVICE.—The term 'in connection with performing the service' means in connection or related to the operation of the service provider's trade or business.

"(6) PRINCIPAL PLACE OF BUSINESS.—For purposes of subsection (c), a home office shall in any case qualify as the principal place of business if—

"(A) the office is the location where the service provider's essential administrative or management activities are conducted on a regular and systematic (and not incidental) basis by the service provider, and

"(B) the office is necessary because the service provider has no other location for the performance of the essential administrative or management activities of the business.

"(7) FAIR MARKET RENT.—The term 'fair market rent' means a periodic, fixed minimum rental fee which is based on the fair rental value of the facilities and is established pursuant to a written agreement with terms similar to those offered to unrelated persons for facilities of similar type and quality."

(b) CLARIFICATION OF RULES REGARDING EVIDENCE OF CONTROL.—For purposes of determining whether an individual is an employee under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.), compliance with statutory or regulatory standards shall not be treated as evidence of control.

(c) REPEAL OF SECTION 530(d) OF THE REVENUE ACT OF 1978.—Section 530(d) of the Revenue Act of 1978 (as added by section 1706 of the Tax Reform Act of 1986) is repealed.

(d) CLERICAL AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding at the end the following new item:

"Sec. 3511. Safe harbor for determining that certain individuals are not employees."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by, and the provisions of, this section shall apply to services performed after the date of enactment of this Act.

(2) DETERMINATIONS BY SECRETARY.—Section 3511(g) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to determinations after the date of enactment of this Act.

(3) SECTION 530(d).—The amendment made by subsection (c) shall apply to periods ending after the date of enactment of this Act.

HOME-BASED BUSINESS FAIRNESS ACT OF 1977—DESCRIPTION OF PROVISIONS

SHORT TITLE

Under Section 1 of the bill, the name of the legislation is "Home-Based Business Fairness Act of 1997."

INCREASE IN THE DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

Section 2 of the bill amends section 162(*l*)(1) of the Internal Revenue Code of 1986 to increase the deduction for health insurance costs for self-employed individuals to 100 percent beginning on January 1, 1997. Currently the limit on deductibility of health insurance costs for these individuals is 40 percent, and it is scheduled to rise to 80 percent by 2006, under the provisions in the Health Insurance Portability and Accountability Act of 1996, which was signed into law in August 1996. The bill is designed to place self-employed individuals on an equal footing with large businesses which can currently deduct 100% of the health insurance costs of all of their employees.

RESTORATION OF THE HOME-OFFICE DEDUCTION

Section 3 of the bill clarifies the definition of "principal place of business," which relates to the home-office deduction under section 280A of the Internal Revenue Code. The bill permits a home office to include an office where a taxpayer performs his or her essential administrative or management activities such as billing and recordkeeping. In order to qualify for the new definition, the taxpayer must perform these activities on a regular, on-going, and non-incidental basis in the home office and have no other location at which to perform these business activities. This section of the bill will be effective on January 1, 1997.

The bill is designed to address the ambiguities resulting from the Supreme Court's 1993 decision, *Commissioner* v. *Soliman*. That case has been interpreted to require two new tests for the home-office deduction: (1) the customers of a home business must physically visit the home office, and (2) the taxpayer's business income must be generated within the home office itself—not from transactions that occur outside of the home office. The bill is intended to permit taxpayers who perform their services outside the home but use their home office for essential billing and recordkeeping to qualify for the home-office deduction.

SAFE HARBOR FOR INDEPENDENT CONTRACTORS

Section 4 of the bill addresses the worker-classification issue (*e.g.*, whether a worker is an employee or an independent contractor) by creating a new section 3511 of the Internal Revenue Code. The new section will provide a general safe harbor and protection against retroactive reclassification of an independent contractor in certain circumstances. The bill is designed to provide certainty for businesses that enter into independent-contractor relationships and minimize the risk of huge tax bills for back taxes, interest, and penalties if a worker is misclassified.

General safe harbor

Under the general safe harbor, if either of two tests is met, an individual will be treated as an independent contractor and the service recipient will not be treated as an employer. The first test requires that the independent contractor demonstrate economic independence and workplace independence and have a written contract with the service recipient.

Economic independence exists if all of the following apply: the independent contractor has the ability to realize a profit or loss, he or she incurs unreimbursed expenses that are consistent with industry practice and that equal at least 2 percent of the independent contractor's adjusted gross income from the performance of services during the taxable year, and the independent contractor agrees to perform services for a particular amount of time or to complete a specific result or task.

Workplace independence exists if one of the following applies: the independent contractor has a principal place of business (the definition of which includes the provisions of section 3 of the bill, which address the *Soliman* decision); he or she performs services at more than one service recipient's facilities; he or she pays a fair-market rent for the use of the service recipient's facilities, or the independent contractor uses his or her own equipment.

The written contract between the independent contractor and the service recipient must provide that the independent contractor will not be treated as an employee.

Under the second alternative test, an individual will be treated as an independent contractor if he or she conducts business through a corporation or a limited liability company and the independent contractor does not receive benefits from the service recipient—instead the independent contractor would be responsible for his or her own benefits. The independent contractor must also have a written contract with the service provider stating that the independent contractor will not be treated as an employee.

The general safe-harbor provisions also apply to three-party situations in which the independent contractor is paid by a third party, such as a payroll company, rather than directly by the service recipient. The general safe harbor, however, will not apply to a service recipient or a third-party payor if they do not comply with the existing reporting requirements and file 1099s for individuals who work as independent contractors. A limited exception is provided for cases in which the failure to file a 1099 is due to reasonable cause and not willful neglect.

The bill also provides additional relief for cases in which a worker is treated as an independent contractor under the general safe harbor and the IRS later contends that the safe harbor does not apply. In that case, the burden falls on the IRS, rather than the taxpayer, to prove that the safe harbor does not apply. To qualify for this relief the taxpayer must demonstrate a credible argument that it was reasonable to treat the service provider as an independent contractor, and the taxpayer must fully cooperate with reasonable requests from the IRS.

In the event that the general safe harbor does not apply, the bill makes clear that the independent contractor or service recipient can still rely on the 20-factor common law test or other provisions of the Internal Revenue Code applicable in determining whether an individual is an employee or an independent contractor. In addition, the bill does not limit any relief that a taxpayer may be entitled to under Section 530 of the Revenue Act of 1978. The bill also makes clear that the general safe harbor will not be construed as a prerequisite for these other provisions of the law concerning worker classification.

Protection against retroactive reclassification

The bill also provides protection against retroactive reclassification by the IRS of an independent contractor as an employee. For many service recipients who make a good faith effort to classify the worker correctly, this event can result in extensive liability for back employment taxes, interest, and penalties.

Under the bill, if the IRS notifies a service recipient that an independent contractor should have been classified as an employee, the IRS' determination can become effective only 30 days after the date that the IRS sends the notification. To qualify for this provision, the service recipient must show that: There was a written agreement between the parties; the service recipient satisfied the applicable reporting requirements for all taxable years covered by the contract; and there was a reasonable basis for determining that the independent contractor was not an employee and the service provider made the determination in good faith. The bill provides similar protection for independent contractors who are notified by the IRS that they should have been treated as an employee.

The protection against retroactive reclassification is intended to remove some of the uncertainty for taxpayers who must use the IRS's 20-factor common law test. While the bill would prevent the IRS from forcing a service recipient to treat an independent contractor as an employee for past years, the bill makes clear that a service recipient or an independent contractor can still challenge the IRS's prospective reclassification of an independent contractor through administrative or judicial proceedings.

Additional independent contractor provisions

Section 4 of the bill contains two additional provisions designed to assist independent contractors. The first clarifies that an individual's compliance with a statutory or regulatory requirement will not be treated as evidence of control. The 20-factor common law test focuses in part on the business' control over a worker. When the business can direct how, when and where a worker

performs a task; such control usually indicates that the worker is an employee rather than an independent contractor. Certain statutory and regulatory requirements, which a business and/or a worker must follow, have been interpreted by the IRS as demonstrating evidence of this type of control when the majority of other factors would lead to the conclusion that a worker is an independent contractor. The bill clarifies that compliance with statutory or regulatory requirements should not be a factor in determining whether an individual is an independent contractor.

Second, the bill would repeal section 530(d) of the Revenue Act of 1978, which was added by section 1706 of the Tax Reform Act of 1986. This provision precludes technical service providers (e.g., engineers, designers, drafters, computer programmers, systems analysts, and other similarly qualified individuals) who work through a third party, such as a placement broker, from applying the safe harbor under section 530. The bill is designed to level the playing field for individuals in these professions.

Effective dates

In general, the independent-contractor provisions of the bill, including the general safe harbor, will be effective for service performed after the date of enactment of the bill. The protection against retroactive reclassification will be effective for IRS determinations after the date of enactment, and the repeal of section 530(d) will be effective for periods ending after the date of enactment of the bill.

Mr. NICKLES. Mr. President, I am pleased to join my friend and colleague from Missouri, Senator BOND, in the introduction of the Home-Based Business Fairness Act. I compliment Senator BOND for his leadership on these issues and all matters affecting small business as chairman of the Senate Committee on Small Business.

The small, independent business is the engine which drives innovation, job creation, and increased economic activity in this country. I am proud to live in a country where any person can use talent, intelligence, and hard work to start a business. I believe these businesses are the foundation of our free enterprise economy, and the very essence of capitalism.

There are 5 million independent contractors in America according to the Small Business Administration, and almost one-third of all companies use independent contractors to some degree. Further, the SBA estimates that more than 14 million individuals earn some income from home-based businesses, and some 300,000 women start home-based businesses every year.

Unfortunately, Mr. President, the Internal Revenue Code does not always treat small businesses fairly, and it often acts to limit and repress the entrepreneurial spirit. The legislation we are introducing today is intended to address some of the Tax Code's inequities and remove the roadblocks to the creation of new small businesses.

A perfect example of the Tax Code's bias against small business is the treatment of health insurance expenses. Corporations can currently deduct 100 percent of the health insurance costs of their employees. As recently as 2 years ago, self-employed individuals were only allowed to deduct 25 percent of their health insurance costs. Fortunately, the Health Insurance Portability and Accountability Act of 1996 increased this limit to 40 percent this year, with a scheduled increase to 80 percent by 2006. However, the bias against small business continues. Our legislation increases the deduction for health insurance cost for self-employed individuals to 100 percent beginning on January 1, 1997.

For some small business taxpayers, the enemy has not been the IRS or the Congress, but the judiciary. A 1993 Supreme Court decision, Commissioner versus Soliman has been interpreted to require two new tests for the home-office deduction: First, the customers of a home business must physically visit the home office, and second, the taxpayer's business income must be generated within the home office itself—not from transactions that occur outside of the home office. This interpretation has effectively prevented millions of taxpayers from deducting valid, reasonable, and necessary business expenses. The Home-Based Business Fairness Act will permit taxpayers who perform their services outside the home but use their home office for essential billing and recordkeeping to qualify for the home-office deduction, provided they perform these activities on a regular, ongoing, and nonincidental basis in the home office and have no other location at which to perform these business activities. This section of the bill will be effective on January 1, 1997.

Finally, Mr. President, our legislation addresses a major, continuing problem for the small business community. The problem is worker classification—independent contractor or employee. In a perfect world, this issue should be irrelevant. The relationship between a worker and a business would be strictly based on their individual needs, and the Government's only interest would be to collect the same amount of taxes regardless of the relationship.

Unfortunately, however, this is not a perfect world. The complexity of the Tax Code and Congress' failure to provide adequate guidance to small businesses and their workers has resulted in a confusing mess. Left to their own devices, the Internal Revenue Service has adopted an aggressive, proemployee agenda.

For the last 20 years, the classification of workers as contractors or employees has been controlled by a 20-factor common law test which attempts to define a business' control over a worker. This common law test is the bane of employers and workers across the country. The General Accounting Office has called the common law test unclear and subject to conflicting interpretations. Even the Treasury Department has testified that:

> Applying the common law test in employment tax issues does not yield clear, consistent, or even satisfactory answers, and reasonable persons may differ as to the correct classification.

Beyond the 20-factor test, some businesses may avail themselves of a safe harbor enacted in 1978. The section 530 safe harbor prohibits the IRS from reclassifying workers as employees if the business had a reasonable basis for treatment of the workers as independent contractors, or if a past IRS audit did not dispute the workers' classification.

Our bill creates a new worker classification safe harbor and provides limited relief from retroactive worker reclassification, two changes which will resolve many of the problems small businesses face with the IRS. Our bill does not repeal the 20-factor common law test, it does not repeal the section 530 safe harbor, and it does not affect other special worker classification situations such as statutory employees or direct sellers. Put simply, our bill will benefit those businesses and contractors who have not resolved their status with the IRS, while preserving current law for those who are satisfied with it.

To summarize briefly, our legislation protects businesses and contractors who meet one of two tests. The first test measures a worker's economic risk and workplace independence, and requires the two parties to have a written contract and comply with all tax reporting requirements. Under the second test, a worker who conducts business through a corporation or a limited liability company, does not receive benefits from the service recipient, and has a written contract will be treated as an independent contractor.

Our bill also protects businesses from retroactive reclassification of workers and the associated liability for back taxes, interest, and penalties, provided the business had a written contract with the workers, complied with all tax reporting requirements, and had a reasonable basis to treat the workers as contractors. Finally, our legislation repeals section 1706 of the Tax Reform Act of 1986 which precludes third-party technical service workers from the section 530 safe harbor, and it clarifies that compliance with a statutory or regulatory requirements will not be treated as evidence of control for the purpose of worker classification.

Mr. President, the Tax Code reforms included in the Home-Based Business Fairness Act are commonsense solutions to the real problems faced by small businesses. With this bill, Senator BOND and I have tried to address those problems which we believe are most critical to the creation of new small businesses, new jobs, and new economic growth. I encourage my colleagues to give this legislation their

thoughtful consideration and join us in this initiative.

Mr. ENZI. Mr. President, I rise in strong support of The Home-Based Business Fairness Act of 1997, introduced today by the chairman of the Small Business Committee, Senator BOND. I know that Senator BOND, Senator NICKLES and Senator SNOWE have worked hard to draft this bill and I am proud to be an original cosponsor. It addresses three concerns that have weighed heavily on the small business community for years: First health insurance fairness; second the home-office deduction; and third the status of independent contractors. I hope the Senate and the House will move quickly to pass this legislation.

It is a good bill because it responds directly to what small businesses have been asking us to do. It will help create jobs that will put people on welfare back to work. This is an issue that policymakers have been concentrating on since last year's welfare debate—the President has proposed a Welfare to Work Program while Congress is looking at the best ways to stimulate the economy and create jobs. Toward that effort, it is impossible to overlook the importance of small business. Small businesses create nearly 100 percent of this country's new jobs and employ over 65 percent of Americans working in the private sector. And I guarantee it would be small businesses that hire the majority of today's welfare recipients if Government would make it affordable to do so.

Small business is more than the backbone of this country. Small business is the engine of the American Dream. But it needs a system that empowers people, not government. This bill would help people by removing just a couple of the obstacles in the way of that Dream.

When I was elected to the Senate last November, my first choice of committee assignments was the Small Business Committee. My wife, Diana, and I were small businessowners and we have experienced—at one time or another—nearly all of the obstacles that can stand in the way of a successful small business. At this time last year, in fact, my wife and I were balancing our books and paying our taxes—hoping to find that the books still balanced after paying the taxes! So I know what small businessowners are going through. Very recently, I have been there.

There is a lot of talk in this legislative body about improving the environment for small business. In fact, I doubt that any Member would stand up and say he or she does not support small business. We hold hearings and listen to testimony, we provide for White House conferences on small business, we receive stacks of polling data and we create commission after commission to tell us what needs to be done. In the end, we find out what I think we already know—the problem is taxes. Too many and too much.

This bill is a small step in the Tax Code, but a giant step for sensibility. It recognizes some of the revolutionary changes in American business. The advent of personal computers, high speed modems, cell phones, pagers, and fax machines that have enabled Americans to work via audio and video conferencing, from satellite offices, and by telecommuting. Our tax laws have not kept up with the sea of change in American business.

One example of this change is the increasing number of women in our Nation's work force. According to the Bureau of Labor Statistics, 76 percent of mothers with school-age children now work. Among two-parent households, 63 percent report that both parents must work outside the home—in many cases, one works to pay the bills, while the other works to pay the taxes. And of these women entering the work force, 1 in 20 are starting their own businesses and many are home based and that number is rising rapidly. In fact, women start new businesses at twice the rate of men—and with a very good success rate. But the Tax Code needs improvement. It discourages self-employment and home-based business through discrimination and complexity. This bill would change that.

The Home-Based Business Fairness Act would finally put an end to our regressive, two-tiered system that makes self-employed people pay more for their health insurance. It is time to give small business competitive parity with big business. All the technical assistance and loan guarantees in the world cannot overcome unfair tax treatment and disproportionately burdensome regulations. Last year, Congress recognized the inequality by voting to phase in an 80-percent deductibility for health insurance costs. That's a good start. But if we know the tax treatment is not fair, then shouldn't we make it right? America's small businesses need fair and equal treatment.

This legislation would also add fairness for people who work in their homes. Our current outdated Tax Code discriminates against home-based people by restricting their ability to deduct office expenses. The message is, if you can't afford a real office, then you can't deduct your expenses. In this way, we increase the hurdles for entrepreneurs who want to earn a living, but can't afford to rent separate office space. This part of the legislation will benefit thousands of home-based women and men. It is very important and deserves a thoughtful consideration by the Senate.

Another puzzling antibusiness setup that this bill would simplify is the definition of independent contractor. American entrepreneurs—and especially home-based business owners—need a simpler test. I have always believed we could make things a lot easier if we just followed the payroll taxes. Who pays them? Is there a written contract? It does not have to be "rocket science." This legislation would simplify the test so that everyone can understand it—not just the tax attorneys at the Internal Revenue Service.

On that subject, in Wyoming recently, the IRS has taken after the last bastion of budding entrepreneurs, our paper boys. Once again, the thirsty IRS auditors are devising ways to haunt working people—presumed guilty until proven innocent. When did the IRS decide to pick on the hard-earned wages of independent paperboys and girls? They are not now, and never have been, salaried newspaper employees. They are just kids who want to earn some money by working before or after school.

I think we should call this part of the bill, The Paperboy Protection Act. The last bastion for new entrepreneurs needs our help. The small business owners of tomorrow are counting on us to pass this legislation. I thank my colleagues on the Small Business Committee, and the assistant majority leader, for their hard work on the bill. I urge other Senators to support it.

By Mrs. HUTCHISON (for herself, Mr. INHOFE, and Mr. HELMS):

S. 461. A bill to amend the Occupational Safety and Health Act of 1970 and the National Labor Relations Act to modify certain provisions, to transfer certain occupational safety and health functions to the Secretary of Labor, and for other purposes; to the Committee on Labor and Human Resources.

THE OCCUPATIONAL SAFETY AND HEALTH REFORM ACT OF 1997

Mrs. HUTCHISON. Mr. President, I rise today to introduce, along with my colleagues, Mr. INHOFE and Mr. HELMS, the Occupational Safety and Health Reform Act of 1997. This legislation will transform OSHA from an agency that generates fines and paperwork to one that plays a more constructive role in improving worker safety.

Mr. President, the Occupational Safety and Health Act was enacted in 1970. It may not surprise my colleagues that since that time, the incidence of work-related injuries and illnesses has steadily declined. But it may surprise them to learn that in the 25 years prior to enactment of OSHA, workplace injuries declined almost twice as fast as they have since the enactment of OSHA. The reduction of workplace injuries, which had been occurring before OSHA was created, has actually slowed since the agency was created.

One may reasonably ask, why is that the case? Mr. President, I have talked to hundreds of business people throughout my State of Texas and throughout

the Nation. Time and again, I have heard stories of burdensome and complex OSHA requirements and of arbitrary and unfair inspections and fines.

The vast majority of other employers in this country desire and strive to see to it that their employees have a safe place to work. Indeed, it is in their own best interest to do so. Injuries are costly: They interrupt production schedules, cause a loss of productivity and increase the burgeoning expense of workers' compensation, not to mention the impact on overall employee morale and productivity.

Many of the employers I speak with would like to work with, rather than against OSHA, but fear that if they take any affirmative steps to improve and review the safety of their workplace, it will only serve to attract aggressive OSHA inspectors. Thus, rather than helping to raise the safety level of American workers, the Occupational Safety and Health Act actually discourages employers in many cases from aggressively working to improve workplace health and safety.

Remarkably, OSHA's response to the growing call for reform of its enforcement tactics has been to seek to expand its territory. Most recently, OSHA has worked on establishing new and enormously costly standards on ergonomics and even on the prevention of nighttime crime at retail stores.

Mr. President, when Congress established OSHA, it did so with the intent that the agency, employers, and employees would all work toward the common purpose of creating safer and healthier workplace environments. Unfortunately, the culture of OSHA has evolved into one of regulatory excess, punitive enforcement, and standard setting based on arbitrariness rather than sound cost/benefit analysis. Things have gotten so bad that OSHA inspectors have even testified that they have been required to meet monthly quotas for citations and fines.

The bill I am introducing today will restore OSHA to its intended mission by requiring the agency to take a commonsense approach to establishing safety standards and by encouraging cooperation and voluntary improvement rather than confrontation. In brief, the bill:

Requires that OSHA, prior to setting a new standard, establish that a worksite safety hazard exists and consider whether it can economically be corrected using feasible technology;

It provides safety consultation and assistance to small businesses to encourage OSHA compliance;

It gives employers an opportunity to correct problems identified by employees before a formal OSHA complaint is filed, and protects employees who raise safety concerns to their employers;

It stops the practice of citing contractors for the violations of subcontractors whose employees are not under the contractor's control;

It limits employers' liability for the unsafe conduct of employees who have been properly trained and equipped by their employer;

It requires that fines for violations be proportional to their actual impact on employee safety; and

It will end the de facto practice of establishing quotas for enforcement activities.

Mr. President, I realize that there are employers out there who may not care about the safety of their employees. To them, I say, beware. Under this bill, OSHA will be freed to concentrate its resources and enforcement efforts on those employers who willfully disregard workplace safety.

But to the other 99 percent of the honest, hardworking business people in America who want to do right by their employees, I say: We have heard your call for action, and help is on the way. I urge them and I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 461

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

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Occupational Safety and Health Reform Act of 1997".

(b) REFERENCE.—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 Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

SEC. 2. USE OF OSHA IN PRIVATE LITIGATION.

Section 4(b)(4) (29 U.S.C. 653(b)(4)) is amended by adding at the end the following: "An allegation of a violation, a finding of a violation, or an abatement of an alleged violation, under this Act or the standards promulgated under this Act shall not be admissible as evidence in any civil action or used to increase the amount of payments received under any workmen's compensation law for any work-related injury.".

SEC. 3. DUTIES OF EMPLOYERS AND EMPLOYEES.

Section 5 (29 U.S.C. 654) is amended by adding at the end the following:

"(c) On multiemployer work sites, an employer may not be cited for a violation of this section if the employer—

"(1) has no employees exposed to the violation; and

"(2) has not created the condition that caused the violation or assumed responsibility for ensuring compliance by other employers on the work site.".

SEC. 4. STANDARD SETTING.

(a) STANDARDS.—Section 6(b)(5) (29 U.S.C. 655(b)(5)) is amended to read as follows:

"(5) The development of a standard under this section shall be based on the latest scientific data in the field and on research demonstrations, experiments, and other information that may be appropriate. In establishing the standard, the Secretary shall consider, and make findings based on, the following factors:

"(A) The standard shall be needed to address a significant risk of material impairment to workers and shall substantially reduce that risk.

"(B) The standard shall be technologically and economically feasible.

"(C) There shall be a reasonable relationship between the costs and benefits of the standard.

"(D) The standard shall provide protection to workers in the most cost-effective manner and minimize employment loss due to the standard in the affected industries and sectors of industries.

"(E) The standard shall set forth objective criteria and the performance desired.".

(b) VARIANCES.—Section 6(d) (29 U.S.C. 655(d)) is amended by adding at the end the following: "No citation shall be issued for a violation of an occupational safety and health standard that is the subject of a good faith application for a variance during the period the application is pending before the Secretary.".

(c) STANDARD PRIORITIES.—The second sentence of section 6(g) (29 U.S.C. 655(g)) is amended to read as follows: "In determining the priority for establishing standards with regard to toxic materials or the physical agents of toxic materials, the Secretary shall consider the number of workers exposed to the substance, the nature and severity of potential impairment, and the likelihood of the impairment based on information obtained by the Secretary from the Environmental Protection Agency, the Department of Health and Human Services, and other appropriate sources.".

(d) REGULATORY FLEXIBILITY ANALYSIS.—Section 6 (29 U.S.C. 655) is amended by adding at the end the following:

"(h) In promulgating an occupational safety and health standard under subsection (b), the Secretary shall perform a regulatory flexibility analysis described in sections 603 and 604 of title 5, United States Code.

"(i) In promulgating any occupational safety and health standard under subsection (b), the Secretary shall minimize the time, effort, and costs involved in the retention, reporting, notification, or disclosure of information to the Secretary, to third parties, or to the public. Compliance with the requirement of this subsection may be considered in a review of a petition filed under subsection (f).".

SEC. 5. INSPECTIONS.

(a) AUTHORITY OF SECRETARY.—Section 8(a) (29 U.S.C. 657(a)) is amended by striking paragraph (2) and inserting the following:

"(2) to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials in such place of employment.

In conducting inspections and investigations under paragraph (2), the Secretary may question any such employer, owner, operator, agent or employee. An interview of an employee by the Secretary may only be in private with the consent of the employee.".

(b) RECORDKEEPING.—

(1) GENERAL MAINTENANCE.—The first sentence of section 8(c)(1) (29 U.S.C. 657(c)(1)) is amended to read as follows: "Each employer shall make, keep and preserve, and make available, upon reasonable request and within reasonable limits, to the Secretary or the Secretary of Health and Human Services, such records regarding the activities of the employer relating to this Act as the Secretary, in cooperation with the Secretary of

Health and Human Services, may prescribe by regulation as necessary or appropriate for the enforcement of this Act or for developing information regarding the causes and prevention of occupational accidents and illnesses.".

(2) RECORDS OR REPORTS ON INJURIES.—Section 8(c) (29 U.S.C. 657(c)) is amended by adding at the end the following:

"(4) In prescribing regulations under this subsection, the Secretary may not require employers to maintain records of, or to make reports on, injuries that do not involve lost work time or that involve employees of other employers.

"(5) In prescribing regulations requiring employers to report work-related deaths and multiple hospitalizations, the Secretary shall include provisions that provide an employer at least 24 hours in which to make the report.".

(c) INSPECTIONS BASED ON EMPLOYEE COMPLAINTS.—Section 8(f) (29 U.S.C. 657(f)) is amended to read as follows:

"(f)(1)(A) An employee or representative of an employee who believes that a violation of a safety or health standard promulgated under this Act exists in the place of employment of the employee that threatens physical harm, or that an imminent danger exists in the place of the employment of the employee, may request an inspection by providing notice to the Secretary or an authorized representative of the Secretary of the violation or danger.

"(B) The notice under subparagraph (A) shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall state that the alleged violation or danger described in this subparagraph has been brought to the attention of the employer and the employer has refused to take any action to correct the alleged violation or danger.

"(C)(i) The notice under subparagraph (A) shall be signed by the employee or representative of the employee and a copy of the notice shall be provided to the employer or the agent of the employer no later than the time of arrival of an occupational safety and health agency inspector to conduct the inspection.

"(ii) Upon the request of the employee providing the notice under subparagraph (A), the name of the employee and the names of individual employees referred to in the notice shall not appear in the copy or on any record published, released, or made available pursuant to subsection (i), except that the name of the employee and the names of individual employees shall not be privileged from discovery in a contested case.

"(D) The Secretary may not make an inspection under this subsection except upon request by an employee or a representative of an employee.

"(E) If upon receipt of the notice under subparagraph (A), the Secretary determines that the employee or the representative of the employee has brought the alleged violation or danger to the attention of the employer and the employer has refused to take corrective action, and that there are reasonable grounds to believe the alleged violation or danger still exists, the Secretary shall make a special inspection in accordance with this subsection not later than 30 days after the receipt of the notice under subparagraph (A). The special inspection shall be conducted for the limited purpose of determining whether the alleged violation or danger exists.

"(2) If the Secretary determines either before, or as a result of, an inspection that there are not reasonable grounds to believe a violation or danger described in paragraph (1)(A) exists, the Secretary shall notify the complaining employee or the representative of the employee of the determination and, upon request by the employee or the representative of the employee, shall provide a written statement of the reasons for the determination.".

(d) TRAINING AND ENFORCEMENT.—Section 8 (29 U.S.C. 657) is amended—

(1) by redesignating subsection (g) as subsection (j); and

(2) by inserting after subsection (f) the following:

"(g) Inspections conducted under this section shall be conducted by at least 1 person who has training in, and is knowledgeable of, the industry or types of hazards being inspected.

"(h)(1) Except as provided in paragraph (2), the Secretary shall not conduct routine inspections of, or enforce any standard, rule, regulation, or order under this Act with respect to—

"(A) an employer who is engaged in a farming operation that does not maintain a temporary labor camp and employs 50 or fewer employees; or

"(B) an employer of not more than 50 employees if the employer is included within a category of employers having an occupational injury or a lost workday case rate (determined under the Standard Industrial Classification Code for which such data are published) that is less than the national average rate as most recently published by the Secretary acting through the Bureau of Labor Statistics under section 24.

"(2) In the case of an employer described in subparagraph (B) of paragraph (1), such paragraph shall not be construed to prohibit the Secretary, with respect to the employer, from—

"(A) providing under this Act consultations, technical assistance, and educational and training services;

"(B) conducting under this Act surveys and studies;

"(C) conducting inspections or investigations in response to employee complaints, issuing citations for violations of this Act found during an inspection, and assessing a penalty for the violations that are not corrected within a reasonable abatement period;

"(D) taking any action authorized by this Act with respect to imminent dangers;

"(E) taking any action authorized by this Act with respect to a report of an employment accident that is fatal to at least 1 employee or that results in hospitalization of at least 3 employees and taking any action pursuant to an investigation of such report; and

"(F) taking any action authorized by this Act with respect to a complaint of discrimination against employees for exercising their rights under this Act.

"(i) Any records or other information created by or for an employer for the purpose of conducting safety and health inspections, audits, or reviews not required by this Act shall not be required to be disclosed by the employer or the agent of the employer in any inspection, investigation, or enforcement proceeding conducted pursuant to this Act.".

SEC. 6. VOLUNTARY COMPLIANCE.

(a) PROGRAM.—The Occupational Safety and Health Act of 1970 (21 U.S.C. 651 et seq.) is amended by inserting after section 8 the following:

"SEC. 8A. VOLUNTARY COMPLIANCE.

"(a) IN GENERAL.—The Secretary shall by regulation establish a program to encourage voluntary employer and employee efforts to provide safe and healthful working conditions.

"(b) EXEMPTION.—In establishing a program under subsection (a), the Secretary shall, in accordance with subsection (c), provide an exemption from all safety and health inspections and investigations with respect to a place of employment maintained by the employer participating in the program, except that this subsection shall not apply to inspections and investigations conducted for the purpose of—

"(1) determining the cause of a workplace accident that resulted in the death of 1 or more employees or the hospitalization of 3 or more employees; or

"(2) responding to a request for an inspection pursuant to section (8)(f)(1).

"(c) REQUIREMENTS FOR EXEMPTION.—In order to qualify for the exemption provided under subsection (b), an employer shall provide to the Secretary evidence that—

"(1) the place of employment of the employer or conditions of employment have, during the preceding year, been reviewed or inspected under—

"(A) a consultation program provided by any State agency relating to occupational safety and health;

"(B) a certification or consultation program provided by an insurance carrier or other private business entity pursuant to a State program, law, or regulation; or

"(C) a workplace consultation program provided by any other person certified by the Secretary for purposes of providing workplace consultations; or

"(2) the place of employment has an exemplary safety record and the employer maintains a safety and health program for the workplace that—

"(A) includes—

"(i) procedures for assessing hazards to the employees of the employer that are inherent to the operations or business of the employer;

"(ii) procedures for correcting or controlling the hazards in a timely manner based on the severity of the hazard; and

"(iii) employee participation in the program including, at a minimum—

"(I) regular consultation between the employer and the nonsupervisory employees of the employer regarding safety and health issues; and

"(II) the opportunity for the nonsupervisory employees of the employer to make recommendations regarding hazards in the workplace and to receive responses or to implement improvements in response to the recommendations; and

"(B) that requires that participating nonsupervisory employees of the employer have training or expertise on safety and health issues consistent with the responsibilities of the employees.

A program under subparagraph (A) or (B) of paragraph (1) shall include methods that ensure that serious hazards identified in the consultation are corrected within an appropriate time.

"(d) CERTIFICATION.—The Secretary may require that an employer in order to claim the exemption under subsection (b) provides certification to the Secretary, and notice to the employees of the employer, of the eligibility of the employer for an exemption.".

(b) DEFINITION.—Section 3 (29 U.S.C. 652) is amended by adding at the end the following:

"(15) The term 'exemplary safety record' means that an employer has had, in the most recent annual reporting of the employer required by the Occupational Safety and

Health Administration, no employee death caused by occupational injury and fewer lost workdays due to occupational injury and illness than the average for the industry of which the employer is a part.".

SEC. 7. EMPLOYER DEFENSES.

Section 9 (29 U.S.C. 658) is amended by adding at the end the following:

"(d) No citation may be issued under subsection (a) to an employer unless the employer knew or with the exercise of reasonable diligence would have known of the presence of an alleged violation. No citation shall be issued under subsection (a) to an employer for an alleged violation of section 5, any standard, rule, or order promulgated pursuant to section 6, any other regulation promulgated under this Act, or any other occupational safety and health standard, if the employer demonstrates that—

"(1) employees of the employer have been provided with the proper training and equipment to prevent such a violation;

"(2) work rules designed to prevent such a violation have been established and adequately communicated to employees by the employer; and

"(3) the failure of employees to observe work rules led to the violation.

"(e) A citation issued under subsection (a) to an employer that violates the requirements of any standard, rule, or order promulgated pursuant to section 6 or any other regulation promulgated under this Act shall be vacated if the employer demonstrates that employees of the employer were protected by alternative methods that were equally or more protective of the safety and health of the employees than the methods required by the standard, rule, order, or regulation in the factual circumstances underlying the citation.

"(f) Subsections (d) and (e) shall not be construed to eliminate or modify other defenses that may exist to any citation.".

SEC. 8. THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

(a) PROCEDURE FOR ENFORCEMENT.—

(1) NOTIFICATION.—The first sentence of section 10(b) (29 U.S.C. 659(b)) is amended to read as follows: "If the Secretary has reason to believe an employer has failed to correct a violation, for which a citation has been issued, within the period permitted for the correction of the violation, the Secretary shall notify the employer by certified mail of such failure and of the penalty proposed to be assessed under section 17 by reason of such failure, and that the employer has 15 working days after the receipt of such a notification to notify the Secretary that the employer desires to contest the notification of the Secretary or the proposed assessment of penalty. The period for the correction of the violation described in the first sentence shall not begin to run until the time for contestation has expired or the entry of a final order by the Commission in a contested case initiated by the employer in good faith and not solely for delay or avoidance of penalties.".

(2) BURDEN OF PROOF.—Section 10 (29 U.S.C. 659) is amended by adding at the end the following:

"(d) In all hearings before the Commission relating to a contested citation, there shall be no presumption of a violation of standard, or an existence of a hazard, under this Act. In such cases, the Secretary shall have the burden of proving by a preponderance of the evidence—

"(1) the existence of a violation;

"(2) that the violation for which the citation was issued constitutes a realistic hazard to the safety and health of the affected employees;

"(3) that there is a likelihood that the hazard will result in employee injury;

"(4) that the employer knew or with the exercise of reasonable diligence should have known of the hazard and violation; and

"(5) that a technically and economically feasible method of compliance exists.".

(b) JUDICIAL REVIEW.—Section 11(a) (29 U.S.C. 660(a)) is amended by inserting after "conclusive." at the end of the sixth sentence the following: "The court shall make its own determination as to questions of law, including the reasonable interpretation of standards promulgated under this Act, and shall not accord deference to either the Commission or the Secretary.".

SEC. 9. DISCRIMINATION.

(a) COMPLAINT.—Section 11(c)(2) (29 U.S.C. 660(c)(2)) is amended to read as follows:

"(2)(A)(i) Any employee who believes that such employee has been discharged or otherwise discriminated against by the employer of the employee in violation of this subsection may, within 30 days after such violation occurs, file a complaint with the Secretary alleging the discrimination.

"(ii) A complaint may not be filed under clause (i) after the expiration of the 30-day period described in such clause.

"(B)(i) Upon receipt of a complaint under subparagraph (A) and as the Secretary considers appropriate, the Secretary shall conduct an investigation.

"(ii) If upon such investigation, the Secretary determines that the provisions of this subsection have been violated, the Secretary shall attempt to eliminate the alleged violation by informal methods.

"(iii) Nothing stated or done, during the use of the informal methods applied under clause (ii) may be made public by the Secretary or used as evidence in any subsequent proceeding.

"(iv) The Secretary shall make a determination concerning the complaint as soon as possible and, in any event, not later than 90 days after the date of the filing of the complaint.

"(C) If the Secretary is unable to resolve the alleged violation through informal methods, the Secretary shall notify the parties in writing that conciliation efforts have failed.

"(D)(i) Not later than 90 days after the date on which the Secretary notifies the parties under subparagraph (C) in writing that conciliation efforts have failed, the Secretary may bring an action in any appropriate United States district court against an employer described in subparagraph (A).

"(ii) The employer against whom an action under clause (i) is brought may demand that the issue of discrimination be determined by jury trial.

"(E) Upon a showing of discrimination in an action brought under subparagraph (D)(i), the Secretary may seek, and the court may award, any and all of the following types of relief:

"(i) An injunction to enjoin a continued violation of this subsection.

"(ii) Reinstatement of the employee to the same or equivalent position.

"(iii) Reinstatement of full benefits and seniority rights.

"(iv) Compensation for lost wages and benefits.

"(F) This subsection shall be the exclusive means of securing a remedy for any aggrieved employee.".

(b) ACCESS TO RECORDS.—Section 11(c)(3) (29 U.S.C. 660(c)(3)) is amended to read as follows:

"(3) Any records of the Secretary, including the files of the Secretary, relating to investigations and enforcement proceedings pursuant to this subsection shall not be subject to inspection and examination by the public while such inspections and proceedings are pending in the United States district court.".

SEC. 10. INJUNCTION AGAINST IMMINENT DANGER.

Section 13 (29 U.S.C. 662) is amended—

(1) by striking subsection (c);

(2) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(3) by inserting before subsection (b) (as so redesignated by paragraph (2)) the following:

"(a)(1)(A)(i) If the Secretary determines, on the basis of an inspection or investigation under this section, that a condition or practice in a place of employment is such that an imminent danger to safety or health exists that could reasonably be expected to cause death or serious physical harm or permanent impairment of the health or functional capacity of employees if not corrected immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this Act, the Secretary—

"(I) may inform the employer, and provide notice, by posting at the place of employment, to the affected employees of the danger; and

"(II) shall request the employer that the condition or practice be corrected immediately or that the affected employees be immediately removed from exposure to such danger.

"(ii) A notice under clause (i) shall be removed by the Secretary from the place of employment not later than 72 hours after the notice was first posted unless a court in a proceeding under subsection (c) requires that the notice be maintained.

"(B) The Secretary shall not prevent the continued activity of the employees of the employer whose presence in the place of employment is necessary—

"(i) to avoid, correct, or remove the imminent danger;

"(ii) to maintain the capacity of a continuous process operation to resume the normal operations of the employer without a cessation of the operations; or

"(iii) to permit the cessation of the operations of the employer to be accomplished in a safe and orderly manner, where the cessation of the operations is necessary.

"(2) No employer shall discharge, or in any manner discriminate against any employee, because the employee has refused to perform a duty that has been identified as the source of an imminent danger by a notice posted pursuant to paragraph (1).".

SEC. 11. SMALL BUSINESS ASSISTANCE AND TRAINING.

Section 16 (29 U.S.C. 665) is amended—

(1) by inserting "(a)" after "16."; and

(2) by adding at the end the following:

"(b) The Secretary shall publish and make available to employers a model injury prevention program that if completed by the employer shall be deemed to meet the requirement for an exemption under section 8A or a reduction in penalty under section 17(a)(3)(B).

"(c) The Secretary shall establish and implement a program to provide technical assistance and consultative services for employers and employees, either directly or by grant or contract, concerning work site safety and health and compliance with this Act. The assistance shall be targeted at small employers and the most hazardous industries.

"(d) Consultative services shall be provided to employers through cooperative agreements between the States and the Occupational Safety and Health Administration.

The consultative services provided under a cooperative agreement under this subsection shall be the same type of services described in part 1908 of title 39 of the Code of Federal Regulations.

"(e) Not less than one-fourth of the annual appropriation made to the Secretary to carry out this Act shall be expended for the activities described in this section.".

SEC. 12. PENALTIES.

(a) IN GENERAL.—Section 17 (29 U.S.C. 666) is amended—

(1) by striking subsections (a), (b), (c), (f), (i), (j), and (k);

(2) by redesignating subsections (d), (e), (g), (h), and (l) as subsections (b), (c), (d), (e), and (f), respectively; and

(3) by inserting after "17." the following:

"(a)(1) Any employer who violates the requirements of section 5, any standard, rule, or order promulgated pursuant to section 6, or any other regulation promulgated under this Act may be assessed a civil penalty of not more than $7,000. The Commission shall have authority to assess all civil penalties provided for in this section, giving due consideration to the appropriateness of the penalty with respect to—

"(A) the size of the employer;

"(B) the number of employees exposed to a violation;

"(C) the likely severity of any injuries directly resulting from the violation;

"(D) the probability that the violation could result in injury or illness;

"(E) the good faith of the employer in correcting the violation after the violation has been identified;

"(F) the extent to which employee misconduct was responsible for the violation; and

"(G) the effect of the penalty on the ability of the employee to stay in business.

"(2) In assessing penalties for violations under this section, the Commission shall have authority to determine whether violations should be classified as willful, repeated, serious, other than serious, or de minimus. Regardless of the classification of a violation, there shall be only 1 penalty assessed for each violation. The Commission may not enhance the penalty based on the number of employees exposed to the violation or the number of instances of the same violation.

"(3)(A) A penalty assessed under paragraph (1) shall be reduced by 25 percent in any case in which the employer—

"(i) maintains a written safety and health program for the work site where the violation, for which the penalty was assessed, occurred; or

"(ii) shows that the work site where the violation, for which the penalty was assessed, occurred has an exemplary safety record.

"(B) If the employer maintains a program described in subparagraph (A)(i) and has the record described in subparagraph (A)(ii), the penalty shall be reduced by 50 percent.

"(4) No penalty shall be assessed against an employer for a violation other than a violation previously cited by the Secretary, a violation that creates an imminent danger, a violation that has caused death, or a willful violation that has caused serious injury to an employee, unless the Secretary provides—

"(A) the employer with a written notification of the violation; and

"(B) the employer a reasonable time (but not less than 10 days after the receipt by the employer of the written notification) to correct the violation.".

(b) CRIMINAL PENALTIES.—Section 17(c) (29 U.S.C. 666(c)) (as so redesignated by subsection (a)) is amended by adding at the end the following: "No employer shall be subject to any State or Federal criminal prosecution arising out of a workplace accident other than under this subsection.".

SEC. 13. TRANSFER OF CERTAIN OCCUPATIONAL SAFETY AND HEALTH FUNCTIONS.

(a) TRANSFER OF FUNCTIONS; REPEAL.—

(1) NATIONAL INSTITUTE OF OCCUPATIONAL SAFETY AND HEALTH.—The functions and authorities provided to the National Institute of Occupational Safety and Health under section 22 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 671) are transferred to the Secretary of Labor.

(2) SECRETARY OF HEALTH AND HUMAN SERVICES.—The responsibilities and authorities of the Secretary of Health and Human Services under sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669, 670, and 671) are transferred to the Secretary of Labor.

(3) REPEAL.—Section 22 (29 U.S.C. 671) is repealed.

(b) ADDITIONAL FUNCTIONS.—In carrying out the functions transferred under subsection (a), the Secretary of Labor shall take such actions as are necessary to avoid duplication of programs and to maximize training, education, and research under the Occupational Safety and Health Act of 1970 (29 U.S.C. 671 et seq.).

(c) REFERENCES.—

(1) IN GENERAL.—Each reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(A) the head of the transferred office, or the Secretary of Health and Human Services, with regard to functions transferred under subsection (a), shall be deemed to refer to the Secretary of Labor; and

(B) a transferred office with regard to functions transferred under subsection (a), shall be deemed to refer to the Department of Labor.

(2) DEFINITION.—For the purpose of this subsection, the term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(d) CONFORMING AMENDMENTS.—Not later than 180 days after the effective date of this Act, if the Secretary of Labor determines (after consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget) that technical and conforming amendments to Federal statutes are necessary to carry out the changes made by this section, the Secretary of Labor shall prepare and submit to Congress recommended legislation containing the amendments.

SEC. 14. ECONOMIC IMPACT ANALYSIS.

The Secretary of Labor shall conduct a continuing comprehensive analysis of the costs and benefits of each standard in effect under section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655). The Secretary shall report the results of the analysis to Congress upon the expiration of the 2-year period beginning on the date of enactment of this Act and every 2 years thereafter.

SEC. 15. LABOR RELATIONS.

(a) DEFINITIONS.—Paragraph (5) of section 2 of the National Labor Relations Act (29 U.S.C. 152(5)) is amended by adding at the end the following: "The term does not include a safety committee that is comprised of an employer and the employees of the employer and that is jointly established by the employer and the employees of the employer, or by the employer and a labor organization representing the employees of the employer, to carry out efforts to reduce injuries and disease arising out of employment.".

(b) UNFAIR LABOR PRACTICES.—Section 8(a)(2) of the National Labor Relations Act (29 U.S.C. 158(a)(2)) is amended by inserting before the semicolon at the end the following: ": *Provided further*, That it shall not constitute an unfair practice under this paragraph for an employer and the employees of the employer, or for an employer and a labor organization representing the employees of the employer, to jointly establish a safety committee in which the employer and the employees of the employer carry out efforts to reduce injuries and disease arising out of employment".

By Mr. MACK (for himself, Mr. D'AMATO, Mr. BOND, Mr. FAIRCLOTH and Mr. GRAMS):

S. 462. A bill to reform and consolidate the public and assisted housing programs of the United States, and to redirect primary responsibility for these programs from the Federal Government to States and localities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE PUBLIC HOUSING REFORM AND RESPONSIBILITY ACT OF 1997

Mr. MACK. Mr. President, I am today introducing, along with Senators D'AMATO, BOND, FAIRCLOTH, and GRAMS, the Public Housing Reform and Responsibility Act of 1997. This bill is similar to public and assisted housing reform legislation, S. 1260, that was introduced in the 104th Congress and passed unanimously by the Senate.

The Public Housing Reform and Responsibility Act of 1997 addresses a public housing system fraught with counterproductive rules and regulations that make it impossible for even the best run public housing authorities [PHA's] to operate effectively and efficiently. It will help to make public housing a platform from which residents can achieve the goal of economic independence and self-sufficiency. In addition, it promotes increased residential choice and mobility by increasing opportunities for residents to use tenant-based assistance.

Most public housing today serves only the poorest of the poor—on average those with incomes at 17 percent of area median. The gap between tenant rent contributions and the cost of operating public housing is growing wider than the ability of Federal housing subsidy funds to close it. PHA's are denied the flexibility necessary to maintain the existing supply of public housing in decent and safe condition, and in some cases are even constrained from demolishing vacant or nonviable public housing developments.

Just as these rules have made it difficult for housing authorities to provide and maintain decent and safe housing or to meet basic operating costs, these rules have been even worse for tenants. They have destroyed the ability of families to move up and out

of public housing and become economically self-sufficient. Public housing rent rules, in particular, create strong economic disincentives for residents to work or seek higher paying jobs.

The following reforms contained in the Public Housing Reform and Responsibility Act represent significant improvements in current public and assisted housing policies.

First, the bill consolidates a multitude of programs into two flexible block grants to expand the eligible uses of funds and allow more creative and efficient use of resources. The bill also repeals a number of current programs that are obsolete, unused, or unfunded.

Second, it institutes permanent rent reforms such as ceiling rents, earned income adjustments, and minimum rents that provide PHA's with the tools to develop rental policies that encourage and reward work and further the goal of creating mixed-income communities. The bill also removes the floor on rents that may be charged under the Brooke amendment, while assuring that poor families will not pay more than 30 percent of their income for rent.

Third, the bill requires tough, swift action against PHA's with severe management deficiencies and provides HUD or court-appointed receivers with the necessary tools and powers to deal with troubled agencies and protect public housing residents.

Fourth, it requires intervention with respect to severely distressed public housing developments that trap residents in deplorable living conditions and are costly to operate or maintain. It provides residents with alternative housing using vouchers or other available housing.

Fifth, the bill permanently repeals the one-for-one replacement requirement and streamlines the demolition and disposition process to permit PHA's to demolish or sell vacant or obsolete public housing.

Sixth, it gives PHA's broad flexibility to develop or participate with other providers of affordable housing in the development of mixed-income, mixed finance developments.

Seventh, it repeals Federal preferences that have had the unintended consequence of concentrating the poorest of the poor in public housing developments and allows PHA's to operate according to locally established preferences consistent with local housing needs. The bill still maintains the requirement that most housing assistance be targeted to very low-income households.

Eighth, the Public Housing Reform and Responsibility Act calls on PHA's to increase coordination with State and local welfare agencies to ensure that welfare recipients living in public housing will have the full opportunity to move from welfare to work.

Ninth, the bill provides residents with an active voice in developing the local PHA plans that will govern the operations and management of housing and for direct participation on housing authority boards of directors. It also authorizes funds for resident organizations to develop resident management and empowerment activities.

Finally, it merges the Section 8 voucher and certificate programs into a single, choice-based program designed to operate more effectively in the private marketplace. It repeals requirements that are administratively burdensome to landlords, such as take-one, take-all, endless lease and 90-day termination notice requirements. These reforms will make participation in the section 8 tenant-based program more attractive to private landlords and increase housing choices for lower income families.

The reforms contained in this legislation will significantly improve the nation's public housing and tenant-based rental assistance program and the lives of those who reside in Federally assisted housing. The funding flexibility, substantial deregulation of the day-to-day operations and policies of public authorities, encouragement of mixed-finance developments, policies to deal with distressed and troubled public housing, and rent reforms will change the face of public housing for PHA's, residents, and local communities.

Reform of the public housing system has been and should remain a bipartisan effort. I look forward to working with all of my colleagues toward early passage of this legislation.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

PUBLIC HOUSING REFORM AND RESPONSIBILITY ACT OF 1997 SUMMARY OF KEY PROVISIONS

FINDINGS

Recognizes the Federal government's limited capacity and expertise to manage and oversee 3,400 public housing agencies nationwide. Acknowledges the concentration of the very poor in very poor neighborhoods, disincentives for economic self-sufficiency, and lack of resident choice have been the unintended consequences resulting from Federal micromanagement of housing programs in the past.

PURPOSE

To reform the public housing system by consolidating programs, streamlining program requirements, and providing maximum flexibility and discretion to public housing authorities [PHAs] who perform well with strict accountability to residents and localities, and to address the problems of housing authorities with severe management deficiencies.

BASIC PROVISIONS

Program Consolidation. Consolidates public housing programs into two flexible block grants—one for operating expenses and one for capital needs. Requires HUD to establish new formulas through negotiated rulemaking. Funding for section 8 tenant-based program will continue to be funded as a separate program.

Elimination of Obsolete Regulations. Eliminates all current HUD rules, regulations, handbooks, and notices pertaining to public housing and section 8 tenant-based programs under the United States Housing Act of 1937 one year after enactment; requires HUD to propose new regulations necessary to carry out the revised Act within 9 months.

Public Housing Agency Plan [PHAP]. Refocuses the responsibility for administering public housing back to the PHA, the tenants and the local community. Requires each PHA to submit a comprehensive public housing agency plan to HUD, consistent with the local Comprehensive Housing Affordability Strategy [CHAS] and developed in conjunction with a resident advisory board.

The plan is intended to serve as an operating, management and planning tool for PHAs. Plan requirements, to be established through negotiated rulemaking, would include: a description of the PHA's uses for operating and capital funds; a description of the PHA's management policies; procedures relating to eligibility, selection, and admission; plans for capital improvements and demolition and disposition or properties; and policies regarding rents, security, and tenant empowerment activities. The plan would also include a statement of needs which would describe the needs of the low-income families in the community and on the waiting list and how the PHA intends to address those needs.

HUD review of the public housing agency plan would be limited to determine whether the contents of the plan: (1) set forth the information required to be contained in the plan; (2) are consistent with the information and data available to HUD; and (3) are not prohibited by or inconsistent with the requirements of this Act or any applicable law.

The bill allows HUD to require additional information from troubled PHAs, and a streamlined plan for high-performing PHAs and small PHAs with less than 250 units.

Vouchering Out of Public Housing. Allows PHAs to convert any public housing development to a tenant-based or "voucher" system, but requires the vouchering out of all severely "distressed" public housing. Requires each PHA, within 2 years, to assess all public housing for the purpose of vouchering out by performing a cost and market analysis and an impact analysis on the affected community; provides HUD with waiver authority for PHAs to conduct the assessment.

Choice and Opportunity for Residents. Provides public housing families with an active voice in developing a PHA plan that is responsive to their needs. Provides funds for resident organizations to develop resident management and empowerment activities.

Federal Preferences. Repeals Federal preferences and allows PHAs to operate according to locally established preferences consistent with local housing needs.

Income Targeting and Eligibility. Allows PHAs in any fiscal year to make units available for initial occupancy to families with incomes up to 80% of median income, except that at least 40% of the units must be reserved for families whose income does not exceed 30% of the area median and at least 75% of the units must be reserved for families whose income does not exceed 60% of area median; requires PHAs to include a plan in the public housing agency plan for achieving a diverse income mix among tenants in

each project and among scattered-site public housing. Income targeting provisions for the section 8 tenant-based program are similar to public housing except 50% of vouchers must be reserved for families whose income does not exceed 30% of the area median.

Rent Flexibility. Allows PHAs to set rents at a level not to exceed 30% of a tenant's adjusted income. Encourages PHAs to develop rental policies that reward employment and upward mobility.

Ceiling Rents. Allows PHAs to set ceiling rents that reflect the reasonable rental value of units in order to remove the disincentive for residents to work or seek higher paying jobs where rents are based on a percentage of income.

Minimum Rents. Allows PHAs to set a minimum rent for both Section 8 and public housing units, not to exceed $25 per month.

Income Adjustments. Allows a PHA to disregard certain income in calculating rents to take away the disincentive for tenants to work and earn higher incomes.

Troubled PHAs. Requires HUD to take over or appoint a receiver for PHAs that are in substantial default within one year of enactment. Expands HUD's powers for dealing with troubled PHAs by allowing it to break up troubled agencies into one or more agencies, abrogate contracts that impede correction of the agency's default, and demolish and dispose of a PHA's assets. Allows HUD to provide technical assistance to assist near-troubled PHAs from becoming troubled.

Demolition and Disposition. Repeals the one-for-one replacement requirement and streamlines and makes flexible the demolition and disposition process to permit PHAs to demolish and dispose of vacant or obsolete housing. Authorizes HUD to disapprove any demolition or disposition that is clearly inconsistent with the information and data available to HUD.

No Net Increase in Public Housing Units. Prohibits PHAs from using capital or operating funds to increase the overall number of public housing units they own and/or operate.

Substance, Alcohol Abuse, Criminal Activity. Retains provisions enacted as part of last year's Housing Opportunity Program Extension Act that: (1) require PHAs to prohibit occupancy by, or terminate tenancy of, any person a PHA determines is illegally using a controlled substance or has reasonable cause to believe his/her drug use or alcohol abuse could/does interfere with the health, safety, or right to peaceful enjoyment of other tenants; (2) strengthen the ability of PHAs to evict residents for drug-related criminal activity; (3) deny housing assistance to residents evicted for drug-related activities for up to three years; and (4) provide PHAs with greater access to the criminal conviction records of adult applicants and residents.

Consortia and Joint Ventures. Allows PHAs to form a consortium with other PHAs, form and operate wholly-owned or controlled subsidiaries, or enter into joint ventures, partnerships or other business arrangements to administer housing programs; requires any income to be used for low-income housing or to benefit the tenants of the PHA.

Designated Housing for the Elderly and Disabled. Retains provisions enacted as part of last year's Housing Opportunity Program Extension Act that: (1) permits PHAs, in their own discretion, to designate public housing projects (or portions thereof) as elderly-only, disabled only, or elderly and disabled housing under their Public Housing Agency Plans; (2) permits PHAs, for purposes of elderly-only housing, to provide a secondary preference for occupancy for near elderly families; and (3) prohibits the eviction of existing tenants as a result of the designation of a public housing project (or portion).

Community Work Requirements. Requires residents to perform at least 8 hours of community work per month with the exception for the elderly, disabled and those working full-time, those in school or receiving vocational training, and single parents or the spouse of an otherwise exempt individual who is the primary caretaker of young children.

Coordination with Welfare Agencies. Calls on PHAs, to the maximum extent possible, to enter into cooperation agreements with State and local welfare agencies to share information regarding rents, income, and benefits to assist such entities in carrying out their appropriate functions.

Public Housing Homeownership Opportunities. Authorizes PHAs to sell public housing units to the low-income tenants of the PHA or to any organization that serves as a conduit for sales to such persons. Allows PHAs to assist residents to purchase a principal residence not located in a public housing project.

Mixed-Finance Projects. Allows PHAs to own, operate, assist, or otherwise participate in one or more mixed-finance projects. Permits consistency with the rent requirements of the low-income housing tax credit. Provides broad flexibility for the development of mixed-finance projects, while maintaining the requirements of the public housing program for units which receive assistance as public housing units.

Public Housing Mortgages and Security Interests. Authorizes HUD to develop requirements, subject to certain criteria, for PHAs to mortgage or otherwise grant a security interest in any public housing project. Prohibits any action taken under this section to result in any liability to the Federal government.

Revitalization of Severely Distressed Public Housing. Revises current severely distressed public housing program and sunsets it on October 1, 1999. Permits competitive grants for: demolition of obsolete public housing; site revitalization; and providing replacement housing, including tenant-based assistance.

Section 8 Tenant Based Assistance. Merges the voucher and certificate program into a single voucher program that emphasizes lease requirements similar to the market place. Repeals requirements that are administratively burdensome to landlords, such as "take one take all", endless lease, Federal preferences, and ninety-day termination notice requirements.

Program Repeals. Repeals several programs, demonstrations, and studies that are either merged into the new block grants, expired, inactive, or already completed including: the Public Housing One-Stop Perinatal Services Demonstration, Public Housing Childhood Development Program, Indian Housing Childhood Development Program, Public Housing Mincs Demonstration, Public Housing Energy Efficiency Demonstration, Public and Assisted Housing Youth Sports Programs, Moving to Opportunity for Fair Housing Program, Report Regarding Fair Housing Objectives, and Special Projects for Elderly and Handicapped Families.

Mr. D'AMATO. Mr. President, I rise to cosponsor the Public Housing Reform and Responsibility Act of 1997. This important legislation contains significant policy reforms which will greatly improve our Nation's public and tenant based housing programs. The Public Housing Reform and Responsibility Act of 1997 is very similar to legislation (S. 1260) which was passed unanimously by the Senate in January 1996.

I wish to salute Senator CONNIE MACK, chairman of the Banking Committee's Subcommittee on Housing and Community Opportunity, for his successful leadership in the development and passage of public housing reform legislation in the 104th Congress. I commend Senator MACK for his initiative and steadfastness in producing an improved housing bill which builds on the lessons learned during the last Congress. Substantial input from the Department of Housing and Urban Development [HUD], resident associations, public housing authorities and other interested parties has been received and incorporated into this legislation.

This legislation addresses just one area of long overdue reform needed at HUD. Given limited Federal resources and the need to balance the budget by the year 2002, Congress must find more cost-effective ways to provide affordable housing. This bill represents a concrete step in the fulfillment of Congress' responsibility to the American taxpayer to ensure that every Federal dollar is maximized to its greatest potential.

The reform provisions contained in this bill will help to ensure the long-term viability of our Nation's existing stock of affordable housing and reaffirms our commitment to providing decent, safe, and affordable housing. Efficiencies will be realized from the elimination and consolidation of duplicative and burdensome Federal regulations, while the essential mission of our housing programs is retained and strengthened.

Mr. President, I would like to comment on several guiding principles of the legislation. First, it will reform the public housing system through the devolution of control from the Federal Government to high performing public housing authorities and their residents. It will streamline program requirements, consolidate programs and provide increased flexibility to public housing authorities which have demonstrated a track record of good management. Federal oversight and enforcement of troubled housing authorities will be increased significantly.

The bill provides incentives to empower public housing residents and facilitate the transition from welfare to work. It provides important linkages to the welfare reform bill which became law last year. This will allow our Nation's public housing residents a greater opportunity to achieve economic independence.

Mr. President, the bill seeks to increase the local accountability of housing authorities through the implementation of a local planning process. Public housing authorities will prepare 5-year and annual plans which will include all significant matters related to the operation of the housing authority. These plans will be required to be consistent with relevant State and local comprehensive plans. In addition, plans will be reviewed by resident advisory boards.

The bill recognizes that public housing is most effective when there is a viable income mix among its residents. Federal preferences will be repealed. The Brooke amendment, which requires residents to pay 30 percent of their income as rent, would be altered to allow tenants to pay "up to" 30 percent of their incomes in rent. This will remove a work disincentive which has hampered the economic livelihoods of many residents, while retaining the 30 percent limit as a cap.

The bill has additional rent reforms such as income disregards which will allow welfare recipients to move to work without losing 30 percent of their new-found income to rent, and ceiling rents which will allow working families to continue to move up the economic ladder without a 30 percent tax on income.

Mr. President, this legislation ensures that a significant percentage of units that become vacant in a given year will be set aside for the lowest income families. I believe this bill achieves the delicate balance between fostering the growth of mixed-income communities while ensuring that our neediest citizens will continue to be served.

The safety and security of the residents of public and assisted housing is a paramount objective. Many safety and security measures, including allowing public housing authorities increased access to criminal conviction records and greater flexibility in the eviction of drug criminals, were passed last year in legislation which I introduced, the Housing Opportunity Program Extension Act (Pub. L. 104–120). This legislation includes numerous additional safety and security provisions, including allowing HUD to waive rent requirements to permit police officers a lower rent as an inducement to living in project-based section 8 housing.

Furthermore, the bill will streamline the demolition and disposition process of distressed housing projects through the repeal of the one-for-one replacement requirement and other measures. This impractical and counterproductive Federal requirement has been waived for the last 2 fiscal years through the appropriations process. By making this repeal permanent, our housing authorities will be able to operate with certainty.

Mr. President, the Banking Committee and its Housing Subcommittee will continue to evaluate proposals for HUD reorganization. Legislation to reform HUD's Federal Housing Administration insured and section 8 assisted multifamily properties will be introduced this spring. Additional legislative initiatives to reform HUD and its multitude of duplicative programs also will be considered.

We must remember that the fundamental goal of this process is to address adequately the affordable housing and community development needs of our citizens in a time of dwindling Federal resources. It is imperative that we protect our needy poor and working class residents whom these programs are intended to serve. Reforms must be made with caution and careful consideration.

This legislation has been crafted with the benefit of a lengthy and productive debate in the 104th Congress. The Banking Committee conducted a series of hearings on HUD and its public and assisted housing programs during the 104th Congress. Additional hearings are planned for this year. The Banking Committee will seek to achieve the swift implementation of needed reforms. The committee will utilize an open process with an opportunity for input from all concerned parties, which has as its goal the formation of a consensus for change.

Mr. President, I believe this bill appropriately balances the social purpose of public and assisted housing programs while also responding to Federal fiscal constraints. I look forward to working with all Members of the Banking Committee on a bipartisan basis to ensure the speedy passage of this important housing initiative.

Mr. BOND. Mr. President, I rise in support with Senators MACK and D'AMATO in introducing the Public Housing Reform and Responsibility Act of 1997. This legislation is substantially the same as S. 1260 which passed the Senate in the 104th Congress, but fell short of enactment in the waning days of that Congress.

This legislation is a critical step to the needed reform of the Department of Housing and Urban Development, as well as a major reform bill in its own right. This legislation consolidates the public housing and section 8 tenant-based assistance programs, and redirects the responsibility and authority for public housing and section 8 back to federally assisted residents, the public housing agencies, the localities, and the States.

This bill also dovetails with many of the public housing reforms contained in the VA/HUD fiscal years 1996 and 1997 appropriations bills and reflects the need to provide streamlined programs and local responsibility as the most appropriate method to address local housing needs.

I cannot emphasize enough the need to find a measured solution to the housing problems of this Nation and to HUD's overregulation of housing and community issues that are better addressed at the local level. This bill represents a complete overhaul of the public housing system and the section 8 tenant-based program and a move away from HUD's all too common one-size-fits-all mentality.

The linchpin of this legislation is to place the responsibility for the decisionmaking for public housing issues, from the demolition of obsolete units to the issue of elderly only housing to the voluntary conversion of public housing to tenant-based assistance, in the hands of local public housing agencies through public housing agency plans developed in conjunction with residents and consistent with state and local housing plans.

In addition, this legislation would continue to protect the poorest of the poor by requiring PHA's to continue to make 40 percent of all units available to families whose incomes do not exceed 30 percent of the area median income, 75 percent of all units to families whose incomes do not exceed 60 percent of median income and to make all other units available to families with incomes no greater than 80 percent of median income.

This bill also reforms and consolidates the section 8 voucher and certificate program into a single voucher program which will reduce administrative burden and increase the acceptability of vouchers in the private housing market.

Finally, the bill continues the Distressed Public Housing Program for the demolition of obsolete and uninhabitable public housing. Obsolete public housing has long been a drag on communities, and I consider it an absolute priority to remove these projects and provide low-income families with positive, affordable housing choices.

I see this bill as part of a downpayment on a larger HUD reform effort which I expect to be pursued throughout this Congress. I look forward to working with my colleagues on these important issues and I am optimistic that we can address many of them.

By Mrs. MURRAY:

S. 464. A bill to amend title 38, United States Code, to allow revision of veterans' benefits decisions based on clear and unmistakable error; to the Committee on Veterans' Affairs.

THE CLEAR AND UNMISTAKABLE ERROR LEGISLATION

Mrs. MURRAY. Mr. President, I am introducing today legislation to ensure that the Board of Veterans' Appeals errs on behalf of our veterans rather than on the side of the Federal Government. Specifically, my legislation will allow a veteran to correct a rating decision which is a clear and unmistakable error.

I am pleased to be joining with Congressman LANE EVANS in introducing

this legislation. Congressman EVANS has been a champion in this cause and he has shepherded clear and unmistakable error legislation through the House of Representatives in the last two Congresses. The House Veterans' Affairs Committee will markup this legislation later this week; again, paving the way for House passage of this legislation. This is the first time that Senate legislation has been introduced on clear and unmistakable error. I look forward to working with my colleagues at the Senate Veterans' Affairs Committee to raise the profile of this issue in the Senate in the coming days.

Since joining the Senate Veterans' Affairs Committee in the last Congress, I have made it a priority to work closely with the veterans of my State. This legislative initiative is a direct result of that partnership between my office and the veterans of Washington State. Several veterans service organizations have contacted me in support of this legislation, and I do also know that this issue is a priority for the Disabled American Veterans.

For the record, I want to detail a vivid example of a clear and unmistakable error. The Department of Veterans Affairs schedule for rating disabilities prescribes a 40-percent disability rating for an amputation of the leg below the knee and a 60-percent disability rating for an amputation of the leg above the knee. In an instance where a veteran had an above the knee amputation but was assigned a 40-percent rating, the rating decision is indisputably wrong—clear and unmistakably wrong. My legislation would ensure that egregious errors like this at any administrative level of adjudication would be subject to review.

In recent months, I've handled several cases with the Department of Veterans Affairs that directly involved clear and unmistakable error. In one case, a veteran with a serious shoulder injury dating back to the Vietnam war was rated incorrectly for more than 20 years. In another case, a veteran with PTSD also dating to service in Vietnam was misdiagnosed for a lengthy period, affecting his disability rating and benefits and the treatment he received. To the VA's credit, some cases of clear and unmistakable error are reversible but it depends on where the veteran is in the VA process. Some cases of clear and unmistakable error no longer offer recourse to the veteran. My legislation seeks to correct this. I believe that we must make available every opportunity to right a wrong on behalf of a veteran.

Importantly, this legislation will also allow a veteran who under current law cannot seek to have a clear and unmistakable error claim reviewed the opportunity to request that the Board of Veterans' Appeals review its prior decision. So often we in Congress talk about providing for veterans or about meeting our obligations to veterans. That is what this bill is all about; it gives a veteran the right to request a review rather than subjecting an ailing vet to a sometimes faceless bureaucracy hesitant to correct its mistakes.

This issue has been cast by some as arcane and complicated. And it is. But let me break it down to its most basic element for the Members of the Senate. Clear and unmistakable errors are errors that have deprived and continue to deprive veterans of benefits for which their entitlement is undeniable. To deny a veteran due to a bureaucratic mistake is beyond comprehension. When I first heard of this problem, I doubted the severity of the problem. But for a small number of veterans, the problem is real, very real, and it is causing hardships for some in meeting the challenges of everyday life.

The Congressional Budget Office determined a previous version of this legislation to be budget neutral. Stated another way, this legislation would not require additional resources for the VA or take needed resources from other VA programs or benefits.

The Department of Veterans Affairs does have a number of objections to the legislation. I do look forward to working with Secretary Jesse Brown to address these concerns so that this important veterans legislation can go forward. Secretary Brown is the most passionate advocate for veterans within government service. I have every confidence that he will work with me and other concerned Members to ensure that the VA works for the veteran.

Mr. President, I ask my colleagues to review this legislation and join me as cosponsors of this important initiative on behalf of veterans.

By Mr. DORGAN (for himself, Mr. BYRD and Mr. SARBANES):

S. 465. A bill to establish an Emergency Commission To End the Trade Deficit; to the Committee on Finance.

THE EMERGENCY COMMISSION TO END THE TRADE DEFICIT ESTABLISHMENT ACT

Mr. DORGAN. Mr. President, I am pleased to be on the floor of the Senate today with my distinguished colleague, the Senator from West Virginia, Senator BYRD. There is no one in the Senate for whom I have greater respect. I am pleased today to join him in introducing a piece of legislation dealing with a very important issue for this country, the trade deficit. Most especially, the merchandise trade deficit.

On behalf of myself, Senator BYRD, and Senator SARBANES, we are introducing legislation today which will establish a commission that will meet and make recommendations on how to end the crippling and growing merchandise trade deficit in our country.

We have had a great deal of discussion about the budget deficit in the U.S. Senate, and in Congress in recent months. In fact, it was not too long ago we had a stack of books, I venture to say 5-foot high, stacked on a desk that was, I think, to demonstrate deficits in various budgets for many years. That was one deficit.

That deficit is a difficult and a serious issue and one we must address. The question was whether it should be addressed through an attempt to alter the Constitution of the United States. There was great controversy about that. Yet, there was no disagreement about whether we had a responsibility to address the fiscal policy deficits. We have addressed them. We need to do more. They are coming down. They have been decreased by over 60 percent. The budget deficit has been coming down substantially for 4 years in a row. We have made progress, but we have a ways to go.

But there is another deficit in this country that is not even whispered about in this town or on the floor of Senate save for a couple of Members who care about it and come to speak about it. That is the merchandise trade deficit. That is a deficit that has not been reduced each of the last 4 years, as has the budget deficit.

This is a deficit that has been growing each of the last 4 years. This is a deficit that last year was the largest in our country's history. This is a deficit that, added on top of other trade deficits which have occurred for 21 consecutive years, now stacks up to a pile of $2 trillion. We have nearly $2 trillion of accumulated merchandise trade deficits that this country must repay some day with a lower standard of living here in the United States.

This is the third straight year of record trade deficits. It is the third straight year of new record levels in a string of 21 consecutive years of trade deficits. The last trade surplus in this country was in the year 1975.

Now, I have a chart I will show that demonstrates the fact that the United States has moved from a net creditor position to a net debtor position.

We are the largest debtor nation in the world. This has happened in a very short period of time. This shows what has happened to our position. We used to export more than we imported. We now import far, far more than we export. The question is, what do we import in this country?

This describes, of course, the yearly merchandise trade deficits, and this chart has enough red on it to demonstrate where we have been and where we are going. This is a very sad picture. It cries out for a remedy. This is not the picture of a strong economy. This is not a road map to a strong economic future.

The next chart shows that the U.S. imports that are coming into this country consist particularly of manufactured goods, and they make up 85 percent of our Nation's imports. These manufactured goods are mostly high-

value goods that come from skilled labor. In fact, 75 percent of our trade deficit consists of high-value manufactured goods, such as automobiles, auto equipment, electronics goods and telecommunications equipment.

I have another chart that shows the U.S. imports of manufactured goods. You will see that we now import goods sufficient to match slightly over half of all that we make here. That is quite a statistic. You can see the growth of it. It is almost exponential growth. Imported manufactured goods as a percentage of the U.S. manufacturing gross domestic product have increased from 11 percent in 1970 to 56 percent this past year. As I showed from the previous chart, most of it is high-value manufactured goods.

If I might make a point with respect to our neighbor to the south, Mexico. Mexico now sends us more automobiles than we ship to the rest of the world. Let me repeat that. Today, the United States imports more automobiles from Mexico than we send to the rest of the world.

The next chart shows that the trade deficit we have is principally with six other countries. With Japan, we have had a $50 billion to $60 billion-a-year trade deficit for a long period. We now have a substantial deficit with China, amounting to nearly $40 billion. With Canada and Mexico, our two nearest neighbors, we have a combined deficit of nearly $40 billion.

You can see the dilemma in this country, where we have growing trade deficits with respect to Canada and Mexico and substantially growing trade deficit with respect to China and long-abiding deficits with respect to Japan. You can see what is happening. It is sapping the economic strength of our manufacturing sector in this country.

Yesterday, on a radio program, the talk radio announcer said, "I don't understand, Senator DORGAN. Unemployment has come down, and our economy seems strong." I said, "Yes, all that seems to be the case." I know that there are neighbors, no doubt, who seem to have great-looking homes, a shiny new car, maybe newly poured cement for a new driveway, and they have all the latest gadgets. But you don't see their credit statement. They may well be deep in debt with all that shiny new equipment in their garage.

The question is not how things appear, but what are the fundamentals of our economy? What does the foundation look like? The foundation of an economy that works and one that will grow and provide jobs in the future has a strong manufacturing sector. No country will long remain a world economic power if it does not retain a strong manufacturing base.

I have said often—and people probably get tired of hearing it from me—that you cannot measure this country's economic strength, as the economists so often do, by measuring what we consume every month or quarter. That is not a measurement of economic strength. Our economic strength is measured by what we produce, not what we consume.

What we produce from our manufacturing sector is all too often now moving. Our productive sector is moving out from our country to other countries. Jobs are moving from here to there. It weakens our country internally and weakens our manufacturing sector.

The next chart talks about trade and jobs. There has been an old formula—in fact, they used this formula to sell the NAFTA trade package to us. They said every billion dollars in trade is the equivalent of 20,000 jobs. What would that mean? In 1996, our trade deficit meant we had a loss of 3.8 million good jobs; 3.8 million good jobs were lost. Just the increase in the deficit from 1995 to 1996—means another 300,000 jobs are gone. They have gone across the border, offshore, overseas. That is the dilemma.

Now, what do people say will happen to the trade deficit? We have the largest trade deficit in this country's history. You can see what has happened to it. It has been a steady, growing deficit. It continues to be a serious problem, and now it is at record levels. Some forecasters say that this deficit is going to continue to reach new record levels. In fact, one expert is predicting a deficit of $354 billion by 2007.

You know, we must think about what these trends mean. What is this all about? If I might simplify it for people, let us look at Japan. This is an ally of ours, a good country, a country that, by all accounts, has citizens who work hard and strive to compete aggressively in the world marketplace and do very, very well. We have become a sponge for much of their manufactured goods, and they make pretty good manufactured goods. They are tough, shrewd international competitors.

But when we send a pound of T-bone steak to Tokyo, guess what? A North Dakota rancher is often out during calving time in some pretty tough weather. He works really hard to deal with the tasks of everyday life on the ranch to care for maybe a 300-cow herd. That rancher raises some beef and then markets the beef. Eventually the beef finds a market, some in this country and some we want to export. When that North Dakota rancher wants to export beef to Japan, guess what happens to that beef? Japan regularly slaps a 50-percent tariff on every pound of beef going into Japan.

Does anybody think that is reasonable? And this is after our negotiations. It is after we have supposedly succeeded in negotiating down the tariffs on beef going into Japan. We have a celebration, but there still is a 50-percent tariff on T-bone steak going to Tokyo.

Guess what? Under any other standards of measurement, that would be considered a failure in international trade negotiations. Only because we have such low expectations from those with whom we trade are we willing to say that is a success. It is not a success, as far as I am concerned.

Why did we get to this position? Well, briefly, after the Second World War, our trade policy was foreign policy. Our trade policy was structured on the premise that we were the biggest, the best, the most, the strongest country on the face of the Earth, and we could compete with almost anybody in this world with one hand tied behind our back and win the competition. So our trade policy with Japan and European countries and others was largely foreign policy.

What we needed to do to at that time was to construct a trade relationship with our allies that helped them? We could certainly afford to help them, and we felt we must help them. That was our trade policy. For a quarter century it was necessary, and it worked, and guess what? We helped grow and nurture the restoration of post-Second-World-War economies, sufficient so that, I am pleased to say and I think others would be as well, that we now have very tough, shrewd competitors in the world marketplace. They are allies, friends and, yes, in the market system they are competitors.

It is time that we understand that this country can no longer win with one hand tied behind its back. It is time to understand that trade policy must be more than foreign policy, and we must insist on reciprocal trade treatment from our allies and trading partners. We must insist on not only free and open and expanded trade, but especially fair trade.

It upsets me to discover what we negotiated in a trade agreement with our neighbor to the north, a wonderful country with good people in it, Canada. We discover what is inside. It is like peeling an onion. You get the layers off and figure out what is in the middle of the treaty.

You discover that literally hundreds of semi-trucks come south from Canada into our country with durum wheat and barley. These are crops that we already grow in substantial surplus. Then I get in a little truck—a little, 12-year-old, 2-ton orange truck—with a North Dakota farmer with 220 bushels of wheat, and we go up to the Canadian border near Portal, ND. And we are stopped. They say, "What do you have in the truck?" "We have 220 bushels of wheat." "You can't go into Canada with wheat." "Gee. We just passed 20 semitrucks coming south into our marketplace with wheat." "Well, that may be but you can't take American wheat into Canada."

That is the sort of thing that is fundamentally wrong with our trade agreements. We need fully reciprocal trade with all of our trade allies.

Let me finally in the last chart talk about what we are here to propose: An emergency commission to end the trade deficit. We need to respond to and deal with the growing, burgeoning problem in this country. That is the record merchandise trade deficits that we face and that our children and their children must repay with a lower standard of living. We must stop it. How do we stop it?

Senator BYRD, myself, and Senator SARBANES propose that a commission be impaneled that addresses the wide range of concerns: The manner in which the Government establishes and administers our trade policies and objectives; the causes and consequences of the persistence and growth of the overall trade deficit, as well as the specific bilateral trade deficits I mentioned; the relationship of United States trade deficits to both comparative and competitive advantages; the relationship between investment flows, both in and out of the United States; and, the development of policies and alternative strategies to end the trade deficit by 2007 and improve the economic well-being of our citizens.

Mr. President, I am delighted that Senator BYRD is on the floor today. I want to make one additional comment.

Those who talk about trade in public discourse here in the U.S. Congress and about town are generally divided into two groups. There is the group that is in favor of free trade and has been for a couple of decades. They are called the free traders, and they are described as those with world vision, those who can see over the horizon, who have the creative ability to think expansively about what our obligations are and what the future will be. And then there are others. They are classified as the xenophobic isolationist stooges who simply don't get it.

The minute you speak about the trade problem and the trade deficit, they say you are a "protectionist," a "xenophobic isolationist. That is who that is."

I come from a State in which about half of what we produce must find a foreign home. I am the last person that would want to create walls around our border. I want expanded trade. I want open trade. I want free trade. But I demand that trade be fair.

American businesses and American workers ought to be able to expect that they are going to compete in a marketplace that is a fair marketplace. They should not be expected to compete against a 14-year-old that works 14 hours a day and is paid 14 cents an hour in some foreign factory producing a good that is then shipped to Fargo, Pittsburgh, or Denver. That is not fair trade, and American workers ought not to expect that.

We simply say there is a chronic and growing problem that ought to be addressed. We propose that an emergency commission be impaneled to end the trade deficit and make recommendations on how to do it.

By Mr. LAUTENBERG (for himself, Mr. KENNEDY, Mr. KERRY, Mrs. FEINSTEIN and Mr. TORRICELLI):

S. 466. A bill to reduce gun trafficking by prohibiting bulk purchases of handguns; to the Committee on the Judiciary.

THE ANTI-GUN TRAFFICKING ACT OF 1997

Mr. LAUTENBERG. Mr. President, I rise today to introduce legislation to stop the growing gun violence and death associated with interstate gun trafficking.

Recently, the scourge of gun violence invaded all of our homes, when a madman opened fire on innocent tourists atop the Empire State Building. When the shooting stopped, one person was dead, and six were injured. One of the victims was 27-year-old Matthew Gross of Montclair, NJ. Matthew Gross was shot in the head, and lingered in a coma, connected to a ventilator, for 8 agonizing days. Thankfully, this courageous young man has come out of the coma and is beginning the long and arduous task of recovery.

Mr. President, this gun violence must stop. It is too easy to obtain a gun in America. This morning, I stood with Matthew's father and brother and we all committed ourselves to intensify the fight against gun violence. Because Matthew Gross wasn't only a victim of a disturbed gunman. He was a victim of the epidemic of gun violence. Reducing this violence must be a top national priority.

Today, Mr. President, I am introducing the Anti-Gun Trafficking Act, to reduce interstate gun trafficking by prohibiting bulk purchases of handguns. The bill would prohibit the purchase of more than one handgun during any 30-day period. I am joined in this effort by Senators KENNEDY, JOHN KERRY, FEINSTEIN, and TORRICELLI.

Mr. President, no one needs more than one gun a month. In New Jersey, we have banned assault weapons, and we have established strict permitting requirements for handgun purchases. Yet the effectiveness of these restrictions is substantially diminished because the controls in other States are far less strict.

Unfortunately, many gun traffickers make bulk purchases of handguns in States with weak firearm laws, and then transport them to other States with tougher laws for illegal sale on the streets. This has helped spread the plague of gun violence nationwide. And without Federal limits, there is little that any one State can do about it.

A few years ago, Mr. President, the State of Virginia enacted legislation designed to prevent gunrunners from buying large quantities of handguns in Virginia for export to other States. Under that State law, as under my proposal, handgun purchases are limited to one per month. This Virginia statute has proven to be very effective in controlling gun trafficking from Virginia.

Before the ban, Virginia had become the firearm supermarket of the East Coast. It supplied more than 40 percent of the guns used in crimes in New York City. But under the new legislation, the results were dramatic. The percentage of guns traced back to Virginia gun dealers fell by 61 percent for guns recovered in New York, 67 percent for guns recovered in Massachusetts, and 38 percent for guns recovered in New Jersey.

Mr. President, Virginia's experience suggests that a ban on bulk purchases can substantially reduce gunrunning. However, to be truly effective, such a limit must be enacted nationwide. Otherwise, gunrunners will simply move their operations to other States. The only way to close down the "iron pipeline" is to plug it up at all ends.

The Anti-Gun Trafficking Act will impose such a nationwide limit on bulk gun purchases. I do not claim this restriction would end all handgun violence. And, personally, I don't see why anyone needs even 12 guns a year. However, it is a reasonable and modest step in the right direction.

Mr. President, a one-gun-a-month law would take a bite out of gunrunning without imposing any burden on hunters and other law-abiding gun users. After all, who but gang members, drug dealers, and other criminals needs more than 12 guns a year? Law abiding citizens are made safer by limiting the number of firearms available for purchase at one time.

Mr. President, this is a sensible approach, and one which will help to make our families, our streets, our communities, and our country safer. I urge my colleagues to support restrictions on bulk purchases on handguns and to join in cosponsoring "One Gun a Month."

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. 466

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 "Anti-Gun Trafficking Act of 1997".

SEC. 2. PROHIBITION AGAINST MULTIPLE HANDGUN SALES OR PURCHASES.

(a) PROHIBITION.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(y) PROHIBITION AGAINST MULTIPLE HANDGUN SALES OR PURCHASES.—

"(1) IN GENERAL.—It shall be unlawful for an licensed dealer—

"(A) during any 30-day period, to sell 2 or more handguns to an individual who is not licensed under section 923; or

"(B) to sell a handgun to an individual who is not licensed under section 923 and who purchased a handgun during the 30-day period ending on the date of the sale.

"(2) TIME LIMITATION.—It shall be unlawful for any individual who is not licensed under section 923 to purchase 2 or more handguns during any 30-day period.

"(3) EXCHANGES.—Paragraph (1) does not apply to an exchange of 1 handgun for 1 handgun.".

(b) PENALTIES.—Section 924(a)(2) of title 18, United States Code, is amended by striking "or (o)" and inserting "(o), or (y)".

SEC. 3. INCREASED PENALTIES FOR MAKING KNOWINGLY FALSE STATEMENTS IN CONNECTION WITH FIREARMS.

Section 924(a)(3) of title 18, United States Code, is amended by striking "one year" and inserting "5 years".

SEC. 4. DEADLINES FOR DESTRUCTION OF RECORDS RELATED TO CERTAIN FIREARMS TRANSFERS.

(a) HANDGUN TRANSFERS SUBJECT TO THE WAITING PERIOD.—Section 922(s)(6)(B)(i) of title 18, United States Code, is amended by striking "20 business days" and inserting "35 calendar days".

(b) FIREARMS TRANSFERS SUBJECT TO INSTANT CHECK.—Section 922(t)(2)(C) of title 18, United States Code, is amended by inserting "not later than 35 calendar days after the date the system provides the licensee with the number," after "[(C)]".

SEC. 5. REVISED DEFINITION.

Section 921(a)(21)(C) of title 18, United States Code, is amended by inserting ", except that such term shall include any person who transfers more than 1 handgun in any 30-day period to a person who is not a licensed dealer" before the semicolon.

By Mr. WELLSTONE (for himself, Mrs. MURRAY, Mr. WYDEN, and Mr. DORGAN):

S. 467. A bill to prevent discrimination against victims of abuse in all lines of insurance; to the Committee on Labor and Human Resources.

VICTIMS OF ABUSE INSURANCE PROTECTION ACT

Mr. WELLSTONE. Mr. President, I am very pleased to be joined by my colleagues and original cosponsors Senator RON WYDEN, Senator PATTY MURRAY, and Senator BYRON DORGAN in reintroducing the Victims of Abuse Insurance Protection Act, legislation that will outlaw discrimination by insurance companies against the victims of domestic violence in all lines of insurance. Congressman BERNIE SANDERS is introducing an identical bill in the House this week.

With this legislation, we are trying to correct an abhorrent practice by many insurance companies—the denial of coverage to battered women. It is plain, old-fashioned discrimination. It is profoundly unjust and wrong. And, it is the worst of blaming the victim. Denying women access to the insurance they require to foster their mobility out of an abusive situation must be stopped.

While we were successful in including language in the Kassebaum-Kennedy law which prohibits insurers from denying insurance because the applicant is a victim of abuse, insurance companies can still charge victims of abuse a higher rate.

In Minnesota, three insurance companies denied an entire women's shelter insurance because, as a battered women's shelter, we were high risk. The Women's Shelter in Rochester, MN, was told that it was considered uninsurable because its employees are almost all battered women.

Another shelter in rural Minnesota purchased a car so that women and children in danger who were trying to leave an abusive situation could use this anonymous vehicle and thus the abuser could not track their automobile to find them. The shelter could not find a company to provide them with automobile insurance once the companies knew of the risks surrounding battered women.

A woman in Iowa named Sandra was denied life insurance after the company found out that she had been beaten up twice. In one incident, she had been so badly beaten by an ex-boyfriend that her cheekbones were splintered, and one of her eyes had to be put back in its socket. Her mother, Mary, was the one who originally applied for the life insurance policy, explaining, "I didn't ask for a lot of coverage. I just wanted to apply for $1,000 coverage, just enough that if something happened, God forbid, that we could at least bury her."

Mary was angry about the denial, so she wrote to State officials and the Iowa insurance commissioner's office tried to intervene on their behalf. In four separate letters, the insurance company officials stated they denied the coverage because of a history of assaults. In one letter they defended their decision by citing numerous documents which showed that people involved in domestic violence incidents are at a higher risk of death and injury than others, and, therefore, not a good risk.

There are, unfortunately, many other instances of victims of domestic abuse being denied fire insurance, homeowners insurance, life insurance, and health insurance—denied because they were victims of a crime.

This bill goes a long way toward treating domestic violence as the crime that it is—not a voluntary risky behavior that can be easily changed and not as a pre-existing condition. Insurance company policies that deny coverage to victims only serve to perpetuate the myth that victims are responsible for their abuse.

In order to address the practice of insurers using domestic violence as a basis for determining whom to cover and how much to charge with respect to health, life, disability, homeowners, and auto insurance, this legislation prohibits insurance companies from discriminating against victims in any of the following ways:

First, denying or terminating insurance; second, limiting coverage or denying claims; third, charging higher premiums; or fourth, terminating health coverage for victims of abuse in situations where coverage was originally issued in the abuser's name, and acts of the abuser would cause the victim to lose coverage.

This legislation also keeps victims' information confidential by prohibiting insurers from improperly using, disclosing, or transferring abuse-related information for any purpose unrelated to the direct provision of health care services.

Insurance companies should not be allowed to discriminate against anyone for being a victim of domestic violence. We may never know the full extent of the problem, but it is a grossly unfair practice and should be prohibited.

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. 467

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 "Victims of Abuse Insurance Protection Act".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) ABUSE.—The term "abuse" means the occurrence of one or more of the following acts by a current or former household or family member, intimate partner, or caretaker:

(A) Attempting to cause or causing another person bodily injury, physical harm, substantial emotional distress, psychological trauma, rape, sexual assault, or involuntary sexual intercourse.

(B) Engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority and under circumstances that place the person in reasonable fear of bodily injury or physical harm.

(C) Subjecting another person to false imprisonment or kidnapping.

(D) Attempting to cause or causing damage to property so as to intimidate or attempt to control the behavior of another person.

(2) ABUSE-RELATED MEDICAL CONDITION.—The term "abuse-related medical condition" means a medical condition which arises in whole or in part out of an action or pattern of abuse.

(3) ABUSE STATUS.—The term "abuse status" means the fact or perception that a person is, has been, or may be a subject of abuse, irrespective of whether the person has sustained abuse-related medical conditions or has incurred abuse-related claims.

(4) HEALTH BENEFIT PLAN.—The term "health benefit plan" means any public or private entity or program that provides for payments for health care, including—

(A) a group health plan (as defined in section 607 of the Employee Retirement Income

Security Act of 1974 (29 U.S.C. 1167)) or a multiple employer welfare arrangement (as defined in section 3(40) of such Act (29 U.S.C. 1102(40)) that provides health benefits;

(B) any other health insurance arrangement, including any arrangement consisting of a hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, or health maintenance organization subscriber contract;

(C) workers' compensation or similar insurance to the extent that it relates to workers' compensation medical benefits (as defined by the Federal Trade Commission); and

(D) automobile medical insurance to the extent that it relates to medical benefits (as defined by the Federal Trade Commission).

(5) HEALTH CARRIER.—The term "health carrier" means a person that contracts or offers to contract on a risk-assuming basis to provide, deliver, arrange for, pay for or reimburse any of the cost of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation or any other entity providing a plan of health insurance, health benefits or health services.

(6) INSURED.—The term "insured" means a party named on a policy, certificate, or health benefit plan, including an individual, corporation, partnership, association, unincorporated organization or any similar entity, as the person with legal rights to the benefits provided by the policy, certificate, or health benefit plan. For group insurance, such term includes a person who is a beneficiary covered by a group policy, certificate, or health benefit plan. For life insurance, the term refers to the person whose life is covered under an insurance policy.

(7) INSURER.—The term "insurer" means any person, reciprocal exchange, interinsurer, Lloyds insurer, fraternal benefit society, or other legal entity engaged in the business of insurance, including agents, brokers, adjusters, and third party administrators. The term also includes health carriers, health benefit plans, and life, disability, and property and casualty insurers.

(8) POLICY.—The term "policy" means a contract of insurance, certificate, indemnity, suretyship, or annuity issued, proposed for issuance or intended for issuance by an insurer, including endorsements or riders to an insurance policy or contract.

(9) SUBJECT OF ABUSE.—The term "subject of abuse" means a person against whom an act of abuse has been directed, a person who has prior or current injuries, illnesses, or disorders that resulted from abuse, or a person who seeks, may have sought, or had reason to seek medical or psychological treatment for abuse, protection, court-ordered protection, or shelter from abuse.

SEC. 3. DISCRIMINATORY ACTS PROHIBITED.

(a) IN GENERAL.—No insurer or health carrier may, directly or indirectly, engage in any of the following acts or practices on the basis that the applicant or insured, or any person employed by the applicant or insured or with whom the applicant or insured is known to have a relationship or association, is, has been, or may be the subject of abuse:

(1) Denying, refusing to issue, renew or reissue, or canceling or otherwise terminating an insurance policy or health benefit plan.

(2) Restricting, excluding, or limiting insurance or health benefit plan coverage for losses incurred as a result of abuse or denying a claim incurred by an insured as a result of abuse, except as otherwise permitted or required by State laws relating to life insurance beneficiaries.

(3) Adding a premium differential to any insurance policy or health benefit plan.

(4) Terminating health coverage for a subject of abuse because coverage was originally issued in the name of the abuser and the abuser has divorced, separated from, or lost custody of the subject of abuse or the abuser's coverage has terminated voluntarily or involuntarily and the subject of abuse does not qualify for extension of coverage under part 6 of subtitle B of title I or the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or 4980B of the Internal Revenue Code of 1986. Nothing in this paragraph prohibits the insurer from requiring the subject of abuse to pay the full premium for the subject's coverage under the health plan if the requirements are applied to all insureds of the health carrier. The insurer may terminate group coverage after the continuation coverage required by this paragraph has been in force for 18 months if it offers conversion to an equivalent individual plan. The continuation of health coverage required by this paragraph shall be satisfied by any extension of coverage under part 6 of subtitle B of title I or the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or 4980B of the Internal Revenue Code of 1986 provided to a subject of abuse and is not intended to be in addition to any extension of coverage provided under part 6 of subtitle B of title I or the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or 4980B of the Internal Revenue Code of 1986.

(b) USE OF INFORMATION.—

(1) IN GENERAL.—No person employed by or contracting with an insurer or health benefit plan may use, disclose, or transfer information relating to an applicant's or insured's abuse status or abuse-related medical condition or the applicant's or insured's status as a family member, employer, or associate, person in a relationship with a subject of abuse for any purpose unrelated to the direct provision of health care services unless such use, disclosure, or transfer is required by an order of an entity with authority to regulate insurance or an order of a court of competent jurisdiction. In addition, such a person may not disclose or transfer information relating to an applicant's or insured's location or telephone number. Nothing in this paragraph shall be construed as limiting or precluding a subject of abuse from obtaining the subject's own insurance records from an insurer.

(2) AUTHORITY OF SUBJECT OF ABUSE.—A subject of abuse, at the absolute discretion of the subject of abuse, may provide evidence of abuse to an insurer for the limited purpose of facilitating treatment of an abuse-related condition or demonstrating that a condition is abuse-related. Nothing in this paragraph shall be construed as authorizing an insurer or health carrier to disregard such provided evidence.

SEC. 4. INSURANCE PROTOCOLS FOR SUBJECTS OF ABUSE.

Insurers shall develop and adhere to written policies specifying procedures to be followed by employees, contractors, producers, agents and brokers for the purpose of protecting the safety and privacy of a subject of abuse and otherwise implementing the provisions of this Act when taking an application, investigating a claim, or taking any other action relating to a policy or claim involving a subject of abuse.

SEC. 5. REASONS FOR ADVERSE ACTIONS.

An insurer that takes an action that adversely affects a subject of abuse, shall advise the subject of abuse applicant or insured of the specific reasons for the action in writing. Reference to general underwriting practices or guidelines does not constitute a specific reason.

SEC. 6. LIFE INSURANCE.

Nothing in this Act shall be construed to prohibit a life insurer from declining to issue a life insurance policy if the applicant or prospective owner of the policy is or would be designated as a beneficiary of the policy, and if—

(1) the applicant or prospective owner of the policy lacks an insurable interest in the insured; or

(2) the applicant or prospective owner of the policy is known, on the basis of police or court records, to have committed an act of abuse against the proposed insured.

SEC. 7. SUBROGATION WITHOUT CONSENT PROHIBITED.

Subrogation of claims resulting from abuse is prohibited without the informed consent of the subject of abuse.

SEC. 8. ENFORCEMENT.

(a) FEDERAL TRADE COMMISSION.—The Federal Trade Commission shall have the power to examine and investigate any insurer to determine whether such insurer has been or is engaged in any act or practice prohibited by this Act. If the Federal Trade Commission determines an insurer has been or is engaged in any act or practice prohibited by this Act, the Commission may take action against such insurer by the issuance of a cease and desist order as if the insurer was in violation of section 5 of the Federal Trade Commission Act. Such cease and desist order may include any individual relief warranted under the circumstances, including temporary, preliminary, and permanent injunctive and compensatory relief.

(b) PRIVATE CAUSE OF ACTION.—An applicant or insured who believes that the applicant or insured has been adversely affected by an act or practice of an insurer in violation of this Act may maintain an action against the insurer in a Federal or State court of original jurisdiction. Upon proof of such conduct by a preponderance of the evidence, the court may award appropriate relief, including temporary, preliminary, and permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for the aggrieved individual's attorneys and expert witnesses. With respect to compensatory damages, the aggrieved individual may elect, at any time prior to the rendering of final judgment, to recover in lieu of actual damages, an award of statutory damages in the amount of $5,000 for each violation.

SEC. 9. EFFECTIVE DATE.

This Act shall apply with respect to any action taken on or after the date of the enactment of this Act, except that section 4 shall only apply to actions taken after the expiration of 60 days after such date.

Mrs. MURRAY. Mr. President, I am pleased today to join with my colleague from Minnesota, Senator WELLSTONE, in introducing the Victims of Abuse Insurance Protection Act. I believe that every Senator in this Chamber should join in support of this important legislation.

The Victims of Abuse Insurance Protection Act will prohibit discrimination by insurance companies against victims of domestic violence. This prohibition will apply to all lines of insurance including health, life, and homeowners.

We are all proud of our efforts to increase our commitment to ending domestic violence. The Federal Government has dramatically increased resources to fighting this devastating public health threat. We have worked to strengthen enforcement of domestic violence laws and ensure that victims have access to the resources and assistance necessary to end the cycle of violence. However, the first step for most victims is reporting the violence and removing themselves from the violent situation. But, if a victim of domestic violence knows that by reporting and seeking help they have now accepted the fact that they will face discriminatory practices in when they try to secure any form of insurance, fewer victims will come forward. This is a chilling consequence that we cannot allow.

Make no mistake about it, this is a real threat. I have been approached by an insurance agent in Washington State who told me that she cannot sell life insurance to victims of domestic violence. I also know of women who are unable to afford adequate homeowners insurance because of past domestic violence. This is an outrage and runs counter to all that is fair and decent. This is a classic example of blaming the victim.

As a strong advocate of ending domestic violence, I cannot sit by and watch insurance companies deny victims insurance or impose such drastic cost barriers that few could overcome. I am appalled by this type of discrimination and extremely concerned about the impact it has on our efforts to combat domestic violence.

By Mr. CHAFEE (for himself and Mr. MOYNIHAN):

S. 468. A bill to continue the successful Federal role in developing a national intermodal surface transportation system, through programs that ensure the safe and efficient movement of people and goods, improve economic productivity, preserve the environment, and strengthen partnerships among all levels of the government and the private sector, and for other purposes; to the Committee on Finance.

THE NATIONAL ECONOMIC CROSSROAD TRANSPORTATION EFFICIENCY ACT OF 1997

Mr. CHAFEE. Mr. President, today, I am introducing, along with my colleague from New York, Senator MOYNIHAN, the National Economic Crossroad Transportation Efficiency Act of 1997, referred to as NEXTEA. NEXTEA is the Clinton administration's legislative proposal for the reauthorization of the Intermodal Surface Transportation Efficiency Act.

I am introducing NEXTEA because it builds upon the landmark ISTEA legislation. It emphasizes environmental protection, system preservation, safety, and intermodalism. I would like to encourage my colleagues to take a serious look at this proposal.

In addition, I will be a cosponsor of the ISTEA Reauthorization Act of 1997, a bill that has been written by Senators MOYNIHAN, LIEBERMAN, and LAUTENBERG which will be introduced in the near future. This proposal also builds upon the program structure and emphasis of the original ISTEA.

Today's introduction does not mean that I endorse all the ideas in the administration's proposal. I am still in the process of reviewing the bill's details and plan to ask the administration questions about their provisions and the thinking behind some of their proposals.

Of particular interest to my colleagues is whether my introduction of the administration's bill indicates my endorsement of the administration's formula for distributing funds among the States. It does not.

The administration's formula relies to a great extent on the contributions paid into the highway trust fund by the individual States. I have serious concerns about setting national policy on the basis of where gasoline is purchased. The Federal Highway Administration's estimate of the highway trust fund contributions is based upon where gasoline is purchased, not even where it is used. Let me give a couple of examples of the problems I see with this misplaced focus.

If you buy gas in Baltimore, MD, and drive to Woonsocket, RI, you will drive through the States of Delaware, New Jersey, New York, Connecticut, and Rhode Island. Maryland will be the only State that gets credit for this trip.

Even if we were better able to estimate where gasoline is used, rather than just where it is purchased, setting national transportation policy on gasoline usage provides incentives that contradict policies of ISTEA such as environmental protection, intermodalism, and efficiency. Under a gas tax-based formula, States and localities that use transit significantly or use less gasoline because of good planning are actually penalized for their good work.

For example, programs or policies that encourage any of the following would be penalized: Shifting highway usage to other modes such as transit, greater use of carpooling and High Occupancy Vehicle [HOV] lanes, progressive land use planning, and the use of alternative fuels, or electric vehicles. In other words, "no good deed, goes unpunished" under such a national policy.

Gasoline taxes are an efficient and low-cost way of raising revenue for transportation purposes. They should not, however, be attributed a policy importance that they do not deserve.

Let me conclude my statement by encouraging all of the Members of the Senate to work together as we craft an ISTEA reauthorization proposal. I know we have some substantial disagreements that need to be resolved.

As we move forward, we need to keep in mind the diversity and uniqueness of the country and all of its transportation needs. All of us must resist the temptation to set a national transportation policy based solely on our own region's particular demands. The demands of the Northeast are different from those of the South; the demands of the South are different from those of the West. And so on.

We need to be cognizant of the population growth that has taken place in the South and Southwest and the strains that such growth has put on areas within that region. Many of the Western States, by contrast, with their low-population density and the great distances involved in travel, rely on highways as the major mode of transportation. We also need to acknowledge the uniqueness of the Northeast United States; its older infrastructure and acute congestion make it more dependent on nonhighway modes such as transit and Amtrak. Attempts to pass a new bill by forming alliances along regional lines will fail unless the bill recognizes the needs of all regions.

I am hopeful that the ISTEA reauthorization will build upon the strong record of its predecessor. Admittedly, the transition from old policies and practices to those embodied in ISTEA has not always been easy, and more work needs to be done. However, we should not let these bumps in the road cause us to retreat from the progress we have made.

Mr. President, I ask unanimous consent that the text of the bill summary be printed in the RECORD.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title; Secretary Defined; Table of Contents

This section designates the title of this legislation as the "National Economic Crossroads Transportation Efficiency Act of 1997," defines "Secretary" as the Secretary of Transportation, and lists the table of contents for this legislation.

TITLE I—SURFACE TRANSPORTATION

Sec. 1001. Short Title; Authorization of Appropriations

This section designates title 1 of this bill as the "Surface Transportation Act of 1997." This section also authorizes sums out of the Highway Trust Fund (other than the Mass Transit Account) for the National Highway System, the Interstate maintenance program, the surface transportation program, the congestion mitigation and air quality improvement program, the highway bridge replacement and rehabilitation program, the Federal Lands Highways program, the infrastructure safety program, the integrated safety fund, the national recreational trails program, and university transportation centers.

Authorizations for other highway trust-funded programs not included in this section are included in the legislative provisions authorizing the programs themselves, such as Federal Highway Administration's research and technology, Intelligent Transportation Systems, and motor carrier safety programs.

Paragraph (5) establishes a $17 million annual take-down from HBRRP apportionments to fund the alteration of bridges determined to be unreasonable obstructions to navigation under the Truman Hobbs Bridge Act, 33 U.S.C. 511–524, and requires the Secretary to transfer such sums (contract authority), an amount of obligation authority equal to 100 percent of such contract authority, and the responsibility for administering such sums to the United States Coast Guard. These sums are to be administered in accordance with the Truman Hobbs Bridge Act, rather than the HBRRP.

Sec. 1002. Definitions

This section revises the current definition of "operational improvement" found in 23 U.S.C. 101(a) to expressly include the installation, operation, or maintenance of certain Intelligent Transportation Systems infrastructure projects, and the installation or operation of communications systems, roadway weather information and prediction systems, and other such improvements designated by the Secretary that enhance roadway safety during adverse weather. This language expands the definition of operational improvement to include operation and maintenance expenses for public ITS infrastructure projects, since these activities are integral to and inseparable from the installation of the associated infrastructure. Operational improvement projects continue to be eligible for National Highway System (NHS) and surface transportation program (STP) apportionments under the revised NHS and STP provisions of this Act.

Sec. 1003. National Highway System

Paragraphs (a)(1) and (2) amend 23 U.S.C. 103(i) to expand NHS eligibility to make publicly owned intercity passenger rail capital projects eligible for NHS funds under the same criteria that currently apply to transit and non-NHS highway projects under 23 U.S.C. 103(i)(3).

Paragraph (a)(3) amends paragraph 103(i)(13) to expand NHS funding eligibility to include natural habitat mitigation under the same circumstances in which wetlands mitigation is currently eligible for funding under this paragraph.

Paragraph (a)(4) amends section 103 by adding two new items to the list of projects generally eligible for NHS funding: publicly owned intracity or intercity passenger rail or bus terminals and publicly owned intermodal surface freight transfer facilities, other than seaports and airports, where such terminals and facilities are located at or adjacent to the NHS or connections to the NHS; and infrastructure-based Intelligent Transportation Systems capital improvements.

This paragraph also adds to the list of eligible NHS projects a paragraph applicable only to projects on the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. The Federal-aid highway funds provided to these territories are NHS funds, and therefore, in amending the list of NHS-eligible projects under section 103, new paragraph 103(i)(16) permits these territories to use their entire Federal-aid highway apportionments for any STP-eligible project, any airport, and any seaport. This greatly increases the territories' ability to craft the most appropriate solution to their transportation needs, regardless of transportation mode.

Paragraph (a)(5) amends section 103 by adding a definition of "intermodal surface freight transfer facilities." Under this definition, this term would include: any access road, parking or staging area, ramp, loading or unloading area and equipment, rail yard, track, and interest in land, publicly-owned rail access line to a seaport, and publicly owned access road to a seaport, if they are used to effect the transfer of freight.

Because Congress has enacted legislation designating the National Highway System, subsection (b) amends section 103 to strike all out-of-date references to the States, local officials, and the Secretary working cooperatively to develop and submit to Congress a proposed National Highway System; the requirement that Congress must enact a law designating the National Highway System; the requirement for the equitable allocation of highway mileage on the National Highway System among the States; and the interim National Highway System. Subsection (b) also makes several conforming changes to section 103 to reflect the removal of these NHS designation provisions from this section. Subsection (b) also adds a new paragraph to subsection 103(b) to provide congressional approval of the Department's submission of NHS intermodal connectors.

Sec. 1004. Apportionments

Subsection (a) of this section revises 23 U.S.C. 104(a) to more accurately reflect the program authorizations from which the Secretary may deduct to fund the administration of the Federal-aid highway program and surface transportation research.

Subsection (b) of this section amends 23 U.S.C. 104(b) by revising the current formulas for the National Highway System, congestion mitigation and air quality improvement program (CMAQ), and surface transportation program (STP) apportionments.

NHS and STP Program Formulas

Revised paragraph 104(b)(1) provides that NHS funds shall be apportioned in each fiscal year, on or after October 1, according to the following factors:

75 percent according to each State's annual contributions to the Highway Trust Fund (excluding the Mass Transit Account) as a percent of the total annual contributions to the Highway Trust Fund (excluding Mass Transit) by all States (using the latest available data);

15 percent according to each State's annual commercial vehicle contributions to the Highway Trust Fund (excluding the Mass Transit Account) as a percent of the total annual commercial vehicle contributions to the Highway Trust Fund (excluding Mass Transit) by all States (using the latest available data). Commercial vehicle contributions to the Highway Trust Fund include Federal diesel fuel taxes, the Federal heavy vehicle use tax, the Federal truck and trailer excise tax, and the Federal truck tire tax (using the latest available data); and

10 percent according to each State's public road mileage as a percent of the total public road mileage for all States (using the latest available data);

With the guarantee that each State's annual apportionments will equal no less than one-half of one percent (0.5 percent) of the total annual apportioned NHS funds.

Revised paragraph 104(b)(3) provides that STP funds shall be apportioned according to the following factors:

70 percent according to each State's annual contributions to the Highway Trust Fund (excluding the Mass Transit Account) as a percent of the total annual contributions to the Highway Trust Fund (excluding Mass Transit) by all States (using the latest available data); and

30 percent according to each State's total population as a percent of the total population of the United States (using the latest available annual data);

With the guarantee that each State's annual apportionments will equal no less than one-half of one percent (0.5 percent) of the total annual apportioned STP funds.

CMAQ Formula

The existing CMAQ formula at 23 U.S.C. 104(b)(2) is based on two factors: the population living in ozone nonattainment areas within each State and the severity of that ozone pollution. For increasing levels of severity, an additional weighting factor is applied to the nonattainment area population, rising from 1.0 for the least severe to 1.5 for the most severe ozone air pollution. If an ozone nonattainment area is also nonattainment for carbon monoxide, it receives an additional weighting factor of 1.2. Under the NHS Designation Act of 1995, CMAQ apportionment factors (including the nonattainment area population and the severity level, or "classification") were frozen as they were in 1994 to hold CMAQ funding levels even for States whose nonattainment areas were redesignated to attainment and thus dropped out of the apportionment formula.

In subparagraphs 104(b)(2) (A) and (B), the basic formula would remain the same, however additional funding would be apportioned to States with particulate matter pollution and additional consideration would be given to carbon monoxide pollution. Also, a new weighting factor is employed for those areas that have redesignated to attainment, or "maintenance areas". They would be given a 1.0 weighting factor and all other ozone nonattainment areas would be bumped up, ranging from a factor of 1.1 to 1.5.

In subparagraph 104(b)(2)(D), any additional area newly designated as nonattainment as a result of a change in the national ambient air quality standards that has submitted to EPA a State implementation plan will have its population included in the CMAQ apportionment formula with a weighting factor of 1.0.

To ensure that no State will receive less in CMAQ funding as a result of a redistribution of funds caused by the new standards, new subparagraph 104(b)(2)(E) provides such sums as necessary from the surface transportation program before STP funds are apportioned, to hold States harmless.

National Recreational Trails Program

Subsection (c) of this section amends 23 U.S.C. 104(h) to establish the formula to be used in apportioning funds authorized to be appropriated for carrying out the National Recreational Trails Program. In paragraph 104(h)(1), the Secretary is directed to deduct, from the sums authorized to carry out this program, an amount to cover the cost of administering the Recreational Trails Program, the cost of research under that program, and the cost of administering the Federal Recreational Trails Advisory Committee. Paragraph 104(h)(1) also limits this amount to three percent or less of the sums authorized. Paragraph 104(h)(2) delineates the manner in which the Secretary is to apportion among the States the remainder of the sums authorized to be appropriated to carry out the Recreational Trails Program. Subparagraph 104(h)(2)(A) provides that the Secretary is to apportion fifty percent of the remainder of the authorized sums equally among the States eligible for funding under the Recreational Trails Program. Subparagraph 104(h)(2)(B) directs the Secretary to apportion the other fifty percent among the

eligible States in amounts proportionate to the degree to which non-highway recreational fuel was used in each such State during the preceding year.

Woodrow Wilson Memorial Bridge

Subsection (d) of this section amends 23 U.S.C. 104(i) to authorize funding for fiscal years 1998, 1999, and 2000, to remain available until expended, for the rehabilitation of the existing Woodrow Wilson Memorial Bridge and for the costs related to construction of a new bridge. The design of the new bridge will be based on the design selected by the Woodrow Wilson Memorial Bridge Coordination Committee, and no actual construction contracts can be let until ownership of the bridge is transferred to the Woodrow Wilson Memorial Bridge Authority. The requirements for design selection and transfer of ownership were established by the Woodrow Wilson Memorial Bridge Authority Act of 1995. Construction of the new bridge shall be administered in accordance with Federal Acquisition Regulations.

Subsection (e) of this section adds a new subsection, (k), to section 104, recodifying current subsection 134(k) with one significant revision. New subsection 104(k) establishes a process for transferring and administering transit funds made available for highway projects and highway funds made available for transit projects. This subsection has been revised to expressly provide for program-wide transfers of funds and a like amount of obligation authority, where the current subsection only provides for the project-by-projects transfer of funds. This subsection also provides for program-wide transfers of highway and transit funds to Amtrak and other eligible rail projects.

AUDITS OF HIGHWAY TRUST FUND

Subsection (f) permits the Secretary to reimburse the Department of Transportation's Inspector General for the cost of conducting annual financial statement audits of the Highway Trust Fund in accordance with the Chief Financial Officers Act of 1990.

EQUITY ADJUSTMENTS

Subsections (g) and (h) of this legislation revise and rename the current minimum allocation provision of title 23. As revised, 23 U.S.C. 157(a)(1) provides that each State shall receive at least 90 of its annual contributions to the Highway Trust Fund (excluding the Mass Transit Account) as a percent of total annual contributions to the Highway Trust Fund (excluding Mass Transit) by all States (using the latest available data.) Such adjustment shall only apply to funds apportioned under the following programs: Interstate maintenance, National Highway System, bridge, surface transportation program/enhancements, congestion mitigation and air quality improvement, metropolitan planning, and infrastructure safety.

Paragraph 157(a)(2) provides that for fiscal years 1998 through 2003, each State except Alaska shall receive at least 90 percent of the funds apportioned to that State in the preceding fiscal year, including equity adjustments, but excluding State percentage guarantee amounts. Alaska shall receive at least 90 percent of its previous year's apportionments in fiscal year 1998 and 100 percent of each preceding year's apportionments for each of fiscal years 1999 through 2003.

Sec. 1005. State Percentage Guarantee

Similar to the hold harmless provision (subsection 1015(a)) of ISTEA, this section establishes levels for annual apportionments such that each State is guaranteed to receive at least a certain percentage of total apportionments for each year for the NHS, CMAQ, STP, IM, bridge, infrastructure safety, both equity adjustments in section 157, and Interstate reimbursement programs. Each State's STP apportionment would be increased or decreased as necessary each year to ensure that the total amount of specified apportionments at least equals the percentage specified in this section for every State.

Sec. 1006. Project Approval and Oversight

This section revises 23 U.S.C. 106, concerning Federal and State responsibilities for projects funded under title 23.

Paragraph (a)(1) of this section retitles section 106 from "Plans, Specifications, and Estimates" to "Project Approval and Oversight" to reflect the greater scope of this section, as revised.

Paragraph (a)(2) of this section redesignates subsection 106(e) and (f) as 106(f) and (g), respectively.

Paragraph (a)(3) of this section strikes current subsections 106(a), (b), (c), and (d) and replaces them with five new subsections. While several of the provisions of these four subsections have been incorporated into this revised section, the 15 percent limit on estimates for construction engineering, found in current subsection 106(c), has not been included in this new section. Striking current subsection 106(c) eliminates this outdated provision that has been found to be flawed for several reasons. It is burdensome to both the States and the Secretary to collect and maintain the data necessary to monitor States' compliance with this provision. Also, because this is only a limit on aggregate (State-wide) construction engineering costs, it is ineffective at controlling such costs on any individual project. Also, this provision has been found to be unnecessary because the benefits of limiting construction engineering costs are uncertain, and an argument can be made that such a limit could potentially affect the quality of the project. Without this limit, States can be reimbursed for their actual costs of construction engineering for each project without having to compile the costs of construction engineering in an annual accounting to see if the costs are, on average, within the 15 percent limitation.

New subsection 106(a) combines the current two-step process for project approval and execution of a project agreement into a process where both actions are taken concurrently, by merging the provisions of current subsection 106(a) with current subsection 110(a). Current subsection 106(a) provides for the Secretary's approval of plans, specifications, and estimates that a State submits for approval. The Secretary's approval constitutes an obligation of the Federal government to pay the Federal share of the cost of the project. Current subsection 110(a) provides for the execution of a project agreement that formalizes the conditions of the project approval. Execution of the project agreement typically occurs at a time later than the time of project approval (usually after contract bids are received). In merging these current provisions for project approval, execution of the project agreement, and obligation of Federal funds into a single process, this subsection would greatly simplify these procedures.

New subsection 106(b) combines the project agreement provisions from current subsections 110(a) and (b) into one subsection. This new subsection states that the project agreement shall specify the State's pro rata share of project costs and provides that the Secretary may rely on the State's representations of arrangements or agreements made by the State with local officials, where projects are to be constructed at the expense of, or in cooperation with, local agencies.

New subsection 106(c) parallels current subsection 117(a) and covers the conditions governing the Secretary's responsibilities for oversight of projects funded under title 23, and how those responsibilities may be discharged. New paragraph 106(c)(1) permits the Secretary to discharge to the State the Secretary's responsibilities under title 23 for the design, plans, specifications, estimates, contract awards, and inspection of projects on the National Highway System (NHS). The intent of this paragraph is to provide significant flexibility to the States and the Secretary to discuss and mutually determine the appropriate balance between State and Federal (FHWA) oversight for Federal-aid highway projects, taking into account overall needs and resources. A threshold of responsibility for the States is ensured in that this paragraph provides that the Secretary's responsibilities under this provision shall be no greater than they are under current law, unless differently agreed upon by the Secretary and the State. The oversight agreement to be reached by the Secretary and the State could be based on the scope and complexity of NHS projects or other criteria determined significant by a State. The agreement could also take into account different levels of Federal oversight on NHS projects: from a detailed review of all project actions to a process review/product evaluation approach. Under new paragraph 106(c)(2), the State must assume the Secretary's responsibilities under title 23 for oversight of projects off of the National Highway System.

New subsection 106(d) is meant to be substantively the same as current subsection 117(e). This language clarifies that, in discharging responsibilities to the States under new section 106, the Secretary is discharging only those title 23 responsibilities listed in this section. The Secretary may not discharge any other Secretarial responsibilities under any other Federal law, including sections 113 and 114 of title 23, United States Code, the National Environmental Policy Act of 1969, title VI of the Civil Rights Act of 1964, the Uniform Relocation Assistance and Land Acquisitions Policies Act of 1970, and any Federal laws administered by the Department of Labor.

New subsection 106(e) is substantively identical to current subsection 106(d); only an out-of-date reference to "any Federal-aid system" has been updated. This subsection provides that the Secretary may require that plans, specifications, and estimates for proposed projects on any Federal-aid highway be accompanied by a value engineering or other cost reduction analysis.

New subsection 106(f) provides that the Secretary shall require a financial plan for any project with an estimated total cost of $1 billion or more.

Subsection (b) of this section amends title 23 by creating a new subsection 109(r). New subsection 109(r) parallels a provision in current paragraph 106(b)(3) governing safety considerations for projects for which the State has assumed the Secretary's responsibility for approving plans, specifications, and estimates. This new subsection provides that safety considerations for projects under this title may be met by phase construction. In placing this sentence in section 109, which sets forth Federal standards for all title 23-funded projects, this amendment permits States to use phase construction to meet safety considerations on any title 23-funded project.

Subsection (c) of this section revises the provision making Davis-Bacon Act wage protections applicable to highway construction projects so that the scope of this provision is commensurate with the scope of project eligibility under title 23. That is, where the current subsection 113(a) applies the Davis-Bacon Act's prevailing wage requirement to laborers and mechanics employed by contractors or subcontractors on the construction work performed on highway projects, this revised language would extend these wage protections to the same workers employed on any project eligible for funding under title 23—not simply highway construction projects. This subsection does not apply to projects on local roads and rural minor collectors and on transportation enhancement and recreational trails programs not within a Federal-aid highway right-of-way or otherwise linked based on proximity or impact to a Federal-aid highway.

Subsection (d) of this section strikes current sections 110 and 117 because these sections have been incorporated into the new section 106. Subsection also strikes section 105, because this section is out-of-date, having been superseded in by the State transportation improvement program requirements of section 135, which were added by ISTEA.

Subsection (e) of this section makes a conforming amendment to the analysis at the start of chapter 1 of title 23 to reflect the new title of section 106 and to remove the items relating to sections 110 and 117, which have been stricken.

Sec. 1007. Real Property Acquisition and Corridor Preservation

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) placed increased emphasis on sound transportation planning, including the preservation of transportation corridors for future use. Ongoing efforts by State and local officials to preserve such corridors can be hampered when development pressures create adverse impacts on affected property owners. Development, when not coordinated with transportation needs, can often foreclose options available to transportation officials to avoid environmentally sensitive sites. Often in such cases, early action and acquisition is the only way to assure that lands can be obtained and reserved for future use.

The changes made by this section expand or modify the flexibility provided to local and State governments to take prudent public action to compete for land resources and implement corridor preservation programs adopted through the public planning process.

Sections 108 and 323 of 23 U.S.C. are modified to remove restrictive language and outdated programs, revise language, and add opportunities for States and local governments to utilize early acquisition when necessary while retaining maximum flexibility to leverage the use of Federal funds.

Section 108 is retitled to reflect its applicability to general corridor preservation programs as well as to identified project right-of-way needs.

Subsection 108(a) is revised to conform with the new title for this section and to provide that property acquisition can be conducted in support of federally assisted transportation improvements and is not limited to Federal-aid highways. States can use any apportioned funds for land acquisition, but the action must be supported by their approved transportation program. The term "highway department" is removed from the section to reflect the changed organizational environment and the move to multi-modal planning processes.

Subsection 108(c) is revised to provide an expiration and close-out period for obligations already authorized from the right-of-way revolving fund. No allocations of funds have been made during the last two years, and the fund is no longer considered necessary to support State acquisition activities. Subsection 108(c), as revised, provides that credits based on conversion or reimbursements are to be applied to the Highway Trust Fund rather than the revolving fund.

Section 323 is amended to add flexibility and to provide an alternative means of leveraging Federal funds apportioned to each State by providing a credit based on the value of publicly owned lands incorporated within a federally funded project. This credit applies not only to property that has been donated to the State or local government, but also other property that is owned by the State or local government, so long as at the time such property was acquired there was no intent to avoid requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act or any other Federal law. This provision is consistent with the credits already permitted for donated real property and services. Along with other financing options provided under ISTEA (including provisions retained in 23 U.S.C. 108 regarding reimbursement for property acquired in advance of Federal authorizations and innovative options to establish State-based funds to support early acquisitions), the provisions added by this section expand the choices available to State and local governments in fashioning financial strategies to best serve their transportation objectives.

Sec. 1008. Proceeds from the Sale or Lease of Real Property

Current section 156 of title 23, United States Code, requires States to charge fair market value for the use of airspace acquired in connection with a federally funded project. This section also authorizes States to retain the Federal share of net income from the sale, use, or lease of this airspace as long as that same amount was used by the State for projects eligible for funding under title 23.

This section revises 23 U.S.C. 156 to expand these principles regarding airspace income to apply to the net income generated by a State's lease, sale, or other use of all real property acquired with Federal financial assistance. This reduces administrative overhead relating to property management practices and simplifies such practices by applying the same standard to all real property interests that are acquired with Federal-aid highway funds and requiring that the Federal share of any proceeds be reapplied within the State to other projects eligible for funding under title 23.

Sec. 1009. Interstate Maintenance Program

Subsection (a) strikes subsections 109(m) and 119(b) of title 23, United States Code, to eliminate both the requirement for the Secretary of Transportation to issue Interstate maintenance guidelines and the requirement for States to annually certify that they have a maintenance program in place that is in accordance with those guidelines. Subsection (a) also strikes subsection 119(e) of such title to eliminate the separate Interstate System preventive maintenance eligibility standard. Accordingly, Interstate System preventive maintenance eligibility would be determined in accordance with the general preventive maintenance provision of subsection 116(d).

Subsection (b) amends subsection 119(c), now 119(b), to expand IM eligibility to include the reconstruction of Interstate highways and infrastructure-based ITS capital improvements to the extent that they improve the performance of the Interstate.

Subsection (c) revises subsection 119(f), now 119(d), to require a State that seeks to transfer any of its IM funds to its NHS or STP apportionments to annually certify that it is adequately maintaining its Interstate pavement and bridges and that the IM funds it seeks to transfer are in excess of its needs for its Interstate pavement and bridges.

Subsection (d) technically amends subsection 119(a) to strike an out-of-date reference to subsection 119(e).

Sec. 1010. Maintenance

Subsection (a) amends subsection 116(a) of title 23, United States Code, to revise an out-of-date reference to a Federal-aid highway system and to clarify when a State's duty to maintain shall cease.

Subsection (b) adds a requirement to subsection 116(a) that each State annually certify that it is maintaining its Federal-aid highway projects.

Subsection (c) makes several technical amendments to subsections 116(b) and (c).

Sec. 1011. Interstate 4R Discretionary Program

This section amends 23 U.S.C. 118(c) to reauthorize the current Interstate 4R discretionary program at a level of $45 million per year for each of fiscal years 1998 through 2003. The eligibility, priority, and funds availability criteria for this program are unchanged from current law.

This section also strikes paragraph 118(c)(1) to eliminate an out-of-date provision. Paragraph 118(c)(1) authorized funding for a set aside from Interstate construction apportionments for construction projects, however, funds were not authorized for the Interstate construction program after fiscal year 1995.

Sec. 1012. Emergency Relief Program

Subsection (a) of this section amends 23 U.S.C. 120(e) to reduce the Federal share payable on emergency relief projects to 75 percent of the cost of each such project. This amendment brings the Federal share requirement of the FHWA's emergency relief program in line with the government-wide emergency relief proposal advanced by the President. Subsection (a) also amends 23 U.S.C. 120(e) to shorten the time period in which States receive a 100 percent Federal share of emergency relief funds to the first 30 days after a disaster occurrence. ER funds can be used for eligible emergency repairs done to restore essential highway traffic, minimize the extent of damage, or protect the remaining facility. The 100 percent Federal share requirement for emergency relief projects on Federal lands and U.S. territories is unchanged. Paragraph (a)(1) of this section technically amends 23 U.S.C. 120 to replace an outdated reference to Federal-aid highway systems.

Paragraphs (b)(1), (2), and (3) strike 23 U.S.C. 125(a), redesignate subsections 125(b), (c), and (d) as 125(d), (e), and (f), respectively, and reorganize subsection 125(a), dividing the subsection by subject matter, removing out-of-date language concerning emergency relief authorizations for prior years, and providing that emergency relief funds shall be available until expended.

Paragraph (b)(4) makes conforming amendments to 125(d), as so redesignated, to conform internal section references to the changes made by paragraph (b)(2).

Paragraph (b)(5) technically corrects 125(e), as so redesignated, to correct a reference to Federal-aid highways.

Sec. 1013. Toll Roads, Bridges, Tunnels, and Ferries

Subsection (a) of this section amends paragraph 129(a)(1) of title 23, United States Code, to remove the prohibitions against Federal participation in the initial construction of a toll highway, bridge, or tunnel on the Interstate System or in the reconstruction of a toll-free Interstate highway and its conversion to a toll facility. Such initial Interstate construction or Interstate reconstruction/conversion would be eligible for Federal-aid highway funds to the same extent and under the same terms (including limitations on the use of toll revenues) as such projects on non-Interstate highways, bridges, and tunnels currently are eligible under section 129 of such title. For those States that choose to toll Interstate routes under this provision, the Department encourages the use of electronic tolling. Electronic tolling shortens delays at toll facilities, thereby shortening trip times and reducing vehicle emissions.

Subsection (b) of this section eliminates an out-of-date subsection (129(d)) which established a tolling pilot program that has accomplished its intended purpose. However, pilot toll agreements that were executed under subsection 129(k) are still valid unless they were modified under 23 U.S.C. 129(a)(6).

Sec. 1014. Surface Transportation Program

Subsection (a) amends subsection 133(a) of title 23, United States Code, to reflect that the surface transportation program provided for under this section has already been established.

Subsection (b) of this section amends paragraph 133(b)(2) to clarify that the eligibility for privately owned vehicles and facilities used to provide intercity passenger service by bus or rail under the STP program parallels the eligibility of such vehicles and facilities under 49 U.S.C. 5302(a)(1), as revised by this Act. Subsection (b) also amends 133(b) to expand STP eligibility regarding safety projects to include publicly owned rail safety infrastructure improvements and programs and non-infrastructure highway safety improvements. Subsection (b) also amends paragraph 133(b)(3) to make clear that STP funds may be used to fund the modification of existing public sidewalks to comply with the requirements of the Americans with Disabilities Act. Subsection (b) also codifies a provision governing transportation enhancements eligibility that has been set forth in agency guidance: a transportation enhancements activity must have a direct link to surface transportation. Subsection (b) also expands STP funding eligibility to include natural habitat mitigation under the same circumstances in which wetlands mitigation is currently eligible for funding under 133(b). Subsection (b) also amends subsection 133(b) to expand STP eligibility to include two new categories of projects: publicly owned intercity passenger and freight rail infrastructure and rail passenger vehicles.

Subsection (c) amends section 133 to eliminate the safety set-aside from the STP program and makes conforming amendments to section 133. Highway safety programs will be funded by a direct authorization, rather than as a set-aside of the surface transportation program.

Subsection (d) amends paragraph 133(e)(2) to scale back the current quarterly, project-by-project State certification and notification requirements to annual, program-wide approval of each State's project agreement. Administrative procedures would be established to support the obligation by identifying the projects to be advanced during the period.

Subsection (e) strikes the second sentence in paragraph 133(e)(3) which required that payments made by the Secretary to the States under section 133 could not exceed the Federal share of costs incurred as of the date the State requested payments.

Subsection (f) revises subsection 133(f) regarding the allocation of obligation authority to urbanized areas to extend this provision through the life of the reauthorization. Current FHWA guidance provides that a State is deemed to have complied with this provision if the target amounts of obligation authority for individual areas have been obligated or if the State and MPO agree and document that the obligation authority was made available, but the area was unwilling or unable to use it. Revised subsection 133(f) also requires that each State and MPO ensure the fair and equitable treatment under 133(f)(1) of central cities of over 200,000 in population.

Sec. 1015. Metropolitan Planning

Subsection (a). General Requirements

Subsection 134(a) of title 23, United States Code, sets forth the general bases, goals, and functions of the metropolitan planning process established under this section. This subsection has been revised to emphasize system management and operation (excluding maintenance) to underscore the need to support existing transportation systems and implementation of Intelligent Transportation Systems. A reference to locally determined fair and equitable treatment of all parts of the metropolitan planning area within the planning process is added to emphasize regional problem solving and resource distribution.

Subsection (b). Metropolitan Planning Organizations (MPOs)

Paragraph (1) establishes the process for designation (creation) of metropolitan planning organizations. This paragraph retains the current method for designation of MPOs by agreement of the Governor and units of general purpose local government, but requires that such local governments represent 51 percent of the affected population (under current law, such governments must represent 75 percent of the affected population). This paragraph retains the provision of current law that an MPO can only be designated under this arrangement if the central city agrees to the proposal. As revised, this paragraph also permits designation, consistent with this provision, under procedures established by State law. Under current paragraph 134(b)(1), State or local law can govern.

Paragraph (2) replaces current paragraph 134(b)(5) and establishes the process for redesignation of existing metropolitan planning organizations. This paragraph retains the current method for redesignation of MPOs by agreement of the Governor and units of general purpose local government, but requires that such local governments represent 51 percent of the affected population (under current law, such governments must represent 75 percent of the affected population). This paragraph retains the provision of current law that an MPO can only be redesignated if the central city agrees to the proposal. This paragraph also permits redesignation, consistent with this provision, under procedures established by State law.

The special provisions for Los Angeles and Chicago to request redesignation have been removed because they have not been used by either area.

Paragraph (3) replaces current paragraph 134(b)(6) and establishes the process for designating multiple metropolitan planning organizations in a single metropolitan planning area. Under current law, the Governor alone is responsible for determining whether more than one MPO is needed. As revised, this paragraph includes local officials acting through the MPO and the Secretary of Transportation as key participants in determining whether to create multiple metropolitan planning organizations to serve a single metropolitan area.

Paragraph (4) replaces current paragraph 134(b)(2). This paragraph identifies the membership of the policy boards of metropolitan planning organizations serving areas designated as transportation management areas. In this paragraph, specific reference is made to the policy board of the MPO, rather than the more general reference to the MPO, as provided in current law, to make clear that these membership requirements are meant to apply to the policy boards only.

The current paragraph 134(b)(4) "grandfathering" all MPO structures existing and not redesignated after December 18, 1991, has been deleted to give State and local officials more flexibility in structuring their MPOs.

Paragraph (5) replaces current subparagraphs 134(b)(3)(A) and (B). This paragraph provides that nothing in subsection 134(b) shall interfere with a public agency's authority, under State law, to develop plans and programs for adoption by an MPO and to develop long range capital plans, coordinate transit services and projects, and carry out other activities under State law. No substantive revisions have been made to this language.

Subsection (c). Metropolitan Planning Area Boundaries

This subsection establishes the basis for designating metropolitan planning area boundaries. Such boundaries include the existing urbanized area, the contiguous area expected to become urbanized in the next 20 years, and any areas in nonattainment for ozone, carbon monoxide or particulate matter. This subsection differs from current subsection 134(c) in several ways. It freezes the connection between nonattainment areas and metropolitan planning areas to the metropolitan planning area boundaries in existence as of September 30, 1996, but allows the Governor and the MPO, upon agreement, to expand the boundaries of a metropolitan planning area. This paragraph also adds nonattainment areas for particulate matter to this list of nonattainment areas to be included in the boundaries of a metropolitan planning area. Finally, this paragraph is revised to provide that for urbanized areas designated after September 30, 1996, the Governor and units of general purpose government must establish metropolitan planning area boundaries that appropriately address current areas in nonattainment for ozone, carbon monoxide, or particulate matter.

Subsection (d). Coordination in Multi-State Areas

Paragraph (1) requires the Secretary to encourage the coordination of metropolitan planning activities in metropolitan planning areas divided by State boundaries and served by multiple MPOs. Clarifying editorial changes have been made.

Paragraph (2) authorizes two or more States to enter into a compact to cooperate in implementing the planning activities authorized under this section. This provision is unchanged from current law.

Subsection (e). Coordination of MPOs

This subsection requires coordination between two or more metropolitan planning organizations with authority within a metropolitan planning area or a nonattainment area. This subsection has been revised to include areas that are in nonattainment for particulate matter. In addition, it requires each MPO to coordinate their plans and programs under this section with each other, where the current provision requires that they consult with each other.

Subsection (f). Scope of the Planning Process

This subsection identifies the issues to be considered in the planning process when developing plans and programs. This subsection has been revised to create seven broad clusters of issues, where current subsection 134(f) includes 16 specific factors. These seven clusters encompass the 16 factors included in current law, but are meant to give planning officials greater flexibility, e.g., landside port access planning could be conducted within the metropolitan planning process under 134(f)(1)(E). The use of these clusters must be reflected in their application in transportation decisionmaking. These same clusters, with minor modifications, are used in the Statewide planning provision of 23 U.S.C. 135 for consistency and clarity.

Subsection (g). Development of Transportation Plan

This subsection has been renamed, from "Development of Long-Range Plan" to "Development of Transportation Plan" to emphasize the comprehensive, multi-modal transportation focus of the plan, rather than its time frame.

Paragraph (1) sets forth the requirement for a transportation plan in each metropolitan area.

Paragraph (2) lists the minimum contents of the plan. This paragraph eliminates the requirement that the plan be in a form determined by the Secretary. These subparagraphs also require consideration of strategies to address system preservation and efficiency of use. The focus of this plan has been broadened to emphasize all transportation investments, including system management and operation (excluding maintenance) and to eliminate the distinction between transit systems and highways. In addition, the reference to vehicular congestion has been modified.

Subparagraph (C) of this paragraph sets forth the requirement for a financial plan based on resources that are available or that can reasonably be made available. This financial planning language has been slightly revised for clarity. In addition, a new requirement for a cooperative process, involving the MPO, public transit agency, and the State, for estimating the resources available to support implementation of a plan has been included.

Current subparagraph (D) requiring the plan to list proposed transportation enhancement activities has been eliminated as unnecessary because all federally supported improvements are already required to be in a plan and program.

Paragraph (3) is retitled and modified to revise the coordination between transportation planning and air quality agencies and to add coordination with other planning processes. Subparagraph (A) requires that MPOs coordinate with State air quality agencies in metropolitan areas that are in nonattainment for ozone or carbon monoxide. Subparagraph (A) also is revised to include areas in nonattainment for particulate matter. Current paragraph (3) requires State air quality agencies and MPOs to coordinate the development of the long-range (now transportation) plan with the development of transportation control measures of the State implementation plan. The revised subparagraph requires State air quality agencies and MPOs to ensure cooperation in the development of air quality and transportation plans. This strengthens the reciprocal relationship between the planning processes beyond just the development of transportation control measures. Subparagraph (B) is added to support the relationship in metropolitan areas between related planning activities and processes. Development of transportation plans is expected to account for related investments and program strategies developed through other planning activities, e.g., economic development and revitalization. Such coordination would ensure that transportation projects and programs would consider, for example, the needs of low income communities so that they would be effectively integrated with transportation investments.

Paragraph (4) requires that each MPO provide an opportunity for public participation and involvement in the planning process. This paragraph is revised to add freight shippers to the list of interested parties to be provided a reasonable opportunity to comment on the transportation plan.

Paragraph (5) requires that each MPO publish or otherwise make readily available to the public its transportation plan. This provision is unchanged from current law.

Subsection (h). Metropolitan Transportation Improvement Program

Paragraph (1) of this subsection establishes the requirement for each MPO to develop, in cooperation with the State and affected public transit operators, a transportation improvement program for its metropolitan area. This program must be updated every two years, and interested parties must be provided with a reasonable opportunity to comment on the proposed program. This paragraph is revised to add freight shippers to the list of interested parties.

Paragraph (2), retitled content, requires the transportation improvement program to include a list of federally funded surface transportation projects and strategies to be carried out within the first 3 years of the program. This paragraph also requires the program to include a financial plan demonstrating how the program can be implemented, indicating the resources that are reasonably expected to be available to carry out the program and any innovative finance techniques needed. This paragraph has been revised to require the MPO, public transit agency, and State to cooperatively develop estimates of funds that will be available to support program implementation.

Paragraphs (3), (4), and (5) have been reordered from previous statutory language for clarity.

Paragraph (3), included projects, replaces paragraph (h)(5). [Current paragraph (h)(4), requiring the Secretary to initiate a rulemaking within 6 months of enactment of ISTEA on conforming NEPA review of transit projects with NEPA review of highway projects has been deleted because this requirement has already been met.] Paragraph (4) provides that only those projects or identified project phases that can be reasonably anticipated to be fully funded may be included in a transportation improvement program.

Paragraph (4), notice and comment, replaces current paragraph (h)(6). This paragraph requires MPOs to provide the public and interested parties with reasonable notice of and an opportunity to comment on a proposed transportation improvement program before approving the program.

This paragraph has been revised to require the MPO to cooperate with the State and public transit operators in implementing this requirement.

Paragraph (5), project selection, clarifies the distinction between project selection and TIP development as established in ISTEA. TIP development is a cooperative process involving the MPO, State and transit operators. Project selection, as referred to in ISTEA, is the process for advancing projects as scheduled in the TIP or moving projects between years within an approved TIP. This language clarifies that project selection is exercised once a TIP has been approved and does not apply to TIP development. It may lead in some cases to TIP amendments where significant changes have occurred after TIP approval.

Subsection (i). Transportation Management Areas (TMAs)

This subsection requires the Secretary to designate a special category of metropolitan planning areas—those urbanized areas over 200,000 in population—as transportation management areas and it sets forth a special MPO structure and procedures for the planning process serving those areas.

Paragraph (1) drops the current reference to inclusion of the Lake Tahoe Basin, upon request, as a transportation management area because it is ineffective. The area has not benefitted from this provision, which allowed the area to be designated as a transportation management area but did not give it MPO status or make it eligible for planning funds.

Paragraph (2) requires the planning process in TMAs to be based on continuous, cooperative, and comprehensive planning. This provision is unchanged from current law.

Paragraph (3) requires the creation of a congestion management system within a TMA. The language requiring the Secretary to establish a phase-in schedule for this requirement is deleted because this requirement has been implemented.

Paragraph (4) establishes the process for selecting projects for implementation to be carried out within the boundaries of a TMA and with Federal financial participation.

Paragraph (5) establishes a process for triennial Federal review of the metropolitan planning process in transportation management areas and includes sanctions for failure to meet Federal certification standards. The review process is in addition to approval of the STIP and Unified Planning Work program and Federal conformity determinations. FHWA and FTA actions, when coupled together, can be strategically used to induce improved planning by leveraging the consequences of each action.

Where current paragraph (5) provides for withholding 20 percent of only surface transportation program apportionments attributed to a metropolitan area if it remains uncertified, this revised paragraph provides that the Secretary may withhold all or any part of the apportioned funds attributed to the TMA under titles 23 and 49, United States Code, as the Secretary deems appropriate. Based on this authority, the Secretary has multiple options to apply sanctions to reflect the severity of deficiencies in the planning process under review. Further, this penalty can be applied to reinforce the other approval actions mentioned in the preceding paragraph. The withheld apportionments must be restored to the metropolitan

area once it is certified by the Secretary under this paragraph.

Subsection (j). Abbreviated Plans and Programs for Certain Areas

This subsection enables the Secretary to permit metropolitan areas (other than transportation management areas) to develop an abbreviated metropolitan transportation plan and program that the Secretary determines to be appropriate to achieve the purposes of this section. MPOs that contain nonattainment areas cannot utilize this provision. This subsection is substantially unchanged from current law.

Subsection (k). Additional Requirements for Certain Nonattainment Areas

Previous subsection (k) on transfer of funds has been moved to 23 U.S.C. 104. Previous subsection (l) is redesignated as (k).

This subsection requires single occupant vehicle (SOV) capacity-increasing projects in TMAs classified as nonattainment to be part of an approved congestion management system before they may be federally funded. In addition, this subsection has been revised to include areas that are in nonattainment for particulate matter.

Subsection (l). Limitation on Statutory Construction

Previous subsection (m) is redesignated as (l).

Subsection (l), as so redesignated, provides that nothing in 23 U.S.C. 134 shall be construed to confer on an MPO the authority to impose legal requirements on any transportation facility, provider, or project not eligible under title 23 or chapter 53 of title 49. This subsection would be amended to correct the reference to the restatement of the Federal Transit Act as positive law in chapter 53 of title 49, United States Code.

Subsection (m). Funding

Previous subsection (n) is redesignated as (m).

The source of federal funds to support metropolitan transportation planning is identified. Additionally, this section permits MPOs to make available to the State (for funding Statewide planning under 23 U.S.C. 135) any funds set aside under 23 U.S.C. 104(f) for metropolitan planning that are not used to carry out such planning.

Sec. 1016. Statewide Planning
Subsection (a). General Requirements

Subsection 135(a) of title 23, United States Code, sets forth the general bases, goals, and functions of the Statewide planning process established under this section. This subsection has been revised to emphasize system management and operation (excluding maintenance) to underscore the need to support existing transportation systems and implementation of Intelligent Transportation Systems. A reference to fair and equitable treatment within the planning process for all areas of the State has been added.

Subsection (b). Scope of the Planning Process

This subsection replaces current subsections 135(b), (c), and (d). This subsection identifies issues to be considered in the Statewide planning process. This subsection lists seven broad clusters of issues to be considered. These clusters encompass the 20 factors included in current subsection 135(c) but are meant to give planning officials greater flexibility, e.g., landside port access planning could be conducted within the metropolitan planning process under 135(b)(1)(E). The same clusters, with minor modifications, are used in the metropolitan planning provision. This subsection is also revised to require the State to cooperatively determine with its planning partners how these considerations are translated into State goals and objectives. Finally, this subsection retains, with clarifying edits, the requirements to coordinate Statewide planning with metropolitan planning and for Statewide planning to consider the concerns of Indian tribal governments and Federal lands agencies. An addition is made to address the concerns of elected local officials with jurisdiction over transportation in non-metropolitan areas. An addition also is made to add coordination with other planning processes. Development of transportation plans is expected to account for related investments and program strategies developed through other planning activities, e.g., economic development and revitalization. Such coordination would ensure that transportation projects and programs would consider, for example, the needs of low income communities so that they would be effectively integrated with transportation investments.

Subsection (c). Transportation Plan

This subsection replaces current subsection 135(e) and has been renamed, from "Long-Range Plan" to "Transportation Plan" to emphasize the comprehensive, multi-modal transportation focus of this plan, rather than its time frame. This subsection requires States to develop transportation plans for all areas of the State. This subsection has been revised to clarify that the Statewide plan should cover at least a 20-year forecast period and that it should provide for the development of operations and management strategies, in addition to capital. This subsection also is revised to call for consultation between the State and local transportation officials outside of metropolitan area boundaries when developing the Statewide plan for such non-metropolitan areas. This subsection also adds freight shippers to the list of interested parties to which the State must provide a reasonable opportunity to comment on the proposed plan.

Subsection (d). State Transportation Improvement Program

This subsection replaces current subsection 135(f) and has been renamed from "Transportation Improvement Program" to "Statewide Transportation Improvement Program."

Paragraph (1) of this subsection requires States to develop transportation improvement programs for all areas of the State. This subsection is also revised to call for consultation between the State and local transportation officials outside of metropolitan area boundaries when developing the program for such non-metropolitan areas. This section also adds freight shippers to the list of interested parties to which the State must provide a reasonable opportunity to comment on the proposed program.

Paragraph (2) requires the transportation improvement program to identify all federally funded surface transportation projects. This paragraph has also been revised to provide that the projects included in the Statewide program for metropolitan areas must be identical to the approved metropolitan transportation improvement program .

Paragraph (3) provides for the selection of projects for areas less than 50,000 in population. TIP development is a cooperative process involving the MPO, State and transit operators. Project selection, as referred to in ISTEA, is the process for advancing projects as scheduled in the TIP or moving projects between years within an approved TIP. The proposed language clarifies that project selection is exercised once a TIP has been approved and does not apply to TIP development. It may lead in some cases to TIP amendments where significant changes have occurred after TIP approval. In the case of areas under 50,000 population the State must consult with affected local officials.

Paragraph (4) requires the Secretary to biennially review and approve States' transportation improvement programs. This language is revised to direct the Secretary, before approving a STIP, to find that it is consistent or substantially consistent with this section and 23 U.S.C. 134.

Subsection (e). Funding

This subsection provides that funds made available under 23 U.S.C. 329(a) shall be available to carry out the requirements of this section. This subsection is revised to also make funds set aside under 49 U.S.C. 5313(b) available to carry out these requirements.

Current subsection 135(h), concerning treatment of State laws pertaining to congestion management systems, has been deleted because it is no longer applicable.

Sec. 1017. Research, Training, and Employment Opportunities
Subsection (a) Training

Paragraph (a)(1) The amendment made by this paragraph encourages a State to establish a certain number of training slots on its Federal-aid contracts for welfare recipients residing in the State to help meet its annual goal for placing recipients in work activities, as required by the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996" (the "Welfare Reform Act"). Under the Welfare Reform Act, a State must demonstrate annually that it has moved a certain percentage of families into "work activities." Work activities, with certain limitations, include participation in job training programs. Failure to meet these percentages will result in a reduction in the block grant that the State is entitled to receive. The Welfare Reform Act also imposes a maximum amount of time for which individuals can stay on public assistance.

Subsection 140(a) of title 23, United States Code, currently provides that the Secretary shall, where necessary to ensure equal employment opportunity, require certification by any State recipient that the state has in existence an apprenticeship or skill improvement program. Pursuant to this authority, FHWA issued regulations requiring States to set goals for a minimum number of training slots to be included on Federal-aid highway contracts (23 CFR Sec. 230.111). Annual training goals are submitted to FHWA Division Administrators for approval. The State selects the contracts on which these slots are to be included in order to achieve the goal. Contractors bidding on the contracts include the costs of the trainees (including salaries) as part of their bids.

Under paragraph (a)(1), the State could reserve some of its training slots for welfare recipients. The State could require contractors on Federal-aid projects to fill some of the training slots designated for the contract with welfare recipients. To minimize the burden on the contractor, DOT could require the State to identify eligible welfare recipients in the guidance implementing the program.

Subparagraph (a)(2)(A) Subsection 140(b) currently provides the authority for the FHWA's On-the-Job Training (OJT) Supportive Services Program. Funds are authorized to be used under this section to develop, conduct, and administer highway construction training, including skill improvement

programs. Subparagraph (a)(2)(A) expands the scope of the OJT program to include technology training. This change is proposed so as to capitalize on training opportunities in connection with Intelligent Transportation Systems and other transportation-related technology. This subparagraph also adds Summer Transportation Institutes to the types of programs that can be funded under subsection 140(b). Summer Transportation Institutes are programs that are sponsored by colleges (mostly Minority Institutions of Higher Education) to expose high school students to careers in transportation, to assist them in developing skills that they would need to pursue a career in transportation, and to familiarize them with a college environment. Expanding the program to include Summer Transportation Institutes allows States to provide education, guidance, and motivation for disadvantaged and at-risk youth and to develop a future pool of transportation professionals.

Subparagraph (a)(2)(B) Under the current law, the Secretary is authorized to reserve up to $10 million of the funds authorized under 23 U.S.C. 104(a) to fund the OJT Supportive Services Program. However, this provision was last funded by Congress in 1995, and only at a level of $2 million. FHWA used this funding to pay for ten pilot projects and initiatives focusing on skill improvement and outreach programs to minorities and women. The current legislation also authorizes States to draw down up to ½ of 1 percent of funds apportioned to it for the surface transportation program under subsection 104(b) and the bridge program under section 144. Although there is a significant amount of funding available to the States from this source, the use of these funds has been limited. For example, in 1996, a total of 12 states drew down only 12 percent (less than $4 million) of the $32 million available to develop OJT Supportive Services Programs.

Even though States are not extensively using these funds, a need for training in highway construction and related work continues to exist, especially for disadvantaged and traditionally under represented segments of the population. Women in particular are under-represented in highway construction work: employment of women in highway construction still has not even achieved the goal of 6.9 percent established by the Department of Labor. Further, with the enactment of the Welfare Reform Act, more unskilled workers will be seeking jobs as they are moved off of welfare assistance. Implementation of OJT Supportive Services Programs by the States can help prepare individuals in these groups to take advantage of job opportunities in highway construction and technology.

The statutory language authorizing the States to draw down these funds currently provides that the ½ percent drawdown "may be available" to States to implement OJT Supportive Services programs. This subparagraph proposes to change this language to provide that the ½ percent drawdown "should be utilized" by States to implement OJT Supportive Services Programs. Although the proposed change does not require that States use this draw down, it is intended to more strongly encourage States to use this funding to ensure that some measure of training is available to increase job opportunities on highway construction and related work.

Subsection (b) Employment

American Indians continue to experience unemployment at a disproportionately high rate. On Indian reservations and in Native communities, chronic unemployment ranges from 25 to 85 percent. Subsection 140(d) of title 23, United States Code, currently provides that States "may" implement a preference for employment. Paragraph (b)(1) would change this subsection to provide that States "should" implement a preference for employment. Although the proposed change does not constitute a mandate, it is intended to more strongly encourage States to implement employment preferences of Indians on projects carried out under title 23 near Indian reservations.

This subsection adds a new subsection to 23 U.S.C. 140 that would encourage States to require a contractor on Federal-aid highway projects to hire a certain number of qualified welfare recipients residing in the State, or to hire a certain number of residents of Empowerment Zones or Enterprise Communities (areas of pervasive poverty, unemployment, and general distress that have been designated in accordance with the Omnibus Budget Reconciliation Act of 1993). This new subsection (140(e)) would provide a way for the States to create job opportunities to move people from welfare to work in order to meet their obligations under the Welfare Reform bill. It would also allow States to create job opportunities for people living in Empowerment Zones and Enterprise Communities.

In the proposed program, protections for contractors, as well as protections (such as appeal rights) for potentially eligible welfare recipients, could be included in guidance implementing the program.

This subsection also adds a definition of "welfare assistance."

Also, this subsection adds a new subsection to 23 U.S.C. 140, concerning employment on Federal-aid highway projects in the Virgin Islands. High and chronic unemployment continues to depress the economy of the territory of the Virgin Islands. Recent natural disasters have had an additional negative impact on the economy. Job opportunities that typically accompany federally-funded projects are frequently taken by non-residents who are employed by companies that are based outside of the Virgin Islands.

This subsection (140(g)) would permit the territory of the Virgin Islands to require a contractor on a Federal-aid highway project to give preferences in hiring to qualified persons who regularly reside in the Virgin Islands. Allowing such a preference gives the Virgin Islands a means to help reduce unemployment and to recapture federal funds in its local economy. As in the welfare recipient program described in new subsection 140(e), implementing guidance could include protections for the contractors as well as for potentially eligible residents.

Subsection (c) Technical Corrections

This subsection makes several purely technical corrections to update and correct the language of section 140.

Subsection (d). Minority Institutions of Higher Education

This subsection is intended to carry out one of the objectives of Executive Orders 12982, "Promoting Procurement with Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals, Historically Black Colleges and Universities, and Minority Institutions." This Executive Order requires Federal agencies to establish goals for participation in federal procurement by Historically Black Colleges and Universities (HBCUs) and other Minority Institutions of Higher Education (MIHEs) of not less than 5 percent.

In the past, FHWA established various initiatives to enhance the involvement of MIHEs in all aspects of its federal and federal-aid funded programs. Beginning in FY 95, FHWA set a goal of not less than 5 percent of its research and technology funds to be awarded annually to MIHEs. Although various grants and cooperative agreements have been awarded to MIHEs, the competition requirements for research and technology contracts are an obstacle in achieving the goal. In 1995, FHWA achieved only 3 percent of its 5 percent goal. MIHEs continue to face barriers to participation in the Federal and Federal-aid highway program, particularly when they are required to compete for grants and contracts with majority institutions which have well-established physical plants as well as advance technological expertise and equipment.

Under this subsection, the Secretary is directed to develop a program designed to remove barriers to participation by MIHEs and help them gain the experience and expertise necessary to be competitive with other educational institutions. The Secretary would be able to carry out this program through a variety of mechanisms, including expanded outreach and technical assistance. In addition, notwithstanding the competitive bidding requirements contained elsewhere in title 23, the Secretary would also be permitted limit competition to increase awards under this section. However, such methods may only be used consistent with any laws relating to affirmative action in Federal procurement that apply to this program.

Sec. 1018. Disadvantaged Business Enterprises (DBEs)

This section continues the provisions regarding affirmative action found in §1003(b)(1), (2), (3) and (4) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). Paragraph 1003(b)(1), now subsection 162(a), requires that 10 percent of the funds authorized to be appropriated under four titles of the ISTEA be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals, except to the extent that the Secretary of Transportation determines otherwise. Paragraph 1003(b)(2), now subsection 162(b), defines the terms "small business concern" and "socially and economically disadvantaged individuals." Paragraph 1003(b)(3), now subsection 162(c), requires States to annually survey and compile a list of DBEs. Paragraph 1003(b)(4), now subsection 162(d), requires the Secretary to establish uniform criteria for State governments to use in certifying whether a concern qualifies as a DBE under this section.

This subsection has served the Department well in administering its contracting programs. In FHWA's program alone, the total dollar amount to DBEs in the form of prime contract awards and subcontract commitments is $10.4 billion. Significantly, prior to the enactment of the DBE program by Congress in 1982, minority and women-owned firms participated in approximately 3.5 percent of the Federal-aid highway program.

In 1995, the Supreme Court decided Adarand v Pena, and heightened the standard of judicial review applicable to Federal affirmative action programs, requiring that they meet a standard of "strict scrutiny." The Adarand decision involved the FHWA's Federal land highway program. The Federal land program is carried out directly by FHWA. At issue was a contract provision designed to encourage prime contractors to utilize the services of small and disadvantaged business enterprises through a compensatory incentive payment. The Federal

land highway program uses this provision as part of its effort to comply with both ISTEA and the Small Business Act.

Although deciding that strict scrutiny should henceforth apply to all Federal affirmative action programs, the Supreme Court did not strike down existing statutory requirements. Instead, it remanded the case to the lower courts to determine whether the program at issue meets the strict scrutiny standard of review. By this action, the Supreme Court implicitly recognized the continuing constitutionality of properly structured affirmative action programs.

Indeed, the majority opinion in Adarand recognized the "unhappy persistence of both the practice and the lingering effects of racial discrimination against minority groups in this country." It emphasized that strict scrutiny was not to be "strict in theory, but fatal in fact." The President, in charging Federal agencies to review their programs after the Adarand decision, expressed his desire to "mend, not end" affirmative action.

In order to comply with the Supreme Court's "strict scrutiny" standard, there must be a "compelling governmental interest" to create an affirmative action program. The continued disparity, absent affirmative action measures, in the amount of business actually done by minority and women owned business in relation to the number of individuals ready, willing and able to work in various aspects of the construction and transportation industries has been well documented. A preliminary survey of evidence demonstrating a "compelling governmental interest" for affirmative action in Federal procurement was published on May 23, 1996, in the Federal Register by the Department of Justice as an appendix to its "Notice of Proposed Reforms to Affirmative Action in Federal Procurement." Information available to the Department of Transportation, some of it considered by the Congress in the past, attests to the continuing need of programs which provide enhanced opportunities for disadvantaged business enterprises.

Strict scrutiny requires more. In order to pass constitutional muster, an affirmative action program must be "narrowly tailored" to meet its objectives. The goals or levels of DBE participation should reflect the capacity that such businesses would have had to do the work, but for the continuing effects of discrimination. The 10 percent goal set forth in ISTEA has served the Department well, and has been readily attainable throughout the United States. However, the goal has never been more than a guidepost, even before the Adarand decision. Both the current and proposed regulations require each State and local recipient to establish an overall goal for its program, based on information from its particular jurisdiction. The goals may be higher or lower than 10 percent, based on State and local contracting conditions.

For all of these reasons, continuation of the existing law makes sense. The law sets forth a general goal for the country as a whole. It also gives broad discretion to the Secretary to develop a program which responds to the strict scrutiny standard, both in terms of specific program provisions and higher or lower State or local goals where appropriate. The Department has reviewed its program and is confident that it would survive the strict scrutiny standard required under Adarand. However, in order to improve the program based on the President's direction to "mend, not end" Federal affirmative action programs, and to further clarify how the program complies with the Adarand decision, the Department is proposing a number of changes to its regulations implementing the program.

To this end, the Department will publish its proposed revisions to its current DBE regulations shortly after submitting this bill. It is our belief that these proposed revisions illustrate the flexibility of the current law and the wisdom of allowing the Department to deal administratively with these exceedingly complex issues. First, the revised regulations will set forth a new method by which recipients will establish goals, consistent with the post-Adarand guidance issued by the Department of Justice. Secondly, the regulations will establish that race-neutral measures (such as outreach programs, technical assistance, and assistance in financing) should be used first by recipients to reach their overall goals. Race- and gender-conscious mechanisms, such as subcontracting goals, should only be used to the extent that race-neutral mechanisms fail. Finally, the regulations will propose alternatives to limit the duration of firms' participation in the program, and to reduce the concentration of DBE firms in certain types of work. It is the intent of the Department to finalize these regulations over the next few months after carefully evaluating the many comments we receive.

Sec. 1019. Highway Bridge Replacement and Rehabilitation Program

Subsection (a) of his section sets forth a new, revised section 144 of title 23, United States Code, which provides as follows.

Subsection 144(a) lists the purposes of the HBRRP, which have been revised to reflect the expanded funding eligibility under this revised section (see subsection 144(c) below).

Subsection 144(b) requires the Secretary, in consultation with the States, to annually inventory certain highway bridges on public roads. It also requires the Secretary to consult with the Secretary of the Interior when inventorying highway bridges on Indian reservation roads and park roads. This subsection also permits the Secretary to inventory highway bridges on public roads for historical significance.

Subsection 144(c) lists the types of projects that are eligible for HBRRP funds under this section. Eligibility is divided into two main categories: (1) replacement or rehabilitation of deficient highway bridges, and (2) preventive measures, i.e., seismic retrofitting, painting, calcium magnesium acetate application, and installation of scour countermeasures. This subsection expands current HBRRP eligibility, adding scour countermeasures.

Under subsection 144(d), the current apportionment formula for HBRRP funds is retained; these funds would be apportioned between the States based on the square footage of deficient bridges in each State. But the total cost of deficient bridges in a State would be reduced in fiscal year 2003 by the amount of HBRRP funds that the State transferred to its NHS or STP accounts in the previous four fiscal year and did not restore back to its HBRRP apportionment by the end of fiscal year 2002. Subsection 144(d) also includes provisions governing each State's annual share of the total apportionment and the percentage of HBRRP apportionments that each State must spend on projects on highway bridges on public roads classified as local roads or rural minor collectors.

Subsection 144(e) provides an exemption from the U.S. Coast Guard's bridge permitting requirement for the replacement of highway bridges.

The separate biennial reporting requirement on HBRRP projects, bridge inventories, and recommendations for improvements to the program has been deleted. Instead, this report will be merged with and submitted as a part of the FHWA's biennial conditions and performance report.

Subsection 144(f) provides that each State's apportionment shall be made available for obligation throughout the State on a fair and equitable basis.

Subsection 144(g) requires the Secretary to periodically review the procedure used in approving or disapproving States' applications for HBRRP funds and implement any changes that would expedite this procedure.

Subsection 144(h) requires each State to inventory its bridges to determine their historical significance. This subsection also makes certain historical bridge projects eligible for HBRRP funds and it establishes a process by which a State, locality, or responsible private entity may assume responsibility for a historic bridge that would otherwise be demolished.

Subsection 144(i) states that State laws and standards apply to any HBRRP-funded project not on the National Highway System.

Subsection 144(j) defines the term "rehabilitate" to mean major work necessary to restore the structural integrity of a bridge and work necessary to correct a major safety defect.

Subsection 144(k) reauthorizes the current bridge discretionary program at an annual funding level of $55 million.

Subsection (b) of this section amends the bridge funds transferability language in 23 U.S.C. 104(g) to enable a State to transfer 50 percent of its HBRRP apportionment to its NHS or STP apportionments only if none of the National Highway System bridges in the State require posting under National Bridge Inventory Item 70, bridge posting, which evaluates the load-carrying capacity of a bridge. If the maximum legal load produces a structural stress level above the bridge operating capacity, the bridge must be posted at a lower load level. Therefore, NHS bridges that must be posted are the structures that the States should be replacing or rehabilitating before any HBRRP funds may be transferred to their NHS or STP apportionments.

Sec. 1020. Congestion Mitigation and Air Quality Improvement (CMAQ) Program

Subsection (a) of this section amends subsection 149(a) of title 23, United States Code, to reflect that the congestion mitigation and air quality improvement program provided for under this section has already been established.

Subsection (b):

Areas in Nonattainment as of FY 1994: Subsection (b) strikes the provision in 149(b) that "froze" the nonattainment areas eligible for CMAQ funds as they were during any part of fiscal year 1994.

Expansion to PM–10 Areas: Subsection (b) amends subsection 149(b) to expand CMAQ eligibility to expressly include projects in nonattainment areas for particulate matter (PM–10). FHWA has administratively interpreted subsection 149(b) to include PM–10 projects; this language codifies this eligibility.

Exclusion of Transitional, Submarginal, Not Classified, and Unclassified Areas: Subsection (b) also limits CMAQ eligibility to nonattainment and maintenance areas that were classified as such under the Clean Air Act amendments of 1990, thereby excluding transitional, submarginal, not classified and

unclassified areas from CMAQ eligibility. This provision codifies NHS Act conference report language that accompanied amendments made by that act to the CMAQ program.

Expansion to Two Additional Transportation Control Measures: Subsection (b) also expands CMAQ eligibility to include two traffic control measures identified in the 1990 amendments to the Clean Air Act: vehicle scrappage of pre-1980 vehicles and extreme cold start programs.

Clarification of Nonattainment and Maintenance Area Eligibility/Emissions Reductions: Subsection (b) also revises subsection 149(b) to clarify that only projects that make further improvements to current air quality standards are eligible for CMAQ funding in both nonattainment and maintenance areas. In the case of maintenance areas, subsection (b) expressly provides that projects must reduce emissions to be eligible for CMAQ funds.

Traffic Management and Control Projects: Subsection (b) also consolidates current paragraphs 149(b)(3) and (4). In doing so, this subsection also removes current paragraph 149(b)(4)'s reference to operating assistance for traffic management and control projects. This would restore the general 3-year cap on funding operating assistance, which has been established administratively and which applies to all other CMAQ projects, to traffic management and control projects.

Subsection (c) simply designates the penultimate sentence of subsection 149(b) as new subsection 149(c), and it redesignates 149(c) and (d) as (d) and (e), respectively. The final sentence of subsection 149(b), which addressed the potential eligibility of PM–10 projects within certain nonattainment areas, is deleted as unnecessary, since PM–10 eligibility has been expressly included (see subsection (b) above).

Current section 149(c) allows States that have never had a nonattainment area for ozone, carbon monoxide, or PM–10 to use CMAQ funds for any project eligible under the surface transportation program. Such areas may also continue to fund CMAQ-eligible projects.

Subsection (d) of this section would require that States without nonattainment areas but with maintenance areas fund first CMAQ-eligible activities in such maintenance areas with their CMAQ funds, unless the State can show that its transportation-related maintenance plan activities are fully funded.

Subsection (e) of this section provides that, for purposes of CMAQ funding, the boundaries of nonattainment and maintenance areas will generally continue to be determined in accordance with the classification scheme in the 1990 amendments to the Clean Air Act. If the nonattainment boundaries change as a result of new national ambient air quality standards and any additional area newly designated as a result of such standards has submitted to EPA a State implementation plan, such boundaries would be used under this section.

Subsection (f) amends subsection 120(c) of title 23, United States Code, to exclude projects funded with CMAQ apportionments from the list of certain safety projects eligible for 100 percent Federal participation. As a result, the standard 80 percent Federal share provision of subsection 120(b) that applies to all other CMAQ projects would apply to these projects as well.

Sec. 1021. Interstate Reimbursement

Subsection (a) updates the general authority provision of 23 U.S.C. 160 which directs the Secretary to allocate to the States amounts determined under subsection 160(b) for reimbursement of their original contributions to construction of segments of the Interstate System which were constructed without Federal financial assistance, to reauthorize this provision for fiscal years 1998 through 2003.

Subsection (b) updates 23 U.S.C. 160(b) to render this provision applicable in fiscal years 1998 through 2003. Subsection 160(b) addresses the procedure for determining the amount each State will receive for reimbursement under this section.

Subsection (c) revises 23 U.S.C. 160(e), which directs that provisions in 23 U.S.C. 133 regarding the allocation of STP apportionments do not apply to half of the amount transferred under to this section to each State's STP apportionment. Subsection (c) makes a purely technical edit to subsection 160(e) to reflect the redesignation of 23 U.S.C. 133(d)(3) as 133(d)(2) in light of the elimination of the safety set-aside (previously in 133(d)(1)) from the surface transportation program. Safety programs will now be funded directly and not as a take-down from the surface transportation program.

Subsection (d) revises subsection 23 U.S.C. 160(f) to authorize the appropriation of $1 billion for each of fiscal years 1998 through 2003 in accordance with this section.

Sec. 1022. State Infrastructure Bank Program

Subsection (a) of this section codifies in title 23, United States Code, and thereby makes permanent the State Infrastructure Bank (SIB) Pilot Program authorized for fiscal years 1996 and 1997 in section 350 of the National Highway System Designation Act of 1995 (NHS Act). In codifying this language, references to ISTEA provisions and reporting requirements which will be out of date upon reauthorization of the surface transportation program were also removed. In all other respects, this section is identical to section 350 of the NHS Act, except where noted below.

Under subsection 162(a), States are permitted to enter into agreements with the Secretary to create both single-State and multi-State infrastructure banks. This provision eliminates the 10–State limit on the number of participants in the SIB program, which was included in section 350 of the NHS Act.

Under subsection 162(b), SIBs are required to maintain separate highway account for funds apportioned to the participating State or States under certain provisions of title 23, United States Code and a separate transit account for funds made available to the participating State or other Federal transit grant recipient under certain provisions of title 49, United States Code. A participating State may contribute to the highway account up to 10 percent of its annual apportionments of NHS, STP, Interstate Maintenance, HBRRP, Interstate reimbursement, and minimum allocation funds. A participating State may also contribute up to 10 percent of the funds annually apportioned to metropolitan regions if the metropolitan planning organization concurs with such action in writing. Federal grant recipients in a State may contribute up to 10 percent of their annual Section 3, Section 9, and Section 18 capital grants into the transit account of its SIB.

Subsection 162(c) permits SIBs to make loans or provide other assistance to a public or private entity and permits such loans or other assistance to be subordinated to any other debt financing for the project. This subsection prohibits the initial Federal assistance from a SIB to be made in the form of a grant.

Subsection 162(d) provides that any project eligible for funding under title 23, United States Code, may be funded from the highway account of a SIB, and that any capital transit project may be funded from the transit account of a SIB. This language expands highway account eligibility beyond what was included in section 350 of the NHS Act. Under section 350, funds in the highway account of a SIB could finance the construction of Federal-aid highways only.

Subsection 162(e) lists the requirements a State must meet to establish a SIB under this section. At a minimum, a State must match 25 percent of the Federal contribution with funds from non-Federal sources (except as provided by 23 U.S.C. 120(b)). This matching provision is the same as the traditional Federal-aid highway matching requirement (which is most often expressed as an 80/20 match). A State must also ensure that its SIB maintains an investment grade rating on a continuing basis or has a sufficient level of bond or debt financing instrument insurance to maintain the viability of the bank. Income generated by funds contributed to an account of the bank will be credited to the account, invested in U.S. Treasury Securities or other approved financing instruments, and be made available for use in providing loans and other assistance. Any loan from a SIB shall bear interest at or below market rates, and each participating State must ensure that repayment of any loan made by its SIB begins within 5 years after the project has been completed, or, in the case of a highway project, the facility has opened to traffic, whichever is later. The term for repaying any loan may not exceed 30 years after the date of the first payment. Finally, the State shall require its SIB to annually report to the Secretary.

Under subsection 162(f), the repayment of a loan or other assistance provided by a SIB may only be used to fund eligible projects under this section and may not be used to pay the non-Federal share of the cost of any project.

Subsection 162(g) requires the Secretary to ensure that Federal disbursements be made at an annual rate of 20 percent of the amount requested by the State for the SIB. This subsection differs from the disbursement provision in section 350 of the NHS Act, which required that Federal-aid highway and Federal transit funds be disbursed at rates consistent with their respective historical disbursement rates. Federal requirements would apply to all projects receiving assistance through the SIB. However, the Secretary may waive requirements in titles 23 and 49, United States Code, when the Secretary determines that such requirements are not consistent with the purposes of this section, e.g., provisions relating to project payments, except the Secretary may not waive 23 U.S.C. 113 and 114 and 49 U.S.C. 5333. This provision differs from the SIB pilot program in section 350 of the NHS Act, where Federal requirements only applied to the amount of Federal funds in the SIB. The Secretary shall revise cooperative agreements executed with the States under the pilot program to bring them into accord with the provisions of this section.

Some examples of provisions in title 23 which may be found by the Secretary to be inconsistent with the administration of SIBs are as follows. (1) Where SIBs require that obligation and payment of Federal funds occur at the time of capitalization (before a SIB has provided assistance to any approved project), 23 U.S.C. 106 requires that Federal-aid highway funds be obligated at the time a project is approved, and 23 U.S.C. 121 requires payment to be made as costs are incurred by the State. (2) Where SIBs require

non-Federal sources to match 25 percent of the total Federal capitalization grant contributed to the bank, 23 U.S.C. 120 establishes the Federal share on a project-by-project basis. (3) Where SIBs require capitalization funds to be used as the non-Federal match, 23 U.S.C. 323 allows donations to be applied to individual projects to meet this matching requirement. In the current SIB pilot program, the Secretary has determined that Federal-aid highway projects on a toll facility funded from a SIB are not required to comply with 23 U.S.C. 129(a)(3), which imposes restrictions on the use of toll revenues generated by the facility.

Subsection 162(h) clarifies that all requirements of Federal law that apply to projects receiving assistance under such titles shall apply to projects receiving assistance from a SIB, except to the extent the Secretary may waive a Federal law, other than sections 113 and 114 of title 23 and section 5333 of title 49, under paragraph (g)(2) of this section.

Subsection 162(i) provides that the contribution of Federal funds into a SIB under this section shall not be construed as a commitment, guarantee, or obligation on the part of the U.S. to any third party, nor shall any third party have any right against the United States for payment solely by virtue of the contribution. This subsection also requires any security or debt financing instrument issued by a SIB under this section to include this same statement.

Subsection 162(j) exempts funds contributed to a SIB under this section from the requirements of 31 U.S.C. 3335 and 6503, which govern the manner in which funds are disbursed.

Subsection 162(k) permits a State to spend as much as 2 percent of the Federal contributions to its SIB to pay the reasonable costs of administering the SIB.

Subsection 162(l) defines, for purposes of this section, the terms "capital project," "other assistance," and "State."

Subsection (b) of this section authorizes annual appropriations from the Highway Trust Fund (other than the Mass Transit Account) for the SIB program at $150 million for each of fiscal years 1998 through 2003 and provides that such funds shall remain available until expended and shall have contract authority.

Subsection (c) makes a conforming amendment to the analysis for chapter 1 of title 23, adding a reference to this new section 162.

Sec. 1023. National Scenic Byways Program

Subsection (a) of this section amends chapter 1 of title 23, United States Code, to add a new section, §163, codifying the National Scenic Byways Program.

Subsection 163(a) directs the Secretary of Transportation to carry out the National Scenic Byways program and designate roads having outstanding scenic, historic, cultural, natural or archeological qualities as National Scenic Byways or All-American Roads. Criteria for designation have been defined in an FHWA interim policy notice, which was published in the Federal Register in May 1995.

Subsection 163(b) directs the Secretary to make grants and provide technical assistance to the States to implement National Scenic Byways, State scenic byways, and All-American Roads projects and to plan, design, and develop State scenic byways programs. A key aim of providing technical assistance is to educate and increase awareness about the development, management, and operation of scenic byways programs. Paragraph 163(b)(2) lists the priorities that must be given to eligible projects when making grants of scenic byways funds under this section. These are: projects on routes designated as either National Scenic Byways or All-American Roads, projects that would make routes eligible for designation as National Scenic Byways or All-American Roads, and projects that will assist States in developing their State scenic byways programs.

Subsection 163(c) lists the eight categories of projects eligible for scenic byways funding under this section.

Subsection 163(d) provides that the Federal share payable on account of any project under this section shall be determined in accordance with 23 U.S.C. 120(b), except that, for projects on Federal or Indian Lands, a Federal land management agency may contribute the non-Federal share payable on such projects.

Subsection 163(e) authorizes $15 million for each of fiscal years 1998 through 2003 for carrying out this scenic byways program.

Subsection 163(f) enables the Secretary to authorize scenic byways funds only for projects that protect the scenic, historic, recreational, cultural, natural, and archeological integrity of a highway and adjacent areas.

Subsection (b) of this section makes a conforming amendment to the analysis for chapter 1, adding a reference to this new section.

Sec. 1024. Infrastructure Safety Program

This section combines current sections 130 [Railway-highway crossings] and 152 [Hazard elimination program] of title 23, United States Code, into one section: 23 U.S.C. 164. Except where noted below, these provisions are unchanged from current law.

Paragraph 164(a)(1) sets forth the eligible railway-highway crossing uses of funds apportioned under 23 U.S.C. 104. These funds may be used to fund 90 percent of the cost of construction of projects for the elimination of hazards of railway-highway crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate grade crossings.

Paragraph 164(a)(2) sets forth the eligible uses of railway-highway crossing funds apportioned under subsection 164(a). These uses include those listed in 164(a)(1) for section 104 funds and also include the following new uses: trespassing countermeasures, railway-highway crossing education, enforcement of traffic laws, and projects at privately owned railway-highway crossings if the project is publicly sponsored and the Secretary determines that such project would serve a public interest.

Paragraph 164(a)(3) authorizes the Secretary to classify various types of projects involved in the elimination of hazards of railway-highway crossings and to determine a railroad's share of the cost of such projects, based on the project's net benefit to the railroad.

Paragraph 164(a)(4) sets forth the payment and collection methods of amounts representing the net benefits to any railroad of a project for the elimination of hazards of railway-highway crossings funded under title 23, United States Code, or any prior Acts.

Paragraph 164(a)(5) requires each State to conduct and maintain a survey of all highways to identify those railroad crossings that may require separation, relocation, or protective devices, and to establish and implement a schedule to complete these projects. This paragraph also includes a new requirement that States report to the Department on completed railway-highway crossing projects funded under this subsection and section 165, for inclusion in the DOT/AAR National Grade Crossing Inventory.

Paragraph 164(a)(6) sets forth a new apportionment formula for railway-highway crossing funds. Under current law, funds are not apportioned in accordance with the apportionment formula in 23 U.S.C. 130(f), but are distributed in accordance with 23 U.S.C. 133(d)(1), which provides that each State shall receive an amount at least equal to the amount of funds made available to the State for carrying out railway-highway crossing projects under this provision in fiscal year 1991. Under paragraph 164(a)(6), railway-highway crossing funds would be apportioned as follows: 25 percent of the funds would be apportioned in the ratio that each State's most recent 3-year total of crashes at public railway-highway grade crossings bears to such total in all States, 25 percent are apportioned in the ratio that each State's most recent 3-year total of fatalities involving rail equipment at public railway-highway grade crossings bears to such total in all States, 25 percent of the funds would be apportioned in the ratio that each State's number of public railway-highway grade crossings bears to such number in all States, and 25 percent of the funds would be apportioned in the ratio that each State's number of public railway-highway grade crossings with passive warning devices bears to such number in all States.

Paragraph 164(a)(7) requires that at least one-half of the railway-highway crossing funds authorized under this subsection be made available for the installation of, and educational and enforcement efforts on, protective devices at railway-highway crossings. This paragraph expands this protective devices set-aside to include enforcement and education efforts; current law (23 U.S.C. 130(e)) makes these funds available only for the installation of protective devices.

Subparagraph 164(a)(8)(A) provides that the Federal share payable on any project financed with railway-highway crossing funds under this subsection shall be 90 percent of the cost thereof. Subparagraph 164(a)(8)(B) permits railway-highway crossing funds to be used as the local match on projects eligible under this section where State law conditions the use of State funds on such projects on the provision of local matching funds.

Paragraph 164(a)(9) authorizes each State to transfer funds from its railway-highway crossing apportionment to its hazard elimination apportionment in an amount equal to the percentage by which the number of crashes in the State has been reduced (in the most recent calendar year) below the average annual number of crashes that occurred in such State in calendar years 1994, 1995, and 1996.

Paragraph 164(a)(10) authorizes States to make incentive payments to local governments upon the permanent closure of railway-highway crossings under such local governments' jurisdiction. This paragraph also prohibits a State from making an incentive payment unless the railroad that owns the tracks on which crossing that is to be closed is located makes an incentive payment to the local government responsible for permanently closing such crossing. In addition, this paragraph limits the amount of the State payment to the lesser of the railroad's contribution or $7,500, and it requires local governments to use any State payment made under this section for transportation safety improvements.

Paragraph 164(b)(1) authorizes the use of hazard elimination funds on any highway safety improvement project.

Paragraph 164(b)(2) requires each State to conduct and maintain a survey of all public roads to identify hazardous locations, sections, and elements that may constitute a danger to motorists and pedestrians, assign priorities for the correction of such areas, and establish and implement a schedule to complete these projects.

Paragraph 164(b)(3) requires each State to establish an evaluation process to assess the results achieved by highway safety improvement projects carried out under this subsection.

Paragraph 164(b)(4) provides that hazard elimination funds shall be apportioned to the States in a manner similar to that provided in 23 U.S.C. 402(c): 75 percent based on each State's population and 25 percent based on each State's public road mileage. This provision is the same as the apportionment formula currently in subsection 152(e), however, under current law, funds are not apportioned in accordance with the apportionment formula in 23 U.S.C. 152(f), but are distributed in accordance with 23 U.S.C. 133(d)(1), which provides that each State shall receive an amount at least equal to the amount of funds made available to the State for carrying out hazard elimination projects under this provision in fiscal year 1991.

Subparagraph 164(b)(5)(A) provides that the Federal share payable on account of any hazard elimination project shall be 90 percent of the cost thereof. Subparagraph 164(b)(5)(B) authorizes the use of hazard elimination funds made available under this subsection on any public road other than a highway on the Interstate System.

Paragraph 164(b)(6) authorizes each State to transfer as much as 100 percent of its hazard elimination apportionment to either its highway safety apportionment under 23 U.S.C. 402 or its motor carrier safety allocation under 49 U.S.C. 31104 upon a determination by the Secretary that the State would be eligible to receive an integrated safety fund grant under 23 U.S.C. 165. This language is new. It replaces the transferability language currently found in the first two sentences of 23 U.S.C. 104(g), which permits States to transfer 40 percent of their railway-highway crossing, hazard elimination, and highway bridge replacement and rehabilitation program (HBRRP) apportionments among these three categories upon a finding by the Secretary that such transfer is in the public interest. Subsection 104(g) also permits the transfer of 100 percent of the apportionment under one such program to the apportionment under any other of such programs if the Secretary finds that such transfer is in the public interest and the State satisfactorily assures the Secretary that the purposes of the program from which such funds will be transferred have been met. Paragraph 164(b)(6) does not provide for the transfer of funds between the highway safety programs authorized under this section and the HBRRP under 144, as subsection 104(g) does, because this transfer authority has not been used by any State.

Paragraph 164(b)(7) provides that, for purposes of subsection 164(b), the term "State" shall have the meaning given this term in 23 U.S.C. 401.

Section 165 authorizes the Secretary to make grants of new integrated safety funds to any State that the Secretary finds has an integrated State highway safety planning process and has established integrated goals and benchmarks for safety improvements.

The amount of any grant made under this section in any fiscal year shall be an amount equal to the percentage that each eligible State's apportionment under 23 U.S.C. 402 for such fiscal year bears to the total apportionment under section 402 to all States for such fiscal year, but in no case could the grant amount exceed 50 percent of the amount apportioned to such State for fiscal year 1997 under section 402.

Any grant made under this section may be used by a State to implement any highway or motor carrier safety program or project eligible for funding under sections 23 U.S.C. 164 and 402 or chapter 311 of title 49, United States Code. Upon receipt of a grant allocation under this section, a State would transfer such allocation to the appropriate apportionment or allocation under 23 U.S.C. 164 or 402 or 49 U.S.C. 31104, and would administer such funds in accordance with the requirements of these programs.

Paragraph (a)(3) of this section amends 23 U.S.C. 104(g) to strike the current transferability language for railroad highway crossing and hazard elimination funds, because this language would be replaced by 23 U.S.C. 164(b)(6).

Subsection (b) of this section amends the analysis for chapter 1 of title 23 by striking the section names relating to sections 130 and 152 and by inserting the section names for new sections 164 and 165.

Sec. 1025. Fiscal and Administrative Amendments

Subsection (a) of this section removes three obsolete provisions from 23 U.S.C. 115 which are no longer applicable to the Federal-aid highway program. The eligibility of bond interest for Federal-aid reimbursement, currently in paragraphs 115(b)(2) and (3), has been superseded by section 122, which was added by section 311 of the National Highway System Designation Act of 1995. Subsection (c), concerning the treatment of a project built without Federal funds, has no current application.

Subsection (b) of this section removes an outdated provision from 23 U.S.C. 118 regarding total payments to a State in any fiscal year. In its place, this subsection reinstates a provision that was once in 23 U.S.C. 118 but which was inadvertently omitted when section 118 was amended by section 1020 of the ISTEA. This reinstated provision permits obligations incurred in prior fiscal years that are released in a current fiscal year to be made available for re-obligation in such current fiscal year.

Subsection (c) of this section technically amends 23 U.S.C. 120, concerning the Federal share payable on account of Interstate projects and other title 23 projects, to conform subsections 120(a) and (b) to subsection 120(i), which allows for an increased non-Federal share. The amendment to 120(b) also conforms this subsection to 23 U.S.C. 121, relating to payments made to States for the cost of construction. Subsection (c) also codifies as new subsection 120(j) the current ISTEA section 1044, which allows States to apply toll revenues used for specified capital improvements to their non-Federal share requirement for projects under title 23. This new subsection 120(j) also requires States taking advantage of this credit provision to maintain their current level of expenditures for matching the Federal share of title 23 projects.

Subsection (d) of this section amends 23 U.S.C. 121 to remove a restriction which applies the Federal/non-Federal matching rate to each payment that a State receives. The Federal share requirements for grant programs under the common rule implementing uniform administrative requirements for grants and cooperative agreements generally applies to the total cost of projects, rather than to individual voucher payments. This amendment will therefore make the Federal-aid highway program more compatible with other Federal programs, particularly the Federal mass transportation program, where projects are often administered jointly by the FHWA and the FTA. This subsection also amends 121 to provide more flexibility in administering the Federal share requirement by allowing for adjustments in the Federal share during the development of the project. The remaining changes made by this subsection remove outdated provisions from section 121.

Subsection (e) strikes 23 U.S.C. 124(b), concerning the construction of toll routes necessary to complete the Interstate System, thereby removing this out of date provision that is no longer necessary because the Interstate System has been completed.

Subsection (f) strikes 23 U.S.C. 126, thereby removing this outdated provision concerning the use of motor vehicle taxes to fund highway construction projects.

A long-standing interpretation of 23 U.S.C. 302 has prohibited the reimbursement of certain indirect costs to the States which are generally allowed for grant programs under the common rule establishing uniform requirements for grants and cooperative agreements. The Federal Highway Administration policy has been a contentious issue with State and local governments since other federal agencies permit States to charge indirect costs. Some States have developed a separate indirect costs rate for the highway program. This interpretation creates a particular burden when projects are administered jointly with other programs, such as the Transit Program. Subsection (g) of this section amends section 302 to clarify that section 302 does not limit reimbursement of eligible indirect costs to State and local governments. Subsection 302(b), concerning arrangements with county personnel to supervise the construction of projects on the Federal-aid secondary system, is stricken as obsolete.

Public Law 87-441 relates to bridge commissions and authorities created by Act of Congress. It provides for Federal approval of such commissions' memberships and requires annual audits. A commission ceases to exist by transferring ownership of the bridge to the States. Initially, five bridge commissions were subject to the act. Today, only one commission remains, the White County Bridge Commission, which operates the New Harmony Bridge across the Wabash River between Indiana and Illinois. While under this act, the FHWA has the authority to appoint commissioners and review the commission's financial operations, we believe that these actions could be administered more effectively and efficiently at the State or local level. Subsection (h), in repealing this 1962 bridge commission act, would remove this unnecessary Federal oversight of the White County Bridge Commission.

Sec. 1026. Federal Lands Highways Program
Subsection (a). Definitions

This subsection amends 23 U.S.C. 101(a) to include a new definition of public lands highways (which excludes forest roads) and it strikes the two definitions currently of public lands highways currently in subsection 101(a).

Subsection (b). Federal Share Payable

This section amends 23 U.S.C. 120 by adding a new subsection (j) to enable Federal land managing agencies (such as the National Park Service, the Bureau of Indian Affairs, and the U.S. Forest Service) to pay the

non-Federal share of any Federal-aid highway project where the Federal share of such project is funded under 23 U.S.C. 104 or 144, or under the Federal scenic byways program. This section also adds a new subsection 120(k) to allow Federal Lands Highways Program funds to be used as the non-Federal share of any Federal-aid project providing access to or within Federal or Indian lands and where the Federal share of such project is funded under 23 U.S.C. 104 or 144, or under the Federal scenic byways program.

Subsection (c). Allocations

Subsection (c) amends section 202 to direct the Secretary to allocate funds for two separate categories: the discretionary public lands program and the forest highway program. These two categories replace the current public lands category, which was comprised of discretionary and forest highways elements. The discretionary public lands highway allocation is contained in subsection 202(b), and a new subsection 202(e) is added for forest highways; this is consistent with the structure of the Federal Lands Highways program prior to the enactment of ISTEA.

Subsection (d). Availability of Funds

Subsection (d) makes conforming amendments to section 203 to reflect the separate forest highways program and revised public lands highways program. This subsection also provides that the point of obligation (at which the Federal Government is contractually obligated to pay its contribution to a project) for Federal Lands Highways Program projects shall be at the time the Secretary authorizes engineering and related work for any such project, or at the time the Secretary approves the plans, specifications, and estimates for any such project.

Subsection (e). Planning and Agency Coordination

Subsection (e) amends subsections 204(a) and (b) to reflect the separate forest highways program and revised public lands highways program and to more accurately reflect the roles of the various Federal agencies in Federal Lands Highways Program projects. It also streamlines the inclusion of Federal Lands Highways Program projects in Statewide and metropolitan transportation improvement programs, providing that the Secretary shall approve the transportation improvement programs. Only regionally significant Federal Lands Highways Program projects will be required to be developed in cooperation with States and metropolitan planning organizations. The Federal Highway Administration's Federal Lands Highways Office would then approve all Federal lands highway transportation improvement programs and submit these to the appropriate States and metropolitan planning organizations for inclusion in their transportation improvement programs without further action.

Subsection (e) also revises subsection 204(i) to reflect the current public lands program structure and to allow funds to be made available to Federal land managing agencies for transportation planning.

Subsection (e) also amends section 204 by adding a new subsection (k) to establish a national bridge program for replacing or rehabilitating deficient Indian reservation road bridges. A minimum of $5 million in funds is reserved from the Indian reservation roads program authorization for these bridges. This program has criteria very similar to those of the FHWA's current Indian reservation bridge program under 23 U.S.C. 144.

Sec. 1027. Bicycle Transportation and Pedestrian Walkways

Subsection 217(b) of title 23, United States Code, currently permits States to use their NHS apportionments on bicycle transportation facilities on land adjacent to highways on the National Highway System, other than Interstate routes. Subsection (a) of this section amends 23 U.S.C. 217(b) to include the construction of pedestrian walkways as an eligible use of States' National Highway System apportionments under the same criteria by which bicycle transportation facilities are eligible. Subsection (a) of this section also amends 217(b) to eliminate the restriction on the use of NHS funds apportioned under 104(b)(1) for the construction of bicycle transportation facilities on land adjacent to the Interstate System.

Subsection 217(e) currently provides for the safe accommodation of bicycles on highway bridges as part of the replacement or rehabilitation of highway bridge decks, except if the bridges are located on highways where access is fully controlled. Subsection (b) of this section amends subsection 217(e) to remove this restriction against safely accommodating bicycles on highway bridges located on fully access-controlled highways.

Subsection (c) of this section revises subsection 217(g) to provide that bicyclists and pedestrians be given due consideration in the comprehensive Statewide and metropolitan planning processes, and that the inclusion of bicycle and pedestrian facilities be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use are not permitted. Subsection (c) also retains, with minor modification, the requirement currently in subsection 217(g) that transportation plans and projects give due consideration to the safety and continuity of bicycle and pedestrian facilities.

Subsection 217(h) currently provides that motorized wheelchairs are permitted on trails and pedestrian walkways when both State and local regulations permit them. Subsections (d), (e), and (g) of this section amend subsections 217(h) and (i) to specifically define the type of motorized wheelchairs permitted on trails and pedestrian walkways.

Subsection (f) redesignates subsection 217(j) as 217(i).

In addition to adding a definition of "wheelchair" to section 217, subsection (g) of this section also retains the current definition of "bicycle transportation facility" and adds a definition of "pedestrian." The definitions of "pedestrian" and "wheelchair" are consistent with the definitions of those terms in the Uniform Vehicle Code (a model uniform law on traffic ordinances that has been adopted in many States) and, in defining a pedestrian to include a mobility impaired person using a manual or motorized wheelchair, they help ensure that both manual and powered wheelchair users have the same mobility rights as pedestrians.

Sec. 1028. Recreational Trails Program

This section amends title 23 of the United States Code to add a new section to chapter two. Most of the provisions in this new section, 206, were originally enacted into law as part of the National Recreational Trails Fund Act (NRTFA) which is Part B of Title I of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), and were codified in title 16, United States Code. By moving these provisions from title 16 to title 23, this section incorporates the Recreational Trails Program into the Federal-aid Highway Program which is administered by the Department of Transportation (DOT) and the Federal Highway Administration (FHWA) under title 23, U.S.C. This section also removes the Recreational Trails Program from title 16 which addresses programs that are usually administered by the Department of the Interior. The provisions in Part B of title I of the ISTEA establishing the National Recreational Trails Advisory Committee are not among the provisions being added to title 23. These provisions are simply being removed and the National Advisory Committee is thereby abolished.

Subsection (a) amends title 23, U.S.C., to add this new section 206 which is entitled "Recreational Trails Program" instead of "National Recreational Trails Program", its former name.

The new subsection 206(a) amends the preexisting subsection (a) of the NRTFA by adding the provision that the Secretary of Transportation will also consult with the Secretary of Agriculture, in addition to the Secretary of the Interior, in administering this program because the U.S. Forest Service is a major partner in the Recreational Trails Program.

The new subsection 206(b) substantially revises the preexisting subsection (c). The original paragraph (c)(1), the transitional provision, expired December 18, 1994, and is eliminated. The former paragraph (c)(2), the permanent provision, is amended to reflect that it is currently in effect, and is redesignated as subsection (b). The preexisting paragraph (c)(3), establishing the Federal share of the cost of Trails Program projects, which was added to the NRTFA by the National Highway System Designation Act of 1995 (NHS Act) is moved to subsection 206 (e).

The new paragraph 206(b)(1) requires a State to designate the State agency or agencies which will be responsible for administering apportionments received under this section. This requirement was previously found in subparagraph (c)(2)(B).

The new paragraph 206(b)(2) requires a State to establish a State trail advisory committee. This requirement was previously found in the original subparagraph (c)(2)(A), but in the new paragraph 206(b)(2), the term "board" is changed to "committee" to reflect the name used in most States and to eliminate any confusion as to whether a "board" is different than a "committee."

The new subsection 206(c) limits the types of trails and trail-related projects on which funds made available through this program may be obligated. To be eligible for funding, trail projects must be planned and developed in accordance with the laws, policies, and administrative procedures of the State. Subsection (c) also requires States to include trail plans or trail plan elements in metropolitan and/or statewide transportation plans in addition to requiring that these trail plans be consistent with their Statewide Comprehensive Outdoor Recreation Plan required by the Land and Water Conservation Fund Act. These provisions emphasize that trails may form part of the metropolitan and State transportation infrastructure. In addition, subsection (c) provides an illustrative list of permissible activities on which funds made available through this program may be obligated. Subsection (c) also includes a provision requiring that at least 50 percent of the funds received annually by a State be used to facilitate the use of trails for diverse recreational purposes, and one activity specifically encouraged is the renovation of trails to accommodate both motorized and nonmotorized trail use.

The new subsection 206(d) was formerly located in paragraph (e)(5). This new subsection 206(d) requires States to give priority to project proposals that provide for the redesign, reconstruction, non-routine maintenance, or relocation of existing trails in order to benefit the natural environment or to mitigate the impact on the natural environment. Paragraph (1) amends the preexisting provision to extend this requirement to all trail projects. This change strengthens the environmental aspects of this program and ensures that project proposals for existing trails are given priority over new trail projects. Paragraph (2), formerly at (e)(5)(B), directs the State advisory committees to issue guidance to the States for the purpose of implementing paragraph (1).

The new subsection 206(e) addresses the Federal share payable for projects under the Recreational Trails Program. This subject was previously addressed in paragraph (c)(3). This new subsection 206(e) first provides generally that the Federal share payable on these projects is not to exceed 50 percent. Paragraph 206(e)(1) addresses the fact that the prohibition on matching Federal funds with other Federal funds presents a problem for States where much of the recreational activity, especially motorized use, takes place on Federal lands. Consequently, paragraph (e)(1) allows a Federal agency sponsoring a project to provide funding for that project without those funds being credited as part of the Federal share to be covered by the Secretary of Transportation. However, this provision still requires State, local, or private sponsors to provide some matching funds. The new paragraph (e)(2) allows seven specific Federal grant programs to be used by project sponsors to meet non-Federal matching fund requirements. Trails projects are excellent training and work opportunities for participants in youth corp programs and work training programs. This provision will allow States to meet training and employment goals and the goals of the Trails Program simultaneously.

The new paragraph 206(e)(3) establishes a new programmatic non-Federal share that allows States to satisfy non-Federal share matching requirements on a programmatic level rather than on a project-by-project basis. The former subparagraph (c)(3)(B) would have established a programmatic non-Federal share beginning in fiscal year 2001 and would have resulted in a Federal share of approximately 83 percent for Recreational Trails projects. Under the new paragraph (e)(3), the programmatic non-Federal share goes into effect immediately and the Federal share is set at 50 percent. The programmatic non-Federal share provision gives the States flexibility to receive credit for the non-Federal matching funds which they are able to raise in excess of the required non-Federal matching share on some projects. This credit may be used by the States to cover part of the non-Federal matching share on other projects for which they have difficulty raising enough matching funds.

The new paragraph 206(e)(4) establishes a Federal share payable for State administrative costs which conforms with the Federal share payable for State costs incurred in administering projects under other Federal-aid highway programs. This paragraph clarifies that the 50 percent limitation on the Federal share payable for projects under the Trails Program does not apply to State administrative costs. This new paragraph establishes the Federal share payable for State administrative costs at 80 percent or higher in accordance with 23 U.S.C. 120(b). The Federal share is set higher than the Federal share payable for project costs in order to lessen the burden of the Federal mandates associated with this program. However, this paragraph does require the States to cover some of the cost because this program is voluntary. In addition, this provision reflects the intent of the Federal government not to cover 100 percent of the cost of statewide trail planning efforts because non-Federal funding sources are available for many trails.

The new subsection 206(f) lists different activities for which a State may not use funds apportioned to it under section 206. These provisions were, for the most part, formerly found in paragraph (e)(2). However, the new subsection (f) does include one new item. The new paragraph (f)(5) adds to the list of uses not permitted, funding of railroad right-of-way development that would encourage users to engage in any form of recreational activity on or between railroad tracks. The term "railroad tracks" is intended to include active and inactive lines and snow-covered tracks. The addition of this item to the list is intended to discourage use of railroad tracks to engage in recreational activity including walking, hiking, horseback riding, cross country skiing, snowshoeing, snowmobiling, rail biking, and use of a motor car.

The new subsection 206(g) is a new provision which incorporates some of the program management elements of the former subsection (e) and adds some other paragraphs to clarify these provisions and facilitate program management. Paragraph (g)(1) provides that a project sponsor may donate, either from a private or public source, funds, materials, services, or right-of-way for the purposes of a project eligible for assistance under this section. Private donations are allowed under 49 CFR 18.24 and 23 U.S.C. 323, as amended by the NHS Act, but this new paragraph clarifies the legislative authority regarding private donations to the Trails Program and establishes authority regarding donations from Federal project sponsors, as well.

New paragraph (g)(2) provides that a project funded under this section is intended to enhance recreational opportunity and, as such, is not subject to the provisions of 49 U.S.C. 303, establishing a U.S. policy on lands, wildlife, and waterfowl refuges and historic sites, or 23 U.S.C. 138, which addresses the preservation of parklands, because implementation of a Recreational Trails project would not qualify as "using" a public park, recreation area, wildlife and waterfowl refuge, or historic site for purposes of those laws. As a result, Recreational Trails Program projects are exempt from the "Section 4(f)" requirements calling for analyses as to whether a reasonable and feasible alternative to a project exists.

New paragraph (g)(3) provides that a State may treat funds apportioned to it under this section as Land and Water Conservation Fund apportionments for the purposes of section 6(f)(3) of the Land and Water Conservation Fund Act. This provision was formerly located at paragraph (e)(8). Section 6(f)(3) requires that projects funded under the Land and Water Conservation Fund Act remain in use as public outdoor recreational facilities in perpetuity. Any conversion would require approval of the Secretary of the Interior.

The new paragraph (g)(4) requires that, before making apportionments available for work on recreational trails, a State obtain written assurances, from the owner of any land that would be affected by the work, that the land owner will cooperate with the State. In addition, new paragraph (g)(4) requires that any use of a State's apportionments on private lands must be accompanied by an easement or other legally binding agreement that ensures public access to those recreational trail improvements. This provision was previously located in paragraph (f)(2).

The new subsection 206(h) provides definitions for terms used in the new section 206. Formerly, the definition section was located in subsection (g). The definition of "Fund" as referring to the National Recreational Trails Trust Fund is removed because the Recreational Trails Program is no longer funded through this trust fund which is also being abolished. The Recreational Trails Program will now be funded through a direct authorization of funds from the Highway Trust Fund. Subsection (h) also deletes the definition for "Nonhighway recreational fuel" because it is no longer needed. The definition of "Recreational trail" from the former definitions section is included in the new subsection 206(h), but is revised to reorganize the uses into a logical order and to add several new uses. In addition, this revision of the recreational trail definition removes a reference to the National Recreation Trails designated under the National Trails System Act because that reference is unnecessary. The definition of "Motorized recreation" used in the former subsection (g) is revised to clarify that motorized wheelchair use is not motorized recreational vehicles use. This new definition is consistent with the Uniform Vehicle Code. The new subsection 206(h) also includes a definition for the term "eligible State" for purposes of subsection 104(h) of 23 U.S.C. which establishes the formula to be used in apportioning funds authorized to be appropriated for the Recreational Trails Program. The definition for "eligible State" is the same as was previously used except that subsection (h) incorporates the title 23 definition of State.

Subsection (b) contains several conforming amendments. First, this subsection strikes part B of title I of ISTEA, since this part is replaced by new sections 206 and 207 of title 23, United States code. In addition, subsection (b) revises the analysis for Chapter 2 of 23 U.S.C. to reflect the addition of new sections 206 and 207.

Sec. 1029. International Highway Transportation Outreach Program

Subsection (a) amends section 325 of title 23, U.S.C., to clarify that the Secretary is authorized to conduct activities aimed at improving United States' firms access to foreign markets. Examples of these activities include gathering and disseminating information about foreign market opportunities and foreign industries, and encouraging the adoption abroad of U.S. technical standards.

Subsection (b) revises subsection 325(c) of such title to specify that funds deposited in the current special account with the Secretary of the Treasury and funds available to carry out this section can be used to reimburse the FHWA for the salaries of its employees and the costs incurred by them in assisting U.S. firms, with technical services unavailable in the U.S. private sector, to develop and carry out proposal for foreign transportation projects. These funding sources may also be used to cover other necessary promotional, travel, reception, and representation expenses.

Subsection (c) adds a new subsection to 23 U.S.C. 325 to enable States to use their State Planning and Research Program funds for

international highway transportation outreach activities under section 325.

Sec. 1030. Trade Corridor and Border Crossing Incentive Grants; Border Gateway Pilot Program

This section directs the Secretary to provide grants for planning and project implementation to improve transportation at international border crossings and along major trade transportation corridors. The section authorizes $45,000,000 annually from the Highway Trust Fund to support the activities directed. With the exception of specific sums authorized for planning and coordination purposes under subsections (a) and (b) of this section, all remaining funds authorized under this section shall be used for project implementation.

Paragraph (a)(1) of this section directs the Secretary to make annual incentive grants to States and MPOs that share a common border with Canada or Mexico for the purpose of performing planning for efficient movement of people and goods at and through international border gateways.

Paragraph (a)(2) requires the recipient, as a condition of receiving the grant, to assure the Secretary that it is or will commit to be engaged in joint planning with its counterpart agency in Canada or Mexico.

Paragraph (b)(1) directs the Secretary to make grants to States for the purpose of performing planning for the efficient movement of goods along and within international and interstate trade corridors.

Paragraph (b)(2) requires grant recipients to submit to the Secretary plans for corridor improvements. Corridor planning must be coordinated with transportation planning being done by the States and MPOs along the corridor and, where appropriate, with transportation planning being done in Mexico and Canada.

Paragraph (b)(3) authorizes 2 or more States to enter into agreements for purposes of coordinated trade transportation corridor planning and administration.

Subsection (c) establishes a new border gateway pilot program by authorizing the Secretary to make grants to States and others to fund the development and implementation of coordinated and comprehensive border crossing plans and programs. The intent of this subsection is to promote the efficient and safe use of existing border crossings within defined international gateways, prior to major new infrastructure investment, and to focus all available resources on implementation of a fully integrated and cooperatively developed plan, with special emphasis on full coordination with border inspection agencies, including those in Canada and Mexico.

Gateways are defined in "Assessment of Border Crossings and Transportation Corridors for North American Trade, Report to Congress pursuant to Intermodal Surface Transportation Efficiency Act of 1991 Public Law 102–240, Sections 1089 and 6015" as "groupings of border crossings defined by proximity and similarity of trade." The gateways identified in this report are: Maine; Montreal South; Eastern New York; Niagara; Michigan; Upper Plains; Central Plains; Eastern Washington/Rocky Mountains; Pacific Coast; South Texas; West Texas; Arizona; and California. Other defined gateways may be included at the discretion of the Secretary.

Paragraph (c)(1) authorizes the Secretary to make grants to States and others sharing a common border with Canada or Mexico for any project to improve the movement of people and goods at and across such border.

Paragraph (c)(2) limits the maximum number of total grants under this pilot program at eight (including at least two on the U.S./Mexico border and two at the U.S./Canada border) and limits the maximum dollar total of any single grant to $40 million. Projects may vary in scope, with varying degrees of Federal participation. Approval should not be given to fund any one project which will exhaust the entire annual authorization for this pilot program.

Paragraph (c)(3) lists the grant eligibility criteria for this pilot program. In recognition of the potential delays associated with border clearance and vehicle/driver review processes, each project proposal shall reflect cooperation and coordination with the U.S. Federal Inspection Services and their counterparts across the Mexican or Canadian border, as appropriate. Grants shall be made on the basis of the expected reduction in commercial and other travel time through a major international gateway as a result of the project; improvements in vehicle safety at and approaching the crossings within the gateway; the degree of funding leveraging anticipated through this program, including the use of innovative financing, and funding provided under other sections of this Act (which shall not be subject to the limits of this section); the degree of binational involvement in the project; the degree of applicability of innovative and problem solving techniques which might be applicable to other border crossings; and a demonstrated local commitment to implement and sustain continuing comprehensive border improvement programs. Project proposals must be limited, to the greatest extent possible, to improvements to existing border crossings within defined gateways. Construction of new facilities, including bridges, shall not be considered unless and until all options for efficient use of existing facilities has been demonstrated.

Subsection (d) authorizes $45 million in Highway Trust Fund monies for this border crossing pilot program in each of fiscal years 1998 through 2003. This subsection also sets the annual amount of the grants for the purposes of performing border gateway planning at $1,400,000 for each of fiscal years 1998 through 2003. The maximum amount any State or MPO may receive in grants under this section shall not exceed $100,000. These planning grants should be used to supplement State planning and research, planning, and other funds that are used to support long-range planning and programming which are to be implemented using the border gateway pilot program funds and other funds such as State and local funds, NHS, and STP. Subsection (d) also makes $3,000,000 available in each of fiscal years 1998 through 2003 for trade corridor planning incentive grants under this section.

Subsection (e) provides that border gateway funds authorized under this section may be used as the non-Federal match for any border gateway project funded with other Federal-aid highway funds, provided that the amount of border gateway funds cannot exceed 50 percent of project costs. Subsection (e) also provides that the Federal share payable on account of any border crossing or trade corridor planning incentive grant shall be determined in accordance with section 120 of title 23, United States Code.

Sec. 1031. Appalachian Development Highway System

This section amends 40 U.S.C. App. 201, the Appalachian Regional Development Act of 1965, to authorize $2.19 billion for fiscal years 1998 through 2003 to fund the continued construction of the Appalachian development highway system in the 13 States that comprise the Appalachian region.

Subsection (a) of this section amends subsection 201(a), which currently provides that all provisions of title 23 apply to the development highways funded under this provision, to include an exemption from the title 23 provision (23 U.S.C. 118) that all apportioned or allocated funds that have not been obligated by the end of four years shall lapse. As revised, subsection 201(a) provides that funds not expended by a State within four years shall be released to the Appalachian Regional Commission for reallocation to States within the Appalachian region, rather than lapsing.

Subsection (b) of this section amends subsection 201(g) to authorize appropriations from the Highway Trust Fund for fiscal years 1998 through 2003 (and also provides contract authority), and an equivalent amount of obligation authority, to fund the continued construction of the Appalachian development highway system in accordance with section 201. This subsection also limits eligibility for these funds to the development highway system authorized as of September 30, 1996. However, the States of the Appalachian region, the Secretary, and the Appalachian Regional Commission may agree to make alterations to the September 30, 1996, approved system, and such altered routes shall be eligible for funding under this section.

Subsection (c) of this section amends paragraph 201(h)(1) to raise the Federal share payable on account of any pre-financed (i.e., advance construction) development highway project to 80 percent of the cost of such project, which is the same Federal share payable for conventionally funded development highway projects under subsection 201(f). This amendment enables States to use the advance construction financing method of paragraph 201(h)(1) under the same Federal matching ratio as for all other development highway projects.

Subsection (d) of this section authorizes the deduction of up to 3.75 percent of the funds authorized under new paragraph 201(g)(2) for the expenses of the Appalachian Regional Commission in administering such funds.

Sec. 1032. Value Pricing Pilot Program

Subsection (a) of this section amends subsection 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 to reflect the change in the name of the congestion pricing pilot program to the value pricing pilot program.

Subsection (b) increases the number of pilot programs eligible for funding under subsection 1012(b) from 5 to 15.

Subsection (c) of this section amends paragraph 1012(b)(2) to increase the Federal share payable on any project funded under this provision from 80 percent to 100 percent.

Subsection (d) of this section further amends paragraph 1012(b)(2) to reflect administrative interpretations of this paragraph that have made by the Federal Highway Administration, shared with the appropriate congressional committees, and published in the Federal Register. Specifically, paragraph 1012(b)(2) is amended to provide that the Secretary shall fund pre-implementation costs of value pricing programs and that the 3-year funding limitation included in this paragraph commences once the project is implemented, and therefore does not apply to the pre-implementation stage of a project (which could stretch out for several years).

Subsection (e) makes necessary conforming amendments to subsection 1012(b) to

reflect that each cooperative agreement entered into by the Secretary under paragraph 1012(b)(1) would cover a specific value pricing program for the area encompassed by the cooperative agreement. Each program could, in turn, cover one or more specific value pricing projects within that area. This subsection also makes a purely technical correction to the list of items to be examined and reported on to the Congress by the Secretary.

Subsection (f) amends paragraph 1012(b)(3) to expand the eligible use of toll revenues generated by any pilot project under this subsection from any eligible use under title 23, United States Code, to any surface transportation purpose.

Subsection (g) removes the 3-program cap on the number of value pricing programs on which the Secretary shall allow the use of tolls on the Interstate System, thereby enabling State and local governments and public authorities to collect tolls on any value pricing pilot program funded under this section.

Subsection (h) adds one item, the effects of value pricing projects on low income drivers, to the list of items on which the Secretary is to report to the Congress under paragraph 1012(b)(5). This subsection also adds a new paragraph to section 1012(b) to provide that any value pricing pilot program funded under this subsection shall give full consideration to the potential effects of value pricing projects on drivers of all income levels and shall develop mitigation measures to deal with potential adverse effects on low income drivers, thereby making income equity a key consideration in the development of pilot projects.

Subsection (i) revises paragraph 1012(b)(6) to reauthorize Federal-aid highway funding for this program at a level of $14 million for each of fiscal years 1998 through 2003 out of the Highway Trust Fund, and provides that, in the event such funds remain unallocated or allocated and unobligated after four years, a State's unallocated or unobligated amounts shall be transferred to the State's STP apportionment. This subsection also eliminates the current funding cap on individual projects.

Subsection (j) provides an exemption from the HOV-2 requirement of subsection 102(b) of title 23, United States Code, by permitting single occupancy vehicles to operate in high occupancy vehicle lanes if such vehicles are part of a value pricing program funded under subsection 1012(b).

Subsection (k) ensures that this program will continue to have contract authority.

Sec. 1033. Highway Use Tax Evasion Projects

Subsection (a) of this section technically amends subsection 1040(a) of the Intermodal Surface Transportation Efficiency Act of 1991 to correct the reference to the funding provision of section 1040.

Subsection (b) strikes subsection 1040(d) to eliminate the requirements for the Secretary of Transportation to annually report to Congress on motor fuel tax enforcement activities under this section and the expenditure of funds made available to carry out this section, and for the Secretary of the Treasury to annually report to Congress on the increased enforcement activities to be financed with the funds allocated by the Secretary of Transportation to the Internal Revenue Service under subsection 1040(a). The Department has found that other available avenues for reporting on program successes, such as congressional hearings held on this program, have been very effective. Subsection (b) also strikes subsection 1040(e), which requires that the Secretary of Transportation, in consultation with the Internal Revenue Service, study the feasibility and desirability of using dye and markers to aid in motor fuel tax enforcement activities and report to Congress on this study by December 18, 1992. This study has been completed and its results submitted to Congress, so this subsection is no longer necessary. Subsection (b) also deletes the out-of-date funding authorization language for fiscal years 1992 through 1997, which has been replaced by subsection (d) of this section.

Subsection (c) redesignates subsection 1040(g) as subsection 1040(e).

Subsection (d) of this section amends section 1040 to authorize $5 million annually in Highway Trust Fund monies for each of fiscal years 1998 through 2003 to continue joint Federal Highway Administration/Internal Revenue Service/State motor fuel tax compliance projects across the country. The multi-State nature of the enforcement and uniformity efforts developed under this pilot project in ISTEA has been important to its effectiveness. Continued Federal funding at the same level authorized in ISTEA will help ensure that this very successful, coordinated regional and national approach to combating fuel tax fraud can continue.

Sec. 1034. Public Notice of Railbanking

This section would require that public notice be given once an application for interim trail use of a railroad right-of-way has been filed. Currently, a notice must be published in local newspapers announcing a rail abandonment. However, there is no notice requirement when a railroad right-of-way is proposed to be converted to a trail. This provision would allow all members of the community to work together as equal partners in establishing such trails.

TITLE II—HIGHWAY SAFETY

Sec. 2001. Short Title

Sec. 2001 provides that title II may be cited as the "Highway Safety Act of 1997".

Sec. 2002. Highway Safety Programs

Sec. 2002 continues the existing State and community highway safety program, established under Section 402 of title 23, United States Code, and amends the program as follows:

Subsection (a), "Uniform Guidelines," and Subsection (b), "Administrative Requirements," make several technical and conforming amendments to Sections 402(a) and (b).

Subsection (c), "Apportionment of Funds," makes one technical correction to Section 402(c) and one substantive amendment. To increase the effective delivery of the Section 402 program to the more than 500 Federally recognized Indian tribes, an amendment is provided to raise the minimum annual apportionment to the Indians (through the Secretary of Interior) from one-half of one percent to three-fourths of one percent of the total apportionment under the section.

Subsection (d), "Application in Indian Country," amends Section 402 to allow Section 402 grants to be made to Indian tribes in "Indian Country."

Subsection (e), "Rulemaking Process," amends Section 402(j), which requires the periodic identification, by rulemaking, of highway safety programs that are most effective in reducing traffic crashes, injuries, and deaths. Instead of requiring the States to direct the resources of the national program to the fixed areas identified by this rulemaking process, the amendment directs that the States to consider these highly effective programs when developing their highway safety programs.

Subsection (f), "Safety Incentive Grants," proposes to add four new safety incentive programs concerning alcohol-impaired driving countermeasures, occupant protection, highway safety data, and drugged driving countermeasures (described below) to Section 402, together with a new provision making various procedures applicable to each of those programs.

Section 402(k), "Safety Incentive Grants," replaces an obsolete subsection (k) and makes the following applicable to each of the four incentive programs: (1) the grants for the incentive programs may only be used by the States to implement and enforce, as appropriate, the programs for which the grants are made; (2) no grant may be made to a State in any fiscal year unless the State enters into an agreement with the Secretary to ensure that the State will maintain its aggregate expenditures from all other sources for the actions for which a grant is provided at or above the level of such expenditures in its two fiscal years prior to the date of enactment of the subsection; and (3) basic or supplemental grants applicable under the programs, in any one of these two grant categories, would be available to the States for a maximum of six years, beginning after September 30, 1997. States that meet certain criteria would receive grants that would be funded through a declining Federal share—75 percent for the first and second years, 50 percent for the third and fourth years, and 25 percent for the fifth and sixth years.

Section 402(l), "Alcohol-Impaired Driving Countermeasures," amends Section 402 to establish a comprehensive drunk and impaired driving incentive program to encourage States to increase their level of effort and implement effective programs aimed at deterring the drunk driver. The new program, which continues the Department's strong emphasis on deterring drinking and driving, is similar in structure to that of the existing Section 410 drunk driving prevention incentive program, established under Section 410 of Title 23, United States Code, and would replace the Section 410 program when its terms expire at the end of fiscal year 1997.

A State may establish its eligibility for one or more of three basic alcohol- impaired-driving countermeasure grants—A, B, and C—in the fiscal year in which the grant is received, by adopting or demonstrating certain criteria, as appropriate, to the satisfaction of the Secretary.

To establish eligibility for the first basic grant A under paragraph (1), a State must adopt or demonstrate at least 4 of 5 of the following: (1) an administrative driver's license suspension or revocation system for drunk drivers; (2) an effective system for preventing drivers under age 21 from obtaining alcoholic beverages; (3)(A) a statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis to determine whether the operators are driving while under the influence of alcohol, or (B) a statewide impaired driving Special Traffic Enforcement Program (STEP) that includes heavy emphasis on publicity for the program; (4) effective sanctions for repeat offenders convicted of driving while intoxicated or driving under the influence of alcohol; and (5) a three-tiered graduated licensing system for young drivers that includes nighttime driving restrictions, requiring that all vehicle occupants to be properly restrained, and providing that all drivers under age 21 are subject to zero tolerance at .02 percent BAC or greater while operating a motor vehicle.

To establish eligibility for the second basic grant B under paragraph (2), a State must adopt both an administrative driver's license suspension or revocation system for drunk drivers, and a law that provides for a per se law setting .08 BAC level as intoxicated.

To establish eligibility for the third basic grant C under paragraph (3), a State must demonstrate that its percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration has both: (1) decreased in each of the 3 most recent calendar years for which statistics for determining such percentages are available; and (2) been lower than the average percentage for all States in each of such calendar years.

States that meet the criteria for a basic grant under paragraphs (1), (2) or (3) would receive, for each grant, up to 15 percent (up to 30 percent if they qualify for two, and up to 45 percent if they qualify for all three) of their fiscal year 1997 apportionment under Section 402 of Title 23, United States Code.

States that meet the criteria for any one or more of the three basic grants also would be eligible to receive supplemental grants for one or more of the following: (1) making it unlawful to possess open containers of alcohol in the passenger area of motor vehicles (excepting charter buses) while on the road; (2) adopting a mandatory BAC testing program for drivers in crashes involving fatalities or serious injuries; (3) videotaping of drunk drivers by police; (4) adopting and enforcing a "zero tolerance" law providing that any person under age 21 with a BAC of .02 or greater when driving a motor vehicle shall be deemed driving while intoxicated or driving under the influence of alcohol, and further providing for a minimum suspension of the person's driver's license of not less than 30 days; (5) requiring a self-sustaining impaired driving program; (6) enacting and enforcing a law to reduce incidents of driving with suspended licenses; (7) demonstrating an effective tracking system for alcohol-impaired drivers; (8) requiring an assessment of persons convicted of abuse of controlled substances, and the assignment of treatment for all DWI and DUI offenders; (9) implementing a program to acquire passive alcohol sensors to be used by police in detecting drunk drivers; and (10) enacting and enforcing a law that provides for effective penalties or other consequences for the sale or provision of alcoholic beverages to a person under 21. For each supplemental grant criterion that is met, a State would receive, in no more than two fiscal years, an amount up to 5 percent of its Section 402 apportionment for fiscal year 1997. Definitions are provided for "alcoholic beverage," "controlled substances," "motor vehicle," and "open alcoholic beverage container."

Section 402(m), "Occupant Protection Program," amends Section 402 to establish a new occupant protection incentive program to encourage States to increase their level of effort and implement effective laws and programs aimed at increasing safety belt and child safety seat use.

A State may establish its eligibility for one or both of two basic occupant protection grants—A and B—in the fiscal year in which the grant is received, by adopting or demonstrating certain criteria, as appropriate, to the satisfaction of the Secretary.

To establish eligibility for the first basic grant A under paragraph (1), a State must adopt or demonstrate at least 4 of the following: (1) a law that makes unlawful throughout the State the operation of a passenger motor vehicle whenever a person in the front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly secured about the person's body; (2) a provision in its safety belt use law that provides for its primary enforcement or provides for the imposition of penalty points against a person's diver's license for its violation; (3) a law requiring children up to 4 years of age to be properly secured in a child safety seat in all appropriate seating positions in all passenger motor vehicles; (4) a minimum fine of at least $25 for violations of its safety belt use law and a minimum fine of at least $25 for violations of its child passenger protection law; and (5) a statewide occupant protection Special Traffic Enforcement Program (STEP) that includes heavy emphasis on publicity for the program.

To establish eligibility for the second basic grant B under paragraph (2), a State must: (1) demonstrate a statewide safety belt use rate in both front outboard seating positions in all vehicle types covered by the State's safety belt use law, of 80 percent or higher in each of the first three years a grant is received, and of 85 percent or higher in each of the fourth, fifth, and sixth years a grant is received; and; (2) follow safety belt use survey methods which conform to guidelines issued by the Secretary ensuring that such measurements are accurate and representative.

States that meet the criteria for a basic grant under paragraphs (1) or (2) would receive, for each grant, up to 20 percent (up to 40 percent if they qualify for both) of their fiscal year 1997 apportionment under Section 402 of Title 23, United States Code.

States that meet the criteria for one or both of the two basic grants also would be eligible to receive supplemental grants for one or more of the following: (1) requiring the imposition of penalty points against a driver's license for violations of child passenger protection requirements; (2) having no nonmedical exemptions in effect in their safety belt and child passenger protection laws; (3) demonstrating implementation of a statewide comprehensive child occupant protection education program that includes education about proper seating positions for children in air bag equipped motor vehicles and how to reduce the improper use of child restraint systems; (4) having in effect a law that prohibits persons from riding in the open bed of a pickup truck; and (5) having in effect a law that requires safety belt use by all rear-seat passengers in all passenger motor vehicles with a rear seat. For each supplemental grant criterion that is met, a State would receive an amount up to 5 percent of its Section 402 apportionment for fiscal year 1997. Definitions are provided for "child safety seat," "motor vehicle," "multipurpose passenger vehicle," "passenger car," "passenger motor vehicle," and "safety belt."

Section 402(n), "State Highway Safety Data Improvements," amends Section 402 to establish a new incentive program to encourage States to take effective actions to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the data they need to identify the priorities for State and local highway and traffic safety programs, to evaluate the effectiveness of such efforts, and to link these data, including traffic records, together and with other data systems within the State, such as medical and economic data. Currently, much of the State data in these areas are inadequate or unavailable. The Department believes that the new incentive program under this subsection is vital to the ability of the States to determine and achieve their highway safety performance goals.

A State would be eligible for a first-year grant in a fiscal year under paragraph (1)(A) of subsection (n) if it demonstrates, to the satisfaction of the Secretary, that it has (1) established a Highway Safety Data and Traffic Records Coordinating Committee with a multi-disciplinary membership including the administrators, collectors, and users of such data (including the public health, injury control, and motor carrier communities) of highway safety and traffic records databases; (2) completed a recent (within the last five years) highway safety data and traffic records assessment or audit of its highway safety data and traffic records system; and (3) initiated the development of a multi-year highway safety data and traffic records strategic plan to be approved by the Highway Safety Data and Traffic Records Coordinating Committee that identifies and prioritizes the State's highway safety data and traffic records needs and goals, and that identifies performance-based measures by which progress toward those goals will be determined.

A State also would be eligible for a first-year grant in a fiscal year under paragraph (1)(B) of subsection (n) if it provides, to the satisfaction of the Secretary, (1) certification that it has established a Highway Safety Data and Traffic Records Coordinating Committee with a multi-disciplinary membership including the administrators or managers of highway safety and traffic records databases and representatives of the collectors and users of these data; (2) certification that it has completed a recent (within the last five years) highway safety data and traffic records assessment or audit of their highway safety data and traffic records system; (3) a multi-year plan that identifies and prioritizes the State's highway safety data and traffic records needs and goals, that specifies how its incentive funds for the fiscal year will be used to address those needs and the goals of the plan, and that identifies performance-based measures by which progress toward those goals will be determined; and (4) certification that the Highway Safety Data and Traffic Records Coordinating Committee continues to operate and support the multi-year plan described under paragraph (1)(B).

A State that meets the criteria for a first-year grant under paragraph (1)(A) would receive an amount equal to $125,000, based on available appropriations. A State that meets the criteria for a first-year grant under paragraph (1)(B) would receive an amount equal to a proportional amount of the amount apportioned to the State for fiscal year 1997 under Section 402 of title 23, U.S. Code, except that no State would receive less than $225,000, based on available appropriations.

A State would be eligible for a grant in any fiscal year succeeding the first fiscal year in which they receive a State highway safety data and traffic records grant if the State, to the Secretary's satisfaction: (1) submits or updates a multi-year plan that identifies and prioritizes the State's highway safety data and traffic records needs and goals, that specifies how its incentive funds for the fiscal year will be used to address those needs and the goals of the plan, and that identifies performance-based measures by which progress toward those goals will be determined; (2) certifies that its Highway Safety Data and Traffic Records Coordinating Committee continues to support the multi-year plan; and (3) reports annually on its progress in implementing the multi-year plan.

A State that meets the criteria for a succeeding-year grant in any fiscal year would receive an amount equal to a proportional amount of the amount apportioned to the State for fiscal year 1997 under Section 402 of title 23, U.S. Code, except that no State shall receive less than $225,000, based on available appropriations.

Section 402(o), "Drugged Driving Countermeasures," amends Section 402 to establish a new incentive program to encourage States to take effective actions to improve State drugged driving laws and related programs. State drugged driving laws are inconsistent and frequently difficult to enforce. They often seriously hamper attempts by law enforcement and courts to deter drugged driving. The Department believes that the new incentive grant program under this subsection, modeled after the Department of Transportation's successful Section 410 alcohol-impaired driving incentive grant program under title 23 U.S. Code, is essential to improve State drugged driving laws and related activities. This incentive program is separate from subsection (l)'s incentive program for alcohol-impaired driving, which revises and replaces Section 410, so that drugged driving laws and activities receive the more focused attention they deserve.

A State would be eligible for a grant in a fiscal year under subsection (o) if it demonstrates, to the satisfaction of the Secretary, 5 or more of the following 9 criteria: (1) enact zero tolerance laws that make it illegal to drive with any amount of an illicit drug in the driver's body; (2) establish that it is illegal to drive while impaired by any drug (licit or illicit); (3) allow drivers to be tested for drugs if there is probable cause to suspect impairment; (4) suspend the driver's license administratively (without criminal proceedings) for persons driving under the influence of drugs; (5) suspend the driver's license for persons convicted of other drug offenses, even if not related to driving; (6) incorporate drug use and drugged driving provisions into a graduated licensing system for beginning drivers; (7) actively enforce and publicize drugged driving laws; (8) provide an intervention program for drugged drivers that incorporates assessment and drug education, counseling, or other treatment as needed; and (9) provide drug education information to persons applying for or renewing drivers' licenses and include drug-related questions on drivers' license examinations.

A State that meets the criteria for a grant under subsection (o) would receive an amount up to 20 percent of its Section 402 apportionment for fiscal year 1997. Definitions are provided for "alcoholic beverage," "controlled substances," and "motor vehicle."

Subsection (g), "Conforming Amendment," repeals Section 410 of title 23, U.S. Code ("Alcohol-impaired driving countermeasures"), and the analysis pertaining to Section 410 under chapter 4 of this title.

Sec. 2003. National Driver Register

Sec. 2003 would add several provisions to the National Driver Register (NDR) statute (chapter 303 of title 49, U.S. Code) to make the program more effective and efficient. The National Highway Traffic Safety Administration (NHTSA) manages the NDR, which was established by Congress in July 1960 as a central index of State reports on individuals whose driving privileges have been suspended or revoked. Applications for driver licenses are checked routinely by States against the NDR to identify ineligible license applicants, problem drivers, drivers in need of improvement, and drivers under suspension or revocation.

Subsection (a), "Transfer of Selected National Driver Register Functions to Non-Federal Management," amends Section 30302 of title 49, U.S. Code ("National Driver Register"), by adding a new subsection (e). Under subsection (e), the Secretary would be authorized to decide whether to enter into an agreement with an organization that represents the interests of the States to manage, administer, and operate the National Driver Register's (NDR) computer timeshare and user assistance functions.

NDR operations are divided into five main functions: (1) data processing, accomplished by computer timeshare; (2) external support services, accomplished by staff assistance to NDR users; (3) development and maintenance of software for data processing, accomplished by staff responsible for system and applications support; (4) Federal Privacy Act requirements support, accomplished by Federal staff; and (5) overall management and supervision (including assistance to non-State NDR users, manual preparation of needed data, public information, and media relations), accomplished by Federal staff. Legislation is required to permanently transfer one or more of these functions, since existing statutory provisions and government contracting regulations do not permit one or more of these NDR functions to be assigned to a designated non-Federal organization.

If the Secretary decides to enter into an agreement with an organization that represents the interests of the States to manage, administer, and operate the NDR's computer timeshare and user assistance functions, subsection (e) directs that: (1) the Secretary ensure any management of these functions is compatible with chapter 303 of title 49, U.S. Code, and the regulations issued to implement that chapter; (2) any transfer of these functions begin only after the Secretary makes a determination that all States are participating in the NDR's "Problem Driver Pointer System," the system used by the NDR to effect the exchange of motor vehicle driving records, and that this system is functioning properly; (3) the agreement to transfer these functions include a provision for a transition period to allow the States time to make any budgetary and legislative changes needed in order to pay fees for using these functions; (4) the total of the fees charged by the organization representing the interests of the States in any fiscal year for the use of these functions not exceed the organization's total cost for performing these functions in that fiscal year; and (5) nothing in subsection (e) be interpreted to diminish, limit, or in any way affect the Secretary's authority to carry out chapter 303 of title 49, U.S. Code. The last provision affirms the Secretary's overall responsibility for the NDR (which includes Privacy Act and data security requirements), regardless of any transfer of these functions.

Subsection (b), Access to Register Information, amends Section 30305 ("Access to Register information") of title 49, U.S. Code. Subsection (b)(1) amends Section 30305(b)(2) to make two technical conforming amendments.

Subsection (b)(2) amends Section 30305(b) to add two substantive provisions. The first would eliminate a deficiency in the NDR by extending participation to Federal departments or agencies, like the State Department, that both issue motor vehicle operator's licenses and transmit reports on individuals to the NDR about whom the department or agency has such licensing authority and has (1) denied a motor vehicle operator's license for cause; (2) revoked, suspended or canceled a motor vehicle operator's license for cause; or (3) about whom the department or agency has been notified of a conviction of any of the motor vehicle-related offenses or comparable offenses listed in subsection 30304(a)(3). The reports on these individuals transmitted by the Federal department or agency must contain the identifying information specified in subsection 30304(b).

Subsection (b) also would reduce a burden on the States and strengthen the NDR's efficiency by allowing Federal agencies authorized to receive NDR information to make their requests and receive the information directly from the NDR, instead of through a State. The NDR statute currently requires authorized NDR users, other than chief driver licensing officials and the individuals to whom the information pertains, to submit all NDR inquiries through a State.

Sec. 2004. Authorizations of Appropriations

Sec. 2004 contains provisions that would authorize appropriations out of the Highway Account of the Highway Trust Fund for National Highway Traffic Safety Administration programs.

Paragraph (a)(1)(A), "Consolidated State Highway Safety Programs," would authorize appropriations to carry out the State and Community Highway Safety Program under Section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration, except for the Section 402 incentive programs under subsections (l), (m), (n), and (o), of $166,700,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002, and $171,034,000 for fiscal year 2003. This paragraph consolidates the previously separate NHTSA and FHWA authorizations for appropriations for the Section 402 program under NHTSA, continuing a process begun by Congress in fiscal year 1997 to facilitate administrative efficiencies in the program.

Paragraph (1)(B), "Consolidated State Highway Safety Programs," would authorize appropriations to carry out the alcohol-impaired driving countermeasures incentive grant provisions of subsection (l) of Section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration, of $44,000,000 for fiscal year 1998, $39,000,000 for each of fiscal years 1999, 2000, and 2001, $49,000,000 for fiscal year 2002, and $50,170,000 for fiscal year 2003. Amounts made available to carry out subsection (l) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (l) to subsections (m), (n), and (o) of Section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

Paragraph (1)(C), "Consolidated State Highway Safety Programs," would authorize appropriations to carry out the occupant protection program incentive grant provisions of subsection (m) of Section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration, of $20,000,000 for each of fiscal years 1998, 1999, 2000, and 2001, $22,000,000 for fiscal year 2002, and $22,312,000 for fiscal year 2003. Amounts made available to carry out subsection (m) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (m) to subsections (l), (n), and (o) of Section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible,

that States may receive the maximum incentive funding for which they are eligible under these programs.

Paragraph (1)(D), "Consolidated State Highway Safety Programs," would authorize appropriations to carry out the State highway safety data improvements incentive grant provisions of subsection (n) of title 23, United States Code, by the National Highway Traffic Safety Administration, of $12,000,000 for each of fiscal years 1998, 1999, 2000, and 2001. Amounts made available to carry out subsection (n) are authorized to remain available until expended.

Paragraph (1)(E), "Consolidated State Highway Safety Programs," would authorize appropriations to carry out To carry out the drugged driving countermeasures incentive grant provisions of subsection (o) of title 23, United States Code, by the National Highway Traffic Safety Administration, paragraph (l) also would authorize $5,000,000 for each of fiscal years 1999, 2000, 2001, and 2002, and $5,130,000 for fiscal year 2003. Amounts made available to carry out subsection (o) are authorized to remain available until expended, *provided* that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (o) to subsections (l), (m), and (n) of Section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

Paragraph (2), "NHTSA Operations and Research," would authorize appropriations for the National Highway Traffic Safety Administration to carry out programs and activities with respect to traffic and highway safety under (A) Section 403 of title 23, U.S. Code (Highway Safety Research and Development), (B) Chapter 301 of title 49, U.S. Code (Motor Vehicle Safety), and (C) Part C of Subtitle VI of title 49, U.S. Code (Information, Standards, and Requirements), of $147,500,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002, and $151,335,000 for fiscal year 2003.

The authorizations under paragraph (2) would provide the necessary funds for the agency to carry out essential traffic and highway safety functions. Section 403 of title 23, U.S. Code, provides for highway safety research and development activities, including programs to improve highway safety through human factors research, evolving initiatives such as intelligent transportation systems, a comprehensive assessment of the agency's data needs and the data priorities of the highway safety community, public information programs, and university research and training. Chapter 301 of title 49, U.S. Code, provides for the establishment and enforcement of safety standards for new motor vehicles and motor vehicle equipment, together with supporting research. In keeping with the Department's policy that programs with identifiable users be funded as much as possible through user fees, support of the motor vehicle safety program, which clearly benefits highway users, is shifted to the Highway Account of the Highway Trust Fund. Part C of Subtitle VI of title 49, U.S. Code, provides for the establishment of low-speed collision bumper standards, consumer information activities, odometer regulations, automobile fuel economy standards, and motor vehicle theft prevention standards. In keeping with the Department's policy that programs with identifiable users be funded as much as possible through user fees, support of the motor vehicle information and cost savings programs, which clearly benefit highway users, is shifted to the Highway Trust Fund's Highway Account.

Paragraph (3), "National Driver Register," would authorize appropriations for the National Highway Traffic Safety Administration to carry out chapter 303 of title 49, U.S. Code (National Driver Register), appropriated under section 30308(a) of chapter 303, of $2,300,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002, and $2,360,000 for fiscal year 2003. The National Driver Register (NDR) provides information needed by the States to identify ineligible applicants for motor vehicle driver licenses, problem drivers, drivers in need of improvement, and drivers under license suspension or revocation.

TITLE III—MASS TRANSPORTATION AMENDMENTS OF 1997

Sec. 3003. Definitions

Section 3003 would amend section 5302, "Definitions."

Section 5302(a)(1), "capital project," would be amended by combining from other parts of the chapter all definitions covering capital programs in this provision. This consolidation would make the substantive change of applying the broader definition to all capital grants made under this chapter. Further, by amending existing subparagraph (A), it would add as an eligible cost three new cost categories: associated pre-revenue startup costs, environmental mitigation, and Intelligent Transportation Systems (as defined in section 6052 of the National Economic Crossroads Transportation Efficiency Act). The phrase "capital portions of rail trackage rights agreements" would be amended to "payments for rail trackage rights" as a clarification. (For the Government's share of the costs for the various categories of capital projects, see section 3028 of this Act, "Government's Share of Costs.")

A new subparagraph (E) would be added to the existing "capital project" definition, to permit preventive maintenance as an eligible capital cost to ensure proper preservation of the Federal capital investment. This will make eligibility of preventive maintenance for capital program funds the same as in the Title 23 highway program.

New subparagraph (F) would add leasing to the definition. This provision would be moved from section 5307(b)(3).

New subparagraph (K), a combination of provisions moved from sections 5309(f)(2), 5309(a)(1)(E), 5307(b)(1), would make joint development costs eligible for all capital programs. Transit operators would be permitted to participate more fully in joint development opportunities created by mass transit projects. The change would provide additional local revenue sources to meet transit capital and operating needs without Federal subsidy. Participation in commercial development would continue to be prohibited except where a fair share of the proceeds were returned for use in meeting mass transit needs.

Subparagraph (L) (moved from section 5309(a)(1)(F)) would add to the definition mass transportation projects that meet the special needs of the elderly and disabled individuals.

A new subparagraph (M) regarding the development of corridors to support fixed guideway systems was moved from section 5309(a)(1)(G).

A new subparagraph (N) would add to the definition, vehicles and facilities, publicly or privately owned, that are used to provide intercity passenger service by bus or rail. This change would enhance intermodalism and facilitate modal choices by local decision makers.

A new subparagraph (O) regarding access for bicycles to mass transportation facilities was moved from section 5319.

A new subparagraph (P) would add to the definition the repayment of the principal and interest of revenue bonds used for capital projects. This change would increase the financing options and sources of funds for recipients.

A new subparagraph (Q) regarding crime prevention and security was moved from section 5321.

A new subparagraph (R) would allow the acquisition of non-fixed route paratransit transportation service to comply with the Americans with Disabilities Act of 1990.

Subsections (a)(10) and (13) would be added to clarify that both "public transportation" and "transit" mean "mass transportation."

Section 3004. Metropolitan Planning

Section 3004 and section 1015 of this Act are intended to make identical changes to 49 U.S.C. section 5303, "Metropolitan Planning" and 23 U.S.C. section 134, "Metropolitan Planning," respectively.

Subsection (a), "Development Requirements," would be amended to require that transportation plans and programs for State urbanized areas be developed in a "fair and equitable" manner. It would also require that plans and programs provide for the development and integrated management and operation of transportation systems and facilities that will function as an intermodal transportation system for the metropolitan area, the State, and the United States.

Subsections (b), "Plan and Program Factors," paragraphs (1) through (15) containing the existing 16 factors would be deleted. New subsection (b)(1) would require that Metropolitan Planning Organizations (MPO) comply with seven new goals, found in subparagraphs (A) through (G), in developing plans and programs. These are: economic vitality; safety and security; accessibility and mobility; environment, energy conservation, and quality of life; integration and connectivity; efficient management and operation; and preservation of existing transportation system.

New subsection (b)(2) would require MPOs to cooperate with States and transit operators in incorporating these goals into the transportation plan.

Subsection (c), "Designating Metropolitan Planning Organizations." Paragraph (1)(A) would be amended to reduce the threshold required for designating or redesignating an MPO for an urbanized area with a population of more than 50,000. Representatives of local governments with 51 percent of the affected population must support the designation of the MPO, rather than 75 percent, as in current law. This change would make it easier to redesignate an MPO and recognizes the importance the MPO plays in local transportation planning. Also permitted would be designation under procedures established by State law.

Under subsection (c)(2), specific reference would be made to the policy board of the MPO, rather than the more general reference to the MPO for the purpose of specifying MPO composition.

Subsection (c)(3) would be amended to add the MPO and the Secretary of DOT as key participants, along with the chief executive officer (existing law) in determining the need to create multiple MPO's to serve a single metropolitan planning area. It also would create balance with the lowered threshold for local officials (51 percent) to request redesignation, allowing the Secretary to temper local actions under subsection (c)(4)(B)(i) and (c)(5).

Subsections (c)(5) (B) and (C) would be deleted because MPO redesignated would be covered in subsection (c)(3) and (4). Subsection (c)(5)(A) would be redesignated subsection (c)(5).

Subsection (d), "Metropolitan Area Boundaries," would be amended to freeze the connection to nonattainment boundaries to those existing at the end of FY 1996 and would prevent an automatic increase in the metropolitan planning area with changes in nonattainment boundaries. Subsection (d) would also allow the Governor and the MPO (including the central city) to affirmatively increase the boundary to the nonattainment limit rather than retroactively reduce it after being forced to increase the boundaries. New urbanized areas after FY 1996 would have their metropolitan planning boundaries agreed to by the Governor and local officials and particulate matter would be added as a consideration in the designation of metropolitan planning area boundaries. Regulations, guidance, or both will address the operational issues. The practical effect will not materialize until after the 2000 census.

Subsection (e), "Coordination." Paragraph (3) would be amended by substituting "coordinate" for "consult" between MPO's where more than one MPO has authority within an existing metropolitan planning area. It would also add particulate matter to non-attainment areas.

The catchline of subsection (f) would be changed from "Developing Long-Range Plans" to "Development of Transportation Plan" to emphasize the transportation focus rather than the time frame. In subsection (f)(1), "long-range plan" would be changed to "transportation plan." Subsection (f)(1)(A) would be amended so that the plan identifies transportation facilities that function as a "future" integrated transportation system rather than as "an integrated metropolitan transportation system." New subsection (f)(1)(B) would be added to require that the planning process address the same seven planning goals in subsection (b) of section 5303. Subsection (f)(1)(B) would be redesignated (f)(1)(C), current (f)(1)(C) would be redesignated as (f)(1)(D), and current (f)(1)(D) would be deleted. Redesignated subsection (f)(1)(C)(iii) would be amended to change financial techniques of value capture, tolls, and congestion pricing to simply "any additional financing strategies," thus enhancing flexibility. Redesignated subsection (f)(1)(D)(ii) would be amended by deleting reference to "vehicle" congestion. New subsection (f)(1)(D)(iii) would be added to enhance transportation access for individuals without private automobiles.

Subsection (f)(2) would be amended to require MPOs, transit operators, and States to cooperate in developing estimates of funds that could become available to implement the plan.

Subsection (f)(3) would be amended to require air and transportation agencies to cooperate on both the State Implementation Plan (SIP) development and transportation plan development processes. Development of transportation plans is expected to account for related investments and program strategies developed through other planning activities, e.g., economic development and revitalization. Such coordination would ensure that transportation projects and programs would consider, for example, the needs of low income communities so that they would be effectively integrated with transportation investments.

Subsection (f)(4) would be amended to add freight shippers to the list of stakeholders that can comment on the transportation plan.

The catchline of subsection (h) would be changed from "Balanced and Comprehensive Planning" to "Metropolitan Planning Grants."

Sec. 3005. Metropolitan Transportation Improvement Program

Section 3005 and section 1015 of this Act are intended to make identical changes to 49 U.S.C. section 5304, "Metropolitan Transportation Improvement Program" and 23 U.S.C. section 134, "Metropolitan Planning," respectively.

The title of section 5304 would be changed from "Transportation Improvement Program" to "Metropolitan Transportation Improvement Program" to clarify the focus on the metropolitan program.

Subsection (a), "Development and Update," would be amended to add freight shippers to the list of stakeholders that could comment on the program Transportation Improvement Program (TIP) and to require the MPO, in cooperation with the State and transit operators, to provide opportunities for public comment on the proposed program.

Subsection (b), "Contents." Paragraph (1) would change the listing of projects included in the TIP to be more inclusive. Paragraph (2) would be changed to require that financial plans identify "innovative financing techniques" rather than "innovative financing, including value capture, tolls, and congestion pricing," to give local authorities greater flexibility. Paragraph (2) would also require a cooperative process for developing financial estimates on which to base TIP development.

Subsection (c), "Project Selection" would clarify that States and recipients select projects from the TIP developed by the MPO, rather than select projects to be included in the TIP. The development of the TIP is the responsibility of the MPO.

Subsection (d), "Notice and Comment," would require the MPO, "in cooperation with the State and transit operators," to provide opportunity for public comment prior to approving the TIP.

Subsection (e), "Regulatory Proceeding," requiring FTA to adopt the FHWA environmental analysis process under the National Environmental Policy Act (NEPA) of 1969 would be deleted because it has already been accomplished.

Sec. 3006. Transportation Management Areas

Section 3006 and section 1015 of this Act are intended to make identical changes to 49 U.S.C. section 5305, "Transportation Management Areas" and 23 U.S.C. section 134, "Metropolitan Planning."

Section 5305 (a), "Designation." Paragraph (2) would be amended to delete the reference to Lake Tahoe because the area has not benefited from the existing provision, which allowed the area to be designated as a Transportation Management Area (TMA) but did not give them MPO status and eligibility for planning funds.

Subsection (c), "Congestion Management System," would be amended to delete the requirement for a phase-in schedule for congestion management systems because this has already been accomplished.

Subsection (d), "Project Selection," would be clarified to provide that States and transit operators select projects from the TIP developed by the MPO, rather than select projects for inclusion in the TIP. Development of the TIP is the responsibility of the MPO. Paragraphs (2)(A) and (B) would be deleted as extraneous.

Subsection (e), "Certification." Paragraph (1) would be amended to clarify that the Secretary certifies the planning process rather than the planning organization. Paragraph (2) would be amended to eliminate date references that were originally included to implement the new certification requirements of the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240) (ISTEA) and to eliminate the mandatory penalty of 20 percent of Surface Transportation Program (STP) attributable funds if an area is not certified after September 30, 1996. The penalty for lack of certification would no longer be limited to 20 percent of STP attributable funds. It would be whatever portion of those funds the Secretary determines to be appropriate.

Subsection (f), "Additional Requirements for Certain Nonattainment Areas," would be amended to add particulate matter to ozone and carbon monoxide nonattainment classifications in TMAs for purpose of funding certain projects.

Subsection (g), "Areas Not Designated Transportation Management Areas." Paragraph (2) would be amended to prohibit the Secretary from allowing abbreviated transportation plans and programs for metropolitan areas in nonattainment status for particulate matter in addition to ozone and carbon monoxide.

A new subsection (h), "Transfer of Funds," would allow the transfer of funds on the transfer of funds for highway projects under FTA and for transit projects under FHWA. This provision would be moved here from 23 U.S.C. section 104.

A new subsection (i), "Limitation on Statutory Authority," would be added to clarify that this section does not give an MPO authority to impose legal requirements on any transportation provider, facility, or project that is not eligible for Federal transit assistance.

Sec. 3007. Statewide Planning

Section 3007 would amend section 5306 by moving the entire section, "Private enterprise participation in metropolitan planning and transportation improvement programs and relationship to other limitations," to subparagraph (K) of section 5323, "General Provisions on Assistance." This change makes room for the new section 5306, "Statewide Planning."

It is intended that new section 5306 parallel the current requirement for "Statewide Planning" in title 23 (23 U.S.C. section 135). This is not a substantive change because 23 U.S.C. section 135 already applies to grants under chapter 53 of title 49 by reference. The language included in chapter 53 of title 49 would be identical to that contained in 23 U.S.C. section 135, after the following substantive changes are made.

Subsection (a) "General Requirements." New subsection (a) would add emphasis on operations and management to underscore the need to maintain the existing transportation system and to support implementation of Intelligent Transportation Systems (ITS). The need for "fair and equitable" treatment within the planning process for all areas of the State would also be emphasized.

Subsection (b), "Scope of the Planning Process," would be amended to include seven broad clusters of goals found in paragraphs (1)(A) through (G) which would encompass the 20 planning factors in ISTEA. These include the broad categories of the economic vitality; safety and security; accessibility and mobility; environment, energy conservation, and the quality of life; integration and connectivity; management and operation;

and preservation of the existing transportation system. These are the same planning factors as in amended section 5303(b).

Paragraph (2) would require the application of goals in each State to be made through cooperative arrangements between the State and those involved in the statewide planning process. This would be demonstrated through application in transportation decision making and is meant to give planning officials greater flexibility.

New paragraph (3)(A) would incorporate existing language on coordination.

Subsection (c), "Transportation Plan" would include reordered and clarified language from that presently in 23 U.S.C. section 135 concerning coordination of statewide planning with metropolitan planning and the concerns of Indian tribal governments. Subsection (c) would also clarify that the statewide plan would cover a 20-year time frame. Freight shippers would be added to the list of interested parties to which the State must provide a reasonable opportunity to comment on the proposed plan. Also added would be new language calling for consultation between the State and local elected officials outside the metropolitan planning area boundaries when developing the Statewide plan for such non-metropolitan areas. Development of transportation plans is expected to account for related investments and program strategies developed through other planning activities, e.g., economic development and revitalization. Such coordination would ensure that transportation projects and programs would consider, for example, the needs of low income communities so that they would be effectively integrated with transportation investments.

Subsection (d), "State Transportation Improvement Program," would reflect the focus on the statewide program. Freight stakeholders would be added to the list of parties that the State must provide reasonable opportunity to comment on the proposed State Transportation Improvement Program (STIP). Paragraph (1) would require consultation between State and local transportation officials outside the metropolitan area when developing the program for such non-metropolitan areas. Paragraph (2) would emphasize that projects included in the STIP for metropolitan areas must be identical to the approved metropolitan TIP for each area. Paragraph (3) would clarify that for areas under 50,000 in population the projects would be selected from the approved STIP and the State must consult with affected local officials. Paragraph (4) would direct the Secretary, before approving the STIP, to find that the STIP was developed through a planning process that was consistent with Federal transportation planning requirements. Such approval would be required at least every two years.

Subsection (e), "Statewide Planning Grants," describes the formula grant program for Statewide transit planning. This provision would be moved from section 5313(b).

Subsection (f), "Other Eligible Activities," would permit States to use funds under this section to supplement metropolitan planning grants under section 5303(h)(2)(A) and grants under the Transit Cooperative Research Program under section 5313(a).

Subsection (g), "Period of Availability," would make funds available for 3 years after the fiscal year of apportionment, after which remaining funds would be reapportioned among the States.

Subsection (h), Exclusion of Certain United States Territories," would clarify that section 5306 would not apply to the Northern Mariana Islands, Guam, American Samoa, or the Virgin Islands.

SEC. 3008. URBANIZED AREA FORMULA GRANTS

Section 3008 would change the title of section 5307 from "Block grants" to "Urbanized area formula grants" to better reflect the contents of this section.

Subsection (a), "Definitions." Paragraph (1) would be amended to delete the definition of "associated capital maintenance items" because of the changes that would be made to section 5302, "Definitions;"; the expanded definition for preventive maintenance would includes costs for associated capital maintenance items, thus making this definition extraneous.

Subsection (b), "General Authority." Paragraph (1) would allow the following eligible grant activities: capital projects, under subparagraph (A); planning, under a new subparagraph (B); financing the operating costs of equipment used in mass transportation in urbanized areas with a population of less than 200,000, under subparagraph (C); the transportation cooperative research program, under a new subparagraph (D); the university transportation centers, under a new subparagraph (E); training, under a new subparagraph (F); research, under a new subparagraph (G); and technology transfer, under a new subparagraph (H). Subparagraphs (A) through (C) are in existing subsection (b)(1). Subparagraph (C) would be amended to limit operating assistance to only areas under 200,000; new section 5302(a)(1)(E) allowing preventive maintenance is intended to provide areas of over 200,000 with funds to maintain their assets, thus offsetting the loss of operating assistance.

Subsection (b)(2) would be amended by adding subparagraph (C), which was moved from current subsection (b)(5). This subparagraph permits funds to be used for a highway project only if local funds are eligible to finance either highway or transit projects, i.e., are flexible.

Subsection (b)(3) would be deleted because leasing would now be eligible under the consolidated section 5302(a)(1)(F), "Definitions."

Subsection (b)(4) would be deleted because the new definition of preventive maintenance in section 5302(a)(1)(E) would include costs for associated capital maintenance items.

Subsection (c), "Public Participation Requirements," would be deleted because the public participation requirements are included in the planning process under sections 5303 through 5306 and are not needed as a separate requirement under the urbanized area formula grant program.

Subsection (d) "Grant Recipient Requirements" would be redesignated subsection (c). Redesignated subsection (c), would eliminate the requirement for a separate program of projects as a streamlining effort because one is already required in the planning process. It would also require that projects be selected only from those included in the STIP.

Redesignated (c)(1)(A) through (C) regarding the certification of legal, financial, technical capacity, continuing control over the use of equipment and facilities, and maintenance of equipment and facilities would be moved from section 5307 to section 5323(i) and (j) as general conditions of assistance and would now apply program wide. Redesignated subsection (c)(1)(E) would be deleted and moved into a consolidated section 5325 "Contract Requirements." Redesignated subsection (c)(1)(F) would be deleted as extraneous.

Subsection (e), "Government's Share of Costs," would be deleted because this requirement would be consolidated in a new section 5328 and applied program-wide.

Subsection (g), "Undertaking Projects in Advance," would be deleted because advance construction requirements would be consolidated for program-wide application in a new section 5319 "Advance Construction Authority."

Subsection (h), "Streamlined Administrative Procedures," would be deleted as extraneous.

Subsection (j), "Reports," would be deleted as not necessary.

Subsection (k), "Submission of Certifications," would be deleted because submissions of certifications would be moved to and consolidated in section 5323(j) for program-wide application as a streamlining effort.

Subsection (n), "Relationship to Other Laws." Paragraph (1) would be deleted and consolidated into section 5323(i). Subsection (n)(2) would be redesignated subsection (h).

Sec. 3009. Mass Transit Account Block Grants

Section 3009 would delete current section 5308, "Mass Transit Account Block Grants" because this section applied to a one year capital program in Fiscal Year 1981 and has been executed.

Sec. 3010. Major Capital Investments

Section 3010 would change the title of section 5309 from "Discretionary Grants and Loans" to "Major Capital Investments" because the fixed guideway modernization program would be merged with the urbanized area formula grants program (see section 3034 of this Act) and the bus discretionary program would be eliminated.

Subsection (a), "General Authority." All capital project definitions contained in subparagraphs (1) (A) through (G) would be moved to section 5302, "Definitions."

Paragraph (2) would be amended to remove the Secretary's authority to make loans. Paragraph (2) concerning the Secretary's authority to apply all appropriate terms, conditions, requirements, and provisions to grants under section 5309 does not provide the Secretary with authority to waive statutory requirements, such as the application of Federal labor standards, civil rights requirements, or employee protective arrangements.

A new paragraph (3) would be added so that funds made available under section 5309 may be transferred to section 5311 (Formula Program for Other than Urbanized Areas recipient) and would be administered under the requirements of section 5311.

Subsection (b), "Loans for Real Property Interests" would be deleted.

Subsection (c), "Consideration of Decreased Commuter Rail Transportation" would be deleted because this provision applied to the establishment of Conrail as a private corporation in 1986 and is obsolete.

Subsection (d), "Project as Part of Approved State Program of Projects" would be redesignated subsection (b) and retitled "Project as Part of Approved State Improvement Program," to be consistent with changes made to redesignated 5307(c)(1) (existing section 5307(d)(1)). Subsections (d)(1) and (2) concerning the requirements for legal, financial, and technical capacity and maintenance of equipment or facilities that applied to section 5309 would be moved to section 5323(i) and (j) and would apply program-wide.

Subsection (e), "Criteria for Grants and Loans for Fixed Guideway Systems" would be redesignated subsection (c) and renamed

"Criteria for Grants for Fixed Guideway Systems." Paragraph (1)(A) would be amended by deleting "contract" and substituting "grant agreement" to reflect current practice. Paragraphs (3)(A) and (B) would be deleted as extraneous since these project approval requirements of mobility improvements, environmental benefits, cost effectiveness, and operating efficiencies would be covered in paragraph (2)(B). Paragraph (6)(B) would be amended to clarify which determinations made by the Secretary would be expedited if the project was contained in a State Improvement Program in a nonattainment area. Paragraph (6)(C) would be amended by removing "completely" and substituting "substantially" to provide greater flexibility in application of this subsection to a part of a project financed with flexible highway funds.

Subsection (f) "Required Payments and Eligible Costs of Projects that Enhance Urban Economic Development or Incorporate Private Investment" would be redesignated subsection (d). Paragraphs (2)(A) and (B) would be moved and consolidated into the definition of eligible capital project costs contained in section 5302(a)(1)(K).

Subsection (h), "Government's Share of Net Project Costs" would be moved and consolidated into the new section 5328 of the same name.

Subsections (i)-(k) on loan term requirements would be eliminated.

Subsection (m), "Allocating Amounts." Paragraphs (1) and (2) regarding allocations for FY 1993 through FY 1997 would be deleted because section 5309 would now cover major capital investments, rather than fixed guideway modernization and bus discretionary funds. Paragraph (4) would be deleted as extraneous because the amended section would no longer include three different allocations. Paragraph (3) would be redesignated subsection (g) and entitled "Report to Congress."

Subsection (n), "Undertaking Projects in Advance," would be deleted because advance construction authority would apply program wide under section 5319.

Subsection (o), "Use of Deobligated Amounts," which allowed deobligated funds to be used for any purpose under this section would be deleted because the section would now apply only to major capital investments.

Sec. 3011. Formula Grants for Special Needs of Elderly Individuals and individuals with Disabilities

Section 3011 would change the title of section 5310 from "Grants and loans for special needs of elderly individuals and individuals with disabilities" to "Formula grants for special needs of elderly individuals and individuals with disabilities."

Subsection (a), "General Authority," would be amended to remove loan authority. Paragraph (1) would be deleted as a streamlining effort because funds to local public transit operators for service for elderly and disabled persons are made available through the urbanized and nonurbanized area formula programs. Paragraph (2) would be redesignated paragraph (1). Redesignated paragraph (1) would be amended to simplify the conditions of assistance made to private nonprofit corporations and associations.

Subsection (b), "Apportioning and Transferring Amounts," would be amended to remove the 90-day limitation on the transfer of funds from section 5310 to either section 5311, "Formula Program for Other than Urbanized Areas" or section 5307, "Urbanized Area Formula Grants." This change would permit such transfers at anytime during the fiscal year, providing enhanced flexibility and improved program management.

Subsection (e) "Application of section 5309." The catchline and paragraph (1) would be deleted; thus no longer requiring that a grant made under this section follow the requirements of section 5309, "Major Capital Investments." It would require that grants be subject to requirements the Secretary deems appropriate. Paragraph (2) would be redesignated subsection (e) and entitled "Grant requirements."

Subsection (f) "Minimum Requirements and Procedures for Recipients" would be deleted as extraneous because both the Americans with Disabilities Act and the planning process already provide these minimum requirements and procedures for grant recipients.

The remaining sections would be redesignated and would remain unchanged.

Sec. 3012. Formula Program for Other than Urbanized Areas

Section 3012 would change the title of section 5311 from "Financial assistance for other than urbanized areas" to "Formula program for other than urbanized areas" for clarification.

Subsection (b), "General Authority." Paragraph (2) would be amended to provide that four percent of the rural formula program funds shall be available for the Rural Transportation Assistance Program (RTAP). This streamlining change moves RTAP from the Transit Planning and Research Program to the formula program for other than urbanized areas.

Subsection (c) "Apportioning Amounts" would be amended to remove the extraneous apportionment calculation based on nonexistent Census estimates of nonurbanized population. The number of years for obligation after the fiscal year in which the amount is apportioned would be increased from two, to three, to conform the nonurbanized area program with the urbanized formula program under section 5307.

Subsection (e), "Use for Administration and Technical Assistance." Paragraph (1) would be amended to broaden the availability and use of funds by allowing States to use the rural formula funds now available to them for program administration to be used, as well, to support the Transit Cooperative Research Program (TCRP) and for training.

The catchline of subsection (f) would be changed from "Intercity Bus Transportation" to "Intercity Bus or Rail Transportation" to reflect the inclusion of rail as an eligible activity. The first sentence of paragraph (1) would be deleted to drop the requirement for intercity bus set-asides; the remaining phrase of paragraph (1) would be redesignated subsection (f). Subparagraph (A) would be redesignated paragraph (1). Planning and marketing expenses for intercity buses would still be eligible, and would be expanded to include intercity rail.

Paragraphs (1)(B) and (1)(C) would be deleted as extraneous because intercity bus shelters and joint use stops and depots would be generally eligible under this section. Paragraph (1)(D) would expand operating grants to include either bus or rail and would be redesignated as paragraph (2). Paragraph (1)(E) would be amended so that rural connections between small mass transportation operators and intercity bus would now include connections to rail or air carriers to enhance intermodalism in nonurbanized areas and would be redesignated as paragraph (3).

Subsection (f)(2) would be deleted because there would no longer be a requirement for a specific amount to be spent on intercity bus projects. The deletion of the requirement for a specific set-aside for intercity bus services obviates the need for a certification from the State that intercity bus needs are met before the funds could be used for other eligible purposes.

Subsection (g), "Government's Share of Costs," would be moved to and consolidated into section 5328. Subsections (h) and (i) would be redesignated as subsections (g) and (h), respectively.

A new subsection (i), "Apportioning and Transferring Amounts" would be added to allow the transfer of funds from section 5311 to section 5310 for use in the elderly and disabled programs. This provision would be moved from existing section 5336(g).

Sec. 3013. National Research Programs

Section 5312 would be renamed the "National Research Programs" which would be moved from section 5314. Section 5312 on "Research, Development, Demonstration, and Training Projects" would be moved to section 5314.

Subsection (a), "Program." Paragraph (1) would provide that funds made available to this section can be used for the Transit Cooperative Research Program under section 5313; for research, development, demonstration, and training projects under section 5314; for the national transit institute under section 5315; for bus testing under section 5318; and for the human resource program under section 5322. Paragraph (2) sets aside a minimum of $2 million to help transportation providers comply with the Americans with Disabilities (ADA) and would be moved without change from section 5314, "National Planning and Research Program."

The only substantive change to section 5312 would be the deletion of subsection (a)(4)(B) regarding the establishment of an Industry Technical Panel. This provision is extraneous because several other avenues exist to acquire advice from the transit industry.

Subsection (b), "Government's Share," provides that the Secretary establish the government's share consistent with the benefit provided.

Sec. 3014. Transit Cooperative Research Programs

Section 3014 would amend section 5313 by changing the title from "State Planning and Research Programs" to "Transit Cooperative Research Program".

Subsection (a), "Cooperative Research Program" would be amended to include the Federal Transit Administration (FTA) as a member of the governing board of the program.

Subsection (b), "State Planning and Research," would be deleted because the State planning requirements would be consolidated under section 5306, "Statewide Planning." Because the funds would no longer be divided and allocated directly, the fifty percent limit of section 5312, National Planning and Research Programs, would be deleted.

Subsection (c), "Government's Share," would be deleted and would be moved to section 5306 "Statewide Planning."

Sec. 3015. Research, Development, Demonstration, and Training Projects

The language of section 5314 would be replaced by and moved to section 5312. Section 5314 would be renamed "Research, development, demonstration, and training projects."

Subsection (a), "Research, Development, Demonstration, and Technical Assistance

Projects." In paragraph (1), eligible projects would be expanded to include those that improve service, enhance safety or security, increase capacity, reduce costs of services, equipment, or infrastructure, improve intermodal connections, reduce the need for transportation, overcome institutional barriers, disseminate technical information, promote applications of innovative technology, or advance the knowledge of mass transportation.

A new subsection (d), "Joint Partnership Program for Deployment of Innovation," would be added governing a joint partnership program for transit innovation deployment. Under paragraph (1), consortia would consist of public or private organizations which provide mass transportation service to the public, and businesses offering goods or services to mass transportation providers. It may also include public or private research organizations or state or local governmental authorities. The program would, under paragraph (2), permit entering into cooperative agreements, grants, contracts, or other agreements with consortiums to promote the deployment of innovation in mass transportation technology, services, management, or operational practices. In paragraph (3), the government's share of the cost would be limited to a maximum of 50 percent of the net project cost. Paragraph (4) gives the Secretary the authority to establish the solicitation and award process. Paragraph (5) states that net revenues would be credited to the future joint partnerships under this subsection.

Subsection (e), "International Mass Transportation Program," authorizes an international mass transportation program whereby the Secretary may develop and disseminate information on international transportation marketing opportunities to domestic operators; cooperate with foreign public sector entities on research; advocate U.S. mass transportation products and services in international markets; participate in seminars to inform international markets of the technical quality of mass transportation products and services; and offer FTA technical services to foreign public authorities on a cost reimbursement basis. The Secretary would be authorized to cooperate with Federal agencies, State and local agencies, public and private nonprofit institutions, government laboratories, foreign governments, or any organization deemed appropriate to carry out this section. A special account would be established for funds from any cooperating organization or person to pay for promotional materials, travel, reception, and representation expenses.

Sec. 3016. National Transit Institute

Section 3016 would amend section 5315 by changing the title from "National Mass Transportation Institute" to the "National Transit Institute" to reflect current practice. It would also change the subsection (a), "Establishment and Duties," list of courses to include architectural design in paragraph (5), construction management, insurance, and risk management in paragraph (11), and innovative finance in a new paragraph (15). Paragraph (7) would be amended to clarify that turnkey approaches "deliver" mass transportation system rather than "carry-out."

Sec. 3017. University Research Institutes

Section 5316 would be repealed. The program would be combined with the Transportation Centers program, section 5317, into an Intermodal Transportation Centers program administered by the Research and Special Programs Administration in a new chapter 52 of title 49.

Sec. 3018. Transportation Centers

Section 3018 would repeal section 5317. This program would be combined with the University Research Institutes, section 5316, program into an Intermodal Transportation Centers program administered by the Research and Special Programs Administration in a new chapter 52 of title 49.

Sec. 3019. Bus Testing Facility

Section 3019 would amend section 5318 (b), "Operation and Maintenance," and (d), "Availability of Amounts to Pay for Testing," to permit, in addition to a contract, the use of a grant or cooperative agreement to operate and maintain the bus testing facility. This would enhance flexibility in choosing and managing facility operators by FTA. Other mass transportation vehicles such as paratransit vans would be permitted to be tested at the facility in subsection (a), "Establishment."

Sec. 3020. Advance Construction Authority

Section 3020 would delete section 5319, "Bicycle Facilities" in its entirety. Eligibility for bicycle facilities would be moved to, "Definitions," section 5302(a)(1)(O), and its special 90 percent matching share would be moved to section 5328, "Government's Share of Costs." A new section 5319, "Advance Construction Authority," consolidating the advance construction authority in sections 5307(g) and 5309(n) would be substituted in its place. The requirements of advance construction authority would remain unchanged from their previous application to sections 5307 and 5309, and would be expanded to apply to section 5311.

The new section incorporates the requirement that the interest eligible for reimbursement be based on the most favorable interest terms available, as is now included in section 5309(n), rather than the inflation-based approach under section 5307(g), which proved to be unworkable in practice. Preaward authorization to incur project costs would be allowed. This would permit commencement of work at the time funds are apportioned, rather than after grant award. This change would incorporate in law a current practice.

Sec. 3021. Suspended Light Rail System Technology Pilot Project

Section 3021 would delete section 5320, "Suspended Light Rail System Technology Pilot Project," in its entirety. This section is unnecessary because the project is already eligible under section 5312, "National Planning and Research Programs." A new 5320, "Access to Jobs and Training" would be added.

Under subsection (a), "General Authority," the Secretary would make grants to assist States, local governments, and private nonprofit organizations to transport economically disadvantaged persons to jobs and employment-related activities.

Under subsection (b), "Grant Criteria," the Secretary would make discretionary grants to recipients based on statutory criteria including severity of the welfare transportation problem, existence of or willingness to create a mechanism to coordinate transportation and human resource services planning, the applicant's qualifications and performance under other welfare reform activities, the extent to which a partnership with human resource agencies exists, and the applicant's application. The application would be required to address the access to work transportation needs and possible new service strategies, the coordinating of existing service providers and possible new service strategies, the promotion of employer-provided transportation services, and long-term financing strategies to support the program.

Under subsection (c), "Eligible Projects," eligible grant activities would include integrating transportation and welfare planning, coordinating transit providers with human resource service providers, operating and capital costs of service start-up, promoting employer-provided transportation, developing financing strategies, and related administrative expenses.

Under subsection (d), "Technical Assistance," the Secretary may make grants, cooperative agreements, or contracts for technical assistance and the evaluation of projects funded under this section.

Under subsection (e), "Government's Share of Costs," the DOT share of costs would be 50 percent of the net cost and the remainder will be cash from sources other than revenues from providing transit service. Subsection (e) would allow a recipient to use other Federal human services funds to fund the non-governmental share. This subsection would not apply to the grants, cooperative agreements, and contracts for the provision of technical assistance; thus they could be funded completely by the Government.

Under subsection (f), "Planning Requirements," grants would be required to be included in Metropolitan and Statewide plans and Transportation Improvement Programs.

Under subsection (g), "Grant Requirements," grants would be subject to terms and conditions as determined by the Secretary.

Under subsection (h), "Availability of Amounts," funds are available for three years after the fiscal year they are made available.

Sec. 3022. Crime Prevention and Security

Section 3022 would amend section 5321, "Crime Prevention and Security," by moving its provisions to section 5302(a)(1)(Q), "Definitions," thereby making crime prevention and security eligible as a capital project.

Sec. 3023. General Provisions on Assistance

Section 3023 would amend section 5323, "General Provisions on Assistance."

Subsection (a), "Interests in Property." Paragraph (1)(A) would be amended to clarify that a project must be contained in a TIP rather than in a program of projects before a recipient can acquire property with FTA funds.

Paragraph (1)(D) would be amended to clarify that an employee protective arrangement certification under section 5333(b) applies only to projects under sections 5307 (except planning), 5309, 5311, 5313 (for operational activities only), redesignated 5314, and 5320 (except planning) and not to all projects in the transit program.

Subsection (b), would be amended to change the catchline from "Notice and public hearing" to "Social, economic, and environmental interests" to clarify the nature and purpose of the environmental public hearing. Paragraph (2), which describes how the notice of hearing must be published, would be removed due to its unnecessary prescriptive requirements. New paragraphs (2)(A) and (B) would be added here to reflect only those environmental requirements that are unique to FTA, by moving them from section 5324(b); National Environmental Policy Act of 1969 (42 U.S.C. §4321 et seq.) (NEPA) provides the overall environmental review requirements.

Subsection (d) would be renamed from "Buying and Operating Buses" to "Charter Bus Limitation" to more accurately reflect the meaning of the subsection. It would now only apply to sections 5307, 5309, and 5311. The reference to existing section 5308, which would be repealed, would be deleted.

Subsection (e) "Bus Passenger Seat Specifications" would be deleted. This "housekeeping" effort removes unnecessarily prescriptive requirements and recognizes the fact that specifications were never issued by the Secretary.

Subsection (i), "Government's Share of Costs for Certain Projects" would be deleted and moved to section 5328 where these requirements would be consolidated.

Subsection (j), "Buy America," would be redesignated subsection (h). Paragraph (7) would be deleted as extraneous since the "foreign entity purchases" report to Congress has been submitted.

Subsection (k) "Application of Section 135 of Title 23," would be deleted and moved to section 5303 where planning requirements would be consolidated.

A new subsection (i), "Submission of Certification" moved from section 5307(k), would be added to provide for a single certification for all programs under this chapter.

A new subsection (j), "Legal Financial, and Technical Capacity," would be added which would consolidate all requirements for legal, financial, and technical capacity for all programs under this chapter.

A new subsection (k), "Private Enterprise Participation" would be moved here from section 5606(a).

Subsection (l), "Preaward and Postdelivery Review of Rolling Stock Purchase" would be deleted because this requirement is costly and unnecessary.

Sec. 3024. Acquisition of Real Property Owned By The Government

Section 3024 would delete as extraneous section 5324, "Limitations on discretionary and special needs grants and loans," in its entirety. Subsection (a), "Relocation Program Requirements," are contained in the Surface Transportation and Uniform Relocation Assistance of 1987 and would be redundant if retained. The environmental requirements contained in subsection (b), "Economic, Social, and Environmental Interests," are now included in NEPA with the exception of the unique environmental requirements that apply to FTA, which would be placed in section 5323(b), "General Provisions on Assistance." Subsection (c), "Prohibitions Against Regulating Operations and Charges," would be moved to section 5334, "Administrative," and would now apply program wide, rather than only to section 5309 recipients.

A new section 5324 would be named "Acquisition of Real Property Owned by the Government." This new section would make surplus real property owned by the Government available for a transit purpose or as a source of materials for the construction and maintenance of a transit facility adjacent to Government land. This section is patterned on 23 USC section 317.

Sec. 3025. Contract Requirements

Section 3025 would amend section 5325, "Contract Requirements."

Subsection (b), "Acquiring Rolling Stock," would be moved to section 5326, "Special Procurements." New subsection (b), "Competitive Negotiation," would authorize the use of a competitive negotiation procurement process when the sealed bid procurement process is not suitable. Subsection (c), "Procuring Associated Capital Maintenance Items," would be deleted because they would now be included as preventive maintenance in section 5302(a)(1)(E), "Definitions."

Subsection (d), "Architectural, Engineering, and Design Contracts," would be moved to new subsection (b)(2).

Sec. 3026. Special Procurements

Section 3026 would amend section 5326, "Special Procurements."

Subsection (a), "Turnkey System Projects," would be amended to expand the definition of turnkey system projects to include an operable segment of a transportation system and to expand from seller operation to seller financing, designing, building, and system operation, or any combination thereof. It would allow the contractor to acquire, rather than construct, a mass transportation system or segment. Paragraph (2) would require a turnkey solicitation to be based on a two-phased competitive procurement process where participation of small and medium sized businesses would be encouraged in joint ventures with large firms. Paragraph (3) would be deleted because it is completed.

Subsection (c), "Efficient Procurement" would be amended to remove references to dates and guidance requirements and moved to subsection (e). New subsection (c), "Acquiring Rolling Stock" would be moved here from section 5325(b) as a "housekeeping" effort.

Subsection (d), "Procuring Spare Parts" would be amended to permit a recipient to purchase spare parts directly from the original manufacturer or supplier without prior FTA approval if the manufacturer is the only source for the item and the price reflects market conditions.

Sec. 3027. Oversight

Section 3027 would change the name of section 5327 from "Project Management Oversight" to "Oversight" to reflect the expansion of this section to include other oversight such as financial oversight.

Subsection (c), "Limitations on Use of Available Amounts," would be amended to increase the percentage takedown from .5 percent to .75 percent of section 5307. A takedown would no longer be taken from section 5311. Taken together, these changes would result in an increase in the total funds available for oversight activities and focus the source of funds to the programs with the most need for oversight. Paragraph (2) would be amended to permit funds under this section to be used to provide technical assistance to correct deficiencies identified by compliance reviews and audits. This change would facilitate implementation of needed changes to recipient procedures and practices.

Sec. 3028. Government Share of Costs

Section 3028 would delete section 5328, "Project review," in its entirety. This section required specific timelines and milestones for the various stages of fixed guideway projects.

Compliance with the section's requirements was problematic; projects proceed at a pace determined primarily by local actions, not by those of the FTA. Also, commitments have already been made to the projects contained in subsection (c) which would therefore no longer be needed.

This section would be renamed "Government share of costs" and would contain a consolidation of most of the government's share of costs requirements in this single section. Subsection (a), "Capital Projects," would establish the Government's share of the costs for all capital projects funded under chapter 53 of title 49. The Governments' share for most capital projects would remain at 80 percent. Paragraphs (1) (A) and (B) contain special Government share ratios for certain kinds of projects.

Under paragraph (1)(A), the Government's share of a bicycle facility, as defined in section 5302(a)(1)(O), would remain 90 percent of the cost of the project.

Under paragraph (1)(B), the Government's share of the costs for a capital project that involves acquiring vehicle-related equipment required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or the Clean Air Act (42 U.S.C. 7401 et seq.), would remain at 90 percent of the net project cost of the equipment that is attributable to complying with those Acts. The Secretary of Transportation, through practicable administrative procedures, would still be able determine the costs attributable to that equipment .

Under subsection (b), "Operating Expenses," the government's share of operating costs may not exceed 50 percent and would be limited to projects under sections 5302(a)(1)(R), 5307, or 5311. In section 3008 of this Act, operating assistance would be limited to only those areas under 200,000 in population.

Sec. 3029. Investigation of Safety Hazards

Section 3029 would amend section 5329, "Investigation of Safety Hazards," by deleting the extraneous subsection (b), "Report." This report to Congress on safety has been submitted.

Sec. 3030. Nondiscrimination

Section 3030 would amend section 5332, "Nondiscrimination."

Subsection (b), "Prohibitions," would be amended by adding disability to the list of nondiscrimination factors, and to replace "creed" with "religion", that now includes race, color, creed, national origin, sex, or age. This addition makes this section consistent with the requirements of the Americans with Disabilities Act.

Sec. 3031. Labor Standards

Section 3031 would amend section 5333, "Labor Standards."

Subsection (b), "Employee Protective Arrangements," would be amended to conform it to current practice and to apply it to the section 5320 "Access to Jobs and Training" (except planning). Section 5333(b) would apply to sections 5307 (except planning), 5309, 5311, 5313 (operational activities only), redesignated 5314, and 5320 (except planning). It removes its incorrect application to bus testing, administrative requirements, oversight, rail modernization formula, and the authorization section caused by codification.

Sec. 3032. Administrative

Section 3032 would amend section 5334, "Administrative."

Subsection (a), "General Authority." Paragraph (10) would be amended to permit FTA to charge fees to cover the costs of training or conferences that promote mass transportation. This change would increase FTA's flexibility in offering courses, help defray the costs of such courses, and provide additional revenues to expand course offerings.

A new paragraph (11) would be added that would clarify FTA's participation with cooperating foreign countries on various activities, such as research and technology. This wording would be consistent with Federal highway law.

Subsection (g), "Transfer of Assets No Longer Needed," would be simplified to

allow assets that are acquired by FTA assistance and that are no longer needed for public transportation purposes may be sold or transferred under conditions determined by the Secretary. This change removes unnecessary regulatory burdens, enhances flexibility in making decisions regarding asset disposition, and facilitates the undertaking of joint development projects.

Subsection (i), "Authority of Secretary of Housing and Urban Development," would be deleted as a "housekeeping" change; it references pre-1967 authority of the Secretary of Housing and Urban Development (HUD) over the Federal transit assistance program.

Subsection (j), "Relationship to Other Laws," would be redesignated subsection (i).

New subsection (j), "Prohibitions Against Regulating Operations and Charges," which prohibits FTA from regulating transit operations and charges would be moved here from section 5324 (c) and would remain unchanged, except that it would now apply to all programs, rather than to only section 5309. This would incorporate in law a current practice.

New Subsection (k), "Test and Evaluation," would be added to allow the waiver of all requirements except for labor certification and environmental review under NEPA for grants to test or develop any material, invention, patented article, or process. This authority would be similar to that contained in Federal highway law.

Sec. 3033. Reports and Audits

Section 3033 amends section 5335, "Reports and Audits."

Subsection (a) would be amended to change the catchline from "Reporting system and uniform system of accounts and records" to "National transit database" to more accurately reflect the contents of this subsection.

Subsection (a)(2) would be redesignated subsection (b) and entitled "Inclusion of Grant Recipients in Database."

Subsection (b), "Quarterly Reports," would be deleted, removing the requirement for quarterly reports to Congress on State obligations and grants executed. This information is readily available elsewhere through normal distribution so that a Congressional report is extraneous and not cost effective.

Subsection (c), "Biennial Needs Report," would also be deleted, removing the requirement for a biennial needs report to be submitted by the Comptroller General. The General Accounting Office (GAO) concurs that this report is redundant because a comparable report to Congress is required by 49 U.S.C section 308.

Subsection (d), "Biennial Transferability Report" would also be deleted. The GAO agrees that this report is not needed, since the information on the amount of mass transportation money transferred for non-mass transportation purposes is readily available elsewhere.

Sec. 3034. Apportionment of Appropriations for Formula Grants

Section 3034 would amend section 5336 by changing the name from "Apportionment of Appropriations for Block Grants" to "Apportionment of Appropriations for Formula Grants" to more accurately reflect the purpose of this section.

Subsection (a), "Access to Jobs and Training," would provide $100 million annually until 2003 for the "Access to Jobs and Training Program" under section 5320.

Subsection (b), "Allocation For Urbanized Area, Other Than Urbanized Area, Special Needs of Elderly Individuals and Individuals With Disabilities Formula Programs," would provide for distribution of funds among the formula programs as follows: 94.5 percent of the funds for "Urbanized Area Formula Grants" (section 5307); 1.75 percent of the funds for "Formula Grants for Special Needs of Elderly Individuals and Individuals with Disabilities" (section 5310); and 3.75 percent of the funds for the "Formula Program for Other than Urbanized Areas" (section 5311). In the urbanized area formula grants program, the changes to this section would merge the formula fixed guideway program into the program without change in the formula. The amount apportioned by the current fixed guideway formula would be equal to the amount available for major capital investments. The remainder would be apportioned by the current urbanized area formula.

Subsection (c), "Fixed Guideway Tier," would provide funds to the fixed guideway systems listed in existing section 5337.

Subsection (d), "Operating Assistance," would be redesignated subsection (f) and would provide that urbanized areas under 200,000 in population could use their entire apportionment for operating assistance, eliminating the former statutory cap (areas over 200,000 would not be able to use funds for operating assistance).

Subsections (e) through (i) would be redesignated (g) through (k), respectively. Redesignated subsection (i), "Transfers of Apportionments" would be amended to permit transfers of apportionments from the urbanized area formula program to either the "Formula Grants for Special Needs of Elderly Individuals and Individuals with Disabilities program" (section 5310) or the "Formula Program for Other than Urbanized Areas" (section 5311).

Former subsection (j), "Application of Other Sections," would be deleted as extraneous. Application of other sections is not relevant since this section covers only urbanized area formula grants (section 5307).

Former subsection (k), "Certain Urbanized Areas Grandfathered," would be deleted. Grandfathering urbanized areas designated under the 1980 census and not designated under the 1990 census for FY 1993 is obsolete.

Sec. 3035. Apportionment of Appropriations for Fixed Guideway Modernization

Section 3035 would delete section 5337 in its entirety because the current formula would be merged into section 5336(c).

Sec. 3036. Authorizations

Section 3036 would amend and completely rewrite section 5338 by providing new authorization levels for fiscal years 1998 to 2003.

Formula programs under subsection (a) would be funded from the Mass Transit Account for "Urbanized Area Formula Grants" (section 5307) (including Access to Jobs and Training (section 5320)), "Formula Grants for Special Needs of Elderly Individuals and Individuals with Disabilities" (section 5310), and "Formula Program for Other than Urbanized Areas" (section 5311) at $3,970.5 million for fiscal years 1998–2002 and $4,077,704,000 for fiscal year 2003. No General Funds would be provided.

Under subsection (b), "Major Capital Investments," the following levels would be authorized:

FY 1998—$800 million.

FY 1999—$950 million.

FY 2000–2002—$1,000 million per year for each fiscal year.

FY 2003—$1,026 million.

Subsection (c), "Metropolitan Planning," would authorize appropriations of not more than $39.5 million per year for FY 1998–2002 and $40.527 million for FY 2003 for metropolitan planning grants under sections 5303–5305.

Subsection (d), "Statewide Planning," would authorize appropriations of not more than $8.25 million per year for FY 1998–2002 and $8.465 million for FY 2003 for statewide planning grants under section 5306.

Subsection (e), "National Transit Research," would authorize appropriations of not more than $38.050 million in FY 1998–2002 and $39,039,000 for FY 2003 for national transit research under section 5312 (including the Transit Cooperative Research Program, the National Transit Institute, and the Bus Testing Facility).

Subsection (f), "University Transportation Centers," would authorize not more than $6 million for FY 1998–2002 and $6.156 million for FY 2003 for the University Transportation Centers under chapter 52 of title 49.

Subsection (g), "Administrative Expenses," would authorize appropriations of such sums as necessary for administrative expenses.

Subsection (h), "Grants as Contractual Obligations," would provide that grants under subsections (a) and (b) of section 5338 constitute contract authority.

Subsection (i), "Availability," would provide that funds made available under subsections (a) through (f) of section 5338 are available until expended.

Subsection (j), "Transfer of Prior Year Funds Remaining Available," would provide a "housekeeping" change by allowing the transfer of any appropriated funds to the most recent appropriations heading for the same purpose; these funds would be administered in accordance with the provisions of the heading into which they were transferred. This will allow for the elimination of the need to account for expired programs separately.

Sec. 3037. Washington Metropolitan Area Transit Authority

Section 3037 would amend the National Capital Transportation Act of 1969 to change the source of funding for the final two years. Section 17(c) would be amended to repeal the authorization for general fund appropriations for fiscal years 1998 and 1999, and would reduce the total amount authorized to be appropriated by $250,000,000. In its place, a new subsection (d) would be added authorizing a like amount to be appropriated from the Mass Transit Account, $200,000,000 in fiscal year 1998 and $50,300,000 in fiscal year 1999.

TITLE IV—MOTOR CARRIER SAFETY

Sec. 4001. State Grants and Other Commercial Motor Vehicle Programs

Subsection (a) amends 49 U.S.C. 31101 by adding a new subsection (a) to provide a detailed description of the objectives of subchapter I, State Grants. This new subsection (a) emphasizes that the grants authorized under section 31102 are to be used by the Secretary, States, and other political jurisdictions working in partnership to improve commercial motor vehicle and driver safety. This new subsection (a) also provides some detail on the new performance-based approach grant recipients are to take by explaining that the funds authorized by this section are to be used to establish program baselines and benchmarks to evaluate overall motor carrier safety program effectiveness. The new subsection 31101 (a) further clarifies the performance-based grant concept by describing some of the other activities eligible for funding under this section and the safety goals these activities will provide the means to achieve.

Paragraphs (b) (1) and (2) and (c)(9) amend 49 U.S.C. 31102 to authorize the Secretary to

encourage State implementation of performance-based activities to improve motor carrier safety. Section 31102 had already authorized grants to support State enforcement of Federal regulations, standards, and orders and compatible State regulations, standards, and orders. As a result of this amendment, section 31102 authorizes grants to fund traditional Motor Carrier Safety Assistance Program (MCSAP) activities, including uniform roadside driver and vehicle safety inspections, traffic enforcement, compliance reviews, safety data collection, and also new performance-based activities and analyses to identify Statewide safety problems, establish benchmarks, implement activities to address unique problems, and measure program effectiveness. States are still required to submit a State Motor Carrier Safety Plan to qualify for the MCSAP grants and the performance-based incentives. It is envisioned that all States will implement performance-based activities by the end of fiscal year 2003.

Subsection (c) amends section 31102 by adding references to hazardous materials transportation safety to perpetuate the long-standing policy that motor vehicle safety encompasses hazardous materials transportation safety as well.

Subsection (d) amends various provisions in section 31102(b), 49 U.S.C., which describe required components of the plan each State must develop and submit to the Secretary in order to qualify for funding under section 49 U.S.C. 31102.

Paragraph (d)(1) amends 49 U.S.C. 31102(b)(1)(J) to clarify that the activities referred to in that subparagraph are those activities described in paragraph (1) of subsection (c) of section 31102, 49 U.S.C. This amendment thus explains that a State plan must ensure that State "enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States" (49 U.S.C. 31102(c)(1)) will not diminish the effectiveness of the State commercial motor vehicle safety programs funded through subsection (a) of 49 U.S.C. 31102.

Paragraph (d)(2) revises 49 U.S.C. 31102(b)(1)(K) to provide States with more flexibility in establishing consistent and effective sanctions for violations of commercial motor vehicle safety regulations. The maximum fine schedule published by the Commercial Vehicle Safety Alliance is too prescriptive. As a result of this change, States will no longer be limited in their ability to use a range of fines to ensure compliance and address their unique safety problems.

Paragraph (d)(3) revises 49 U.S.C. 31102(b)(1)(L) to expand the preexisting requirement that each State coordinate the development and implementation of its Motor Carrier Safety Plan with the development and implementation of its Section 402 highway safety plan. This revision directs the States to also coordinate their Motor Carrier Safety Plans with other agencies responsible for highway safety in the State including FHWA and NHTSA highway grant recipients. This change also requires the State to provide for coordination of data collection and information systems with these other agencies.

Paragraph (d)(4) revises 49 U.S.C. 31102(b)(1)(M) to require that State plans ensure that all jurisdictions receiving funding participate in SAFETYNET, not just the 48 contiguous States. This revision also deletes the January 1, 1994, deadline for meeting this requirement.

Paragraph (d)(5) strikes 49 U.S.C. 31102(b)(1)(N), and thereby deletes the requirement that a State's plan emphasize and improve enforcement of traffic safety laws regarding commercial vehicle safety. This requirement is being removed because it is overly prescriptive and unnecessary; if a State's unique problems can best be addressed by other actions, such as public education, this requirement would cause the State to spend grant receipts on activities not best designed to solve that State's problems.

Paragraph (d)(6) revises 49 U.S.C. 31102(b)(1)(O) to remove the requirement that a State plan promote enforcement of requirements related to the licensing of commercial motor vehicle (CMV) drivers and the requirement that a State plan promote enforcement of hazardous material transportation regulations by encouraging more inspections of shipper facilities affecting highway transportation and more comprehensive inspections of the loads of CMVs transporting hazardous materials. Removal of these State plan requirements does not in any way diminish the obligation of the States participating in this program to enforce commercial driver's licensing requirements and hazardous materials transportation regulations. Paragraph (d)(6) retains the requirement that a State plan promote activities to remove impaired CMV drivers from the highways through adequate enforcement of regulations on the use of alcohol and controlled substances and the requirement that a State plan provide an appropriate level of training to State motor carrier safety assistance program officers and employees on recognizing drivers impaired by alcohol or controlled substances. Paragraph (d)(6) moves from subparagraph 31102(b)(1)(P) to 49 U.S.C. 31102(b)(1)(O) the requirement that a State plan promote interdiction activities affecting the transportation of controlled substances by CMV drivers and provide training on appropriate strategies for carrying out those interdiction activities. In addition, paragraph (d)(6) amends subparagraph (O) to specify that a State plan must promote activities that further national safety priorities and performance goals.

Paragraph (d)(7) strikes 49 U.S.C. 31102(b)(1)(P), thereby deleting the requirement that a State plan ensure that the State will use trained and qualified officers and employees of political subdivisions and local governments to enforce commercial motor vehicle and hazardous material transportation safety regulations. This requirement is being removed because it duplicates language in the subsection 31104(f) as revised by this section. Clause (i) of 49 U.S.C. 31102(b)(1)(P) requiring that a State plan promote interdiction activities affecting the transportation of controlled substances by CMV drivers is retained, but is moved to clause (iii) of 49 U.S.C. 31102(b)(1)(O). Paragraph (d)(7) also redesignates subparagraph 31102(b)(1)(Q) as subparagraph 31102(b)(1)(P).

Paragraph (d)(8) redesignates subparagraphs (A) through (M) of 49 U.S.C. 31102(b)(1) as subparagraphs (B) through (N). This redesignation is necessary because of the addition of a new element at the beginning of the list of required State motor carrier safety plan components.

Paragraph (d)(9) amends 49 U.S.C. 31102(b)(1) to add a new required element of the State Motor Carrier Safety Plan to the beginning of the list of requirements. This new criterion requires the State to propose in its plan to implement performance-based programs by the year 2003. The requirement that performance-based programs be in place by a certain date ensures that State safety activities which were formerly based on inputs are replaced by activities focused on attaining solutions to existing problems.

Subsection (e) amends section 31103 of 49 U.S.C. by adding a new subsection to authorize the Secretary to reimburse State agencies, local governments, or other persons for up to 100 percent of the cost of the activities specified in 49 U.S.C. 31104(f)(2). The activities referred to in that paragraph are border enforcement and other high priority activities. The preexisting language of 49 U.S.C. 31103 is also redesignated as subsection (a).

Paragraphs (f)(1) through (6) revise section 31104 of 49 U.S.C. to authorize that $83,000,000 be appropriated from the Highway Trust Fund in each of fiscal years 1998 through 2003 to carry out section 31102 of 49 U.S.C., i.e., to provide States with grants to develop or implement programs for improving motor carrier safety and the enforcement of Federal and State regulations, standards, and orders regarding commercial motor vehicle safety.

Paragraph (f)(7) revises 49 U.S.C. 31104(b)(2) by replacing the reference to section 404(a)(2) of the Surface Transportation Assistance Act of 1982 with a reference to paragraphs 4002(e)(1) and (2) of the Intermodal Surface Transportation Efficiency Act of 1991, to change an October 1, 1991, deadline to October 1, 1996, and to change an October 1, 1992, deadline to October 1, 1997. These changes remove out of date references and revise this paragraph to provide that amounts made available under paragraphs 4002(e)(1) and (2) of the ISTEA prior to October 1996 that are not obligated on October 1, 1997, are available for reallocation and obligation.

Paragraph (f)(8) revises 49 U.S.C. 31104(f) by deleting the language authorizing the Secretary to designate specific eligible States for an allocation of funds to be used for research, development, and demonstration of technologies, methodologies, analyses, or information systems designed to implement programs for the enforcement of Federal and State regulations, standards, and orders. The removal of this specific allocation of funds will increase flexibility and enable States to design programs to target their unique problems. In addition, the language in subsection 31104(f) authorizing the Secretary to allocate funds for education of the motoring public on how to share the road safely with commercial motor vehicles is also deleted by the revision in paragraph (f)(8). Instead of the provisions described above, paragraph (f)(8) substitutes a provision authorizing the Secretary to designate up to 12 percent of the funds available to improve motor carrier safety under section 31102, to reimburse States for border enforcement and other high priority activities and projects. This new provision specifies that the Secretary may allocate this 12 percent, in coordination with State motor vehicle safety agencies, to State agencies and local governments, that use trained and qualified officers and employees, and also to other persons for use in improving commercial motor vehicle safety.

Paragraph (f)(9) revises 49 U.S.C. 31104 by deleting subsection (g). Subsection (g) required the Secretary to allocate funding authorized under section 31104(a) for very specific State activities. Eliminating these specific allocations provides State grantees with more flexibility to develop the best

combination of activities to address their unique safety concerns.

Paragraph (f)(10) makes a technical amendment to 49 U.S.C. 31104(j) to remove the word "tolerance" as a descriptive term to qualify the kinds of guidelines and standards which the Secretary was directed by subsection (j) to prescribe.

Paragraph (f)(11) revises 49 U.S.C. 31104 to strike subsection (i) and thereby eliminate the requirement that the Secretary prescribe regulations to develop an improved formula and process for allocating amounts made available for grants under section 31102(a) because the Secretary has promulgated these regulations. A formula will be maintained in these regulations.

Subsection (g) revises 49 U.S.C. 31106 to include more comprehensive provisions regarding motor carrier information systems including the Commercial Vehicle Information System (CVIS) and other motor carrier information systems and data analysis programs which the Secretary is directed, in the revised section 31106, to establish to facilitate the motor carrier safety, regulatory, and enforcement activities required under this title. Implementation of these information systems and programs will provide the Secretary and the States with the data and tools necessary to develop a more analytical approach to motor carrier safety: these systems and programs will enhance the focus on problem companies, drivers, and employers by identifying safety problems and potential countermeasures, determining the cost effectiveness of State and Federal compliance, enforcement programs, and other countermeasures, and providing the tools and data necessary for evaluating the safety fitness of motor carriers and drivers. The CVIS is to serve as a clearinghouse and repository of information related to State registration and licensing of commercial motor vehicles and the safety system of the commercial motor vehicle registrants or the motor carriers operating the vehicles. Under subparagraph 31106(a)(2)(C), the CVIS will link the Federal motor carrier safety systems with State driver and commercial vehicle registration and licensing systems. Paragraph 31106(a)(2) also provides that the CVIS will be designed to enable States to ascertain the safety fitness of a registrant or motor carrier when issuing license plates, to allow States to decide the types of sanctions, conditions, or limitations that may be imposed on a registrant or motor carrier, to monitor the safety fitness of a registrant or motor carrier, and to require States, as a condition of participation in the system, to possess or seek authority to impose commercial motor vehicle registration sanctions on the basis of a Federal safety fitness determination. Subparagraph 31106(a)(2)(D) provides that no more than $6,000,000 of the funds authorized to carry out this section may be used in each fiscal year to carry out paragraph 31106(a)(2). This subparagraph also provides that the Secretary may authorize the operation of the information system by contract, through an agreement with one or more States, or by designating, after consultation with the States, a third party, representing the interests of the States.

The new subsection 31106(b) of 49 U.S.C. authorizes the Secretary to establish a program focusing on ways to improve commercial motor vehicle driver safety. Approaches to be taken in achieving this objective include enhancing the exchange of licensing information among States, the Federal government, and foreign countries, providing information to the judicial system on the licensing program, and evaluating any aspect of driver performance and safety as deemed appropriate by the Secretary. The funds authorized to carry out this section may be used to initiate pilot programs and to support research studies. These funds will be made available through grants, cooperative agreements, contracts, or direct purchase.

Subsection (c) of 49 U.S.C. 31106 authorizes the Secretary to develop these information systems and carry out these initiatives either independently or in cooperation with other Federal departments, agencies, and instrumentalities or by making grants to and entering into contracts and cooperative agreements with States, localities, associations, institutions, or corporations. To the maximum extent practicable, the information systems and data collection efforts conducted under 49 U.S.C. 31106 should be coordinated with similar activities of other highway safety programs authorized under title 23, U.S.C.

Subsection (h) revises title 49, U.S.C., to remove a preexisting section 31107, which authorized the Secretary to make grants to States which agree to adopt or have adopted the recommendations of the National Governors' Association related to police accident reports regarding truck and bus accidents. Subsection (h) replaces this provision with a new section 31107 which authorizes that $17 million be appropriated annually from the Highway Trust Fund to carry out section 31106 for fiscal years 1998 through 2003.

Subsection (i) amends the heading for Subchapter I of Chapter 311 of 49 U.S.C. The heading as amended reads as follows: "STATE GRANTS AND OTHER COMMERCIAL MOTOR VEHICLE PROGRAMS".

Subsection (j) revises the analysis for Chapter 311 of 49 U.S.C. to reflect the new headings for sections 31106 and 31107.

TITLE V—INFRASTRUCTURE CREDIT ENHANCEMENT

Sec. 5001. Short Title

This section identifies a new Federal surface transportation program as the Transportation Infrastructure Credit Enhancement Act of 1997.

Sec. 5002. Findings

This section recites Congressional findings that current public sector resources are insufficient to meet the Nation's transportation infrastructure investment needs in both urban and rural areas. These include building new facilities as well as renovating or expanding existing facilities. The funding gap is particularly acute for large projects of National significance, due to their scale and complexity. A new Federal credit enhancement program for transportation infrastructure will help address these projects' special needs by supplementing existing Federal programs and leveraging private capital investment.

This title is designed to encourage the development of large, capital-intensive infrastructure facilities through public-private partnerships consisting of a State or local governmental project sponsor and one or more private sector firms involved in the design, construction or operation of the facility. The Federal credit enhancement program is targeted to those projects whose financings are payable in whole or in part by user charges, such as tolls, or other dedicated funding sources. By taking advantage of the public's willingness to pay user fees to receive the benefits and services of transportation infrastructure sooner than would be possible under traditional grant-based financing, the program will result in a more efficient and equitable allocation of the Nation's resources.

The program should result in additional surface transportation facilities being developed more quickly and at a lower cost than would be the case under conventional public procurement, funding and operation. In addition to the benefits of enhanced accessibility in moving goods and people, such transportation facilities should provide benefits to the Nation in terms of stimulating job creation and enhancing the Nation's economic competitiveness overseas.

Sec. 5003. Definitions

This section sets forth the definitions for terms used in this title. Key terms are listed below: A "Project" is defined as any publicly-owned surface transportation facility eligible under the expanded provisions of title 23 as well as chapter 53 of title 49, United States Code. Permitted Projects would include free or tolled highways, bridges and tunnels; mass transportation facilities and vehicles; inter-city passenger rail facilities and vehicles (including Amtrak); publicly owned freight rail facilities; and various intermodal facilities.

The term "Eligible Project Costs" is defined to include those costs of a capital nature incurred by a Project Sponsor in connection with developing an infrastructure Project. These costs fall into three categories: (i) pre-construction costs relating to planning, design, and securing governmental permits and approvals; (ii) hard costs relating to the design and construction (or rehabilitation) of a Project; and (iii) related soft costs associated with the financing of the Project, such as interest during construction, reserve accounts, and issuance expenses. It would not include operation or maintenance costs.

The term "Project Obligation" means any debt instrument issued by a Project Sponsor in connection with the financing of a Project.

A "Project Sponsor" is defined as any entity (whether a State or local governmental unit, a private entity authorized by such governmental unit to develop a Project, or a public-private partnership) that is an issuer or obligor of debt obligations used to finance a Project.

A "Revenue Stabilization Fund" is defined as a reserve account capitalized with Federal grants pursuant to this title or contributions from other entities, which may be used for the payment of principal of and interest on Project Obligations.

Sec. 5004. Determination of Eligibility and Project Selection

This section defines the threshold eligibility criteria for a Project to receive Federal credit enhancement and outlines the basis upon which the Secretary will select among potential candidates. The Secretary's determination of a Project's eligibility will be based on both quantitative and qualitative factors, and the Secretary should consult with the Secretary of the Treasury in making this determination.

Of prime importance, the Project must be deemed by the Secretary to be "nationally significant" in terms of facilitating the movement of people and goods in a more efficient and cost-effective manner, resulting in major economic benefits.

Also, the Project sponsor must demonstrate that it cannot obtain adequate financing on reasonable terms and conditions from other sources in order to be eligible for Federal credit enhancement. The Federal

government's assistance is designed to assist Projects which otherwise would have difficulty in accessing the private capital markets to obtain the required financing.

To ensure that the Project enjoys both State and local support, it must be included in the State's transportation plan and program and, if the Project is in a metropolitan area, it must satisfy all metropolitan planning requirements of 23 U.S.C. 134. The State or a State-designated entity will be responsible for forwarding the Project application to the Secretary.

In terms of size, the Project must cost at least $100,000,000 or an amount equal to 50 percent of the State's annual Federal-aid highway apportionments, whichever is less. This two-fold test is designed to allow small and rural States to accommodate Projects otherwise too large for their transportation programs. Based on fiscal year 1997 apportionments, 18 States could qualify Projects costing less than $100 million, with the minimum amount equaling approximately $40 million.

In addition, a Project must be supported at least in part by user charges, such as tolls, or other dedicated revenue sources to encourage the development of new revenue streams and the participation of the private sector.

Project applicants meeting the threshold eligibility criteria then will be evaluated by the Secretary based on a number of other factors. Among them are: the likelihood that the Federal assistance will enable the Project to proceed at an earlier date; the degree to which the Project leverages non-Federal resources, including private sector capital; the degree to which public benefits exceed public costs; and the Project's overall creditworthiness.

This section also provides that all requirements of titles 23 and 49, United States Code, shall apply to funds made available under this title and Projects assisted with such funds unless the Secretary determines that any such requirement is inconsistent with any provision of this title. This section provides, however, that the Secretary cannot waive 23 U.S.C. 113, the provision that applies Davis Bacon Act wage requirements to title 23 projects, 23 U.S.C. 114, concerning convict labor, and the labor protection provisions which are found in 49 U.S.C. 5333. This section does not affect the Secretary's responsibilities under any other Federal law.

Sec. 5005. Revenue Stabilization Funds

This section authorizes the Secretary to make grants to Project Sponsors to capitalize Revenue Stabilization Funds. A Project's Revenue Stabilization Fund could be drawn upon if needed to pay debt service on the Project's debt obligations in the event of revenue shortfalls. The Revenue Stabilization Fund may be used to secure junior lien debt or other obligations requiring credit enhancement, as determined by the Secretary. Limiting the Revenue Stabilization Funds to these types of obligations is designed to maximize the Project's ability to leverage private capital, and assist it in obtaining investment grade ratings on its senior debt.

The principal amount of the deposit could not exceed 20 percent of Eligible Project Costs. Moneys in the Fund are to be invested in U.S. Treasury securities or other prudent investments approved by the Secretary, with interest earnings credited to the Revenue Stabilization Fund. Beginning five years after the Project is completed, amounts in the Fund in excess of the level needed to secure the Project Obligations may be applied to pay other Eligible Project Costs, with the approval of the Secretary.

This section also provides that Project Obligations secured by the Revenue Stabilization Fund are not considered federally guaranteed under the tax code, enabling the Fund to back both taxable and tax-exempt debt.

The Secretary shall consult with the Secretary of the Treasury in devising rules for the implementation of this section.

Sec. 5006. Rules and Regulations

Program guidelines will be established by the Secretary in order to ensure the program operates prudently and efficiently, including requiring Project Sponsors to provide annual audits.

Sec. 5007. Funding

The sum of $100 million per year between FY 1998 and FY 2003 is authorized to fund the Transportation Infrastructure Credit Enhancement Program.

TITLE VI—RESEARCH

PART A—PROGRAMS AND ACTIVITIES

Sec. 6001. Research, Development, and Technology

This section adds a new chapter 52 to subtitle III of title 49, United States Code. Among the critical challenges the Department faces is the need for strategic investment in the Nation's surface transportation infrastructure. Chapter 52 addresses this challenge by strengthening the Department's efforts in intermodal and multimodal research and development. It recognizes that improvements in the surface transportation infrastructure require attention to cross-cutting research in areas such as nondestructive testing, information technologies, urban transportation, the future transportation workforce, and the environment.

New chapter 52 is divided into subchapters. Subchapter I supplements existing administrative authorities. New section 5201 provides the Secretary general authority to enter into grants, cooperative agreements, and other transactions with states, industry, educational or other non-profit institutions, and other entities to further the objectives of the chapter. The Department strives to leverage its research dollars through cost-sharing with the private sector. Major disincentives to cost-sharing in the research area have been the allocation of data rights and the limitations of standard financial management and intellectual property provisions. Cooperative agreements and other transactions provide needed flexibility to achieve cost-sharing in the Department's research programs. This provision would fill gaps in existing Departmental authority.

New section 5202 streamlines the procurement process for transportation research and development to be conducted by institutions of higher education that have already competed for transportation grants under this chapter. This approach follows the example of the successful pilot developed by the Federal Aviation Administration under the National Performance Review Laboratory, whereby universities which had prevailed in full and open competition for award of grants as Aviation Centers of Excellence were eligible to receive sole source contracts for related activities. This provided additional incentive to prospective proposers in the competition and facilitated the Department's ability to take advantage of its investment in the national centers of excellence. Additional grants and contracts authorized by section 5202 will be limited to work that is consistent with the original grant. These additional awards would not require specific justification under the Competition in Contracting Act.

New subchapter II provides for the planning necessary for the success of long-term research and development. New section 5221 requires the Secretary to establish a strategic planning process to determine national priorities for transportation research and development, coordinate Federal activities in the area, and evaluate the impact of the Federal investment. In planning, the Secretary must consider the concept of seamless transportation, innovation, and the need to compete globally. The Secretary has broad discretion in implementation and may, if appropriate, use an interagency executive council or a board of science advisors.

New subchapter III establishes a research and technology program within the Department to concentrate on intermodal and multimodal issues. The program recognizes that much of the research sponsored by the Department focuses on individual modes of transportation and that there is a need for research and technology development that is truly intermodal or multimodal in nature.

New subchapter IV addresses both current research needs and the need for a transportation workforce capable of meeting the challenges of transportation in the future. New section 5241 consolidates and modifies the two programs currently authorized by sections 5316 and 5317 of title 49: the University Research Institutes and the University Transportation Centers. It would continue the ten regional university transportation centers. The current array of national centers and institutes, each of which concentrates on a particular transportation issue specified in statute, would be consolidated into a single system. This system authorizes the Secretary to fund up to ten national centers whose themes are designated by the Secretary to meet national transportation needs. Selection of all centers would be by open competition. The centers conduct transportation research that is widely disseminated. The centers also conduct education and training, not only to attract highly qualified graduate and undergraduate students into transportation-related fields, but also to expose current transportation practitioners to developments in transportation theory and practice. The new authorizing language incorporates existing practice and provides needed flexibility for the program. For example, centers which perform transit-related research would now be allowed to meet requirements for the "match" of grant funds provided under this section with operating funds provided by mass transit authorities whose potential for sponsoring such research might otherwise be limited.

Sec. 6002. Bureau of Transportation Statistics

Subsection (a)(a1). The provision relating to the term of the first Director of the Bureau of Transportation Statistics is stricken as being obsolete.

Subsection (a)(2). The list of topics to be covered by statistics compiled by the Bureau is expanded to include transportation-related variables influencing global competitiveness, recognizing the growing importance of international trade to the nation's economy, the impact of international trade on domestic transportation facilities and services, and the impact of transportation on the ability of domestic U.S. businesses to reach foreign markets.

Subsection (a)(3). The Director's responsibilities for long term data collection are to be coordinated with other efforts in support of the Government Performance and Results Act (GPRA), which was passed subsequent to ISTEA and extends beyond the efforts to develop surface transportation system performance indicators under 23 USC 307(b)(3).

The Director is to ensure that the long term data collection is made relevant to States and metropolitan planning organizations in recognition of their increased role in transportation decision making.

Subsection (a)(4). Also in support of the GPRA, BTS will report to the Secretary on the sources and reliability of statistics from DOT modal Administrations required by the Act and for other purposes.

Subsection (a)(5). This amendment provides that the Director's responsibilities for providing statistics is specifically tied to the support of transportation decision making. This assures that the Bureau's activities are relevant and provides a basis for evaluating the Bureau under the Government Performance and Results Act.

Subsection (a)(6). This paragraph would amend section 111 by deleting an obsolete subsection relating to functions performed by the first Director of BTS and by adding four new subsections. New subsection (d) would clarify the content of the Intermodal Transportation Data Base, originally specified in section 5002 of ISTEA (now codified at 49 U.S.C. 5503(d)). That provision will be repealed by a conforming amendment (see below). In response to a General Accounting Office concern with a lack of universally accepted definitions of intermodal transportation, the data base is made inclusive of movements by competing and complementary modes of transportation as well as by intermodal combinations. The original requirements for data on patterns of passenger and commodity movements are clarified to include international and local movement as well as intercity movements, since all levels of movement affect transportation facilities of national significance. The original requirement for information on public and private investments in intermodal transportation facilities and services was open to many interpretations, particularly with respect to the level of geographic specificity. Initial experience with developing the data base demonstrated that facility-level data was obtainable and useful for locational characteristics, but that investment-related data was cost-effective to develop only for national and industry aggregates. The requirement is clarified to include locational and connectivity data for facilities and services, and national data on expenditures and capital stocks.

New subsection (e) codifies in law the goals and purpose of the Bureau's existing National Transportation Library, as referenced in the Senate Report of the FY 1997 DOT appropriations bill. The goals and purpose are consistent with other national libraries, such as the Library of Medicine.

New subsection (f) codifies the general content of the Bureau's National Transportation Atlas Data Base (NTAD), developed in response to needs of the transportation community and to the National Spatial Data Infrastructure (NSDI) under Executive Order 12906. The NTAD is to be capable of integration with other government maintained transportation databases, such as the Census TIGER files and the U.S. Geological Survey DLG files. BTS also will assume leadership for the development of a national ground transportation data base as an Executive Order 12906 framework data layer for the NSDI and will coordinate with the Census Bureau, the Geological Survey, and other appropriate Federal agencies.

New subsection (g) would authorize the Bureau to establish grants and cooperative agreements with public and not-for-profit private organizations to conduct research and development in support of the Bureau's major activities, including the Transportation Statistics Annual Report, data collection, the National Transportation Library, and the National Transportation Atlas Data Base.

Subsection (a)(7). This subsection would enhance the current provision governing the protection of confidentiality of data provided to the Bureau. General protections provided by the ISTEA were not specific to statistical agencies, and are not adequate to protect the privacy of respondents. Stronger protections are necessary to enhance the respondent's confidence that sensitive information will not be compromised, thus ensuring respondent cooperation with the Bureau's data collection efforts. The confidentiality provisions are based on those applicable to the Bureau of the Census.

Subsection (a)(8). The January 1, 1994 due date for the initial Transportation Statistics Annual Report is removed as obsolete and the requirement that BTS file its report by January 1 of each year is deleted. The Bureau obtains most data for its report each year by December, and prepares most analyses of the data by January. However, because editing and production of the report require additional time, the January 1 deadline is impractical.

Subsection (a)(9). This paragraph add two new subsections to section 111. New subsection (k) is based on the provisions in the FY1996 and FY1997 DOT Appropriations Acts that allow the Bureau to retain funds from the sale of products. New subsection (l) provides for funding of the Bureau's activities in the amount of $31 million from the Highway Trust Fund per fiscal year for fiscal years 1998 through 2003, with a limitation of $500,000 per year for grant activities under new subsection (g). As under ISTEA, it also provides contract authority for such funds.

Subsection (b). This paragraph makes a conforming amendment to 49 U.S.C. 5503 regarding the responsibility of the Bureau to establish an intermodal transportation data base. This requirement is clarified and incorporated into section 111 by the amendment contained in subsection (a)(5).

Sec. 6003. Research and Technology Program

This section revises 23 U.S.C. 307 as indicated below.

Preamble: Subsection (a)(1) is a new preamble defining the Secretary's general authority under the section to develop and administer programs for research, technology, and education.

Authority of the Secretary; In General: Subsection (a)(2)(A) grants authority to the Secretary to engage in research, development, and technology transfer activities with respect to motor carrier transportation and all phases of highway planning and development. This is the same as current law at 23 U.S.C. §307(a)(1)(A), but renumbered.

Cooperation, Grants, and Contracts: Subsection (a)(2)(B) authorizes the Secretary to carry out the research and technology program independently or through cooperative agreements, grants, contracts, and other transactions. This is similar to current 23 U.S.C. §307(a)(1)(B).

Technical Innovation: Subsection (a)(2)(C) requires the Secretary to develop and administer programs to facilitate the application of the products of research and technical innovations to improve the safety, efficiency, and effectiveness of the highway system. This program may encompass products from all available sources, including the private sector and both the domestic and international communities.

Funds: Subsection (a)(2)(D) replaces the provision currently at 23 U.S.C. §307(a)(3)(A), expands it to include a "use of funds" clause that opens up use of funds for activities necessary to interact with, or deliver technology to, DOT customers and partners, and drops 23 U.S.C. §307(a)(3)(B), Minimum Expenditures on Long-Term Research Projects, which is covered under a separate section.

Collaborative Research and Development: Subsection (a)(3), currently 23 U.S.C. §307(a)(2), authorizes the Secretary to undertake and continue, on a cost-shared basis, collaborative research and development with non-Federal entities for the purposes of encouraging innovative solutions to highway problems and stimulating the marketing of new technology by private industry.

Mandatory Contents of Program: Proposed subsection (b) consolidates current law at 23 U.S.C. §307(b), dropping subsection (b)(2), SHRP Results, which is recaptured in a new section; dropping subsection (b)(4), Short Haul Passenger Transportation Systems, which required a report to Congress by January 15, 1993; and dropping (b)(5)(C) which required submission to Congress by July 1, 1992, a report with recommendations regarding the need for a construction equipment research and development program.

Sec. 6004. National Technology Deployment Initiatives

This new section establishes a National Technology Deployment Initiatives Program to significantly expand the adoption of innovative technologies by the surface transportation community in seven goal areas. Progress reports to the Congress are required at 18 and 48 months. More specifically:

Establishment: Subsection (a) directs the Secretary to develop and administer a National Technology Deployment Initiatives program to significantly expand the adoption of innovative technologies by the surface transportation community. Deployment Goals: Subsection (b) outlines the deployment goals of the program to be carried out under this subsection. For each of these goals, described in (1) through (7), the Secretary will work with representatives of the transportation community to develop strategies and initiatives to achieve the goal.

Reporting: Subsection (c) mandates reports to the House of Representatives and Senate on progress and results or activities carried out under this section not later than 18 months after enactment and then another at 48 months.

Funding: Subsection (d) directs the Secretary to expend from the Highway Trust Fund (other than the mass transit account) $56,000,000 per fiscal year for each of the fiscal years 1998, 1999, and 2000, and $84,000,000 for years 2001, 2002, and 2003. The Secretary is authorized to allocate the funds to States for their use.

Leveraging of Resources: Under subsection (e), the Secretary is directed to give preference to projects that leverage Federal funds against resources from other sources.

Contract Authority: Subsection (f) makes funds authorized by this subsection applicable for obligation in the same manner as if apportioned under chapter 1 of title 23, U.S.C.; except that the Federal share of the cost of any activity shall be determined in accordance with this section and such funds shall be available for obligation for a period of three years after the last day of the fiscal year for which such funds are authorized. Furthermore, the Secretary may waive application of any provision of title 23 that is a barrier to the use of new technology if he determines such waiver is not contrary to

the public interest and will advance technical innovation. Any waiver shall be published in the Federal Register with reasons for such waiver.

Sec. 6005. Professional Capacity-Building and Technology Partnerships

This new section brings together technology transfer programs and activities, including education and training efforts, that focus on equipping people to use new technologies. Private agencies, international and foreign entities, and individuals shall pay the full cost of any such training, education, technical assistance, or other support provided through these programs and activities in accordance with this section.

Local Technical Assistance Program: Subsection (a) provides significant changes to this program. First, contractors working for local and tribal governments are specifically called out as customers of the program. Then the number of tribal centers is changed from 2 to 4 to better reflect the number of centers able to benefit from this program. The major change is in funding. The new proposed amount is $12,000,000 for each of fiscal years 1998 through 2003 from the Highway Trust Fund.

Local Technical Assistance Program: This section authorizes the Secretary to carry out a transportation assistance program to provide modern highway technology to highway and transportation agencies in urbanized areas with populations between 50,000 and 1,000,000 and in rural areas, and to the contractors doing work for them. This is similar to current law at 23 U.S.C. §326(a), but adds contractors.

Grants, Cooperative Agreements, and Contracts: Subsection (a)(2) allows the Secretary to make grants and enter into cooperative agreements and contracts for education and training. This is similar to current law at 23 U.S.C. §326(b), and provides the option for cooperative agreements.

Subsection (a)(2)(A) defines the training grants, cooperative agreements, and contracts allowed as those that assist rural local transportation agencies and tribal governments, and the consultants and construction personnel working for them, to develop and expand their expertise in specific areas. This is similar to current law at 23 U.S.C. §326(b)(1), but adds an option for training in intergovernmental transportation planning and project selection, in place of development of a tourism or recreational travel program, which has been completed. This provision also adds reference to the consultants and construction personnel employed by local agencies.

Subsection (a)(2)(C) allows grants, cooperative agreements, and contracts that will operate, in cooperation with State transportation agencies and universities (i) technical assistance program centers to provide technology transfer to rural areas and urban areas of more than 50,000 people, and (ii) not fewer than four centers designated to provide transportation technology assistance to American Indian tribal governments. This is similar to current law at 23 U.S.C. §326, but specifies grants, agreements, and contracts that will operate, rather than establish, the centers that are described in (i) and (ii).

Subsection (a)(2)(D) allows grants, cooperative agreements, and contracts with local transportation agencies and tribal governments and the private sector to enhance new technology implementation.

Funding: Under subsection (a)(3), the sum of $12,000,000 per fiscal year is authorized from the Highway Trust Fund to provide funding for the program and for technical and financial support to the technology transfer centers. This is similar to current law at 23 U.S.C. §326(c), but raises the funding level to $12,000,000 per fiscal year of the period of authorization and directs the funds to be deducted from the Highway Trust Fund.

Contract Authority: Subsection (a)(4) is new and defines the applicability of title 23 to these funds, thereby providing contract authority.

National Highway Institute: Section (b) codifies current 23 U.S.C. §321 as a separate section, with several changes. The basic change raises the set-aside for State training programs from 1/16 to¼ of 1 percent. Fees may still be collected from States, but are not required.

Subsection (b)(1)(A) and (B) describe the establishment, duties, and programs of the NHI. This is the same as current law, except that subsection (b)(1)(B) expands current law to acknowledge that the Institute's programs with industry are growing, and that the Institute administers education, as well as training programs.

Set-Aside; Federal Share: Subsection (b)(2) directs that not more than¼ of 1 percent of all funds apportioned to a State under 104(b)(3) for the surface transportation program shall be available for the State transportation agencies' payment for up to 80 percent of the cost of their employees' educational expenses. This is similar to current law at 23 U.S.C. §321(b), but raises the percentage of set-aside funds from 1/16 of 1 percent.

Federal Responsibility: Subsection (b)(3) permits education and training of Federal, State, and local highway employees be provided (A) by the Secretary at no cost; or (B) by the State through grants, cooperative agreements, and contracts; except that private agencies, international entities, and individuals shall pay the full cost of education and training unless the Secretary determines a lower cost to be in the best interest of the United States. This is similar to current law, but subsection (b)(3)(A) is expanded to apply to all training the current provision that training in "those subject areas which are a Federal Programs Responsibility" may be provided without charge to States and local government. Subsection (b)(3)(B) allows education and training to be paid by the State through cooperative agreements, in addition to grants and contracts, and adds international entities to those that must pay the full cost of education and training. An added clause allows the Secretary to reduce charges to private agencies, international entities, or individuals when in the U.S. interest to do so. The Secretary shall use this authority very sparingly, and any reduction in costs should be done only upon strong justification that such reduction is in the national interest, such as in conjunction with NAFTA.

Training Fellowships; Cooperation: Subsection (b)(4) authorizes the Institute to engage in all phases of contract authority, including the granting of training fellowships, independently or in cooperation with other entities. This is the same as current law at 23 U.S.C. §321(d).

Collection of Fees: Subsection (b)(5)(A) through (C) describes the Institutes collection of fees, including limitations, persons subject to fees, and the amount of fees allowed. This is the same as current law at 23 U.S.C. §321(e).

Funds: Subsection (b)(6) authorizes funds to support the NHI from the Highway Trust Fund in the amount of $8,000,000 for each of fiscal years 1998 through 2000, and $14,000,000 for each of fiscal years 2001, 2002, and 2003.

Contract Authority: Subsection (b)(7) defines the applicability of title 23 to funds, providing contract authority for this program. This is a revision of current law.

Contracts: Under subsection (b)(8), the provision of section 3709 of the Revised Statutes shall not be applicable to contracts or agreements made under this section. This is similar to current law at 23 U.S.C. §321(g).

DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM

Subsection (c) law is currently at 23 U.S.C. §307(a)(1)(C)(ii).

General Authority: Subsection (c)(1) allows the Secretary to make grants for research fellowships for any purpose for which research, technology, or capacity building is authorized by this section. This is the same as current law, but adds references to technology and capacity building.

Subsection (c)(2) provides for the implementation of the Eisenhower Transportation fellowship for the purpose of attracting qualified students to the field of transportation. Further, fellowships are to be offered at the junior through postdoctoral levels of college education, and recipients must be U.S. citizens. This is similar to current law, but provides for the implementation of the fellowship, rather than establishment and implementation. The program's purpose is to attract students to the general field of transportation, rather than specifically attracting transportation engineering and research students. Reference to proposed funding level has been cut, and students eligible for the fellowships have been defined as those U.S. citizens in their junior through postdoctoral levels of college.

Funding: Subsection (c) also authorizes $2,000,000 from the Highway Trust Fund for each of fiscal years 1998 through 2003, and provides contract authority for such program.

TECHNOLOGY IMPLEMENTATION PARTNERSHIPS

This provision sets forth, as a separate subsection, language that is similar to 23 U.S.C. §307(b)(2) that essentially provides for continued support of efforts to implement the products of the Strategic Highway Research Program and to begin to address the new technical innovations coming out of the Long-Term Pavement Performance program.

Authority: Subsection (d)(1) directs the Secretary to continue close partnerships established through the Strategic Highway Research Program and administer a program to move technology and innovation into common practice.

Subsection (d)(2)(A) through (D) authorizes the Secretary to make grants and enter into cooperative agreements and contracts to foster alliances and support efforts to bring about technical change in high-payoff areas through defined approaches.

Funding: Subsection (d) also authorizes $11,000,000 per fiscal year out of the Highway Trust Fund for each of fiscal years 1998 through 2003 to carry out this section.

Sec. 6006. Long-Term Pavement Performance and Advanced Research

This section sets forth a new, revised section continuing and revising the Long Term Pavement Performance (LTPP) program currently codified at 23 U.S.C. §307(b)(3), and establishes a new Advanced Research program.

Authority: Subsection (a)(1) directs the Secretary to continue the LTPP, now at the mid-point of its 20-year schedule, to completion.

Grants, Cooperative Agreements, and Contracts: Subsection (a)(2) identifies elements

of the program for which procurement arrangements may be initiated.

Funding: Subsection (a)(3) and (4) provide for funding the program from the Highway Trust Fund at $15,000,000 each of fiscal years 1998 through 2003.

Advanced Research; Authority: Subsection (b)(1) requires the Secretary to establish a program to address longer-term, higher-risk research.

Subsection (b)(2) identifies, but does not limit, areas for advanced research.

Funding: Subsection (b)(3) funds the program at $10,000,000 for each of fiscal years 1998 through 2000, and $20,000,000 for each of fiscal years 2001 through 2003, from the Highway Trust Fund.

Sec. 6007. State Planning and Research Program (SP&R)

This section sets forth a new section in title 23, which incorporates, with revisions, subsection 307(c) of title 23, United States Code.

Subsection (a)(1) defines the general rule, which directs that 2 percent of the funds apportioned for the National Highway System, congestion management and air quality improvement program, surface transportation program, Interstate reimbursement, Interstate maintenance, and highway bridge replacement and rehabilitation programs for each fiscal year of the period of authorization be available for expenditure by the State transportation agency for specified purposes. Language has been added to correct an oversight in ISTEA that resulted in SP&R funds not being set aside from the Interstate reimbursement program which replaced the Interstate construction program from which SPR funds were previously set aside.

Subsection (a)(1) of this section makes SP&R funding available for engineering and economic surveys, same as current law.

Subsection (a)(2) makes SP&R funding available for metropolitan, statewide and non-metropolitan planning, including planning for highway, public transportation, and intermodal transportation systems. It revises current law by adding metropolitan and non-metropolitan planning, which is a technical change because these funds are currently eligible for planning and research for these areas.

Subsection (a)(3) makes SP&R funding available for development and implementation of management systems, similar to current law, with added reference to section 303 of title 23 where the management systems are described.

Subsection (a)(4) makes SP&R funding available for studies of the economy, safety, and convenience of highway, public transportation, and intermodal transportation usage, same as current law.

Subsection (a)(5) makes SP&R funding available for necessary studies, research, development, and technology transfer activities. It is similar to existing law, with revisions to clarify that States may use SP&R funds to support training on engineering standards and construction materials, including evaluation and accreditation of inspection and testing of engineering standards and construction materials.

Subsection (b) requires minimum expenditures on research, development, and technology transfer activities of not less than 25 percent of the apportioned funds, unless the State certifies otherwise to the Secretary and the Secretary accepts such certification. It also includes an exemption for SP&R research funds from the assessment under the Small Business Research and Development Act (Public Law 102–564).

Subsection (c) requires that the Federal share shall be 80 percent with discretion for the Secretary to adjust the non-Federal share if it is in the interests of the Federal-aid highway program, same as existing law.

Subsection (d) requires that, while the SP&R funds are derived from those program apportionments to each State specified in subsection (a)(1), the Secretary shall combine and administer the funds as single fund.

Sec. 6008. Use of BIA Administrative Funds

This section corrects a section reference.

PART B—INTELLIGENT TRANSPORTATION SYSTEMS ACT OF 1997

Sections 6051–6058 replace the sections 6051–6059 of Title VI, Part B of the Intermodal Surface Transportation Efficiency Act of 1991 ("ITS Act of 1991"), Public Law 102–240. Reference is made to provisions of these sections which are being retained, modified, or deleted.

Section 6051. Short title and Preamble

Subsection 6051(b) designates the name of title VI as the Intelligent Transportation systems Act of 1997 (ITS Act).

Subsection 6051(b) sets forth the purpose of the ITS Act of 1997: to provide for accelerated deployment of proven technologies and concepts and increased Federal commitment to improving surface transportation safety.

Section 6052. Definitions: Conforming Amendment

Consistent with new program directions, the definitions in section 6058 of the ITS Act of 1991 are continued and expanded to add the following newly-defined terms: Intelligent Transportation Infrastructure, National Architecture, NHS (National Highway System), National Program Plan, CVO (Commercial Vehicle Operations), CVISN (Commercial Vehicle Information Systems and Networks), ARTS (Advanced Rural Transportation Systems), and ITS Collision Avoidance Systems. This section also amends ISTEA to strike part B of title VI.

Section 6053. Scope of Program

Subsection 6053(a) in part extends the expiring provisions of the ITS Act of 1991 with respect to research, development and operational testing of intelligent transportation systems (ITS), and in part adds a new focus on deployment.

Subsection 6053(b) restates and updates the goals and related authorities of the ITS Act of 1991. The changes make explicit the existing authorities in titles 23 and 49 of the United States Code under which broad ITS program goals, including research and provision of technical and financial assistance, may be undertaken as part of the general programs. The subsection restates program goals to reflect current priorities, including optimizing existing facilities to meet future transportation needs, emphasizing safety, improving the economic efficiency of surface transportation systems, improving public accessibility to goods and services, and developing standards and protocols.

Section 6054. General Authorities and Requirements

Subsection 6054(a) modifies the provisions of the ITS Act of 1991 which seeks to foster cooperation between State and local governments and the private sector by increasing the emphasis on the widespread deployment of intelligent transportation systems (ITS), while continuing Federal leadership in research and technical assistance. A reference to involving Historically Black Colleges and Universities and other Minority Institutions of Higher Education in work undertaken by the program is added.

Subsection 6054(b) restates and extends the ITS Act of 1991 by directing the Secretary not only to continue to develop and implement national standards and protocols but also to act to secure permanent spectrum allocation for Dedicated Short Range Communications, recognizing the importance of ensuring availability of a common vehicle-to-wayside wireless communications capability for ITS applications.

Subsection 6054(c) directs the Secretary to provide independent and objective evaluation of field and related operational tests in order to ensure credible results and avoid actual or apparent conflicts-of-interest.

Subsections 6054(d) and 6054(e) continue the provisions of the ITS Act of 1991 as they relate to the Information Clearinghouse and Advisory Committees.

Subsection 6054(f) is added to make explicit the authority of States and eligible local entities to utilize funds authorized under certain existing sections of titles 23 and 49 of the United States Code to carry out implementation, modernization and operational activities involving intelligent transportation infrastructure and systems as mainstream program activities.

Subsection 6054(g) is added to require conformity with the National Architecture and ITS-related standards and protocols. It is envisioned that the Secretary will establish on an annual basis which standards and protocols are required to be used. This subsection also provides an exception from this requirement for DOT-sponsored research project, to enable the Department to explore and test a wide range of activities, including non-conforming approaches.

Subsection 6054(h) seeks to assure that flexibility provided under NEXTEA to allow Federal-aid funding of operations and maintenance costs for ITS projects is effectively used by requiring life-cycle cost analyses when Federal funds are to be used to reimburse operations and maintenance costs and the estimated initial cost of the project to public authorities exceeds $3,000,000.

Subsection 6054(i) directs the Secretary to develop guidance and technical assistance on appropriate procurement methods for ITS projects, including innovative and non-traditional methods.

Section 6055. ITS National Program Plan, Implementation and Report to Congress

Subsection 6055(a) mandates the updating of the ITS National Program Plan on an as-needed basis, and details the scope of the Plan, which reflects a new focus on deployment and monitoring, development of standards, and achieving desired surface transportation system performance levels.

Subsection 6055(b) provides for accelerated development and operational testing, in cooperation with industry, of demonstration advanced vehicle control systems and, in particular, for equipping one or more fleets for field evaluations of safety benefits and user acceptance by 2002.

Subsection 6055(c) requires an implementation report on the National Program Plan no later than one year after the date of the enactment of the ITS Act of 1997 and biennially thereafter. Two reports on the Nontechnical Constraints to the deployment of intelligent transportation systems called for by the ITS Act of 1991 have been completed and future updates can be incorporated as part of the National Program Plan Report, therefore separate reports on these issues are discontinued.

Section 6056. Technical, Training, Planning, Research and Operational Testing Project Assistance

Subsection 6056(a) permits the Secretary to provide technical assistance, including training, to state and local government agencies interested in effectively considering, planning, implementing, operating, and maintaining ITS technologies and services. Technical assistance may include guidance on incorporating ITS into Statewide and metropolitan area transportation plans, revising State and local laws and ordinances to enable ITS services, use of innovative financing and acquisition strategies, and a wide range of other activities designed to assist State and local government agencies to effectively deploy ITS in an integrated, interoperable fashion.

Subsection 6056(b) authorizes the Secretary to provide financial assistance and technical support for planning and consideration of metropolitan and statewide ITS operations and management issues.

Subsection 6056(c) continues eligibility of commercial vehicle regulatory agencies, traffic management entities, independent authorities, and other entities contracted by a State or local agency for ITS project work, to receive Federal assistance under this part.

Subsection 6056(d) ties operational testing to specific national research objectives and authorizes the Secretary to provide funding to Federal agencies as well as to non-Federal entities, including HBCU's and other Minority Institutions of Higher Education. The Secretary is to provide highest priority to projects that (A) contribute to the goals of the National Program Plan under Sec. 6055, (B) will minimize the relative percentage and total amount of Federal contributions, (C) conform to the National Architecture and ITS standards and protocols, (D) emphasize collision avoidance products, (E) demonstrate innovative public-private partnering arrangements, and (F) validate the effectiveness of ITS in enhancing the safety and efficiency of surface transportation in both rural and metropolitan areas.

Section 6057. Applications of Technology

Subsection 6057(a) discontinues the designated IVHS Corridors Program and replaces it with one-time, limited-term ITI Deployment Incentives to promote deployment of integrated, multi-modal transportation systems throughout the Nation. Currently designated Priority Corridors are eligible for the Deployment Incentives Program. In metropolitan areas, the funding provided under this section would be used primarily to fund activities designed to integrate existing intelligent transportation infrastructure elements or those installed with other sources of funds, including Federal-aid funds. For commercial vehicle projects and projects outside metropolitan areas, funding provided under this section could be used to also install, as well as integrate, intelligent transportation infrastructure elements.

Subsection 6057(b) establishes priorities for funding projects under this section. At least 25 percent of the funds made available are to be allocated for implementation of border crossing applications and commercial vehicle information systems; and at least 10% is to be made available for ITI deployment outside metropolitan areas. Projects are to accelerate deployment and commercialization of ITS, realize the benefits of regionally integrated, intermodal applications, including commercial vehicle operations and electronic border crossing applications, and demonstrate innovative approaches to overcoming nontechnical constraints.

Subsection 6057(c) mandates that projects designated for funding under this section shall (1) contribute to national goals outlined in the ITS National Program Plan, (2) demonstrate through written agreements a commitment to cooperation among public agencies, multiple jurisdictions and the private sector, (3) demonstrate commitment to a comprehensive plan of fully integrated ITS deployment in accordance with the national ITS architecture and established ITS standards and protocols, (4) be part of approved State and metropolitan plans for transportation and air quality implementation, (5) catalyze private investment and minimize Federal contributions under this section, (6) include a sound financial plan for continued long-term operations and maintenance, without continued reliance on Federal ITS funds, and (7) demonstrate the capability or planned acquisition of capability to effectively operate and maintain the systems implemented.

Subsection 6057(d) establishes annual award funding limitations as follows: $15 million per metropolitan area; $2 million per rural project; $5 million per CVISN project; and no more than $35 million within any State.

Section 6058. Funding

The requirement for reports in section 6058 of the ITS Act of 1991 has been fulfilled and is not extended.

Section 6058 authorizes funding and provides under contract authority for fiscal years 1998 through 2003:

(1) subsection 6058(a), for the ITI Deployment Incentives Program, $100 million per year from the Highway Trust Fund for fiscal years 1998–2003;

(2) subsection 6058(b) for ITS Research and Program Support Activities - $96 million per year from the Highway Trust Fund for fiscal years 1998–2000, $130 million per year thereafter.

Of the funds made available for Research and Program Support Activities, the Secretary should use $25 million for purposes of 6055(b) (demonstration and evaluation of intelligent vehicle systems).

These replace the requirements of the ITS Act of 1991 under which 5 percent of the funds were to be available only for high-risk innovative tests with significant potential to accomplished long-term goals, which did not attract substantial non-Federal commitments.

Subsection 6058(c) continues the limitation in the ITS Act of 1991 that the Federal share on account of activities carried out under this part shall not exceed 80 percent of the cost of the activities, except that the Secretary may waive this limit for innovative activities under subsection 6058(b). In addition, the Federal share payable under the new Deployment Incentives Program in subsection 6058(a) is limited to 50 percent of the project cost, although the matching funds can include funds from other Federal sources. Subsection 6058(c) also provides that, for long range research activities with private entities concerning the demonstration of integrated intelligent vehicle systems under subsection 6055(b) of this part, the Federal share is limited to 50 percent of project costs.

Subsection 6058(d) extends an expiring provision of the ITS Act of 1991 confirming applicability of title 23 to funds authorized under this part, and providing that the funds authorized under this part shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which such funds were authorized.

TITLE VII—REVENUE

Sec. 7001. Short Title: Amendment of 1986 Code

This section designates this title as the Surface Transportation Revenue Act of 1997 and provides that references in this title to a section or other provision are references to the Internal Revenue Code of 1986 (title 26, United States Code).

Sec. 7002. Extension of Highway Related Use Taxes, Exemptions, and Trust Fund

This section provides a 6-year extension, through September 30, 2005, of Highway Trust Fund fuel taxes at their current rates: 18.3 cents per gallon for gasoline and special fuel and 24.3 cents per gallon for diesel fuel. Truck related taxes—heavy vehicle use tax, truck tire tax, and retail tax on heavy trucks and trailers are also extended at their current rates.

All existing refunds and exemption provisions are extended through September 30, 2005. These include reduced rates for intercity bus fuel, gasohol, and other alcohol fuels. The exemption provision for gasohol and other alcohol fuels were extended so that their expiration dates would conform with all other fuel tax provisions. Note that most refund or exemption provisions such as farm gasoline, off-road business gasoline, nonhighway diesel fuel, transit use, and State and local government use have no expiration dates and do not require extension.

Authority for the transfer from the general fund to the Highway Trust Fund of amounts equivalent to the Highway Trust Fund share of the highway fuel and truck taxes is extended through September 30, 2005. Amounts equivalent to tax liabilities incurred before October 1, 2005, may be transferred into the Trust Fund through June 30, 2006.

Authorization to expend funds from the Highway Trust Fund for to meet obligations incurred authorized in National Economic Crossroads Transportation Efficiency Act of 1997 or earlier highway authorization acts is extended through September 30, 2003.

The provision for charging the Highway Trust Fund for its share of fuel tax refunds and credits and for all truck tax refunds and credits is extended through June 30, 2006.

Transfers of receipts from motorboat fuel taxes to the Aquatic Resources Trust Fund and the Land and Water Conservation Fund are extended through September 30, 2003.

Subsection (c) of this section amends the Internal Revenue Code to eliminate section 9511, which establishes the National Recreational Trails Trust Fund. While section 9511 was enacted in 1991, no funds have ever been credited to this fund. Therefore this legislation has been stricken as unnecessary.

Subsection (d) addresses the use of motorboat fuel taxes transferred from the Highway Trust Fund to the Boat Safety Account (BSA) in the Aquatic Resources Trust Fund, which provides funds for the State Recreational Boating Safety grant program administered by the Coast Guard. The statutory authority for making expenditures from the BSA, which expires March 31, 1998, is extended to October 1, 2004.

For fiscal year 1998, the amount that would be transferred into the BSA is $35,000,000. This assumes that $20,000,000 will be furnished under the Clean Vessel Act for Fiscal Year 1998, for a total of $55,000,000. Thereafter, the amount of motorboat fuel taxes transferred to the BSA would be $55,000,000, annually.

Under the legislation, the entire amount transferred would be available for expenditure to carry out the State Recreational Boating Safety grant program. Permanent

budget authority is provided, so that the amounts transferred each year are available without further appropriation.

Currently, one-half of the amount transferred each year to the Boat Safety Account is available for expenditures of the Coast Guard for recreational boating safety services. The conforming amendment would strike this distribution formula.

Subsection (e) makes a necessary technical amendment of section 4041(a)(1)(D)(i) to preserve the existing 1999 expiration date for motorboat diesel fuel taxes. Without this amendment, the changes made to extend highway taxes in section 4081 of the Code would, due to a cross-reference, inadvertently extend the motorboat diesel fuel tax as well.

Sec. 7003. Commuter Benefit

26 U.S.C. section 132(f) exempts up to $165 per month for parking and up to $65 per month for transit benefits or commercial vanpool services from Federal and most State income and payroll taxes, provided the employer offers only these benefits and nothing else, such as taxable cash salary, in lieu of the benefit. To qualify for the exemption, parking must be provided by the employer, either accepted or not by the employee, with no other options, including any taxable options. This amendment would limit the choice to parking or other taxable compensation.

Sec. 7004. Mass Transit Account

Section 7004 would amend 26 U.S.C. section 9503(e) to extend the Mass Transit Account through September 30, 2003, and to permit funding of all eligible purposes under the Federal Transit assistance program, not just capital projects, to receive funding from the Mass Transit Account. In addition, it would change the test of Mass Transit Account liquidity to the same test as is applied to the Highway Account. At present the Mass Transit Account must meet a more stringent test.

Sec. 7005. Motor Vehicle Safety and Cost Savings Programs

This section provides for Highway Trust Fund expenditures for qualified projects and for motor vehicle safety and cost savings programs.

Sec. 7006. General Fund Transfers for Transportation-Related Programs in Fiscal Years 1998–2003

This section sets forth directions to the Secretary of the Treasury to transfer amounts from the Highway Trust Fund (other than the Mass Transit Account) to the general fund as reimbursement for annual appropriations made for selected transportation-related programs. The amount transfered each year would equal the amount that Congress appropriates for the listed accounts (transportation-related portion only). The programs involved are: Department of Energy, "Energy Conservation" account; Department of the Interior, U.S. Park Service, "Construction" account; Department of the Interior, Bureau of Indian Affairs, "Construction" account; Department of Agriculture, U.S. Forest Service, "Reconstruction and Construction" account, Department of Agriculture, U.S. Forest Service, "National Forest System" account; Department of Housing and Urban Development, "Community Development Block Grant"; Environmental Protection Agency, "Environmental Programs and Management" account; Appalachian Regional Commission, "Appalachian Regional Commission" account; and costs associated with the procurement of Federal Alternative Fuels Acquisition.

The consolidated annual amounts sought by the President's FY 1998 Budget Request for transportation-related portions of these programs are: FY98—$646 million; FY99—$583 million; FY00—$583 million; FY01—$467 million; FY02—$467 million; FY03—$467 million.

TITLE VIII—RAIL PASSENGER PROGRAMS

Sec. 8001. Authorization of Appropriations

This section revises section 24104 of the title 49, United States Code, which authorizes appropriations to support the various activities undertaken by Amtrak. Subsection (a) authorizes appropriations for Amtrak's operating grants for fiscal years 1998 through 2003 which will be derived from the Highway Trust Fund (other than from the Mass Transit Account). These authorizations reflect decreasing Federal financial support for Amtrak's operating expenses. After 2001, the operating grant would no longer be available to offset Amtrak's operating losses other than for certain payments into the railroad retirement and railroad unemployment trust fund.

Subsection (b) authorizes appropriations for Amtrak's capital programs (including the Northeast Corridor Improvement Project) in the amount of $423,450,000 for each of the fiscal years 1998 through 2003. Capital grant funds would also be derived from the Highway Trust Fund (other than the Mass Transit Account). Sufficient capital funding is a key component of Amtrak's program to eliminate its dependence on Federal operating subsidies after fiscal year 2001.

Subsection (c) contains a new authorization for supplemental capital funding which represents additional capital funding that would be made available to Amtrak through the Secretary if the Secretary determines that Amtrak is managing the corporation so as to operate within available resources, including revenues, state, local and private sector contributions, and Federal operating subsidies (in the years for which a Federal operating subsidy is authorized). The purpose of this program is to provide a strong incentive for Amtrak to take the necessary actions to reduce spending, increase revenues and operate in the most efficient and effective manner. Amtrak could use the supplemental capital funding to continue to make improvements in the capital plant. The availability of the supplemental capital funding would be tied to two specific tests. For the first year of the program, fiscal year 1999, the funding would become available only if the Secretary determined that Amtrak has taken specific and measurable actions to reduce expenses and increase revenues consistent with a plan to achieve the operating subsidy reductions contemplated by the authorizations for operating expenses included in subsection (a) above. For fiscal years 2000–2003, the test would involve a determination, based upon a report from Amtrak's independent auditor, that during the penultimate fiscal year, Amtrak's revenues plus the amount of operating assistance authorized for that year equals or exceeds Amtrak's operating expenses for that year. Therefore, the test of whether Amtrak receives the funds in fiscal year 2000 would be based upon its performance in fiscal year 1998. This two year lag is made necessary because of the cycle of the appropriations process. Fiscal year 1998 would be the last year for which complete financial records are available during the consideration of the fiscal year 2000 budget request by the President and the Congress.

Subsection (d) provides an avenue for determining the appropriate expenditures that are included within the definition of capital investment. With the exception of the inclusion of specific statutory authority to use capital funds to cover debt service associated with long-term capital investments, the terms "operating expenses" and "capital investments" are to be defined and applied by Amtrak and the Secretary in a manner consistent with the traditional practices of the railroad industry as provided for in the findings of the Financial Accounting Standards Board.

Subsection (e) provides contract authority for the Amtrak operating, railroad retirement/unemployment payments, capital investment, and supplemental capital investment accounts by specifically providing that the approval by the Secretary of a grant or contract with funds made available for Amtrak is to be deemed a contractual obligation of the United States.

Subsection (f) provides that appropriated amounts remain available until expended.

Subsection (g) states that funds provided to Amtrak for intercity rail passenger service may not be used to fund operating losses for rail freight services or commuter rail services.

Mr. MOYNIHAN. Mr. President, I rise with my colleague from Rhode Island, Mr. CHAFEE, to introduce the Clinton administration's legislation to re-authorize the Intermodal Surface Transportation Efficiency Act of 1991, or ISTEA.

I applaud the administration's proposal as a sincere effort to reauthorize ISTEA under the principles of intermodalism, environmental protection, sound community planning, and safety, that have made this innovative transportation act work so well these past 6 years. I do not agree with all of the details of administration plan—the formulas used to distribute funds to each State based on the Federal fuel taxes collected in that State are an unfortunate departure from the need-based formulas in all other Federal programs. The President's proposal, however, preserves the basic ISTEA framework and represents a good starting point as we begin considering the reauthorization of ISTEA.

I also intend to join with a bipartisan group of colleagues later this month to introduce our own proposal to re-authorize ISTEA. This proposal would reauthorize the key provisions of ISTEA—which was crafted to promote intermodal, economically efficient, and environmentally sound incentives in Federal transportation policy—through more fully needs-based formulas.

ISTEA has worked, and its reauthorization will be more important for the economy than any other transportation bill since the Federal-Aid Highway Act of 1956. Our goal should be now to make a good law better.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 469. A bill to designate a portion of the Sudbury, Assabet, and Concord Rivers as a component of the National Wild and Scenic River System; to the Committee on Energy and Natural Resources.

SUDBURY, ASSABET, AND CONCORD WILD AND SCENIC RIVERS ACT

Mr. KERRY. Mr. President, I am pleased to join with the senior Senator from Massachusetts, Senator KENNEDY, in introducing the Sudbury, Assabet and Concord [SuAsCo] Wild and Scenic Rivers Act. Congressman MARTY MEEHAN will introduce the companion bill today in the House. His bill will be cosponsored by the entire Massachusetts delegation as well as colleagues from New Hampshire and Connecticut.

The Sudbury, Assabet, and Concord Rivers area is rich in history and literary significance. It has been the location of many historical events, most notably the Battle of Concord in the Revolutionary War, that gave our great Nation its independence. The Concord River flows under the North Bridge in Concord, MA where, on April 18, 1775, colonial farmers fired the legendary "shot heard around the world" which signaled the start of the Revolutionary War.

In later years, this scenic area was also home to many of our literary heroes including Ralph Waldo Emerson, Henry David Thoreau, and Louisa May Alcott; their writing often focused on these bucolic rivers. Thoreau spent most of his life in Concord, MA where he passed his days immersed in his writing and enjoying the natural surroundings. He spoke of the Concord River when he wrote "the wild river valley and the woods were bathed in so pure and bright a light as would have waked the dead, if they had been slumbering in their graves, as some suppose. There needs no strong proof of immortality." This area was held close to many an author's heart. It was a place of relaxation and inspiration for many.

The SuAsCo bill would amend the Wild and Scenic Rivers Act to include a 29-mile segment of the Assabet, Concord, and Sudbury Rivers. Based on a report authorized by Congress in 1990 and issued by the National Park Service in 1995, these river segments were determined worthy of inclusion in the Wild and Scenic Rivers Program. In its report, the SuAsCo Wild and Scenic Study Committee showed that this area has not only the necessary scenic, recreational and ecological value, but also the historical and literary value to merit the wild and scenic river designation. All eight communities in the area traversed by these river segments are supporting this important legislation.

Our legislation is of minimal cost to the Federal Government, but by using limited Federal resources we can leverage significant local and State effort. Provisions in the bill limit the Federal Government's contribution to just $100,000 annually, with no more than a 50 percent share of any given activity. This is a concept that merits the support of Congress. Should our bill become law, the SuAsCo River Stewardship Council, in cooperation with Federal, State, and local governments would manage the land.

We now have the opportunity to protect the precious 29-mile section of the Assabet, Sudbury, and Concord Rivers. This area is not only rich in ecological value but also in historical and literary value. I urge my colleagues to support this bill and through it to preserve this wild river valley for the enjoyment and instruction of all who live and work there, for visitors from throughout the Nation and, perhaps most importantly, for generations yet to come.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator KERRY today in sponsoring legislation to designate a 29-mile segment of the Sudbury, Assabet, and Concord Rivers in Massachusetts as a component of the National Wild and Scenic Rivers System. This proposal has the bipartisan support of the full Massachusetts congressional delegation—Congressmen MARTIN T. MEEHAN, JOHN F. TIERNEY, EDWARD J. MARKEY, J. JOSEPH MOAKLEY, JOSEPH P. KENNEDY II, WILLIAM D. DELAHUNT, RICHARD E. NEAL, JAMES P. MCGOVERN, BARNEY FRANK, and JOHN W. OLVER—as well as Representatives CHRISTOPHER SHAYS and NANCY L. JOHNSON of Connecticut and CHARLES F. BASS and JOHN E. SUNUNU of New Hampshire, who are introducing an identical bill in the House of Representatives today.

The Sudbury, Assabet, and Concord Rivers have witnessed many important events in the Nation's history. Stone's Bridge and Four Arched Bridge over the Sudbury River date from pre-Revolutionary War days. On Old North Bridge over the Concord River, the "shot heard 'round the world" was fired on April 19, 1775, to begin the Revolutionary War. At Lexington and Concord, the colonists began their armed resistance against British rule, and the first American Revolutionary War soldiers fell in battle.

In the nineteenth century, the Sudbury, Assabet, and Concord Rivers earned their lasting fame in the works of Ralph Waldo Emerson, Nathaniel Hawthorne, and Henry David Thoreau, all of whom lived in this area and spent a great deal of time on the rivers. Emerson cherished the Concord River as a place to leave "the world of villages and personalities behind, and pass into a delicate realm of sunset and moonlight."

Hawthorne wrote "The Scarlet Letter" and "Mosses from an Old Manse" in an upstairs study overlooking the Concord River. He also enjoyed boating on the Assabet River, of which he said that "a more lovely stream than this, for a mile above its junction with the Concord, has never flowed on Earth."

Thoreau delighted in long, solitary walks along the banks of the rivers amidst the "straggling pines, shrub oaks, grape vines, ivy, bats, fireflies, and alders," contemplating humanity's relationship to nature. His journals describing his detailed observations of the flora and fauna in the area have inspired poets and naturalists to the present day, and helped to give birth to the modern environmental movement. By protecting the rivers, a future Thoreau, Emerson, or Hawthorne may one day walk along their shores and gain new inspiration from these priceless natural resources.

In 1990, Congress authorized the National Park Service to issue a report to determine whether the three rivers are eligible for designation as wild and scenic rivers. Under the National Park Service's guidelines, a river is considered eligible for the designation if it possesses at least one "outstanding remarkable resource value." In fact, the three rivers were found to possess five outstanding resource values—scenic, recreational, ecological, historical, and literary. The report also concluded that the rivers are suitable for designation based upon the existing local protection of their resources and the strong local support for their preservation.

Our bill will protect a 29-mile segment of the Sudbury, Assabet, and Concord Rivers that runs through or along the borders of eight Massachusetts towns—Framingham, Sudbury, Wayland, Concord, Lincoln, Bedford, Carlisle, and Billerica. A River Stewardship Council will be established to coordinate the effort of all levels of government to strengthen protections for the river and address future threats to the environment. The legislation also requires at least a one-to-one non-Federal match for any Federal expenditures, and contains provisions which preclude Federal takings of private lands. It is designed not to result in any additional Federal regulatory burden to private property owners along the protected river segments.

Thoreau wrote in 1847 that rivers "are the constant lure, when they flow by our doors, to distant enterprise and adventure* * * . They are the natural highways of all nations, not only levelling the ground and removing obstacles from the path of the traveller, but conducting him through the most interesting scenery." Standing on the banks of the Sudbury, Assabet, and Concord Rivers, as Thoreau often did, citizens today gain a greater sense of the ebb and flow of the Nation's history and enjoy the benefit of some of the most beautiful scenery in all of America. I urge my colleagues to support this legislation, so that these three proud rivers will be protected for the enjoyment and contemplation of future generations.

By Mr. ROTH (for himself and Mr. MOYNIHAN):

S. 470. A bill to amend the Internal Revenue Code of 1986 to make a technical correction relating to the depreciation on property used within an Indian reservation; to the Committee on Finance.

TECHNICAL CORRECTION LEGISLATION

Mr. ROTH. Mr. President, today I rise on behalf of Senator MOYNIHAN and myself to introduce a bill that would correct a technical error originally contained in the Omnibus Budget Reconciliation Act of 1993. Specifically, the bill would correct the definition of the term "Indian reservation" under section 168(j)(6) of the Internal Revenue Code. This definition of the term "Indian reservation" applies for purposes of determining the geographic areas within which businesses are eligible for special accelerated depreciation (sec. 168(j)) and the so-called Indian employment tax credit (sec. 45A) enacted in 1993. As I explain in further detail below, the bill corrects the definition of "Indian reservation" for purposes of these special tax incentives so that, as Congress originally intended, the incentives are available only to businesses that operate on Indian reservations and similar lands that continue to be held in trust for Indian tribes and their members. It is my intent to incorporate the provisions of this bill into a larger bill, which I plan to introduce later this session, containing technical corrections to other recently enacted tax legislation.

Section 168(j)(6) of the Internal Revenue Code provides that the term "Indian reservation" means a reservation as defined in either (a) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or (b) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)). The cross-reference to section 3(d) of the Indian Financing Act of 1974 includes not only officially designated Indian reservations and public domain Indian allotments, but also all "former Indian reservations in Oklahoma" and all land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act. Thus, contrary to Congress' intent in enacting the special tax incentives for Indian lands in 1993, the reference to "former Indian reservations in Oklahoma" in the Indian Financing Act of 1974 results in most of the State of Oklahoma being eligible for the special tax incentives, even though parts of such "former Indian reservations" no longer have a significant nexus to any Indian tribe. For instance, it is my understanding that the entire city of Tulsa may be located within a "former Indian reservation," such that any business operating in Tulsa qualifies for accelerated depreciation under present-law section 168(j). Providing such a tax benefit to commercial activities with no nexus to a tribal community would frustrate Congress' intent to target special tax incentives to official reservations and similar lands that continue to be held in trust for Indians. Businesses located on official reservations and similar lands held in trust for Indians were provided special business tax incentives in order to counter the disadvantages historically associated with conducting commercial operations in such areas, which were expressly excluded from eligibility as empowerment zones or enterprise communities under the 1993 act legislation (see Internal Revenue Code sec. 1393(a)(4)).

The bill I am introducing today would modify the definition of "Indian reservation" under section 168(j)(6) of the Internal Revenue Code by deleting the reference to section 3(d) of the Indian Financing Act of 1974. Consequently, the term "Indian reservation" would be defined under section 168(j)(6) solely by reference to section 4(10) of the Indian Child Welfare Act of 1978, which provides that the term "reservation" means "Indian country as defined in section 1151 of Title 18 and any lands, not covered under [section 1151], title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by an Indian tribe or individual subject to a restriction by the United States against alienation" (25 U.S.C. 1903(10)). Section 1151 of Title 18, in turn, defines the term "Indian country" as meaning "(a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same" (18 U.S.C. 1151).

Accordingly, amending section 168(j)(6) of the Internal Revenue Code to define the term "Indian reservation" solely by reference to the Indian Child Welfare Act of 1978 would carry out Congress' original intent in enacting the special Indian tax incentives in 1993 by eliminating from eligibility those areas in Oklahoma which formerly were reservations but no longer satisfy the definition of a "reservation" under the Indian Child Welfare Act of 1978. It is my understanding that, even after amending section 168(j)(6) in this manner, numerous areas within Oklahoma will remain eligible for the special tax incentives because, even though such areas are not officially designated reservations, such areas nonetheless qualify as "Indian country" under section 1151 of Title 18. Similarly, it is my understanding that lands held by Native groups under the provisions of the Alaska Native Claims Settlement Act also would qualify as "Indian country" under section 1151 of Title 18. Thus, if section 168(j)(6) were amended to define "Indian reservation" solely by reference to the Indian Child Welfare Act of 1978, lands held under the Alaska Native Claims Settlement Act would continue to be eligible for the special Indian tax incentives. In this regard, it is my intent that, if it is brought to the attention of the tax-writing committees that there are any Indian lands that technically do not fall within the definition of "Indian reservation" under the Indian Child Welfare Act of 1978 but which could be made eligible for the special Indian tax incentives consistent with Congress' intent in 1993, then consideration will be given to further modifying the bill I am introducing today when it is incorporated into a larger technical corrections bill.

The technical correction made by the bill would be effective as if it had been included in the Omnibus Budget Reconciliation Act of 1993 (that is, the technical correction would apply to property placed in service and wages paid on or after January 1, 1994). As a general matter, I oppose retroactive changes to the Internal Revenue Code. However, technical corrections to fix drafting errors in previously enacted tax legislation traditionally refer back to the original effective date to prevent taxpayers from receiving an unintended windfall. This bill corrects such a drafting error.

Mr. MOYNIHAN. Mr. President, I am pleased today to be introducing legislation with the chairman of the Committee on Finance, Senator ROTH, to correct an unintended item contained in the Omnibus Budget Reconciliation Act of 1993. I want to thank the chairman for his leadership on this issue and associate myself with his statement.

Mr. President, it recently came to our attention that Internal Revenue Code section 168(j), a provision intended to help attract private industry investment to Indian reservations and similar lands that continue to be held in trust for Indian tribes and their members is benefitting private investment on "former Indian reservations" having no current connection to any Indian tribe. As a result, we are introducing legislation today that would correct the definition of "Indian reservation," under Internal Revenue Code section 168(j)(6), so that these tax incentives are available only for businesses operating on Indian reservations and similar lands.

Mr. President, it is important to note, as Chairman ROTH did, that we wish to take into consideration any Indian lands that may technically not fall within the definition of "Indian reservation," under the Indian Child

Welfare Act of 1978, but which should be made eligible for these special investment incentives. Such situations should be brought to the attention of the tax-writing committees, and we will then consider further modifications as the bill moves through the legislative process.

ADDITIONAL COSPONSORS

S. 61

At the request of Mr. LOTT, the names of the Senator from Virginia [Mr. WARNER], the Senator from Utah [Mr. BENNETT], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 70

At the request of Mrs. BOXER, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 70, a bill to apply the same quality and safety standards to domestically manufactured handguns that are currently applied to imported handguns.

S. 102

At the request of Mr. BREAUX, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 102, a bill to amend title XVIII of the Social Security Act to improve medicare treatment and education for beneficiaries with diabetes by providing coverage of diabetes outpatient self-management training services and uniform coverage of blood-testing strips for individuals with diabetes.

S. 153

At the request of Mr. MOYNIHAN, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 153, a bill to amend the Age Discrimination in Employment Act of 1967 to allow institutions of higher education to offer faculty members who are serving under an arrangement providing for unlimited tenure, benefits on voluntary retirement that are reduced or eliminated on the basis of age, and for other purposes.

S. 202

At the request of Mr. LOTT, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 202, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 293

At the request of Mr. HATCH, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 293, a bill to amend the Internal Revenue Code of 1986 to make permanent the credit for clinical testing expenses for certain drugs for rare diseases or conditions.

S. 321

At the request of Mr. GREGG, the name of the Senator from Wyoming [Mr. ENZI] was added as a cosponsor of S. 321, 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.

S. 325

At the request of Mr. BUMPERS, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 325, a bill to repeal the percentage depletion allowance for certain hardrock mines.

S. 413

At the request of Mrs. HUTCHISON, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 413, a bill to amend the Food Stamp Act of 1977 to require States to verify that prisoners are not receiving food stamps.

S. 433

At the request of Mr. BROWNBACK, the names of the Senator from Alabama [Mr. SHELBY] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 433, a bill to require Congress and the President to fulfill their Constitutional duty to take personal responsibility for Federal laws.

SENATE JOINT RESOLUTION 18

At the request of Mr. HOLLINGS, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Joint Resolution 18, a joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

SENATE RESOLUTION 57

At the request of Mr. DORGAN, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of Senate Resolution 57, a resolution to support the commemoration of the bicentennial of the Lewis and Clark Expedition.

SENATE RESOLUTION 64—TO DESIGNATE NATIONAL CORRECTIONAL OFFICERS AND EMPLOYEES WEEK

Mr. ROBB submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 64

Whereas the operation of correctional facilities represents a crucial component of our criminal justice system;

Whereas correctional personnel play a vital role in protecting the rights of the public to be safeguarded from criminal activity;

Whereas correctional personnel are responsible for the care, custody and dignity of the human beings charged to their care; and

Whereas correctional personnel work under demanding circumstances and face danger in their daily work lives: Now, therefore, be it

Resolved, That the Senate designates the week of May 4, 1997 as "National Correctional Officers and Employees Week." The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Mr. ROBB. Mr. President, I submit a resolution to designate the week of May 4, 1997 as "National Correctional Officers and Employees Week."

Mr. President, this resolution gives needed recognition to the vital role that correctional personnel play in our communities.

Correctional officers and employees put their lives on the line every day to protect the public from dangerous criminals. These brave men and women also protect incarcerated individuals from the violence of their circumstance, and they help prisoners work toward returning to lawful society.

I urge my colleagues to join with me to recognize the work and contributions of our Nation's correctional officers and employees.

SENATE RESOLUTION 65—RELATIVE TO COMPREHENSIVE CAMPAIGN FINANCE REFORM

Mr. DURBIN (for himself and Mr. DORGAN) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 65

SEC. . SENSE OF THE SENATE ON CAMPAIGN FINANCE REFORM.

(A) FINDINGS.—The Senate finds that—

Whereas spending on federal election campaigns has increased to an estimated $2.65 billion in the most recent election cycle, a three-fold increase over campaign spending just 20 years ago, even after adjusting for inflation;

Whereas in the 1995-1996 election cycle, the Democratic party committees raised $332 million, a 73% increase over the $192 million raised four years earlier and the Republican party committees raised $549 million, a 74% increase over the $316 million they raised four years earlier;

(3) overall campaign spending for congressional races has risen from $99 million in 1976 to $626 million in 1996, a more than six-fold increase;

(4) since 1992, when political parties were first required to report soft money contributions to the Federal Election Commission, these contributions, which are raised outside federal election law, have tripled, from $86 million in 1992 to over $263 million in the last election cycle;

(5) there has been a proliferation of negative "issue" ads paid for by political parties and interest groups to influence federal elections, further increasing the cost of campaigns;

(6) as political campaigns have become longer, costlier and more negative, voter apathy has increased and voter participation in presidential elections has declined from 60% in 1948-1968, to 53% from 1972-92, to all-time low of 49% in 1996;

(7) these trends will continue if Congress fails to enact comprehensive campaign finance reform;

(8) the more than 6,700 pages of hearing records, 49 days of testimony before 8 different congressional committees, 15 committee reports from 6 different committees and 113 Senate floor votes, constitute a sufficient Senate record on campaign finance reform; and

(9) campaign finance reform has been filibustered in the Senate 17 times in the last ten years.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate should proceed to the consideration of comprehensive campaign finance reform that reduces spending on political campaigns and curtails the influence of special interest money in federal elections by no later than May 31, 1997 and adopt as a goal the final enactment of such legislation by no later than July 4, 1997.

Mr. DURBIN. Mr. President, in the 1996 election cycle, unprecedented amounts of money freely flowed into and out of the campaign coffers of candidates for Federal public office. The time required to raise funds is excessive, and increasingly more expensive election campaigns have fostered the view that spending is out of control.

Campaign finance reform is long overdue. The fact that we are embarking upon an intensive scrutiny of past campaign practices should not impede our effort to move swiftly and concurrently to correct deficiencies in the present system.

We must do more than just point out the errors of the past. We must make changes for the future.

Today, Senator BYRON DORGAN and I submitted a resolution stating that it is the sense of the Senate that the Senate should proceed to consideration, by no later than May 31, 1997, of comprehensive campaign finance reform that reduces spending on political campaigns and curtails the influence of special interest money in Federal elections, and that the Senate should adopt as a goal the final enactment of such legislation by no later than July 4, 1997.

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Thursday, March 19, 1997, 9:30 a.m., in SD-430 of the Senate Dirksen Building. The subject of the hearing is on Food and Drug Administration reform. For further information, please call the committee, 202/224-5375.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Thursday, March 20, 1997, 10 a.m., in SD-430 of the Senate Dirksen Building. The subject of the hearing is Higher Education Act reauthorization. For further information, please call the committee, 202/224-5375.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Tuesday, March 18, 1997, at 9 a.m. in SR-328A to receive testimony regarding agriculture research reauthorization.

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

COMMITTEE ON ARMED SERVICES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, March 18, 1997, at 10 a.m. in open session, to receive testimony from the unified commanders on their military strategies and operational requirements in review of the defense authorization request for fiscal year 1998 and the future years defense program.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. HATCH. 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 Tuesday, March 18, 1997, to conduct a markup on S. 318, the "Homeowners Protection Act of 1997," and of certain pending nominations.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. HATCH. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Tuesday, March 18, at 9:30 a.m., Hearing Room (SD-406) on proposals to authorize State and local governments to enact flow control laws and to regulate the interstate transportation of solid waste.

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

COMMITTEE ON THE JUDICIARY

Mr. HATCH. Mr. President, the Senate Committee on the Judiciary would ask unanimous consent to hold a nominations hearing on Tuesday, March 18, at 2:30 p.m., in Room 226, of the Senate Dirksen Office Building.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Tuesday, March 18, 1997, at 9 a.m.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on the presidential nomination of Alexis M. Herman to be Secretary of Labor, during the session of the Senate on Tuesday, March 18, 1997, at 2 p.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, March 18, 1997 at 2:30 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 18, 1997, at 10 a.m. to hold a hearing.

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

SUBCOMMITTEE ON THE OCEANS AND FISHERIES

Mr. HATCH. Mr. President, I ask unanimous consent that the Oceans and Fisheries Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, March 18, 1997, at 2:30 p.m. on review of U.S. Coast Guard fiscal year 1998 budget and reauthorization.

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

ADDITIONAL STATEMENTS

GREEK INDEPENDENCE DAY

• Mr. ROTH. Mr. President, it is a personal honor for me to once again cosponsor Senate Resolution 56 designating March 25, 1997, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy".

This resolution honors the anniversary of a single, victorious revolution that occurred 176 years ago. This solitary battle returned to the citizens of Greece their freedom and democracy, rights that had been seized from them centuries before by the Ottoman Empire. Greece is a country possessing an immensely rich heritage, and one from which our own Nation has drawn generously and with great benefit. In times

of peace and in times of conflict, Greece has steered a strong and steady course with the United States as a loyal friend and trusted ally.

This resolution provides me with the opportunity to express our deep gratitude to the nation of Greece, as well as our own Greek American community, for the significant contributions they have both made on behalf of our Nation—and to the inexorable ties which bind our two peoples together.•

REMARKS OF SENATOR GEORGE MITCHELL ON THE NORTHERN IRELAND PEACE PROCESS

• Mr. MOYNIHAN. Mr. President, I rise today to bring to the attention of my colleagues the moving remarks of our former Majority Leader, the Honorable George J. Mitchell, which he delivered at the American-Ireland Fund Dinner on March 13, 1997. Senator Mitchell spoke about the peace process in Northern Ireland and his own efforts to facilitate reconciliation in that troubled land.

I commend Senator Mitchell's remarks to all Senators, and I ask that the text be printed in the RECORD.

The text follows:

EXCERPTS FROM REMARKS BY SENATOR GEORGE J. MITCHELL, AMERICAN-IRELAND FUND DINNER, WASHINGTON, DC, MARCH 13, 1997

I'm grateful for this award. The American-Ireland Fund is an important force for good in Ireland. I commend you for your efforts and I encourage you to continue them.

As you know, I've spent most of the past two years in Northern Ireland. On my trips back to the U.S., I've been asked two questions, over and over again, by Americans who care about Ireland: Why are you doing this? And, What can I do to help?

Tonight, I'll try to answer both of those questions.

Why am I doing this?

I've asked myself that question many times. To answer it, I must go back nearly 20 years, before I'd ever been to Ireland, before I'd ever thought seriously about Northern Ireland.

Before I entered the United States Senate I had the privilege of serving as a Federal Judge. In that position I had great power. The power I most enjoyed exercising was when I presided over what are called naturalization ceremonies. They're citizenship ceremonies. A group of people who'd come from every part of the world, who'd gone through all the required procedures, gathered before me in a federal courtroom. There I administered to them the oath of allegiance to the United States and, by the power vested in me under our constitution and laws I made them Americans.

It was always emotional for me, because my mother was an immigrant from Lebanon, my father the orphan son of immigrants from Ireland. They had no education and they worked hard all their lives at difficult and low-paying jobs. But because of their efforts, and, more importantly, because of the openness of American society, I, their son, was able to become the majority leader of the United States Senate.

After every naturalization ceremony, I spoke personally with each new American, individually or in family groups. I asked them where they came from, how they came, why they came. Their stories were as different as their countries of origin. But they were all inspiring, and through them ran a common theme, best expressed by a young Asian. When I asked why he had come, he replied, in slow and halting English, "I came because here in America everybody has a chance".

A young man who'd been an American for just a few minutes summed up the meaning of our country in a single sentence. Here, everybody has a chance.

I was one of those who had a chance, and I thank God for my good fortune. Now, by an accident of fate, in a way that I did not seek or expect, I have been given the opportunity to help others to have a chance. That they are in Ireland, the land of my father's heritage, is just a fortuitous coincidence. That I am able to help, even if in just a small way, is what matters.

No one can really have a chance in a society dominated by fear and violence. And so I, who have been helped by so many, now must do what I can to help others to try to end the violence, to banish the fear, to hasten the day when all the people of Northern Ireland can lead lives of peace, reconciliation and opportunity.

Let me say, as clearly and as emphatically as I can: There will be peace and reconciliation in Northern Ireland. I don't know exactly when it will come. But I am convinced that it is inevitable, for one over-riding reason: It is the will of the overwhelming majority of the people of Northern Ireland.

They remain divided along sectarian lines, and they mistrust each other. But they share a fervent desire not to return to the violence which for so long has filled their lives with fear and anxiety.

It will take a very long time for the mistrust to end. But it need not take a long time for the violence to end. Once it does, once people can live free of fear, then gradually the walls of division will come down. Walls that exist on the ground, and in people's minds, will come down, brick by brick, person by person, slowly but inevitably.

Over the past two years I've come to know the people of Northern Ireland. They're energetic, Intelligent and productive. I admire and like them. They deserve better than the troubles they have. But there is only one way to achieve that better life.

There is no alternative to democratic, meaningful, inclusive dialogue. For that to come about, there must be an end to violence and to intransigence. They are the twin demons of Northern Ireland—violence and intransigence. They feed off each other in a deadly ritual in which most of the victims are innocent.

There are those who don't want anything to change, ever. They want to recreate a past that can never be recreated. But their way will only guarantee never-ending conflict. It will insure that the next half century is as full of death and fear as was the past half century.

The people of Northern Ireland must make it clear to their leaders that they oppose intransigence, that they want meaningful negotiation. Not capitulation; not the surrender of conviction. But good-faith negotiation that places the interest of the people, the interest of peace, above personal or political considerations. Good faith negotiation can produce an agreed settlement that will command the support of the majority in Northern Ireland, including the majority in each community. I know in my heart that it can be done.

With an end to intransigence must come a total and final repudiation of violence. There is no justification for violence, or the threat of violence. To those of you who ask; what can I do? Here is my answer: You, the leaders of the Irish-American community, must say that you condemn violence, that you demand its end, that you will not support those who engage in or support or condone violence. You must say it publicly, you must say it loudly, you must say it forcefully. And you must say it over and over again.

Violence is wrong. It is counter productive. It deepens divisions. It increases hatred. It hurts innocent people. It makes peace and reconciliation more difficult to attain. It must end.

Let me be clear on one more point. They may be twin demons but there is no moral equivalence between intransigence and violence. They are both wrong. But as bad as intransigence is, violence is worse. Intransigence takes away people's hopes. Violence takes away their lives.

There exists an historic opportunity to end centuries of conflict in Northern Ireland. If it is not seized now, it may be years before it returns, and the failure could cost many their lives.

Peace and reconciliation in Northern Ireland is a worthy cause. It deserves your attention and support. You can make a difference. What you say is heard, what you do matters.

As you leave tonight, ask yourself this question: Wouldn't it be a wonderful thing if, on St. Patrick's day next year, rather than praying for peace and reconciliation in Northern Ireland, we were celebrating its existence?

If you agree, then beginning tomorrow, do all you can to make it happen. When you do, you will reap the greatest of all rewards: You will have earned the title of peacemaker.•

TRIBUTE TO CHARLES H. WEBB, DEAN, INDIANA UNIVERSITY, SCHOOL OF MUSIC

• Mr. LUGAR. Mr. President, it is with great privilege that I rise today to honor Charles H. Webb, an outstanding administrator and musician who is retiring after 24 years of service as Dean of the Indiana University School of Music in Bloomington, IN.

Since his appointment in 1973, the Indian University School of Music has enjoyed a world-wide reputation for excellence. The Indiana University School of Music has been ranked No. 1 among schools of music in the country, and is the first and only school to bring an opera performance to the stage of the Metropolitan Opera in New York.

Dean Webb's accomplishments have been hailed by Indiana University and the State of Indiana. He received the Thomas Hart Benton Medal from Indiana University in 1987 and the Governor's Award for the Arts in 1989. He is also a two-time recipient of the Sagamore of the Wabash award, which is the highest award given by the State of Indiana for meritorious service.

In addition to his responsibilities at Indiana University, Charles Webb has maintained an active performance schedule as a conductor, pianist, and organist. Hailed as one of today's finest

accompanists, he has appeared with some of the world's best musicians. He currently serves as the organist for the First United Methodist Church in Bloomington, IN.

Charles Webb's contributions to the art of music and his support for education will continue long after his retirement, as his students enrich our lives with performances in orchestras, bands, opera, and theater companies, and schools around the world. I hope my colleagues will join me in congratulating him for his years of tireless service, and in wishing him and family all the best in the future.•

NATIONAL AGRICULTURE WEEK

• Mr. SARBANES. Mr. President, I rise today in recognition of National Agriculture Week and to pay tribute to the farmers of this nation whose dedication and diligence throughout our history have not only served to feed our families, but have also provided a strong framework for the economic prosperity of this country.

At the 1896 Democratic National Convention, it was William Jennings Bryan who recognized the importance of farmers, not only as the individuals who provide our sustenance, but as integral parts of the American business community. He said, "The farmer who goes forth in the morning and toils all day, who begins in spring and toils all summer, and who by the application of brain and muscle to the natural resources of the country creates wealth, is as much a business man as the man who goes upon the Board of Trade and bets upon the price of grain." Today, when technology like weather trackers and cellular phones plays as important a role on the fields as it does on Wall Street, Bryan's words ring true.

Bryan's other comment about farmers reminds us of a fact too often forgotten: "The great cities," he said, "rest upon our broad and fertile prairies." Indeed, the productivity of America's farmers not only keeps Americans fed, it also enables the rest of our citizens to embark upon their daily tasks and diverse careers without concern that the grocery's shelves will be empty.

Our farmers are so productive that they sustain the lives of more than 250 million Americans every day and still have enough left over to make agriculture our nation's leading export. In 1930, 1 American farmer produced enough food to feed 24 people. Today, that same 1 farmer is feeding 129 people. In fact, our farmers are so efficient that Americans spend approximately 9 percent of their income on food, compared with much higher figures in other countries, such as 17 percent in Japan and 27 percent in South Africa.

Yet the agricultural industry's contributions to our economy often go unrecognized. I grew up on the Eastern Shore of Maryland, where my parents owned and operated a local restaurant. I spent much of my childhood working in that restaurant, and one of my clearest memories is of Saturday evenings, when the farmers would come to town to stock up on supplies after a hard week's work. Every Saturday, my parents would keep the restaurant open late, waiting for the farmers to arrive. Over the years, I gained a good understanding of the successes and hardships related to agriculture. In my house, we knew that if the farmers were successful, our own business would prosper.

Since then, and the beginning of my career in public service, my contact with farmers from across the State of Maryland has confirmed my strong view that we cannot have real prosperity in this country if the farm sector itself is not sharing in and laying the foundation for that prosperity.

Farmers bear a weighty burden. At the same time that their work feeds millions and includes efforts to cleanse a polluted environment, that work is also part of a very modern industry, which generates billions of dollars in revenue and employs more than 15 percent of our citizens. Yet unlike many other billion-dollar businesses, almost 90 percent of American farms are owned by individuals or families. Family farmers are the backbone of America's agricultural industry and we must ensure that they remain a vital part of American society.

All of this is relevant, I believe, to this year's National Agriculture Week theme, "Growing Better Every Day—Together." Indeed, we all must remain committed to working on behalf of our farmers at all levels of government. Only through such cooperation can we look forward to a future in agriculture which is even more successful than our present.

In the State of Maryland, our attempts at such cooperation are indeed paying off. Recently, I have worked closely with State and local officials to support the efforts of farmers seeking to increase production by bolstering their existing export capabilities and identifying ways in which additional Maryland agribusinesses can enter foreign markets. Maryland is the eastern seaboard's fastest growing exporter. And with a strong and growing trade infrastructure—which includes the port of Baltimore, the World Trade Center, Baltimore-Washington International Airport and other aggressive export-enhancing initiatives—we are hopeful that agriculture, as Maryland's number-one industry, will be able to further tap into the State's increasing number of international opportunities. New forums across Maryland—which we have initiated together with the Maryland Department of Agriculture and our terrific Maryland Secretary of Agriculture Lewis Riley—are helping farmers take full advantage of our expanding capabilities and possibilities in this regard.

We in Maryland take much pleasure in the achievements of our farmers. Generating more than $1.6 billion a year, agriculture employs about 14 percent, or 350,000 of Maryland's workers. Maryland's agricultural industry truly helps the State live up to its often used nickname, "America in miniature." From vegetable production and horticulture in southern Maryland, to the dairy operations and horse farms of central Maryland, to the beef cattle, forestry products and tree fruit in western Maryland, to poultry growing on the eastern shore, Maryland agriculture is indeed diverse and provides a showcase for the nation's agricultural capabilities.

Mr. President, we in Maryland and our nation are very proud of our agricultural industry. There is still much work to be done to ensure a bright future for America's farmers, but as this week's theme suggests, through a strong commitment at all levels of government—together—we can help continue to build such a future.•

TRIBUTE TO CAPITOL LIONS CLUB

• Mr. SMITH of Oregon. Mr. President, ever since the pioneer days, when entire communities would gather to help in the building of a barn, Oregon has had a rich tradition of neighbor helping neighbor. This heritage of neighbor helping neighbor is alive and well in countless Oregon cities and towns.

I rise today to pay tribute to an outstanding example of the difference that can be made through volunteerism. The Capitol Lions Club, along with other Lions Clubs in the Salem-Keizer area, are helping our young people learn about patriotism through a project where small flags are presented to first-grade students.

Capitol Club members buy lumber, cut it into small blocks, drill holes in the blocks, put Lions' decals on them, and place small 4- by 6-inch flags in them. Lions members then go in to classrooms, to present the flag to students, along with a presentation on the importance of a flag, and a brochure on flag history and etiquette.

This year, 2,575 first-graders and their teachers in Oregon public and private schools will benefit from this outstanding program. As one Salem first grade teacher said, "The children are very excited to have their own little flags to take home. They have their special little places for them, I know that it is still real important to them."

Mr. President, I'm proud to be one of those Americans who feel something stir in my heart everytime I see our flag flying in the wind. What better way to ensure a bright future for our country than by ensuring that the timeless value of patriotism is alive and well in our young people.

Mr. President, I am proud to salute the Capitol Lions Club of Salem, OR, for a job well done. I ask that an article from the Salem Statesman-Journal detailing this project be printed in the RECORD, in the hopes that other organizations around the country might undertake a similar project.

The article follows:

LIONS CLUB OFFERS LESSON ON FLAGS

(By Hank Arends)

The members of area Lions clubs have a community project that they believe is worth saluting.

For more years than anyone can remember, club members annually have presented a program on the U.S. flag to first-graders. They give the students their own flag on a wooden base with the Lion's insignia and a brochure on flag history and etiquette.

This year, 2,575 first-graders and their teachers in area public and private schools received the 4-by-6-inch flags, said Ralph Jackson, community coordinator. And the kids loved them.

"They were very excited to have their own little flags to take home," said Katie Keisey, a first-grade teacher at Lake Labish Elementary School.

"They have their special little places at home for them. I know that it is still real important to them."

Those who do the distribution love it, too.

"It makes me feel so good that those little kids were so receptive," said Viola Laudon of the Keizer club.

"They give us such comments as, 'Oh, I love you. Thank you for the flag. I'm taking good care of my flag.'" Laudon said of a large card she received from students at the Keizer Christian School.

"This is an idea that started in Arizona, and somehow we heard about it and thought it might be OK," Jackson said.

The club members try to make their school visits in February, around the birthdays of presidents Washington and Lincoln.

The local clubs and a lot of others get their flag sets from the Capitol Lions Club. Joe Carson is chairman of the production and marketing of 26,000 to 27,000 flags a year in Oregon and as far away as Pennsylvania.

"It is kind of an Americanization project. We came up with the idea 15 to 17 years ago as a fund-raising project," Carson said.

The Capitol members sell the sets at 65 cents each to other clubs and make $6,000 to $7,000 annually for such Lion's projects as assistance to the hearing impaired and blind, Carson said.

Capitol Club members buy the lumber, cut it into small blocks, drill the holes, put Lion's decals on them and finish them. They also reproduce the brochure that goes with each set.

The participating clubs are Capitol, Keizer, Salem Downtown, Northeast, South Salem and West Salem. Frank VonBorstel was area chairman of the flag distribution for at least 10 years.

"We want to interest the young people and provide the chance for them to learn something about patriotism and the flag," VonBorstel said.

Lion Kelly Freels tells of Lions members who served in the Korean War and try to tell the first-graders what the flag means to them.

"They tell them how when they came back to base and saw the U.S. flag flying, they knew they were safe. It also gives us an opportunity to get out in the schools and see what is going on," Freels said.•

KOREAN WAR VETERANS MEMORIAL

• Mr. TORRICELLI. Mr. President, From 1950 to 1953, the United States was in the midst of a bitter war on the Korean peninsula. As the inscription at the base of the Korean War Memorial says, our Nation's sons and daughters answered the call "to defend a country they never knew and a people they never met." And they did so honorably. Today, though, the memory of those who made the ultimate sacrifice is honored once again.

Earlier today, the Korean War Veterans Memorial Honor Roll Kiosk was officially unveiled in a ceremony by representatives of the American Battle Monuments Commission, the National Parks Service, the Samsung Group, and IBM. The Honor Roll Kiosk houses a high technology interactive computer base which contains all the verifiable names from the Korean war theater of those killed in action, still listed as missing in action, and those captured as prisoners of war. Touch screens allow visitors, friends, and family to research the service record of their loved one, and obtain a certificate of honor in the name of that soldier. This was made possible in large part through the generous donation from the Samsung group of companies.

As part of the July 1995 Korean War Veterans Memorial dedication ceremonies, Samsung made a significant contribution to the memorial fund. It was with great honor and appreciation that Samsung recognized the sacrifice and commitment of the United States to the security of the Korean peninsula. It is a commitment America maintains today. We have worked together to establish close relations in defense of common principles and it is because of these shared beliefs that the United States and South Korea remain partners in peace today.

In addition to contributing to the memorial, Samsung also created an educational endowment with the American Legion. Their gift of $5 million to the American Legion will be used to fund collegiate scholarships for the descendants of America's veterans. I commend and congratulate Samsung on their generosity and willingness to recognize the origin in which their success today is rooted. I am proud to have their North American headquarters located in Ridgefield Park, NJ. Lastly, I recognize the honor and dignity with which America's service men and women fought on the harsh Korean field of combat. As the dedication ceremonies remind us, your service—andyoursacrifice—wasnot forgotten.•

PATIENT RIGHT TO KNOW

• Mr. WYDEN. Mr. President, this week my colleagues, Senators KYL, KENNEDY and HUTCHINSON, and I have introduced S. 449, the Patient Right to Know Act of 1997. This legislation outlaws so-called gags in contracts between managed care companies and their licensed practitioners which have limited what doctors can tell patients about their medical condition and all treatment appropriate to their care.

Plain and simple, such gags have been used to limit appropriate medical care. While this is a dollars-and-cents issue for health care organizations and insurers, for patients and their doctors such restrictions on the usual free flow of communication—held sacred since ancient times—literally may be a matter of life or death.

I was pleased to join Mr. KENNEDY in offering legislation on the floor last session which would have ended such restrictions. I also wish to thank Mr. KYL for his support of our legislation last year, and for his diligent efforts in the intervening months to prepare this bill for re-introduction.

I also wish to acknowledge support for this legislation from organizations including the Consumer's Union and the American Medical Association.

We have this broad range of support because the need for this legislation is clear and documented. Three in four Americans now covered by private health insurance receive their care from managed care organizations. Increasingly, Medicaid enrollees and seniors in Medicare are covered by managed care plans through their respective Federal health insurance programs.

Residents of my home State of Oregon boast the highest penetration of managed care in the Nation. The State's Medicaid Program for the most part is organized through private managed care companies. And in Portland, managed care plans service almost 60 percent of the Medicare population.

In Oregon and elsewhere, the managed care presence has grown for reasons that are quite wholesome. Managed care helps enrollees stay healthy through illness prevention programs. They assure coordination of services for persons with multiple ailments. And through systematic, quality-conscious gate-keeping, they work to reduce unnecessary treatments which drive up health care costs.

At the same time, however, some managed care providers have tried to enhance their profit margins by limiting what doctors may tell patients regarding all appropriate treatments, thereby reducing services patients may actually receive. These gags in my view are outrageous. The President through administrative order during the last few months has made such gags illegal in managed care plans operating under Medicare and Medicaid. He has pledged his support for legislation eliminating these restrictions in private health plans as well.

Mr. President, while I am convinced that we need a single Federal standard

on this matter to protect patients in managed care plans I am much encouraged by the voluntary efforts to end such gags recently announced by the managed care insurance industry. My long association with these companies has convinced me that coordinated care providers as a group often are on the cutting edge of developing both efficient and high-quality care for their enrollees. It is entirely appropriate for this provider group to try to police their members on the issue of gag provisions and the protection of doctor-patient communications.

I ask that the text of the bill be printed in today's RECORD.

The bill follows:

S. 449

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

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Patient Right to Know Act".

(b) FINDINGS.—Congress finds the following:

(1) Patients need access to all relevant information to make appropriate decisions about their health care.

(2) Open medical communications between health care providers and their patients is a key to prevention and early diagnosis and treatment, as well as to informed consent and quality, cost-effective care.

(3) Open medical communications are in the best interests of patients.

(4) Open medical communications must meet applicable legal and ethical standards of care.

(5) It is critical that health care providers continue to exercise their best medical, ethical, and moral judgment in advising patients without interference from health plans.

(6) The offering and operation of health plans affect commerce among the States.

(c) PURPOSE.—It is the purpose of this Act to establish a Federal standard that protects medical communications between health care providers and patients.

SEC. 2. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) PROHIBITION.—

(1) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between an entity operating a health plan (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or restrict the provider from engaging in medical communications with his or her patient.

(2) NULLIFICATION.—Any contract provision or agreement described in paragraph (1) shall be null and void.

(3) PROHIBITION ON PROVISIONS.—Effective on the date described in section 5, a contract or agreement described in paragraph (1) shall not include a provision that violates paragraph (1).

(b) RULES OF CONSTRUCTION.—Nothing in this Act shall be construed—

(1) to prohibit the enforcement, as part of a contract or agreement to which a health care provider is a party, of any mutually agreed upon terms and conditions, including terms and conditions requiring a health care provider to participate in, and cooperate with, all programs, policies, and procedures developed or operated by a health plan to assure, review, or improve the quality and effective utilization of health care services (if such utilization is according to guidelines or protocols that are based on clinical or scientific evidence and the professional judgment of the provider) but only if the guidelines or protocols under such utilization do not prohibit or restrict medical communications between providers and their patients; or

(2) to permit a health care provider to misrepresent the scope of benefits covered under a health plan or to otherwise require the plan to reimburse providers for benefits not covered under the plan.

(c) ENFORCEMENT.—

(1) STATE AUTHORITY.—Except as otherwise provided in this subsection, each State shall enforce the provisions of this Act with respect to health insurance issuers that issue, sell, renew, or offer health plans in the State.

(2) ENFORCEMENT BY SECRETARY.—

(A) IN GENERAL.—Effective on January 1, 1998, if the Secretary, after consultation with the chief executive officer of a State and the insurance commissioner or chief insurance regulatory official of the State, determines that the State has failed to substantially enforce the requirements of this Act with respect to health insurance issuers in the State, the Secretary shall enforce the requirements of this Act with respect to such State.

(B) ENFORCEMENT THROUGH IMPOSITION OF CIVIL MONEY PENALTY.—

(i) IN GENERAL.—With respect to a State in which the Secretary is enforcing the requirements of this Act, an entity operating a health plan in that State that violates subsection (a) shall be subject to a civil money penalty of up to $25,000 for each such violation.

(ii) PROCEDURES.—For purposes of imposing a civil money penalty under clause (i), the provisions of subparagraphs (C) through (G) of section 2722(b)(2) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 300gg–22(b)(2)) shall apply except that the provisions of clause (i) of subparagraph (C) of such section shall not apply.

(3) SELF-INSURED PLANS.—Effective on January 1, 1998, the Secretary of Labor shall enforce the requirements of this section in the case of a health plan not subject to State regulation by reason of section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)).

(4) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(d) NO PREEMPTION OF MORE PROTECTIVE LAWS.—A State may establish or enforce requirements with respect to the protection of medical communications, but only if such requirements are equal to or more protective of such communications than the requirements established under this section.

SEC. 3. DEFINITIONS.

In this Act:

(1) HEALTH CARE PROVIDER.—The term "health care provider" means anyone licensed or certified under State law to provide health care services who is operating within the scope of such license.

(2) HEALTH INSURANCE ISSUER.—The term "health insurance issuer" has the meaning given such term in section 2791(b)(2) of the Public Health Service Act (as added by the Health Insurance Portability and Accountability Act of 1996).

(3) HEALTH PLAN.—The term "health plan" means a group health plan (as defined in section 2791(a) of the Public Health Service Act (as added by the Health Insurance Portability and Accountability Act of 1996)) and any individual health insurance (as defined in section 2791(b)(5)) operated by a health insurance issuer and includes any other health care coverage provided through a private or public entity. In the case of a health plan that is an employee welfare benefit plan (as defined in section 3(1) of the Employee Retirement Income Security Act of 1974), any third party administrator or other person with responsibility for contracts with health care providers under the plan shall be considered, for purposes of enforcement under this section, to be a health insurance issuer operating such health plan.

(4) MEDICAL COMMUNICATION.—

(A) IN GENERAL.—The term "medical communication" means any communication made by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) with respect to—

(i) the patient's health status, medical care, or legal treatment options;

(ii) any utilization review requirements that may affect treatment options for the patient; or

(iii) any financial incentives that may affect the treatment of the patient.

(B) MISREPRESENTATION.—The term "medical communication" does not include a communication by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) if the communication involves a knowing or willful misrepresentation by such provider.

(5) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 4. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act, except that section 2(a)(3) shall take effect 180 days after such date of enactment.

Mr. KENNEDY. Mr. President, I am pleased to join Senator WYDEN in introducing this gag rule legislation and I commend him for his leadership. Last year, a majority of the Senate voted for similar legislation but it was defeated on a procedural technicality.

Gag rules have no place in American medicine. Americans deserve straight talk from their physicians. Physicians deserve protection against insurance companies that abuse their economic power and compel doctors to pay more attention to the health of the company's bottom line than to the health of their patients.

I am pleased that this legislation has strong support from both the American Medical Association and Consumer's Union—because it is a cause that unites the interests of patients and doctors.

One of the most dramatic changes in the American health care system in recent years has been the growth of health maintenance organizations, preferred provider organizations, point of

service plans, and other types of managed care. Today, 75 percent of all privately insured Americans are in managed care. Even conventional fee-for-service plans have increasingly adopted features of managed care, such as ongoing medical review and case management.

In many ways, this is a positive development. Managed care offers the opportunity to extend the best medical practice to all medical practice. It emphasizes helping people to stay healthy, rather than simply caring for them when they become sick. It helps provide more coordinated care and more effective care for people with multiple medical needs. It offers a needed antidote to incentives to provide unnecessary care—incentives that have contributed a great deal to the high cost of care in recent years.

At its best, managed care fulfills these goals and improves the quality of care. Numerous studies have found that managed care compares favorably to fee for-service medicine on a variety of quality measures, including use of preventive care, early diagnosis of some conditions, and patient satisfaction. Many HMOs have made vigorous efforts to improve the quality of care, gather and use systematic data to improve clinical decision-making, and assure an appropriate mix of primary and specialty care.

But the same financial incentives that enable HMOs and other managed care providers to practice more cost-effective medicine also can lead to under treatment or inappropriate restrictions on care, especially when expensive treatments or new treatments are involved.

Too often, insurance companies have placed their bottom line ahead of their patient's well-being and have pressured physicians in their plans to do the same. These abuses include failure to inform patients of particular treatment options; barriers to reduce referrals to specialists for evaluation and treatment; unwillingness to order appropriate diagnostic tests; and reluctance to pay for potentially life-saving treatment. It is hard to talk to a physician these days without hearing a story about insurance company behavior that raises questions about quality of care. In some cases, insurance company behavior has had tragic consequences.

In the long run, the most effective means of assuring quality care in HMOs is for the industry itself to make sure that quality is always a top priority. I am encouraged by the industry's development of ethical principles for its members, by the growing trend toward accreditation, and by the increasingly widespread use of standardized quality assessment measures. But I also believe that basic Federal regulations are necessary to assure that every plan meets at least minimum standards.

Medicare has already implemented such a prohibition. All Americans are entitled to this same protection.

A gag rule provision is also included in a more comprehensive managed care bill that I introduced earlier this session. That bill addresses a number of other issues as well. This prohibition of gag rules is such a simple need and cries out for immediate relief.

This legislation targets the most abusive type of gag rule—the type that forbids physicians from discussing all treatment options with patients and makes the best possible professional recommendation, even if the recommendation is for a non-covered service or could be construed to disparage the plan for not covering it.

This bill specifically forbids plans from prohibiting or restricting a provider from any medical communication with his or her patient.

This is a basic rule which everyone endorses in theory, even though it has been violated in practice. The standards of the Joint Commission on Accreditation of Health Care Organizations require that "Physicians cannot be restricted from sharing treatment options with their patients, whether or not the options are covered by the plan."

We need to act on this legislation promptly. The Senate has the opportunity to protect patients across the country from these abusive gag rules. Action on this legislation is truly a test of the Senate's commitment to the rights of patients and physicians across the country.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on the Executive Calendar:

Calendar No. 42, the nomination of Keith Hall, to be Assistant Secretary of the Air Force.

I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, that any statements relating to the nomination appear at this point in the RECORD, that 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 nomination considered and confirmed is as follows:

DEPARTMENT OF DEFENSE

Keith R. Hall, of Maryland, to be an Assistant Secretary of the Air Force, vice Jeffrey K. Harris, resigned.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDERS FOR WEDNESDAY, MARCH 19, 1997

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10:30 a.m. on Wednesday, March 19. I further ask unanimous consent that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then resume consideration of Senate Joint Resolution 22, the independent counsel resolution. I further ask consent that the time from 10:30 a.m. until 11:30 a.m. be equally divided between Senators BENNETT and LEAHY, with Senator BYRD in control of 10 minutes of the Leahy time. I finally ask consent that at 11:30, Senate Joint Resolution 22 be read a third time and the Senate proceed to a vote on passage of that resolution and immediately following that vote the Leahy resolution be read a third time, and the Senate then proceed to a vote on or in relation to Senate Joint Resolution 23, the Leahy resolution. I also ask unanimous consent that there be 2 minutes of debate equally divided in the usual form between those two votes.

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

PROGRAM

Mr. LOTT. For the information of all Senators, on Wednesday, following the hour of closing remarks, the Senate will vote on Senate Joint Resolution 22, the independent counsel resolution. Following that vote the Senate will vote on or in relation to Senate Joint Resolution 23, Senator LEAHY's resolution. Therefore, Senators can expect two consecutive rollcall votes beginning at 11:30 a.m. tomorrow. It is also possible that on Wednesday the Senate will consider a resolution relating to disapproving the decertification, or certification, of Mexico. Additional votes are, therefore, possible following the stacked votes that occur at 11:30. We are also still working to get a time agreement with regard to the nomination of Merrick Garland for the District Court of Appeals. That could

come on Wednesday or Thursday of this week. And, of course, the Senate may also consider any other legislative or executive items that can be cleared.

ORDER FOR ADJOURNMENT

Mr. LOTT. If there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order, following the remarks of the distinguished Democratic leader, Senator DASCHLE.

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

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

THE NOMINATION OF ANTHONY LAKE

Mr. DASCHLE. Mr. President, I ask unanimous consent that the letter submitted by Anthony Lake to the President involving his nomination to be Director of Central Intelligence be printed in the CONGRESSIONAL RECORD at this time.

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

THE WHITE HOUSE,
Washington, March 17, 1997.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I am writing to ask that you withdraw my nomination to be Director of Central Intelligence.

I do so not because of concern that the nomination would be defeated if it ever came to a vote. In fact, there are sufficient votes for confirmation—in both the Select Committee and the Senate.

And not because of concern about further personal attacks. That gauntlet has been run. Every question has been answered.

I do so because I have regretfully concluded that it is the right thing to do.

While we have made great progress in the nomination process over the past month and during last week's hearings. I have learned over the weekend that the process is once again faced by endless delay. It is a political football in a game with constantly moving goal posts.

After more than three months, I have finally lost patience, and the endless delays are hurting the CIA and NSC staff in ways I can no longer tolerate.

I am told that the Chairman of the committee, having now reviewed the positive FBI materials underlying the report on my background investigation, may want other members of the committee to read them. I had doubts about the precedent we have already set in allowing him and the Vice Chairman such access. To bend principle further would even more discourage future nominees to this or other senior positions from entering public service.

I am also told that his committee staff will again insist that NSC staff meet with the committee on terms that White House Counsel will find unacceptable, leading to a further stalemate on that issue as well.

In addition, the story today about the activities of Mr. Roger Tamraz is likely to lead to further delay as an investigation proceeds.

All of this means a nomination process that has no end in sight. We have been proceeding on the assumption that there would be a vote this week. It now seems certain the committee deliberations will extend past the recess until after Easter, and probably longer. In addition, even after the nomination receives a vote in committee, whenever that might be, there is no prospect for a near-term vote on the floor and every chance it will be extended as long as your political opponents can do so.

I have gone through the past three months and more with patience and, I hope, dignity. But I have lost the former and could lose the latter as this political circus continues indefinitely. As Senator Richard Lugar, perhaps the most respected member of the Senate, has said with regard to my nomination and its treatment, "The whole confirmation process has become more and more outrageous." It is nasty and brutish without being short.

If this were a game, I would persist until we won. My colleagues tell me to stay the course, lest I be perceived the loser or scared of a further fight. I'm not.

But this is not a game. And this process is not primarily about me. It is about the future of the Central Intelligence Agency. The Agency, once again, is becoming politicized. The longer this goes on, the worse the damage. The controversy and its effects could linger on after my confirmation. The men and women of the CIA deserve better than this.

The process is also impugning, through a new form of guilt by association, the names of NSC staff members who have done nothing wrong. So long as my nomination is mired in partisan politics their reputations will be, as well. It is ironic that the staff, which in every case took the right positions in keeping national security decisions and domestic politics separate, as I had encouraged them to do, is now the staff bearing the brunt of criticism because it didn't go beyond its own responsibilities to manage others' business as well. This is a staff that was doing its job properly. There was never any disguise of wrong-doing; they were consistently doing right in the advice they offered, while concentrating on the large daily agenda of important national security issues before us. I am very proud of our work on these issues and very proud of our staff members.

In unprecedented fashion the nomination is also politicizing the Senate committee.

And I have noticed that, in numerous ways, it is poisoning the attitude of members of the Agency towards the committee.

Most of all, the way this process has been conducted would make it difficult for me to work with the committee in the ways that a Director of Central Intelligence must do—and as I had hoped to do.

I am deeply grateful to you for your strong support, for your encouragement over these difficult months, and—most of all—for the opportunity to serve over the past four years. I am very proud of your foreign policy record and of whatever contributions I made to it.

I have greatly appreciated the support of Senators McCain, Lugar, Lieberman, Kerrey, Kerry, Kennedy and many others, like John Deutch. I have been moved by the principled position of a large number of Republicans like John McCain, Warren Rudman, Richard Lugar, Robert Gates and Peter King. And I am especially grateful to the volunteers from the NSC who have put so much into this, as well as officials of the CIA. I am sorry that their efforts were not better rewarded.

I have believed all my life in public service. I still do. But Washington has gone haywire.

I hope that, sooner rather than later, people of all political views beyond our city limits will demand that Washington give priority to policy over partisanship, to governing over "gotcha." It is time that senior officials have more time to concentrate on dealing with very real foreign challenges rather than with the domestic wounds that Washington is inflicting on itself.

This is a very difficult decision. I was excited about this new opportunity to serve. I had developed firm ideas on how to bring further reform to the Agency and had no doubt about my capacity to implement them. I was ready to devote four years to a tough new challenge. I truly regret that I will not have the opportunity to seize it.

Sincerely,

ANTHONY LAKE.

Mr. DASCHLE. Mr. President, I do so simply to comment on the very unfortunate set of circumstances that led to the decision by Mr. Lake to submit this letter.

I have had the opportunity to work with Tony Lake now for some time; first, as a Senator; and, second, as leader. I must say that I do not know that I have ever met anybody more decent, more committed, more dedicated to public service than is Tony Lake. Our Nation owes him a big debt of gratitude for his contributions, and a great level of appreciation for the many ways in which he has already served his country. I only hope that he will continue to choose to do so in spite of these extraordinary circumstances.

Mr. Lake was asked to be the Director of Central Intelligence by the President of the United States. It has been the prerogative of the President to name people within his administration, going all the way back to George Washington. Of course, there are times when the Senate in its role as a body to serve with advise and consent that it has disagreed with the President about a particular nomination, or about a particular member of a given administration. But I must say in all of history I challenge somebody to come up with more flimsy evidence with which to destroy the character of a candidate for public office appointed by the President as grievously as what I see has happened to Tony Lake in the last several months.

Mr. Lake was not even given the opportunity to be voted on, never presented an opportunity for a vote in the committee, never presented with an opportunity to be voted on on the floor.

I was asked this morning if this is some retribution for John Tower, or Robert Bork. My answer was that I hope our Republican colleagues are not that cynical. I hope there is some other motivation for doing to Tony Lake what they did over the last couple of months. It is very unfortunate. And it is sad, Mr. President. A man of his integrity, his character, was treated so shabbily by the committee that is supposed to be as devoid of politics as any

in this institution. I think they owe him an apology. At least they owed him a vote.

Under these circumstances, I think he made the right decision. But I am deeply troubled. I am troubled by the way it was handled. I am troubled by the insinuations and allegations all printed on the front page of every newspaper as fact. I am troubled by his inability to be given the opportunity to defend himself adequately against this never-ending list of additional allegations and questions going over old material time and time again almost as if it was an inquisition.

So, Mr. President, it is a sad day for this body. It is a sad day for the Intelligence Committee. And it certainly is a sad occasion for those seeking to serve our country in the capacity and the level as Director of Central Intelligence.

I don't know what recommendation I would give to some other candidate who now may consider this particular position. What advice do you give someone who puts himself forward knowing full well that there will be raw FBI data available to Members, and, if the chairman of the committee had his way, to all Members? What do you tell someone who has laid himself out? What do you tell the next person who is expected not to subject himself or herself to the same set of circumstances?

Mr. President, this institution needs to restore civility, needs to come up with a way with which to take the meanness out of our process, whether it is a legislative issue or a nomination. Civility has to be brought back into this process. I hope we will start soon.

INDEPENDENT COUNSEL

Mr. DASCHLE. Mr. President, I don't know that I will have an opportunity tomorrow morning to discuss another matter, and I want to do so just briefly.

We will have the opportunity to vote, as the distinguished majority leader has indicated, on two resolutions tomorrow. My colleagues have done a good job of explaining what the circumstances are. But I hope everyone who will watch the debate tomorrow will try to understand the circumstances involving the two resolutions and what this issue is all about.

There are four factors here that I want to briefly mention.

The first factor is the timeliness of this resolution. I am deeply disturbed that on the very day that the President found himself on the operating table, our colleagues chose to file a resolution demanding that there be an independent counsel investigating the President. Moreover, on the very day the President leaves for Helsinki to begin negotiating extraordinarily important matters with heads of state, this body has chosen to vote on the independent counsel resolution. Taste and timeliness were certainly not factors in making the decision to bring about the resolutions under these circumstances.

The second issue involves necessity. Certainly necessity wasn't a matter of concern here either. In accordance with the law, the Judiciary Committee may send a letter to the Attorney General. In good faith I think both sides worked to try to find a mutually acceptable letter, and that was impossible. So, as I understand it, three letters were actually sent. But that started the process under law. That is what is required. But that wasn't good enough for some of our colleagues. For whatever reason, our colleagues then chose to say, "Well, in addition to the legal requirements, we are now going to do something extralegal. We are going to do something that was actually criticized on this floor when the independent counsel legislation was debated."

We considered whether we ought to have a debate on the floor about requiring or asking for an independent counsel. And the decision was made on a bipartisan basis. In fact, Senator Dole was very involved at that point in this debate, and the agreement was that having Congress vote on the need for an independent counsel for a particular investigation would politicize the process.

So, for that reason, we agreed that it should not be a function of the Senate floor, but that it ought to be a legal process confined to the Judiciary Committee. That is the way the law was passed.

Yet, what do we do now? What do we find ourselves faced with? Not just a resolution calling for the Attorney General to consider under the law the available evidence; the Republican resolution goes even beyond that. It says, first of all, that the Judiciary Committee letter is not adequate, and, second, that we are going to use a resolution to dictate to the Attorney General that she ought to appoint an independent counsel—in total violation of the intent and the spirit of the law we passed just a few years ago. So the intent, Mr. President, is questionable to say the least.

The third issue is scope. We had a good debate about scope last week, and it became clear that a significant majority of the Members on both sides of the aisle said if anything is going to be investigated, then we better investigate everything. And that, indeed, is what is called for in the independent counsel law, which includes the alleged misdeeds of senior executive branch officials and Members of Congress.

Curiously, once more, the Republican resolution, just as it did last week initially, specifically limits the scope of the requested investigation to the President. Our resolution calls for a review of all of the reported improprieties to determine the severity of the problem. Our resolution calls for the scope to be as broad as the one that was set out in the Governmental Affairs resolution last week and adopted in the Senate by a vote of 99 to 0.

So we will have an opportunity tomorrow to vote on scope, to vote on whether or not we limit the independent counsel's investigation just to Presidential activity or whether—in the name of fairness, balance, and the real intent of the law—everything is on the table. To vote no on the Democratic resolution is to say, "No, we do not want an independent counsel to look at Congress." So scope is a very critical issue, and that will be the subject of a good deal of debate and scrutiny as we go forth in the coming weeks.

Finally, there is the question of whether or not it ought to be our purpose to dictate at all what direction the Attorney General should take. How is it that we put ourselves in a position to say we know better than she does the circumstances that might dictate the appointment of yet another special prosecutor? She has 25 FBI agents and a grand jury investigating all of this. She is reviewing the matters, I am sure, on a daily basis. What do we have? So far, we only have newspaper reports and the reports on all of the nightly networks. It is on that basis that some of our colleagues have already concluded an independent counsel is warranted.

It is arrogant in the least to say we know better than the Attorney General on this issue and to dictate to her that she should appoint a special prosecutor in spite of whatever facts she may have available to her today.

So, Mr. President, with regard to all four of these questions, I hope our colleagues will take great care as they vote tomorrow morning.

There is one other procedural matter unrelated to substance that I think is also curious. The resolution offered by our colleagues on the Republican side is a congressional resolution requiring a vote in the House and a signature by the President of the United States. That is curious. Why is it that this body would offer a resolution asking for an independent counsel and then put it in a form which requires a Presidential signature? I am skeptical about the motivation in that regard as well.

For all these reasons—taste, timeliness, scope, attitude, not to mention the resolution itself in the form that it takes—I certainly hope my colleagues will vote against the very maligned, poorly worded, extraordinarily ill-timed, narrowly drawn resolution offered by our colleagues and simply join us in restating what current law already requires. It is for the Attorney General to make that determination

and, if she makes it, to recognize that scope ought to be as broad as she needs to make it, even including Congress, if that may be required.

I yield the floor and I, given the resolution already adopted, call upon the Chair for the final issuance of the day.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10:30 a.m. Wednesday, March 19, 1997.

Thereupon, at 7:05 p.m., the Senate adjourned until Wednesday, March 19, 1997, at 10:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate March 18, 1997:

DEPARTMENT OF DEFENSE

KEITH R. HALL, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Tuesday, March 18, 1997*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. DELAY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 18, 1997.

I hereby designate the Honorable TOM DELAY to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 21, 1997, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Alabama [Mr. HILLIARD] for 5 minutes.

ALEXIS HERMAN WILL BE A GREAT SECRETARY

Mr. HILLIARD. Mr. Speaker, it gives me a great deal of pleasure to stand before this House this day on behalf of my good friend and native Alabamian, Ms. Alexis Herman. At the present time her confirmation is before the U.S. Senate as Secretary of Labor. Alexis is the daughter of a single parent. She has labored her entire life working to help people stay employed and off welfare.

As President Clinton's assistant, she was a leader in making sure that women, Hispanics, African-Americans were equally involved in our Nation's agenda. She is a mover. She is a shaker. She has the credentials, the desires, the integrity, the purpose, the intellect, the capability, the personality and the grace to be Secretary of Labor. And in that respect, Mr. Speaker, I recommend her confirmation.

She appears as an American with qualifications of an all-American combination. Her background is a modern-day equivalent of being born in a log cabin, and her career successes mirror that of a Wall Street broker. That is an all-American combination.

Mr. Speaker, I yield to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I thank the gentleman from Alabama for yielding to me.

Mr. Speaker, to live the life of a nun these days is not good enough if you want to serve your country. That is what Alexis Herman, the President's nominee to be Secretary of Labor, wanted to be. It is our good fortune that she decided to serve her country in this way.

To live a righteous life is not good enough. That is what Alexis Herman has done. Moreover, Mr. Speaker, Alexis Herman has lived a life which groomed her for this agency. When she was a younger woman, she served in a number of capacities in the Labor Department, in the Women's Bureau, and as assistant to Ray Marshall, who was then Secretary.

The Senate has been on a fishing expedition for 3 months now. It has come up empty. I find very few people in this life whose integrity I would personally vouch for. Alexis Herman is one of those people. I have seen this nominee up close. It is difficult to think of any American who would serve her country better as Secretary of Labor. I hope that the other body will soon recognize this and will in fact vote her to be the Secretary of Labor of the United States of America.

I thank the gentleman for yielding to me, Mr. Speaker.

Mr. HILLIARD. Mr. Speaker, I yield to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, today is the first day of the confirmation hearings for Alexis Herman, a real American success story. I commend the President for choosing this outstanding woman for Secretary of Labor. Ms. Herman has devoted her life to public service. Ms. Herman has been involved in job placement programs throughout her career. Some of her accomplishments include leadership of the black women's employment program of Atlanta and director of the Women's Bureau at the Department of Labor during the Carter administration.

More recently, Mr. Speaker, Alexis Herman worked closely with former Commerce Secretary, the late Ron Brown. She made the White House Office of Public Liaison a dynamic part of the President's office. Throughout Alexis Herman's career, she has made equal opportunity for women and minorities a top priority.

I urge the other body to confirm Alexis Herman without delay. She is a great woman and a great role model for all of us.

Mr. HILLIARD. Mr. Speaker, I yield to the gentlewoman from the Virgin Islands [Ms. CHRISTIAN-GREEN].

Ms. CHRISTIAN-GREEN. Mr. Speaker, I want to thank the gentleman from Alabama [Mr. HILLIARD] for organizing this special order and affording me this time to say a few words in recognition and support of Alexis Herman, President Clinton's nominee for Secretary of Labor.

At this time, when America is challenged to meet the needs of the unemployed and underemployed and to bring training and job opportunities, not only to these, but to the millions who will no longer be eligible for welfare benefits, there is none more suitable to lead this agency.

Ms. Herman's background in job training and placement and her pioneering efforts to bring women and minorities into the workplace coupled with her sensitivity, her competence, and her private sector and White House experience makes her eminently qualified.

I have had the pleasure and good fortune to work with Alexis Herman at the Democratic National Committee, the New York convention, and in her position as public liaison at the Whited House.

Mr. Speaker, I am pleased to be able to speak in support of this outstanding individual, who in the President's own words, were his "eyes and ears working to connect the American people."

I urge the Senate to move expeditiously and confirm Alexis Herman as Secretary of Labor.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair wishes to inform Members that they should not urge action by the Senate in the confirmation process during debate.

THOUGHTS ON CONGRESSIONAL RETREAT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Texas [Mr. COMBEST] is recognized during morning hour debates for 1 minute.

Mr. COMBEST. Mr. Speaker, there will be several facilitators from the bipartisan Hershey retreat who will be

taking the floor today to talk about the positive things that happened from that meeting.

Rather than me telling Members what I thought about it, I thought I would read to them some very quick quotes from Members who were there:

"Pleasantly surprised";

"Substantive";

"Very diverse group";

"Heard things we didn't think we would hear, in a positive sense";

"People were eager to get into it";

"Some people began hesitant but were comfortable once we got started";

"People wanted to come up with ideas that were realistic, that we could accomplish";

"Very good responses from spouses as well as Members";

"Ought to continue the bipartisan caucuses";

"Some of the greatest responses were from some who were the most skeptical";

"Spouses had great things to say";

"Good to have practical ideas, not so lofty as changing the spin of the earth".

Mr. Speaker, one of the quotes that I think meant the most to me was among these, "It almost leads you to believe we could change the House if we put our minds to it."

Mr. Speaker, it almost does lead you to believe that we could change the House if we put our minds to it.

SUPPORT FOR APPOINTMENT OF ALEXIS HERMAN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from California [Ms. WATERS] is recognized during morning hour debates for 5 minutes.

Ms. WATERS. Mr. Speaker, I would like to take a moment first to join with my colleagues in a word of praise for Alexis Herman. As an African American woman, I am so very proud that she has been nominated.

Despite the growth that we have had in this country of tolerance and the work that has been done to get rid of racism and discrimination and to try and open up opportunities for all, it still has been rather slow in coming. And it is not often, as a matter of fact, it is extremely rare, that an African-American woman would have the opportunity to serve as secretary of an administration. Alexis Herman has done everything that your parents, your community would have you do to get recognized as a person who is capable and competent so the President has nominated her.

This woman served at the Department of Labor, where she headed the Women's Bureau. That is when I first met her. That was a number of years ago. And not only have I been impressed with her competence and her ability, she has been of assistance to so many people, to so many women. And of course her time and her service in the White House itself has exemplary.

So I am hopeful that everything will go well. I am extremely proud and I am hopeful that within a short period of time, we will be able to say Madam Secretary, Alexis Herman.

ON THE CIA

For the rest of my time, Mr. Speaker, I would like to continue because I have a statement that I would like to make about a very important matter.

I think this week we have the Members of our Permanent Select Committee on Intelligence here in the House examining the CIA. They are probably taking a look at a number of the activities of the CIA and starting to talk about its budget. We have been hearing a lot about the CIA, certainly about cases where our own employees in the CIA decided to become spies for other nations.

But beyond that, we have learned a lot about who the CIA deals with, and there are many people who will excuse who they deal with because they will tell you because of their covert operations they have to deal with the worst of them.

We have seen some efforts in recent days to do some scrubbing in the CIA. That simply means that they are going to try and disassociate with some of the terrorists, the drug traffickers, and the murderers that they have been working with for a number of years. They say that they are going to get rid of their relationships with them, and that is called scrubbing.

But I am very concerned about the CIA. It is a $30 billion budget. That is a lot of money when you are talking about balancing the budget. It is a $30 billion budget. And none of us knows what it is spent for. We just kind of give it over to the CIA. Then all these stories start to float back.

I have been involved for over 6 months now as a result of the revelations of the San Jose Mercury News about the CIA's involvement in drug trafficking in south central Los Angeles in the 1980's.

We identified Mr. Danilo Blandon and Mr. Norwin Meneses, two of the principals in the drug trafficking, one of whom, Danilo Blandon, has testified under oath that he was an operative for the CIA. You know this story. They sold drugs; they fueled the explosion of crack cocaine.

It spread out across the United States, and part of those proceeds were used to fund the Contras, because they were the supporters of Somoza down in Nicaragua when the Contras were fighting against the Sandinistas under the so-called banner of the freedom fighters. They were looking for money all over the world. And the CIA had created the Contras, the so-called resistance movement, and they had to fund the army of the Contras known as the FDN. So in looking for this money, it certainly appears that they turned their backs and they allowed the selling of cocaine in huge amounts that got cooked into crack cocaine that exploded in this Nation.

We have the investigations going on now. The inspector general of the CIA, the inspector general of the Justice Department, intelligence committees of both Houses, all are supposedly involved in these operations looking at them and investigating.

But beyond that, we find other information about the CIA in Venezuela.

MATTERS INVOLVING THE NBA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from North Carolina [Mr. COBLE] is recognized during morning hour debates for 5 minutes.

Mr. COBLE. Mr. Speaker, some weeks ago, after a Chicago Bulls star Dennis Rodman inexcusably kicked a cameraman during a National Basketball Association game, one of my constituents asked me if there was anything we in the Congress could do in response to Rodman's behavior.

The NBA will ignore the incident and it will be business as usual, my constituents declared. You in the Congress address the matter, he continued.

It is difficult to legislate character, I told him.

His words regarding the NBA's response were prophetic. The incident was resolved very casually indeed. Many believe Rodman should have been suspended for the entire season. That would have been an appropriate conclusion.

Rodman was seen laughing about the incident and one of his teammates complained that the cameraman should have more promptly removed himself from the arena floor.

One is a victim of a senseless assault and battery and the victim should jump to his feet and promptly apologize to his attacker? Hardly.

The attitude of many of these NBA stars is reprehensible, Mr. Speaker. Some recent years ago an NBA star was accused of improper involvement with gambling interests and possible involvement with organized crime. His response was that most people did not appreciate the pressure that surrounded his life.

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I have news for this self-appointed celebrity. He does not know the meaning of pressure. The guy under pressure is working for $9 an hour, who wants to purchase his son a ticket so he can watch these millionaire athletes display their wares on the hardwood. I am told that fewer fans, Mr. Speaker, are viewing televised NBA games. This

may not be supported by polling data, but common sense tells me that many Americans are fed up with the condescending attitude expressed by these overnight millionaires.

Perhaps they should have to try their luck at $9-an-hour jobs. Then maybe they would appreciate the fact that fans who pay their hard-earned money deserve more respect. They might then appreciate the fact that millionaire athletes, or celebrities, are indeed role models. They are not required to be good role models, but they cannot on the one hand warmly embrace their money, fame, and celebrity status, and then on the other hand reject their casting as role models. It does not work that way, fellas, and this is the climate which the NBA is now extending to high school graduates.

I was recently asked, Mr. Speaker, if I would pay to attend an NBA game. One team has regional exposure to my congressional district; another team is coached by a good friend of mine. Aside from these two teams, I would pay to watch only one team in the NBA. That team has never won an NBA title, although they annually advance well into the playoff season, but no cigar is awarded. But this team is a class organization and if more NBA teams would emulate them, there would likely be an increase in spectator interest.

If these self-serving overpaid athletes do not get their acts together, spectator interest will continue to wane and perhaps they will have the chance at one of those $9-an-hour jobs, and then, Mr. Speaker, they will really know what pressure is.

SUPPORT FOR A BIPARTISAN CAMPAIGN FINANCE REFORM ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Virginia [Mr. MORAN] is recognized during morning hour debates for 5 minutes.

Mr. MORAN of Virginia. Mr. Speaker, I will not take the full 5 minutes, although I will yield to a colleague after I say a few words about the bipartisan Campaign Finance Reform Act.

This is an issue that has been with us since the founding of our democracy. I happen to represent northern Virginia, the home of George Washington at Mount Vernon. Some of my colleagues may not be aware that the first time that George Washington ran for office he was defeated. He ran for the House of Delegates for Virginia and he lost. His advisers came to him after he lost and said, "General Washington, the problem is that you did not treat." They explained that the custom is to distribute whiskey to the landowners on election day. Sure enough, next election, he treated and he won overwhelmingly.

James Madison had the same problem. He did not learn from George Washington's experience and he lost, and then he went back to treating. Treating led to what they called macing, where essentially a candidate would dun the members of his political party for contributions. Well, one thing led to another, and now we have a system that is in desperate need of another major reform.

We have had many reforms. The 1974 reform was one such major reform. In fact, let me quote from Lyndon Johnson in 1967. In a special address to this Congress, he said, "Our current campaign finance laws are inadequate in scope and now obsolete. More loophole than law, they invite evasion and circumvention."

It took 7 years and the Watergate break-ins before Congress passed real reform. Those words, though, are equally true today. We have got to reform campaign finance law. It is corrupting the political process as well as the legislative process.

We have a bipartisan Campaign Finance Reform Act, terrific people on both sides of the aisle are cosponsoring it. We have the gentlewoman from New Jersey [Mrs. ROUKEMA], the gentleman from California [Mr. HORN], the gentleman from California [Mr. CAMPBELL], the gentlewoman from Maryland [Mrs. MORELLA], the gentleman from Iowa [Mr. LEACH], and the gentleman from Delaware [Mr. CASTLE]. I can go on and on. And these Republican Members are in addition to a long list of Democratic cosponsors.

One of those folks, the gentleman from Tennessee [Mr. WAMP], is one of the Republican sponsors. Mr. Speaker, I will yield to Mr. WAMP now to conclude my 5 minutes.

Mr. WAMP. Mr. Speaker, I thank the gentleman for yielding to me.

I have to say in opening I am from Chattanooga, TN, home of the Cinderella team this year in the Sweet 16, the University of Tennessee at Chattanooga, the Moccasins; the Mockingbirds, excuse me. We have changed our name.

Let me say, Mr. Speaker, the businessman from Texas, Mr. Ross Perot, who sometimes I agree with, sometimes I may not, but he said that we have good people in Washington trapped in a bad system. I certainly believe that there are good people serving in the U.S. Congress but the system of campaign reform, which has not changed since 1974, needs to be changed.

There is no perfect bill, there is no silver bullet, there is no magic solution. It is very complex, but it is a bipartisan problem. This week the Democrats may be in more trouble on this issue than the Republicans, but who is to say that the system may not swing the other way. I really believe neither party has an exclusive on integrity or an exclusive on ideas. This is a problem that both parties share.

Some basic principles we should agree on and change is that a majority of our money in campaigns should come from our home States; that the influence of special interest political action committees should be reduced; that we should ban soft money, corporate contributions to the political parties that are funneled back into media advertising should be eliminated; and that we should somehow work to reduce the overall money spent on political campaigns in America.

I think we can agree on those basic principles. Conflict, Mr. Speaker, brings about resolution, and we have a conflict in this country. Yes, every day there is new revelations, but it is time to use these conflicts to bring about change. There is no perfect solution, but we must agree on some basic principles, come together in a bipartisan way.

I do not agree with everything in the bipartisan campaign bill but I believe we can change it and improve it as we go. The issue is, will we defend the status quo again this year in this body, or will we come together and change this system for the first time in 23 years? The status quo obviously is not serving us well in campaign laws. Reform is in order.

If Members have ideas, if they have disagreements, come to the reform movement. Do not fight it or look the other way or make excuses to get by any longer.

ENDING FEDERAL RACE AND GENDER PREFERENCES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida [Mr. CANADY] is recognized during morning hour debates for 5 minutes.

Mr. CANADY of Florida. Mr. Speaker, this afternoon I rise to address legislation I will soon introduce to end the use of race and gender preferences by the Federal Government in Federal employment, Federal contracting and in the administration of other Federal programs.

The principles of equal treatment and nondiscrimination on which this legislation is based, are principles which are at the heart of the American experience. They embody an ideal which generations of Americans have honored and sought to realize, an ideal to which we as a people have long aspired, but an ideal which we have never fully attained in our life as a nation.

The first Justice Harlan once said, "Our constitution is color-blind. The law regards man as man and takes no account of his surroundings or of his color when his civil rights as guaranteed by the supreme law of the land are involved."

With the passage of the Civil Rights Act of 1964, the Congress established a

national policy against discrimination based on race and sex. It is the supreme irony of the modern civil rights movement that this crowning achievement was soon followed by the creation of a system of preferences based on race and gender, a system contrived first by administrative agencies and the Federal courts and then accepted and expanded by this Congress.

The 1964 Civil Rights Act constituted an unequivocal statement that Americans should be treated as individuals and not as members of racial or gender groups, an unequivocal statement that no American should be subject to discrimination, which Senator Hubert Humphrey, the chief Senate sponsor of the legislation, defined as a distinction in treatment given to different individuals because of their race.

The system of preferences is based on the notion that we can only overcome our history of discrimination by practicing discrimination. Those who support preferences believe that to guarantee the equitable apportionment of opportunities, Americans must be divided, sorted, and classified by race and gender. They assert that it is a responsibility of the Government not to create a level playing field for all Americans, but to determine outcomes based on race and gender.

My legislation to end preferences rejects this vision of America. It would overturn the status quo of race and gender preferences and return to the principles on which the 1964 Civil Rights Act was based. In place of group rights, it would establish respect for individual rights.

It is important to note that this legislation does not affect our comprehensive regime of antidiscrimination laws. All forms of racial and sex-based discrimination that are illegal under current law would remain illegal.

It is also important to understand that the bill draws an important distinction between preferential treatment and affirmative action. Preferential treatment is prohibited, and affirmative action, as originally conceived, is permitted and expressly protected.

Under the legislation, the Government may continue affirmative action in the form of vigorous outreach and recruitment efforts. Steps taken to increase the size of the applicant pool for a contracting or employment opportunity, including steps targeted at women and minorities, are permissible, so long as at the decision stage all applicants are judged in a nondiscriminatory manner; that is, without regard to their race or sex.

Those who support the use of preferences have the burden of explaining why anyone should receive an advantage of any kind based on race or gender. Quite simply, they have the burden of explaining why it is just for the Government to discriminate.

The supporters of preferences based on race and gender need to face the truth. The truth is that the system of preferences unfairly denies opportunities to those who have been guilty of no wrongdoing, simply because of their race or gender, while granting benefits to individuals who are not victims of discriminatory conduct.

The truth is that the existence of the system of race and gender preferences unfairly casts a cloud over the accomplishments of individuals who are members of favored groups and deprives those individuals of the full measure of respect they are due for their individual achievements.

The truth is that the system of race and gender preferences sends a message from our Government to the American people that we should continue to think along race and gender lines, a message which only reinforces prejudice and discrimination in our society.

We should recognize once and for all that each American has the right to be treated by our Government not as a member of a particular race or gender group but as an individual American citizen equal in the eyes of the law. This Congress should end the unfair system of race and gender preferences and we should do it now.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Mr. Speaker, today I would also like to address the topic of campaign finance reform. As the Members of the House know very well, the issue of campaign finance reform has been garnering a lot of attention lately. Newspapers and TV news have been very busy in documenting the excess and abuses, and there is plenty of blame to go around.

However, this House needs to be more constructive. In my opinion, it would be a complete waste of our time and the taxpayers' money if we spend hours and hours on hearings and merely use them to score political points.

Mr. Speaker, I believe it is the solemn duty of this House to move in a more positive, forward-looking direction, and the issue of campaign finance reform is best resolved through legislation, not accusations. We can criticize and pontificate to each other, but something has to be put on the table, and quickly.

For this reason, Mr. Speaker, last week the House Democrats triggered a procedural motion in order to bring this discussion to the House floor. I know there are many on both sides of the aisle who want to deal with the issue of campaign finance reform, but the bottom line is that the Democrats are in the minority and the Republicans are in the majority. It is because the Democrats essentially are in the minority and have not been able to bring this issue to the floor that it is necessary from time to time to use procedural motions to get the Republican leadership to respond to this issue. It was necessary last week, since the House Republican leadership has so far not taken up campaign finance reform as an issue.

President Clinton challenged this House to bring the issue to a vote by July 4 and, instead, this House, for months, has embarked on a schedule so insipid and unambitious that even conservative pundits and rank-and-file Republicans are beginning to admonish their own House leadership. So far, essentially, the House Republican leadership has not responded.

Mr. Speaker, I just wanted to point out that when the Democrats were in the majority we were very active in trying to reform the campaign finance system, though oftentimes we were thwarted in our efforts. The very first campaign finance bill, which was passed following the abuses of the Watergate scandal, was passed by a Democratic majority.

□ 1300

Then in 1989 the Democratic majorities in both the House and the Senate passed campaign finance reform only to have the bill vetoed by then Republican President George Bush. Most recently, during the 103d Congress, with both the House and the Senate in the Democratic majority and a Democrat in the White House, the House passed H.R. 3, that year's campaign finance reform bill, by a vote of 255 to 175. The Senate then passed S. 3 by a vote of 60 to 38 after several weeks of Republican delay, including 24 separate votes on amendments. Democratic leaders of the Congress announced a compromise bill then between the House and the Senate versions, but the Republicans in the other body successfully led a filibuster to prevent the Congress from doing its work and drafting a final bill.

Mr. Speaker, the habit of Republican filibusters in opposition to campaign finance reform also goes back to the 102d, the 101st and the 100th Congress. Mr. Speaker, there should be no doubt in my mind that the Republicans clearly have no problem with the current system, which of course includes the PAC's and the soft money and the independent expenditures.

Just for the record, the Republicans did put forth a campaign finance reform bill during the last Congress, but that bill received a paltry 162 votes in a House comprised of 230 Republicans. I think that was an indication of just how little the Republican leadership wanted to change the campaign finance system.

The record I think is clear that the Democrats have put up serious legislation to deal with this issue and the Republicans have not. The Democrats in this House have known for years that the current system is flawed and is too easily abused, and basically what we will do, with procedural motions or however it has to be done in this Congress, is that we will continue to fight for reform in spite of whatever delays and inaction that the Republicans put forward. Over and over again in the next few weeks and the next few months until the Republican leadership agrees to bring campaign finance reform to the floor, you will see the Democrats continue out there calling for reform, calling for action.

I know there are several bills out there. I know that my colleague, the gentleman from Virginia [Mr. MORAN], and my Republican colleague, the gentleman from Tennessee [Mr. WAMP], both mentioned their efforts on a bipartisan basis. Clearly there is an effort here amongst the rank and file, I think on the Republican side, to try to come together on some kind of bipartisan bill that we can all agree on, but so far the Republican leadership has not allowed this bill or any kind of campaign finance reform to come to the floor, and I think that they have the blame at this point for not pushing on the issue.

PROPOSED LEGISLATION TO END GOVERNMENT SHUTDOWNS

The SPEAKER pro tempore (Mr. DELAY). Under the Speaker's announced policy of January 21, 1997, the gentleman from Pennsylvania [Mr. GEKAS] is recognized during morning hour debates for 5 minutes.

Mr. GEKAS. Mr. Speaker, I hope that I will lay less blame on the opposition than we heard from the previous speaker on the particular issue that he was addressing, because I want to talk about something that affects all of us and on which we can all participate to bring a good government result.

When I came to the Congress in 1983, I learned very quickly that this Congress, the Congress of the United States, then and now, is very faulty in meeting its budgetary deadlines. September 30 comes and the next fiscal year begins the next day, on October 1. Yet, on almost every occasion since I came to Congress, we have failed to meet that deadline. What does that result?

One thing that happens almost universally is that we enter into a period of temporary appropriations to keep the Government going pending the final budgetary result, and so those continuing resolutions, the temporary funding, takes us to our next step, another deadline, and then we fail to meet that one and we go into more temporary funding and the full budget is put off sometimes for a period of a year.

That is bad fiscal management under laws which we, the Congress, have passed to govern ourselves in the business of good government. What happened then is that we actually shut down the Government eight times since I have been a Member of Congress. I do not know how many times before that. The Government actually shut down about eight times.

Being desperate to try to bring about an end to this shutdown business, I went before the Democrat-controlled Rules Committee of that era, in 1989 or 1990, and offered a piece of legislation which would end Government shutdowns forever. How does it work? If on September 30, the end of the fiscal year, we have learned that we have not passed a budget timely and before the deadline that would come midnight that day, my bill would call for an instant replay the next day of last year's budget, thus averting the Government shutdown, continuing the effect of Government throughout a period, never depriving the Congress from getting down to business and passing a new budget, but in the meantime we would have an ongoing budget, albeit at last year's figures, until such time as the budget negotiations can produce a final budget.

Well, the Democrat-controlled Committee on Rules slapped me down time after time after time, from 1989, 1990, 1991, 1992, 1993, and 1994. Finally in 1995 I felt that we were going to have a great opportunity here because now the Republicans on the Committee on Rules would be controlling the agenda. So I went before the Republican-controlled Rules Committee for the purpose of introducing my legislation and getting approval for full floor debate. And what happened? I was knocked down by my fellow Republicans in this endeavor.

The reason that has been advanced is that adoption of my legislation would rob the appropriators of the leverage that they see at their disposal of bringing about a certain kind of result and pressure to suit the appropriations process, which is so murky to me that it does not survive close scrutiny. So I am imploring my colleagues to take a fresh look at the legislation which I have offered.

By the way, the Senate, the other body, has adopted in principle the idea behind my bill and they invited me over to a press conference, did those Senators who prefer this kind of legislation, and we had a joint result of an acceptance in principle of the prevent shutdown legislation. They are going to try to include it in the supplemental appropriations which are forthcoming in the next month or so.

On our side, on the House side, Congressman ISTOOK and Congressman MCINTOSH recently issued a letter in which they support the principle which I have outlined in my legislation. We do not have to stick with the percentages of money figures that we are talking about, but the principle of preventing Government shutdown by a transition piece of legislation that would carry us into a new fiscal year without any shutdown of Government, still leaving the Congress the opportunity to present and pass a new budget.

The other encouragement that I have received is from individual Members of the House and of the Senate who have sought ways and means to try to get this before the Congress of the United States, both in the House and the Senate.

Mr. Speaker, there are many off-beltway groups who deal with the Government that also support my legislation.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Tennessee [Mr. FORD] is recognized during morning hour debates for 5 minutes.

Mr. FORD. Mr. Speaker, I rise today in echoing really what some of my other colleagues have gotten up today to talk about on both sides of the aisle, calling for sweeping campaign finance reform.

We live in the greatest representative democracy in the world, Mr. Speaker. But the massive amount of money that has found its way into our political system threatens to eclipse one of democracy's fundamental principles that everyone's vote counts the same.

In the 1996 elections over $2 billion was spent in our political election system. More than $2 million of that was soft money. Some individuals contributed $2 million or more to one political party or another.

Today, Mr. Speaker, elections are financed by a small minority of Americans. Less than one-half of 1 percent of the electorate gives contributions in excess of $200. Over the past 30 years less than 20 percent of the electorate has contributed to elections.

Americans feel alienated from our political process, and they are demanding that we take action. Everyone involved in this system must be a part of the solution, both Democrats and Republicans. We must limit PAC contributions, restrict the use of soft money and temper the influence of independent expenditures by outside advocacy groups. In addition, we must give the Federal Election Commission real teeth to investigate, report, and discipline candidates who break the rules.

Finally, Mr. Speaker, the public airwaves belong to the people. An exponential increase in the cost of television advertising is preventing candidates from communicating with voters. The rise of the digital age presents

us with the rare opportunity to strengthen our democracy. Broadcasters, who will receive free digital licenses from the Government, have a responsibility to fulfill their public interest standards by allowing reduced advertising television time for candidates who comply with the rules.

Mr. Speaker, we must seize this moment and forge a bipartisan consensus to heed the American people's call to reform our campaign system.

SALUTE TO RALPH LAIRD, JR.

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from California [Mr. ROGAN] is recognized during morning hour debates for 5 minutes.

Mr. ROGAN. Mr. Speaker, there are occasions when the contribution of one of our citizens merits special note on the floor of the House of Representatives, and for 20 years I have had the privilege of knowing such an individual. His name is Ralph Laird from Pleasanton, CA. He hails from my home State.

Although I am a former resident of Pleasanton, I do not have the privilege of representing that community in this House. However, I am joined by my friend and colleague, the gentlewoman from California [Mrs. TAUSCHER], who does represent that particular district.

Mr. Speaker, I yield to my friend and colleague to join me in this presentation and salute to Ralph Laird.

Mrs. TAUSCHER. Mr. Speaker, I thank my Republican colleague from southern California for yielding.

Mr. Speaker, as the Representative of the 10th Congressional District in California, it is one of my great pleasures and honors to be able to recognize and praise distinguished constituents from my area. I rise today to honor the accomplishments of a gentleman from my district who throughout his life has worked to improve the lives of others. Although I have never had the pleasure to meet this man in person, I was lucky enough to learn of his service to my community and the State of California through the kind words and praise of Congressman ROGAN and through the admiration of his colleagues in the education community.

I speak of Mr. Ralph Laird, Jr., a man who has served his country in numerous ways throughout his lifetime. Mr. Laird began serving his country during World War II, in which he fought as a soldier in the U.S. Army. After returning from the war, Mr. Laird made a fortunate decision to return to California, where he chose to dedicate his life to education.

Mr. Laird has been a teacher, a coach of a championship basketball team, a vice principal, a principal, a dean, and an assistant superintendent. In my district, among other things, he has served as the principal of Pleasanton's Amador High School for 8 years and later as assistant superintendent of the Amador School District. In his spare time, Mr. Laird has served on the Pleasanton City Library Board, coached little league baseball, been an active member of the Pleasanton Rotary Club, and served as a camp director for the YMCA.

I believe that the people of the 10th Congressional District and the State of California have been enormously blessed to have someone like Mr. Laird working on their team. Again I would like to thank my colleague from southern California for bringing to my attention the accomplishments of this outstanding gentleman. Mr. Laird has done a great service to the people of my district and to California's children. Additionally, I would like Mr. Laird and his family to know that my prayers and the prayers of the people of the 10th Congressional District are with him during this very difficult time.

Mr. ROGAN. Mr. Speaker, I thank my colleague for her very gracious and kind comments. One comment she made is particularly true—when she referred to Ralph Laird as a gentleman. That he is. When I recently saw a very popular movie entitled "Mr. Holland's Opus," immediately I thought of Ralph Laird. For those who have seen the movie, they will remember it as the story of somebody who gave their life to educating the children of a particular community and how, over the course of his professional career, the fruits of his efforts grew from one generation to the next. His legacy are the innumerable productive men and women who benefited from his counsel and example during his illustrious career.

That is Ralph Laird's legacy, not only to the people of Pleasanton, not only to the people of California, but truly to the people of this country. On behalf of the Congress of the United States, I thank him for his service to our country, and I salute him.

Mr. Speaker, I again thank my colleague, the gentlewoman from California [Mrs. TAUSCHER], for joining me in this presentation.

IN SUPPORT OF HERMAN FOR SECRETARY OF LABOR

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from New York [Mr. OWENS] is recognized during morning hour debates for 5 minutes.

Mr. OWENS. Mr. Speaker, I rise to speak in support of the nomination of Alexis Herman as the Secretary of Labor. Alexis Herman is facing considerable difficulties. They have slowed down the process of confirming her nomination. If you read the accounts in the press and the media, you will find they are rather bizarre.

Alexis Herman is criticized for being too effective. She is criticized for being a great communicator. She is criticized for knowing the ways through the political maze. All of these that are normally considered virtues, all these characteristics that are normally considered virtues have suddenly become barriers to Alexis Herman being confirmed as the Secretary of Labor.

□ 1315

What is going on, Mr. Speaker? I fear that when you compare the difficulties faced by Alexis Herman on the one hand and her difficulties, leaving the Department of Labor without any leadership for all this time, when you compare those difficulties with what is being offered in this Congress by the Republican majority, you might make a logical case for conspiracy.

The Republican majority that is holding up the confirmation of Alexis Herman, leaving the Department of Labor without leadership, has aggressively taken the lead in terms of placing legislation on the agenda which will definitely hurt working people.

The agenda of the Department of Labor is definitely under consideration here. We are proposing and will have on the floor of this House this week a bill which will change the Fair Labor Standards Act. The Fair Labor Standards Act has been in effect since the New Deal, Roosevelt, when we had abuses of labor that were abominable. And part of the way we curbed those abuses of working people where they were forced to work around the clock, on the weekend, and given the same hourly wage, one way to curb that, one way to make the employers divide up the pot and employ more workers instead of working a few long hours with no wages was to implement a Fair Labor Standards Act which says, "You cannot work anybody more than 40 hours a week without paying them time and a half for their overtime pay. You work 40 hours a week, the wage rate must be raised to time and a half."

Now we have on the floor a bill which will take that away. The Republicans are coming for the overtime of Members. They take away the cash payment. They want to say that employers who are now under the Fair Labor Standards Act should be taken out from under the Fair Labor Standards Act and given the option of giving comp time, time off, to workers. Oh, they say, this is going to be a choice that the employees will make. If they do not want to take time off, they want cash, they will have it. But we have statistics and we have studies which show that employers, people who employ people, are already swindling workers out of vast amounts of overtime pay.

One employer study group has admitted that as much as $19 billion was

swindled away from workers in cash payments last year, so they do not really have a choice. Any employer will choose to want to invest his cash, he will hold onto the cash and give the employee time off.

This is going forward, it is on the floor, it will be on the floor this week.

Now in addition to that very anti-working person, anti-the-working-families out there legislation, we have a TEAM Act passed in the Senate. The TEAM Act in essence says that employers may organize groups which run counter to the independent unions, actually undercut the activities of the independent unions or will guarantee that unions will never be organized; they are independent.

In addition to that, I just came from a hearing this morning where an attack was being made on organized labor's contributions to political campaigns. Organized labor is being singled out, and they are being pummeled by the Republican majority because they made contributions in large numbers to Democrats. The labor unions are being told you cannot do this. They want new regulations on labor unions.

Labor unions are already the most overregulated institutions in our society. The regulations on labor unions, as my colleagues know, do not compare with anything else. We do not regulate corporations as much as we regulate labor unions, but we are going to impose more regulations on them to keep them from making contributions to people they consider operating politically in their own interests.

I have a chart which shows that all of the sectors of the American economy are giving large amounts of money to political candidates. The chart is from the Center for Political Responsiveness which shows what the financial sector gave, the agricultural sector gave, the defense industry, the energy industry. All of these are greater than organized labor.

Alexis Herman should be put in place because we need that leadership in labor, and let us stop the attack on organized labor.

RECESS

The SPEAKER pro tempore (Mr. DELAY). Pursuant to clause 12 of rule I, the House stands in recess until 2 p.m.

Accordingly (at 1 o'clock and 20 minutes p.m.), the House stood in recess until 2 p.m.)

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 2 p.m.

PRAYER

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

We are appreciative of those women and men who devote their abilities to government service and who see in their tasks the opportunity to serve You, oh God, by being of service to others.

We are indebted to those public servants whose names we know and who occupy positions of great trust. But we especially remember this day those people whose names are not well-known, but whose commitment and enthusiasm to their tasks is acknowledged and valued.

Whatever our responsibility, let us go forward in unity and in trust to do the works of justice and mercy. This is our earnest prayer. Amen.

THE JOURNAL

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

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

Mr. LUCAS of Oklahoma. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

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

Mr. LUCAS of Oklahoma. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 5, rule I, further proceedings on this question are postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from California [Mrs. TAUSCHER] come forward and lead the House in the Pledge of Allegiance.

Mrs. TAUSCHER 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.

CINCINNATI FLOOD YIELDS TWO YOUNG HEROES

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

Mr. CHABOT. Mr. Speaker, whenever natural disaster strikes, America gets a few new heroes, selfless individuals who come to the aid of their neighbors in need.

Earlier this month Cincinnati, my community, was one of those river communities in the Midwest that felt the effects of the worst floods in the last 30 years. And true to form, Cincinnatians were at their best, from the city and county employees who worked day and night, to the charitable organizations, churches, schools and businesses, to neighborhood folks who lent a helping hand.

One of the most heartwarming stories I heard centers around two young ladies from Oakdale School in Bridgetown: Paige Craynon, who is 9 years old, and April Pitman, who is 10. On their own, Paige and April went door-to-door collecting items to help suffering flood victims. Then their classmates at Oakdale School joined in and brought in supplies to help those in need.

That is what America is all about, Mr. Speaker. Let me join my colleagues and my fellow Cincinnatians in congratulating Paige and April and all their classmates at Oakdale School for a job well done.

A BALANCED BUDGET CANNOT WAIT

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

Mrs. TAUSCHER. Mr. Speaker, last week more than 100 members of the Democratic Caucus signed the Tauscher-Stenholm-Minge letter that called on both the President and the Republican majority to present a CBO-scored balanced budget proposal. This letter was an attempt to move the stalled budget process forward in a bipartisan manner.

As a former investment banker who spent 14 years on Wall Street, I find it is inconceivable that we could go yet another year without coming to a resolution on a balanced budget.

Today, I am encouraged to hear Speaker GINGRICH has suggested delaying tax cuts until a balanced budget is reached.

If the Speaker or any of our colleagues would like a blueprint for balancing the budget without raising or cutting taxes, I ask them to take a close look at the Blue Dog Coalition budget. Our budget deals with tax cuts outside the scope of the balanced budget plan while keeping them consistent with a balanced budget.

The coalition budget is a plan that can help us move forward toward achieving a truly bipartisan balanced budget. I implore my colleagues to listen to the American people who sent us here. Let us go to work on balancing the budget. We cannot wait any longer.

change his policy on that. In my judgment, and in the judgment of many of my colleagues far beyond this Chamber, there is a strong view that there ought not to be a conference where Israel is excluded. There will be no peace process in the Mideast to which Israel is not a party. For Chairman Arafat to convene a group of representatives of nations of the world to meet and talk about the peace process, which will inevitably involve charges of impropriety by Israel because they appear in the international media daily, without having Israel as a party to that process and allowing Israel an opportunity to reply, it seems to me to be absolutely inexcusable.

We ought not to be saying that parties in interest, like the Palestinians and the PLO, ought to be gathering international strength to attack, impugn, or otherwise move against a party to the peace process. If there is going to be peace, it is going to have to be worked out between the Palestinians and the Israelis. To have this kind of conference compounds the tragedy in Jordan, and I do hope, yet, that the administration will rethink what it has undertaken to do.

I know that a good many of these issues come before the Congress, come before the Senate, come before the Appropriations Committee, on which I serve, and before the Foreign Operations Subcommittee, where we are asked to appropriate money. We are now about to be asked to appropriate additional funds. The Congress does not have the power that the President has to conduct foreign affairs, although we do have considerable power in the appropriations process, the power of the purse. We are looking at requests for aid to Jordan. In fiscal year 1997, we gave Jordan $67.1 million. In fiscal year 1998, the President has made a request for $74.2 million, an increase of $7.1 million. Jordan is also asking for an additional $250 million in funding per year over the next 5 years. I have already been lobbied, individually, about supporting that increase in funding for Jordan.

The initial reaction that I had goes back to Jordan's conduct during the gulf war, where I and many others in this body, many other Americans, and many others around the world were very unhappy—to use a very mild term—with what Jordan did in aiding and abetting Iraq and Iraq's President, Saddam Hussein. They were complicitous in helping Iraq in that war, where American lives were laid on the line and American lives were lost.

A GAO report in February 1992 found specifically that Jordan gave Iraq access to American technology, that Jordan shared intelligence from the American-led coalition. When that happened, it seemed to me that there were strong reasons not to continue to give foreign aid to Jordan. Jordan was giving aid and comfort to Saddam Hussein at a time of international crisis and war—a war which was authorized on this floor in debate that I very well remember back on January 10, 11, and 12, 1991—where notice had been given by the U.N. resolution that a war would be started on January 15.

So, speaking for myself on the Appropriations Subcommittee—and we make the first cut on aid, and that usually stands up with what the Appropriations Subcommittee does—I have grave reservations about aid to Jordan, and certainly about increasing aid to Jordan. And now to find the sequence of events in Jordan as to what has happened, and it follows in sequence, King Hussein's statement, I think that we have to be very reflective as to what aid and what American dollars we are going to give to Jordan.

One of the press reports contains a notation that a woman identified as the mother of the individual who fired the shots said that her son is mentally ill. Now, I don't know whether that is true or not, but I do know that if there is an indication of that, it requires an investigation and a determination by Jordanian officials, and perhaps by an international group, as to why you have somebody identified as being mentally ill in a situation to acquire the firepower which led to this tragedy. Those are all questions, Mr. President, that I think need to be answered.

When we look at the appropriations process, a commitment has been made by the United States to give some $500 million to Palestinian authorities. Senator SHELBY and I offered a resolution which requires as a precondition to that funding that the Palestinians do two specific things: No. 1, change their charter which calls for the destruction of Israel and exercise efforts to stop terrorists. And I think, Mr. President, there is good reason to believe that the Palestinians have not fulfilled those requirements. What the Palestinians did was have a convention and say that everything in their charter inconsistent with the declarations of September 13, 1993—when Chairman Arafat was honored at the White House—would be null and void. But that is a long way from picking up the charter and specifically rejecting provisions of the charter which call for the destruction of Israel. This is something which Senator SHELBY and I discussed with Chairman Arafat in January 1996. This is something that Senator Brown and I discussed with Chairman Arafat in Gaza in August 1995. And this is something which a group of Senators, including this Senator, discussed with Chairman Arafat downstairs in the Capitol last week.

When these matters are called to Chairman Arafat's attention, he brushes them aside. He pooh-poohs them. He says, "Well, we have already done all that needs to be done." And the reality is that they have not done what the Specter-Shelby amendment calls for.

When it comes to the issue of fighting terrorism, I think again there has been insufficient action. There are terrorists who have been identified by Chairman Arafat and the Palestinian authorities who have not been turned over to Israel. I personally took a list of those which I had obtained and verified. I discussed them with Chairman Arafat. He had one excuse after another why that was not done. There are weapons in Palestinian-controlled territory which are supposed to have been identified and turned over. And that has not been done.

The President has certified that there has been sufficient compliance with the Specter-Shelby amendment. The President can make a certification. There is nothing that the U.S. Senate can do about that short of the appropriations process. But these are issues which I intend to bring to the subcommittee when we take a look at the moneys we appropriate this year.

The President has great authority, but he cannot appropriate money. He can veto appropriations bills, but he cannot appropriate money. That has to come from the Congress. That has to come from the House and from the Senate. When it comes to the funding for Jordan, or when it comes to the funding for the Palestinians, and we see them holding this meeting this weekend, the President may think that is fine. If he thinks that is fine, he can send a U.S. representative. But if the appropriators disagree with him, if the Congress disagrees with him, we don't have to appropriate money. That has to be taken into account by the President when he sets U.S. foreign policy.

So I make those comments. It is really very, very sad what has gone on, for the bloodshed of these seven girls and for the bloodshed which previously has occurred. I believe that we need some sober leadership to defuse the situation and to understand that there are very, very difficult problems facing the parties there. When Prime Minister Netanyahu takes steps that he has to withdraw a certain percentage from the West Bank, and he does so after a closely contested vote in the Israeli Parliament and the Israeli Cabinet, that is about as far as he can go. When those actions are rejected by Chairman Arafat, and Chairman Arafat gets aid and comfort from the President who criticizes what Israel did and from King Hussein who criticizes what Israel did, then I suggest that those matters really have to be worked out by the parties, and not by long-distance advice from the United States, or even short-distance advice from Jordan. But we had better tone down the rhetoric.

We had President Mubarak this week in Washington. He met downstairs in the Foreign Relations room. President Mubarak gave some good advice to

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. MCCOLLUM] and the gentleman from Florida [Mr. WEXLER], each will control 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Victims and their families often describe great frustration at the witnessing of the judicial process. Often this frustration comes from their feeling the process is not about them or their loss but all about the defendant. And while we all understand that the guilt or innocence of the defendant must be of primary concern to the Judiciary process, we become increasingly sensitive of the need to include the victim and victims' families in the criminal justice process in appropriate ways that they too can feel that justice has been done for them.

In 1990, Congress passed a law requiring that Federal prosecutors and others make their best efforts to ensure that victims of crime were accorded a number of rights, including the right to be notified of court proceedings, the right to confer with the attorney for the Government in the case, the right for information about the convictions, sentencing, imprisonment, and release of the offender, and the right to be present at all public proceedings related to the offense.

In 1994, the crime bill of that Congress amended the Federal Rules of Criminal Procedure to provide that victims would have the right to make statements to the court in noncapital cases at the time of sentencing, in order to better ensure that the interests of the victims of crime would be known to the sentencing judges.

Also in that bill Congress authorized the Government, in capital cases, after the guilty verdict is returned, to call victim and victims' family members to testify during the postverdict sentencing hearing. This testimony may be in connection with any aggravating factors that the Government wishes to prove or to rebut evidence of mitigating factors that the convicted defendant is attempting to prove.

This so-called victim impact testimony often describes the effect of the crime on the victim or the victim's family. The Supreme Court has upheld the Government's right to present victim impact testimony against constitutional challenge.

Mr. Speaker, a recent ruling in the Oklahoma City bombing case has caused concern that it may be possible for trial judges to exclude victims and their family members from attending the guilt phase of a criminal trial solely for the reason that these persons desire to make victim impact statements during the sentencing phase of the trial.

While one of the Federal rules of evidence does allow judges to exclude witnesses from trial, this rule was formulated to prevent potential fact witnesses from changing their testimony after hearing the testimony of other fact witnesses during the guilt phase of the trial.

The ruling in the Oklahoma City bombing case, which will prevent many of the victims of the crime from attending or observing the trial, is a situation that has never before occurred in a Federal court, to my knowledge. It is important for Members to understand that the victims affected by the ruling are not fact witnesses. They seek only the right that already exists in law to give the victim impact testimony at such time as the guilt of the defendants may be adjudicated. As such, the risk of the testimony somehow being tainted by merely listening to the fact witnesses during the guilt phase of the trial is minimal, if not nonexistent.

□ 1415

The bill I have introduced on behalf of myself, the ranking minority member of the Subcommittee on Crime, the gentleman from New York [Mr. SCHUMER], and the gentleman from Oklahoma [Mr. LUCAS] is intended to make it clear that victims and their family members are not excluded from attending a criminal trial in Federal court as an audience member simply because they may exercise their rights that currently exist under Federal law to make statements during the sentencing hearing that takes place after a guilty verdict is returned.

Mr. Speaker, I want to point out to my colleagues that this bill will not amend those provisions now in law that allow judges to sequester fact witnesses, including victims and victim family members who testify during the guilt phase of trials. This bill applies only to persons who may make statements during the sentencing hearing of a Federal trial, which always occurs after the defendant is found guilty beyond a reasonable doubt.

Mr. Speaker, this bill is an important clarification of the rights that victims have in Federal criminal trials. I believe that it achieves a balance between ensuring that fact witnesses are not influenced by other testimony at trial while also helping to ensure, when appropriate, that every opportunity is given to victims and their families to see firsthand that our system is providing justice for them.

I want to thank the ranking minority member of the Subcommittee on Crime, the gentleman from New York [Mr. SCHUMER], for his assistance in moving this bill. I also want to thank the other cosponsor of this bill, the gentleman from Oklahoma [Mr. LUCAS], who represents the victims of the Oklahoma City bombing.

At this time as well I would like to comment that I have a letter from the office of the attorney general of the State of Oklahoma, signed by attorneys general from a number of States, including Massachusetts, Minnesota, Louisiana, Idaho, et cetera, my home State of Florida. This letter supports the legislation we have today and explains why it is very important that it become law.

Mr. Speaker, the letter referred to is as follows:

OFFICE OF ATTORNEY GENERAL,
STATE OF OKLAHOMA,
March 18, 1997.

Re Legislation on victim impact witnesses observing trial.

Sen. DON NICKLES,
U.S. Senate,
Washington, DC.
Congressman FRANK LUCAS,
U.S. House of Representatives,
Washington, DC.
Congressman BILL MCCOLLUM,
U.S. House of Representatives,
Washington, DC.

DEAR SENATOR NICKLES AND CONGRESSMEN LUCAS AND MCCOLLUM: On the even of the trial in the Oklahoma City bombing case, as Oklahoma's Attorney General, I join the undersigned Attorneys General from across America in urging your support of legislation to guarantee that surviving family members of all homicide victims can attend the federal criminal trial of an accused murder as well as provide victim impact testimony at sentencing.

Such legislation is desperately needed because of a ruling in the Oklahoma City bombing case affirmed by the 10th Circuit Court of Appeals. These courts have ruled that current federal law permits the trial judge to exclude family members who lost loved ones in the bombing from watching the trial if they will provide "victim impact" testimony at sentencing. Moreover, these courts held that current federal law precludes either the government or victims from even appealing such a ruling before the trial. This new interpretation of federal law, if left uncorrected, will deprive numerous family members of victims the chance to observe the trial and learn the facts surrounding the bombing, or worse, force them to forgo the right to testify in the event of a penalty hearing of the impact of this horrendous crime and the value of their loved ones.

There is no legitimate ground for the ruling. The traditional rationale behind sequestering witnesses—that a witness might "tailor" his testimony to that of other witnesses—has no application to surviving family members—they will not testify about issues pertaining to the guilt of the defendants, but will only provide the jury with sentencing information about the devastating effects of the crime.

In our states, family members who will only provide impact testimony are routinely admitted to watch the trial. Indeed, in many of our states, a constitutional amendment or other victims rights legislation guarantees victims the right to observe court hearings without sacrificing the opportunity to provide victim impact testimony. Such an approach fully protects defendants' rights, because defendants have no legitimate interest in excluding from public court proceedings those who have the most vital interest in attending.

The federal government needs to join the states and put in place these protections for victims. Congress has the power to set the rules for federal cases. The Tenth Circuit

Court of Appeals acknowledged that its ruling "may be seen as overly technical and unduly severe by those focused only on this particular controversy," however, the Court explained it must defer to the Constitutional authority of Congress, concluding that "[i]t is only through legislative resolution" that this painful result can be changed. Accordingly, Congress should act quickly to make sure justice is done in the Oklahoma City bombing case—and in the many other federal capital cases to be tried in the future.

Sincerely,

Bruce Botelho, Attorney General of Alaska; W.A. Drew Edmondson, Attorney General; Daniel E. Lungren, Attorney General of California; M. Jane Brady, Attorney General of Delaware; Margery S. Bronster, Attorney General of Hawaii; Carla J. Stovall, Attorney General of Kansas; Scott Harshbarger, Attorney General of Massachusetts; Mike Moore, Attorney General of Mississippi; Tom Udall, Attorney General of New Mexico; Robert A. Butterworth, Attorney General of Florida; Alan G. Lance, Attorney General of Idaho; Richard P. Ieyoub, Attorney General of Louisiana; Hubert H. Humphrey III, Attorney General of Minnesota; Jeremiah W. (Jay) Nixon, Attorney General of Missouri; Michael F. Easley, Attorney General of North Carolina; Heidi Heitkamp, Attorney General of North Dakota; Jeffrey B. Pine, Attorney General of Rhode Island; Jan Graham, Attorney General of Utah; Christine O. Gregoire, Attorney General of Washington; Betty D. Montgomery, Attorney General of Ohio; Dan Morales, Attorney General of Texas; J. Wallace Malley, Jr., Acting Attorney General of Vermont; William U. Hill, Attorney General of Wyoming.

Mr. McCOLLUM. Mr. Speaker, I reserve the balance of my time.

Mr. WEXLER. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I rise in support of the amendment of the gentleman from Florida [Mr. McCOLLUM] to H.R. 924. The purpose of this bill is to permit victims of a violent crime, or those whose loved ones have been victimized, to watch the trial of the person accused of committing the crime.

Traditionally, a criminal trial is viewed as being a confrontation between the State and the defendant. The victims of crime were left out of the picture. We need to make sure that victims are treated fairly by the justice system, especially when allowing greater victim participation will have no prejudicial impact on the trial and will not in any way compromise the defendant's rights.

In recent years, the Congress, like many States, has allowed victims in certain circumstances to make victim impact statements at the sentencing phase of the trial. This bill does not expand or affect the right under existing law to make such statements. However, in the case of the Oklahoma City bombing trial, the judge recently held that people who will make victim impact statements, if the defendant or defendants are convicted, cannot watch the trial.

Mr. Speaker, I believe the judge's ruling in the Oklahoma City case was a misinterpretation of Federal Rule of Evidence 615, and we must now clarify that rule to make it absolutely clear that the intent is not to exclude victims from trials.

The judge's ruling was apparently based on the evidentiary rule that in most cases people who are witnesses at a criminal trial cannot watch the testimony of other witnesses. The purpose for this rule is that we do not want one witness' recollections to be influenced by another witness' testimony. But that rationale simply does not apply to people making victim impact statements. The facts and issues they are addressing are totally different from the facts addressed by the other witnesses at trial. The idea that their testimony will be affected by watching the trial just does not make sense.

As one of the Oklahoma City survivors put it, a man who lost one eye in the explosion, "It's not going to affect our testimony at all. I have a hole in my head that's covered with titanium. I nearly lost my hand. I think about it every minute of the day."

That man, incidentally, is choosing to watch the trial and to forfeit his right to make a victim impact statement. Victims should not have to make that choice.

Mr. Speaker, this bill was reported out of committee on voice vote. The manager's amendment makes a number of changes to the bill as reported, but they do not substantively change the bill, with one exception. The exception is that the manager's amendment adds a new, unrelated provision that would make a technical correction to a provision of the Foreign Sovereign Immunities Act that Congress changed last year. This correction is uncontroversial.

Finally, I would like to note that the gentleman from Michigan [Mr. CONYERS], the ranking minority member on the Committee on the Judiciary, and the gentleman from New York [Mr. SCHUMER], the ranking minority member on the Subcommittee on Crime, have asked me to note their support on this bill for the RECORD.

Mr. Speaker, I urge support of this amendment and this bill.

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

Mr. McCOLLUM. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma [Mr. LUCAS], a prime sponsor of this bill.

Mr. LUCAS of Oklahoma. Mr. Speaker, I rise today in support of H.R. 924, the Victim Allocution Clarification Act of 1997. On behalf of the victims of the bombing of the Alfred P. Murrah Building, and all victims and survivors, I call upon the Members of this body to support this legislation.

I want first to thank the gentleman from Florida [Mr. McCOLLUM] and his staff for their tireless efforts in bringing this bill to the floor. They heard the cry of the victims in Oklahoma and have responded. On behalf of the victims and survivors of the Oklahoma City bombing, thank you.

H.R. 924 addresses an important area of victims rights protections which has been overlooked before now. At stake is the right of victims to watch the trial proceedings and provide victim impact testimony.

In many States, family members who will only provide impact testimony are routinely admitted to watch trials. Many States have constitutional amendments or other victims rights legislation guaranteeing the right to observe court hearings without sacrificing the opportunity to provide victim impact testimony.

It is time that the Federal courts provide the same protections for victims. H.R. 924 guarantees the rights of surviving family members of all homicide victims to attend the Federal criminal trial of an accused murderer as well as provide victim impact testimony at sentencing. In 1990, Congress passed the Victim's Bill of Rights, and today, we are simply clarifying the protections which are currently in law.

Passing this legislation today will ensure that victims of the Oklahoma City bombing will be able to watch the trial proceedings and testify at any subsequent sentencing hearing. Many of these victims are my constituents, and I have seen firsthand the pain and devastation this bombing has brought. For many victims, the healing process is twofold. These men and women desperately want to know what activities led to this terrorist attack. In the words of one victim, "When I saw my husband's body, I began a quest for information as to exactly what happened. The culmination of that quest, I hope and pray, will be hearing the evidence at trial."

This woman, and many others like her also, want the opportunity to express the pain and devastation this act has brought to their lives. They want the chance for their story to be heard; to know they played an important part in ensuring a punishment equal to the crime. They want, and need, to express their loss in their own words.

The time has come for Congress to make its voice known on this issue, and protecting the rights of victims to both watch the trial and testify at sentencing is that needed statement. I ask all Members of this body to join me today and pass this legislation.

Mr. WEXLER. Mr. Speaker, I yield 8 minutes to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Speaker, our Constitution created a government which is premised on checks and balances through a separation of powers among independent branches of government. The legislative branch is empowered to

make laws subject to certain limitations such as constitutional prohibitions against bills of attainder, that special legislation, and ex post facto laws, those that are retroactively applied. The function of the legislative branch is to enforce the laws. The judiciary interprets the laws and adjudicates cases and controversies arising under them. In 1803, the Supreme Court said in the landmark Marbury versus Madison, "One branch is not permitted to encroach on the domain of another."

H.R. 924 violates the constitutional framework of separation of powers and its undue retroactive interference with a ruling in a pending criminal case. It is an obvious attempt to obtain legislatively a ruling in the Oklahoma bombing case different from the one already entered into by a Federal judge according to the law and according to the facts in the particular case and twice sustained on appellate review.

The constitutional prohibitions against the enactment of ex post facto laws and bills of attainder reflect the constitutional concern that the political process might be abused to unduly punish the unpopular or impose by legislation a special penalty against specific persons or classes of persons. As James Madison put it, retroactive legislation of this kind abusively affords special opportunities for the politically popular and powerful to obtain improper legislative benefits. Mr. Speaker, it is, therefore, unseemly for someone in the middle of a trial to seek congressional assistance to affect the outcome of that case.

Mr. Speaker, the judge in this case has determined that such sequestration of the impact witnesses was necessary to ensure that their testimony will remain in fact crime impact statements and not trial process impact statements. Whether or not Congress agrees with this ruling, the judge should have the ability to render it according to the law and the facts before him in this particular case. He is in the best position to make such a difficult determination. The judge should be allowed to run his courtroom and conduct these trials without Congress grabbing the gavel from him after a ruling not to our political liking.

Intervention by Congress in a pending case is not only a blatant intrusion upon the constitutional principles of separation of powers, it also exposes a criminal trial to problematic publicity because the U.S. Congress has obviously weighed in on one side of a pending case. Due to the enormous pretrial publicity surrounding the Oklahoma bombing case, the trial of the case has already been removed not just from Oklahoma City, but entirely outside the State of Oklahoma. Additional complaints of prejudicial and pretrial publicity are under consideration in connection with alleged breaches of attorney-client confidentiality privileges. And so this highly politicized intervention in the case by Congress will only add to the possible case infirmities and, while addressing the understandable concerns of victims, may jeopardize the Government's case altogether.

H.R. 924 requires the court to allow victim impact witnesses to observe court proceedings, including viewing trial exhibits and the defendants and their lawyers over several months. This requirement stays in effect whether or not the judge determines that such viewing will prejudicially taint their testimony. While prejudicially tainted testimony is a problem in any case, it is especially problematic in a Federal death penalty case, and the legislation before us fails to consider the stark differences between the trial of a capital and noncapital case. In noncapital cases, the victims' crime impact statements are made directly to the judge alone during the sentencing phase of the trial. The judge has the experience in properly weighing emotional, inflammatory rhetoric and separating that which is relevant and irrelevant. In capital cases, however, the crime impact statements are made directly to a jury and may well include emotional, inflammatory and irrelevant testimony.

Unfortunately, an amendment to limit the application of this bill to noncapital cases was defeated in committee, and therefore all pending and future capital cases will be exposed to new challenges because of the passage of this bill.

Mr. Speaker, this is not the first time in recent years that Congress has acted as a super appellate court by intervening in a pending case to impose a politically popular ruling different from the results achieved through court deliberations. In the Morgan-Foretich custody case, Congress served as a super Supreme Court to overturn court decisions Members did not like. Just last week, the House served as an adviser to the Alabama Supreme Court in a pending case involving the Ten Commandments.

Furthermore, this is not even the first time that Congress has acted to control a court determination in the Oklahoma bombing case itself. Last year Congress added a special provision to the antiterrorism bill directing that in any trial where a venue is changed by "more than 350 miles" the court shall "order closed circuit televising of the proceedings."

□ 1430

Mr. Speaker, the Oklahoma bombing case is the only one which fits that description.

Mr. Speaker, this legislation violates the fundamental constitutional principle of separation of powers. It also risks further prejudicing the outcome of the pending criminal case which has already been moved out of State due to extensive pretrial publicity, and it fails to differentiate between the potential impact of inflammatory testimony in a capital case and a noncapital case. Finally, it creates the unseemly spectacle of Congress intervening to affect the outcome of a pending capital case.

Mr. Speaker, high profile cases are the truest test of the American Constitution. Congress should not act as an interlocutory court of appeals. In such cases, tinkering with the judicial process to affect the outcome of a particular pending case holds the entire process up to ridicule.

Mr. Speaker, I therefore ask that our colleagues vote no on this motion.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I simply want to point out to the Members that while I have great respect for the gentleman from Virginia that this particular matter is one where nobody is going to be negatively impacted that I can see, the Oklahoma City bombing case is an ongoing, in progress trial, but we have not yet had it proceed. We are talking about the sentencing phase in this bill, we are not talking about the guilt or fact-finding phase, and there is no way I can conceive of anyone being prejudiced or any lawsuit or any of the criminal trial process being biased by allowing this bill to go through and become law.

Mr. Speaker, what it does is simply say that victims and their family members who want to testify under the law that we now have in the sentencing phase will be allowed to do that while at the same time being permitted to sit in and observe and watch the regular trial process on the guilt and innocence phase where they have no role whatsoever. So I really do not see any harm in doing this, and I do not think there is any harm doing it to affect the situation at hand. In fact, I cannot imagine that we would pass this bill for the future and not take care of it in terms of the ongoing criminal trial, particularly one as prominent as Oklahoma City.

For the benefit of the other Members, I would like to also take an opportunity to explain the manager's amendment that is part of this bill that I offer today. I will not be very long with that, but the changes made to 924 have been requested by the representatives of the victims of the Oklahoma City bombing and by Members of the other body on both sides of the aisle who support similar bills pending in that body. The sponsors of the bill in the House have agreed to these changes to improve it, and I believe that it will be very good and will get this bill passed, I hope, in both bodies before the President has an opportunity to sign it tomorrow when he leaves for his trip to Helsinki. So we are all hopeful we can get this legislation through both bodies and signed into law.

The amendment makes these changes:

First, the language has been added to make it clear that the provisions of this bill are to control over any other statute, rule, or provision of law, and while I believe the rules of statutory construction would have required the courts to interpret the bill in this manner without the language, I have agreed to put this in to make it less contentious.

Second, we have added the definition of victim to the bill by making reference to the definition of victim in the Victims' Rights and Restitution Act of 1990.

Third, we have restructured the operative portion of the bill in order to make it easier to read but without making any changes in the result that the bill will accomplish, and we have also added subheadings to these new sections to help people understand exactly how it fits into the situation. In addition, we have added a provision to the bill to make it clear that once a victim or family members have attended the trial, the fact that they have done so may not allow a judge to disqualify such individual from exercising the rights that presently exist under the law to make statements during the sentencing hearing that takes place after the guilty verdict is returned, which is another way of saying we have added clarifying language because that is the trust of the bill.

And finally we have amended the short title of the bill to read the Victim Rights Clarification Act of 1997 in order to make it more clear what the purpose of the bill is.

I believe Mr. Speaker, these amendments strengthen the bill. It was favorably reported by the Committee on the Judiciary by a voice vote and will not change the result that was intended. In fact it will, I think, clarify it. I know the gentleman from New York [Mr. SCHUMER] and the gentleman from Oklahoma [Mr. LUCAS] reported the amendment, and that is why it is part of the bill here today.

Mr. Speaker, for the benefit of the other Members, I wish to explain the changes made by the manager's amendment that I have offered to the bill, H.R. 924. The changes made by the manager's amendment have been requested by representatives of the victims of the Oklahoma City bombing and by Members of the other body, on both sides of the aisle, who support a similar bill pending in that body. The sponsors of the bill on the House side have agreed to these changes in order to improve the bill before it becomes law and to help ensure passage of the House bill in the other body. It is the hope of those of us on the House side that the other body will act on the House bill tomorrow, and that the President will sign the bill before he leaves for his trip to Helsinki tomorrow night.

The manager's amendment makes the following changes: First, language has been added to make it clear that the provisions of this bill are to control over any other statute, rule, or other provision of law. While I believe that the rules of statutory construction would have required courts to interpret the bill in this manner without this language, I have agreed to specifically state this in the bill so that there is no doubt as to the intent of the Congress.

Second, we have added a definition of "victim" to the bill by making reference to the definition of victim in the Victims' Rights and Restitution Act of 1990. Third, we have restructured the operative portion of the bill in order to make it easier to read, but without making any change in the result the bill will accomplish. We have also added subheadings to these new sections to help reinforce the fact that this bill will benefit both those persons who are allowed by existing law—18 United States Code section 3593(a)—to testify as to "the effect of the offense on the victim and the victim's family" and other factors during the sentencing hearing of a capital case, and those persons who are allowed by existing law—Federal Rules of Criminal Procedure 32(c)(3)(E)—to "make a statement or present any information in relation to the sentence" during the sentencing hearing of a noncapital case.

Additionally, we have added a provision to the bill to make it clear that once a victim or family members have attended a trial, that fact may not allow a judge to disqualify such individuals from exercising the rights that presently exist under the law to make statements during the sentencing hearing that takes place after a guilty verdict is returned.

Finally, we have amended the short title of the bill to the Victims' Rights Clarification Act of 1997 in order to make more clear the purpose of the bill.

Mr. Speaker, I believe that these amendments strengthen the bill that was favorably reported by the Judiciary Committee by voice vote, and will not change the result that was intended by the bill as it was introduced. I want to again note that these changes are made at the request of victims' groups and the supporters of a similar bill in the other body. And I want to note that the changes have been agreed to by the two other sponsors of this bill—Mr. SCHUMER and Mr. LUCAS.

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

Mr. WEXLER. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. DELAHUNT].

Mr. DELAHUNT. Mr. Speaker, I rise in opposition to the bill. From the extraordinary dispatch with which this measure has been rushed, one might suppose it to be an uncontroversial piece of consensus legislation. We marked it up in the Committee on the Judiciary without so much as a hearing, and now it is being considered under suspension of the rules. Not only that, but this morning I was informed that the text that the House would be considering is a Senate version of that which never came before our committee at all.

What is the reason for such haste? And the proponents are quite honest about their intentions. They want the bill to become law in time to apply to a pending case, the Oklahoma City bombing case, because they wish to overturn a pretrial ruling made by the trial justice. The ruling that should be noted, and my friend from Virginia alluded to that, was affirmed by the 10th Circuit Court of Appeals. Now I do not necessarily dispute the merits of the bill as to future cases, but we have not had a sufficient time nor opportunity to properly evaluate this proposal's merits. However, I oppose the bill because I believe its efforts to influence a case now before the court strikes at the integrity of the judicial process and threatens the separation of powers doctrine on which our constitutional system is in fact based.

Congress should not be changing the rules in the middle of a trial; yet this is the second time that Congress has sought to create a special rule to govern this particular case.

Now I share the deep sympathy of every Member of this Chamber for the victims of the Oklahoma tragedy and their family. But we have a system in this country that, however imperfect, is still the best means yet devised for reaching a just result. We can all cite judicial decisions of which we personally disapprove, but there is nothing that qualifies us sitting in this House to substitute our judgment for that of the presiding judge. It is one thing for us to change the rules prospectively, but to interject ourselves into an ongoing trial is a dangerous and possibly unconstitutional assault on the judicial process itself.

Perhaps it is not surprising that we should be considering such a measure, given recent comments that we should consider impeaching judges who render unpopular decisions. Such talk should be deeply troubling to everyone who values the rule of law and this bill should be no less so. The irony is that our intervention may ultimately do far more harm than benefit. Judges are there to see that the trial is fair and impartial. This is just as important to those seeking a conviction as to those who seek an acquittal.

As a former district attorney, I know it does no good to secure a guilty verdict that is vulnerable to reversal on appeal. Defense attorneys have already announced their intention to challenge congressional action in this case. Whether or not their challenge succeeds, why would we go out of our way to increase the Government's burden and put a possible guilty verdict at risk?

While I am sure that this legislation is genuinely well intentioned, the proponents may ultimately do a disservice to the very victims to whom they purport to give voice. It would be truly unfortunate were our actions to create the possibility of a retrial, further compounding the terrible trauma suffered by both the victims and their families.

So let us think again, Mr. Speaker, before we take a step we may come to regret.

Mr. WEXLER. Mr. Speaker, I yield back the remainder of my time.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume, and I do not intend to consume much, Mr. Speaker.

Mr. Speaker, I just want to point out to the gentleman from Massachusetts that I respect his views. I know he has had a prosecutorial background that in my judgment and I think in all the judgment of all of these attorneys general to support this bill there is no real risk at all in this, and the only conceivable way if any court were to return a decision based upon what we are doing today, the only conceivable effect would be on the sentencing phase, not on the actual fact determination of guilt or innocence.

But in any event I do not believe, nor do any of the experts I have consulted, that this matter would in any way or could in any way affect the outcome or the possibility of having to have a retrial or be successful in any motion to contest a pending trial where the new law comes into play.

In any event, Mr. Speaker, I encourage a "yes" favorable vote on this bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CAMP). The question is on the motion offered by the gentleman from Florida [Mr. McCOLLUM] that the House suspend the rules and pass the bill, H.R. 924, as amended.

The question was taken.

Mr. McCOLLUM. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

UNITED STATES MARSHALS SERVICE IMPROVEMENT ACT OF 1997

Mr. McCOLLUM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 927) to amend title 28, United States Code, to provide for appointment of U.S. marshals by the Attorney General.

The Clerk read as follows:

H.R. 927

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 "United States Marshals Service Improvement Act of 1997".

SEC. 2. APPOINTMENTS OF MARSHALS.

(a) IN GENERAL.—Chapter 37 of title 28, United States Code, is amended—

(1) in section 561(c)—

(A) by striking "The President shall appoint, by and with the advice and consent of the Senate," and inserting "The Attorney General shall appoint"; and

(B) by inserting "United States marshals shall be appointed subject to the provisions of title 5 governing appointments in the competitive civil service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and pay rates." after the first sentence;

(2) by striking subsection (d) of section 561;

(3) by redesignating subsections (e), (f), (g), (h), and (i) of section 561 as subsection (d), (e), (f), (g), and (h), respectively; and

(4) by striking section 562.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 37 of title 28, United States Code, is amended by striking the item relating to section 562.

SEC. 3. TRANSITIONAL PROVISIONS; PRESIDENTIAL APPOINTMENT OF CERTAIN UNITED STATES MARSHALS.

(a) INCUMBENT MARSHALS.—Notwithstanding the amendments made by this Act, each marshal appointed under chapter 37 of title 28, United States Code, before the date of the enactment of this Act shall, unless that marshal resigns or is removed by the President, continue to perform the duties of that office until the expiration of that marshal's term and the appointment of a successor.

(b) VACANCIES AFTER ENACTMENT.—Notwithstanding the amendments made by this Act, with respect to the first vacancy which occurs in the office of United States marshal in any district, during the period beginning on the date of the enactment of this Act and ending on December 31, 1999, the President shall appoint, by and with the advice and consent of the Senate, a marshal to fill that vacancy for a term of 4 years. Any marshal appointed by the President under this subsection shall, unless that marshal resigns or is removed from office by the President, continue to perform the duties of that office after the end of the four-year term to which such marshal was appointed or until a successor is appointed.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. McCOLLUM] and the gentleman from Florida [Mr. WEXLER] each will control 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. McCOLLUM].

GENERAL LEAVE

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the bill under consideration.

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

There was no objection.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, founded in 1789, the United States Marshals Service is the Nation's oldest Federal law enforcement agency. The Marshals Service is charged with many significant and difficult law enforcement responsibilities, many of which the average citizen is not even aware. For example, it is the U.S. Marshals Service, not the FBI or other Federal agencies, which successfully runs the witness security program, a program more important now than ever in the battle against retaliatory gang murders.

Since its inception in 1971, more than 6,600 witnesses, and this number does not include family members, have been protected and relocated by the Marshals Service under the witness security program. The Marshals Service is very proud of its record, Mr. Speaker, because they have never lost a Federal witness who remained in the program and followed the rules. Other critical Marshals Service duties include protection of the Federal judiciary, apprehension of Federal fugitives, management of seized and forfeited assets, and transportation of Federal prisoners.

The U.S. Marshals Service and U.S. marshals are currently appointed by the President with the advice and consent of the Senate. There is no criteria for the selection of U.S. marshals; neither managerial nor law enforcement experience is necessary.

H.R. 927, the United States Marshals Service Improvement Act, would change the selection process of the Nation's 94 U.S. marshals to appointment by the Attorney General. This bill would depoliticize the U.S. Marshals Service by requiring that U.S. marshals be selected on a competitive basis from among the career managers within the Marshals Service rather than being nominated by the administration and approved by the Senate.

Under this legislation, incumbent U.S. marshals would continue to perform duties of their office until their terms expire, unless they resigned or were removed by the President. Marshals selected between the date of enactment of the bill on December 31, 1999 will also be appointed by the President with the advice and consent of the Senate and will serve for 4 years.

Unlike all other Marshals Service employees, the presidentially appointed marshal is not subject to disciplinary actions, cannot be reassigned, and can only be removed by the President or upon appointment of a successor. This lack of accountability has resulted in numerous problems, including budgetary irresponsibility among individual marshals. Moreover, many U.S. marshals lack experience in Federal law enforcement. This inexperience, coupled with an unfamiliarity of the very demands of the Marshals Service necessitates a glut of middle managers to assist the U.S. marshals.

Chief deputy U.S. marshals, the career managers within the Marshals Service, provide the requisite leadership in the offices. They in turn are assisted by supervisory deputy U.S. marshals.

H.R. 927 would professionalize the Marshals Service by insuring that only knowledgeable career personnel would become marshals; thus there would no

longer be a need for a surplus of middle managers and Federal dollars would be saved. In fact, the Congressional Budget Office estimates that once fully implemented, this bill would save approximately $3 million a year.

□ 1445

Mr. Speaker, I believe that H.R. 927 is a commonsense approach to professionalizing the U.S. Marshals Service. This identical bill was passed overwhelmingly in the 104th Congress by the U.S. House on May 1, 1996.

This legislation is a priority of the Federal Law Enforcement Officers Association and is supported by the Fraternal Order of Police. This bill is a small but important step in this committee's ongoing efforts to improve the administration of Federal law enforcement, and I urge my colleagues to support it.

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

Mr. WEXLER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the purpose of this bill is to make the post of the U.S. marshal a professional position rather than a political appointment. Currently, marshals are typically designated by the Senators of the respective States. Under this bill, they would instead be appointed by the Director of the Marshals Service.

This bill was originally proposed by the President as part of his reinventing Government initiative. It is supported by the Federal Law Enforcement Officers Association because they believe it will improve the Marshals Service. I agree with them, and I urge support of this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. MCCOLLUM. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CAMP). The question is on the motion offered by the gentleman from Florida [Mr. MCCOLLUM] that the House suspend the rules and pass the bill, H.R. 927.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TECHNICAL AMENDMENTS TO COPYRIGHT LAWS

Mr. COBLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 672) to make technical amendments to certain provisions of title 17, United States Code, as amended.

The Clerk read as follows:

H.R. 672

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

SECTION 1. TECHNICAL CORRECTIONS TO THE SATELLITE HOME VIEWER ACT OF 1994.

The Satellite Home Viewer Act of 1994 (Public Law 103–369) is amended as follows:

(1) Section 2(3)(A) is amended to read as follows:

"(A) in clause (i) by striking '12 cents' and inserting '17.5 cents per subscriber in the case of superstations that as retransmitted by the satellite carrier include any program which, if delivered by any cable system in the United States, would be subject to the syndicated exclusivity rules of the Federal Communications Commission, and 14 cents per subscriber in the case of superstations that are syndex-proof as defined in section 258.2 of title 37, Code of Federal Regulations'; and ".

(2) Section 2(4) is amended to read as follows:

"(4) Subsection (c) is amended—

"(A) in paragraph (1)—

"(i) by striking 'until December 31, 1992,';

"(ii) by striking '(2), (3) or (4)' and inserting '(2) or (3)'; and

"(iii) by striking the second sentence;

"(B) in paragraph (2)—

"(i) in subparagraph (A) by striking 'July 1, 1991' and inserting 'July 1, 1996'; and

"(ii) in subparagraph (D) by striking 'December 31, 1994' and inserting 'December 31, 1999, or in accordance with the terms of the agreement, whichever is later'; and

"(C) in paragraph (3)—

"(i) in subparagraph (A) by striking 'December 31, 1991' and inserting 'January 1, 1997';

"(ii) by amending subparagraph (B) to read as follows:

"'(B) ESTABLISHMENT OF ROYALTY FEES.—In determining royalty fees under this paragraph, the copyright arbitration royalty panel appointed under chapter 8 shall establish fees for the retransmission of network stations and superstations that most clearly represent the fair market value of secondary transmissions. In determining the fair market value, the panel shall base its decision on economic, competitive, and programming information presented by the parties, including—

"'(i) the competitive environment in which such programming is distributed, the cost of similar signals in similar private and compulsory license marketplaces, and any special features and conditions of the retransmission marketplace;

"'(ii) the economic impact of such fees on copyright owners and satellite carriers; and

"'(iii) the impact on the continued availability of secondary transmissions to the public.'; and

"(iii) in subparagraph (C), by inserting 'or July 1, 1997, whichever is later' after 'section 802(g)'.".

(3) Section 2(5)(A) is amended to read as follows:

"(A) in paragraph (5)(C) by striking 'the date of the enactment of the Satellite Home Viewer Act of 1988' and inserting 'November 16, 1988'; and".

SEC. 2. COPYRIGHT IN RESTORED WORKS.

Section 104A of title 17, United States Code, is amended as follows:

(1) Subsection (d)(3)(A) is amended to read as follows:

"(3) EXISTING DERIVATIVE WORKS.—(A) In the case of a derivative work that is based upon a restored work and is created—

"(i) before the date of the enactment of the Uruguay Round Agreements Act, if the source country of the restored work is an eligible country on such date, or

"(ii) before the date on which the source country of the restored work becomes an eligible country, if that country is not an eligible country on such date of enactment,

a reliance party may continue to exploit that derivative work for the duration of the restored copyright if the reliance party pays to the owner of the restored copyright reasonable compensation for conduct which would be subject to a remedy for infringement but for the provisions of this paragraph.".

(2) Subsection (e)(1)(B)(ii) is amended by striking the last sentence.

(3) Subsection (h)(2) is amended to read as follows:

"(2) The 'date of restoration' of a restored copyright is—

"(A) January 1, 1996, if the source country of the restored work is a nation adhering to the Berne Convention or a WTO member country on such date, or

"(B) the date of adherence or proclamation, in the case of any other source country of the restored work.".

(4) Subsection (h)(3) is amended to read as follows:

"(3) The term 'eligible country' means a nation, other than the United States, that—

"(A) becomes a WTO member country after the date of the enactment of the Uruguay Round Agreements Act;

"(B) on such date of enactment is, or after such date of enactment becomes, a member of the Berne Convention; or

"(C) after such date of enactment becomes subject to a proclamation under subsection (g).

For purposes of this section, a nation that is a member of the Berne Convention on the date of the enactment of the Uruguay Round Agreements Act shall be construed to become an eligible country on such date of enactment.".

SEC. 3. LICENSES FOR NONEXEMPT SUBSCRIPTION TRANSMISSIONS.

Section 114(f) of title 17, United States Code, is amended—

(1) in paragraph (1), by inserting ", or, if a copyright arbitration royalty panel is convened, ending 30 days after the Librarian issues and publishes in the Federal Register an order adopting the determination of the copyright arbitration royalty panel or an order setting the terms and rates (if the Librarian rejects the panel's determination)" after "December 31, 2000"; and

(2) in paragraph (2), by striking "and publish in the Federal Register".

SEC. 4. ROYALTY PAYABLE UNDER COMPULSORY LICENSE.

Section 115(c)(3)(D) of title 17, United States Code, is amended by striking "and publish in the Federal Register".

SEC. 5. NEGOTIATED LICENSE FOR JUKEBOXES.

Section 116 of title 17, United States Code, is amended—

(1) by amending subsection (b)(2) to read as follows:

"(2) ARBITRATION.—Parties not subject to such a negotiation may determine, by arbitration in accordance with the provisions of chapter 8, the terms and rates and the division of fees described in paragraph (1).'"; and

(2) by adding at the end the following new subsection:

"(d) DEFINITIONS.—As used in this section, the following terms mean the following:

"(1) A 'coin-operated phonorecord player' is a machine or device that—

"(A) is employed solely for the performance of nondramatic musical works by means of phonorecords upon being activated by the insertion of coins, currency, tokens, or other monetary units or their equivalent;

"(B) is located in an establishment making no direct or indirect charge for admission;

"(C) is accompanied by a list which is comprised of the titles of all the musical works available for performance on it, and is affixed to the phonorecord player or posted in the establishment in a prominent position where it can be readily examined by the public; and

"(D) affords a choice of works available for performance and permits the choice to be made by the patrons of the establishment in which it is located.

"(2) An 'operator' is any person who, alone or jointly with others—

"(A) owns a coin-operated phonorecord player;

"(B) has the power to make a coin-operated phonorecord player available for placement in an establishment for purposes of public performance; or

"(C) has the power to exercise primary control over the selection of the musical works made available for public performance on a coin-operated phonorecord player.".

SEC. 6. REGISTRATION AND INFRINGEMENT ACTIONS.

Section 411(b)(1) of title 17, United States Code, is amended to read as follows:

"(1) serves notice upon the infringer, not less than 48 hours before such fixation, identifying the work and the specific time and source of its first transmission, and declaring an intention to secure copyright in the work; and".

SEC. 7. COPYRIGHT OFFICE FEES.

(a) FEE INCREASES.—Section 708(b) of title 17, United States Code, is amended to read as follows:

"(b) In calendar year 1997 and in any subsequent calendar year, the Register of Copyrights, by regulation, may increase the fees specified in subsection (a) in the following manner:

"(1) The Register shall conduct a study of the costs incurred by the Copyright Office for the registration of claims, the recordation of documents, and the provision of services. The study shall also consider the timing of any increase in fees and the authority to use such fees consistent with the budget.

"(2) The Register may, on the basis of the study under paragraph (1), and subject to paragraph (5), increase fees to not more than that necessary to cover the reasonable costs incurred by the Copyright Office for the services described in paragraph (1), plus a reasonable inflation adjustment to account for any estimated increase in costs.

"(3) Any fee established under paragraph (2) shall be rounded off to the nearest dollar, or for a fee less than $12, rounded off to the nearest 50 cents.

"(4) Fees established under this subsection shall be fair and equitable and give due consideration to the objectives of the copyright system.

"(5) If the Register determines under paragraph (2) that fees should be increased, the Register shall prepare a proposed fee schedule and submit the schedule with the accompanying economic analysis to the Congress. The fees proposed by the Register may be instituted after the end of 120 days after the schedule is submitted to the Congress unless, within that 120-day period, a law is enacted stating in substance that the Congress does not approve the schedule.".

(b) DEPOSIT OF FEES.—Section 708(d) of such title is amended to read as follows:

"(d)(1) Except as provided in paragraph (2), all fees received under this section shall be deposited by the Register of Copyrights in the Treasury of the United States and shall be credited to the appropriations for necessary expenses of the Copyright Office. Such fees that are collected shall remain available until expended. The Register may, in accordance with regulations that he or she shall prescribe, refund any sum paid by mistake or in excess of the fee required by this section.

"(2) In the case of fees deposited against future services, the Register of Copyrights shall request the Secretary of the Treasury to invest in interest-bearing securities in the United States Treasury any portion of the fees that, as determined by the Register, is not required to meet current deposit account demands. Funds from such portion of fees shall be invested in securities that permit funds to be available to the Copyright Office at all times if they are determined to be necessary to meet current deposit account demands. Such investments shall be in public debt securities with maturities suitable to the needs of the Copyright Office, as determined by the Register of Copyrights, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

"(3) The income on such investments shall be deposited in the Treasury of the United States and shall be credited to the appropriations for necessary expenses of the Copyright Office.".

SEC. 8. COPYRIGHT ARBITRATION ROYALTY PANELS.

(a) ESTABLISHMENT AND PURPOSE.—Section 801 of title 17, United States Code, is amended—

(1) in subsection (b)(1) by striking "and 116" in the first sentence and inserting "116, and 119";

(2) in subsection (c) by inserting after "panel" at the end of the sentence the following:

", including—

"(1) authorizing the distribution of those royalty fees collected under sections 111, 119, and 1005 that the Librarian has found are not subject to controversy; and

"(2) accepting or rejecting royalty claims filed under sections 111, 119, and 1007 on the basis of timeliness or the failure to establish the basis for a claim"; and

(3) by amending subsection (d) to read as follows:

"(d) SUPPORT AND REIMBURSEMENT OF ARBITRATION PANELS.—The Librarian of Congress, upon the recommendation of the Register of Copyrights, shall provide the copyright arbitration royalty panels with the necessary administrative services related to proceedings under this chapter, and shall reimburse the arbitrators presiding in distribution proceedings at such intervals and in such manner as the Librarian shall provide by regulation. Each such arbitrator is an independent contractor acting on behalf of the United States, and shall be hired pursuant to a signed agreement between the Library of Congress and the arbitrator. Payments to the arbitrators shall be considered reasonable costs incurred by the Library of Congress and the Copyright Office for purposes of section 802(h)(1).".

(b) PROCEEDINGS.—Section 802(h) of title 17, United States Code, is amended by amending paragraph (1) to read as follows:

"(1) DEDUCTION OF COSTS OF LIBRARY OF CONGRESS AND COPYRIGHT OFFICE FROM ROYALTY FEES.—The Librarian of Congress and the Register of Copyrights may, to the extent not otherwise provided under this title, deduct from royalty fees deposited or collected under this title the reasonable costs incurred by the Library of Congress and the Copyright Office under this chapter. Such deduction may be made before the fees are distributed to any copyright claimants. In addition, all funds made available by an appropriations Act as offsetting collections and available for deductions under this subsection shall remain available until expended. In ratemaking proceedings, the reasonable costs of the Librarian of Congress and the Copyright Office shall be borne by the parties to the proceedings as directed by the arbitration panels under subsection (c).".

SEC. 9. DIGITAL AUDIO RECORDING DEVICES AND MEDIA.

Section 1007(b) of title 17, United States Code, is amended by striking "Within 30 days after" in the first sentence and inserting "After".

SEC. 10. CONFORMING AMENDMENT.

Section 4 of the Digital Performance Right in Sound Recordings Act of 1995 (Public Law 104–39) is amended by redesignating paragraph (5) as paragraph (4).

SEC. 11. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE 17, UNITED STATES CODE.—Title 17, United States Code, is amended as follows:

(1) The table of chapters at the beginning of title 17, United States Code, is amended—

(A) in the item relating to chapter 6, by striking "**Requirement**" and inserting "**Requirements**";

(B) in the item relating to chapter 8, by striking "**Royalty Tribunal**" and inserting "**Arbitration Royalty Panels**";

(C) in the item relating to chapter 9, by striking "**semiconductor chip products**" and inserting "**Semiconductor Chip Products**"; and

(D) by inserting after the item relating to chapter 9 the following:

"10. Digital Audio Recording Devices and Media ..... 1001".

(2) The item relating to section 117 in the table of sections at the beginning of chapter 1 is amended to read as follows:

"117. Limitations on exclusive rights: Computer programs.".

(3) Section 101 is amended in the definition of to perform or display a work "publicly" by striking "processs" and inserting "process".

(4) Section 108(e) is amended by striking "pair" and inserting "fair".

(5) Section 109(b)(2)(B) is amended by striking "Copyright" and inserting "Copyrights".

(6) Section 110 is amended—

(A) in paragraph (8) by striking the period at the end and inserting a semicolon;

(B) in paragraph (9) by striking the period at the end and inserting "; and"; and

(C) in paragraph (10) by striking "4 above" and inserting "(4)".

(7) Section 115(c)(3)(E) is amended—

(A) in clause (i) by striking "sections 106(1) and (3)" each place it appears and inserting "paragraphs (1) and (3) of section 106"; and

(B) in clause (ii)(II) by striking "sections 106(1) and 106(3)" and inserting "paragraphs (1) and (3) of section 106".

(8) Section 119(c)(1) is amended by striking "until unless" and inserting "unless".

(9) Section 304(c) is amended in the matter preceding paragraph (1) by striking "the subsection (a)(1)(C)" and inserting "subsection (a)(1)(C)".

(10) Section 405(b) is amended by striking "condition or" and inserting "condition for".

(11) Section 407(d)(2) is amended by striking "cost of" and inserting "cost to".

(12) The item relating to section 504 in the table of sections at the beginning of chapter 5 is amended by striking "Damage" and inserting "Damages".

(13) Section 504(c)(2) is amended by striking "court it" and inserting "court in".

(14) Section 509(b) is amended by striking "merchandise; and baggage" and inserting "merchandise, and baggage".

(15) Section 601(a) is amended by striking "nondramtic" and inserting "nondramatic".

(16) Section 601(b)(1) is amended by striking "subsustantial" and inserting "substantial".

(17) The item relating to section 710 in the table of sections at the beginning of chapter 7 is amended by striking "Reproductions" and inserting "Reproduction".

(18) The item relating to section 801 in the table of sections at the beginning of chapter 8 is amended by striking "establishment" and inserting "Establishment".

(19) Section 801(b) is amended—

(A) by striking "shall be—" and inserting "shall be as follows:";

(B) in paragraph (1) by striking "to make" and inserting "To make";

(C) in paragraph (2)—

(i) by striking "to make" and inserting "To make"; and

(ii) in subparagraph (D) by striking "adjustment; and" and inserting "adjustment."; and

(D) in paragraph (3) by striking "to distribute" and inserting "To distribute".

(20) Section 803(b) is amended in the second sentence by striking "subsection subsection" and inserting "subsection".

(21) The item relating to section 903 in the table of sections at the beginning of chapter 9 is amended to read as follows:

"903. Ownership, transfer, licensure, and recordation.".

(22) Section 909(b)(1) is amended—

(A) by striking "force" and inserting "work"; and

(B) by striking "sumbol" and inserting "symbol".

(23) Section 910(a) is amended in the second sentence by striking "as used" and inserting "As used".

(24) Section 1006(b)(1) is amended by striking "Federation Television" and inserting "Federation of Television".

(25) Section 1007 is amended—

(A) in subsection (a)(1) by striking "the calendar year in which this chapter takes effect" and inserting "calendar year 1992"; and

(B) in subsection (b) by striking "the year in which this section takes effect" and inserting "1992".

(b) RELATED PROVISIONS.—

(1) Section 1(a)(1) of the Act entitled "An Act to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities", approved November 9, 1987 (17 U.S.C. 914 note), is amended by striking "orginating" and inserting "originating".

(2) Section 2319(b)(1) of title 18, United States Code, is amended by striking "last 10" and inserting "least 10".

SEC. 12. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) SATELLITE HOME VIEWER ACT.—The amendments made by section 1 shall be effective as if enacted as part of the Satellite Home Viewer Act of 1994 (Public Law 103-369).

(c) TECHNICAL AMENDMENT.—The amendment made by section 11(b)(1) shall be effective as if enacted on November 9, 1987.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina [Mr. COBLE] and the gentleman from Florida [Mr. WEXLER] each will control 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. COBLE].

GENERAL LEAVE

Mr. COBLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

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

There was no objection.

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 672, to make technical amendments to certain provisions of title 17 of the United States Code. An amended version of this bill is presented for passage under suspension of the rules.

The amendment to the reported bill corrects an error contained in the bill as introduced, which inadvertently strikes a provision of present law which should remain for purposes of maintaining consistency between certain sections in title 17. It reaffirms the current practice of the Copyright Office to allow participants in a ratemaking proceeding to share the cost of that proceeding in direct proportion to their share of the distribution.

Mr. Speaker, I am unaware of any opposition to this amendment.

All the provisions contained in this bill are necessary for the proper functioning of the U.S. Copyright Office and the copyright system, and I am unaware of any opposition to this legislation. I urge a favorable vote on H.R. 672.

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

Mr. WEXLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 672, a bill to make a number of technical corrections to title 17 of the United States Code, including corrections to drafting errors in the Satellite Home Viewer Act, section 104(a), dealing with restoration of copyright protection in certain preexisting works; licenses for nonexempt subscription transmissions; negotiated licenses for jukeboxes; notice time for infringement actions, copyright office fee schedules, court proceedings, and reports pursuant to the Audio Home Recording Act of 1992.

Mr. Speaker, I am aware of no objections to any of these amendments to law and recommend their adoption under suspension of the rules.

Mr. Speaker, I yield back the balance of my time.

Mr. COBLE. Mr. Speaker, I submit for the RECORD a letter from the Copyright Office of the United States regarding H.R. 672.

THE REGISTER OF COPYRIGHTS
OF THE UNITED STATES OF AMERICA,
Washington, DC, March 18, 1997.

Hon. HOWARD COBLE,
Chairman, Subcommittee on Courts and Intellectual Property, Washington, DC.

DEAR MR. COBLE: We note that language in House Report 105-25 accompanying H.R. 672 regarding the Copyright Office not needing appropriations beginning in 1999 is not entirely correct. In contributing to those portions of the Report entitled "Summary" and "Estimated Cost to the Federal Government," it appears that the Congressional Budget Office did not realize that some Copyright Office operations—for example, administration of the mandatory deposit requirements of 17 U.S.C. §407—are not fee services, and would not be covered by a fee increase, even to full cost recovery as permitted (but not required) by Section 7 of H.R. 672.

We would appreciate your confirming on the floor of the House that it is not the intent of Congress that the Copyright Office become self-sustaining under H.R. 672, or that it raise fees to cover the full cost of all services that it provides. As the section-by-section analysis states correctly, the bill grants the Copyright Office, subject to contrary Congressional action, authority to "increase fees up to the reasonable costs incurred by the Copyright Office" plus a reasonable adjustment for future cost increases, provided those fees are "fair and equitable and give due consideration to the objectives of the copyright system." This allows the Register of Copyrights to "decide that fees may be less than the costs of the services provided, if that furthers the objectives of the copyright system."

Thank you for your consideration.

Very truly yours,

MARYBETH PETERS.

Mr. COBLE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. COBLE] that the House suspend the rules and pass the bill, H.R. 672, as amended.

The question was taken.

Mr. COBLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

DISTRICT OF COLUMBIA INSPECTOR GENERAL IMPROVEMENT ACT OF 1997

Mr. DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 514) to permit the waiver of District of Columbia residency requirements for certain employees of the Office of the Inspector General of the District of Columbia, and for other purposes, as amended.

The Clerk read as follows:

H.R. 514

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 "District of Columbia Inspector General Improvement Act of 1997".

SEC. 2. WAIVER OF RESIDENCY REQUIREMENT FOR CERTAIN EMPLOYEES OF INSPECTOR GENERAL.

Section 906 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1-610.6, D.C. Code) is amended—

(1) in subsection (a), by inserting "or subsection (d)" after "subsection (c)"; and

(2) by adding at the end the following new subsection:

"(d) At the request of the Inspector General (as described in section 208(a) of the District of Columbia Procurement Practices Act of 1985), the Director of Personnel may waive the application of subsections (a) and (b) to employees of the Office of the Inspector General.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia [Mr. DAVIS] and the gentleman from Virginia [Mr. SCOTT] each will control 20 minutes.

The Chair recognizes the gentleman from Virginia [Mr. DAVIS].

Mr. DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my thanks to the gentleman from Indiana [Mr. BURTON] for permitting expeditious consideration of this bill.

Mr. Speaker, H.R. 514 is straightforward legislation. It was part of H.R. 3664 which was approved by the Subcommittee on the District of Columbia and the Committee on Government Reform and Oversight last June 20. There are complications, however, with other parts of the bill and it was never taken before the full House.

This bill is being brought forward separately this year because there is an urgent need to pass section 2. That section allows the director of personnel of the District of Columbia to waive the residency requirement for employees of the Office of Inspector General at the request of the inspector general.

This legislation is necessary because the personnel in the IG's office are all defined as excepted personnel under the Merit Personnel Act and are required to reside in the District of Columbia within 12 months of employment. The bill would thus guarantee the widest possible talent pool for the inspector general to hire from. Considering the importance placed in this office when it was enhanced in the control board legislation, I agreed to pursue the waiver that this bill contains.

The IG's office currently consists of 35 individuals, a number of whom are not District residents. These individuals accepted employment on condition that their employment would not be barred by the residency requirement.

The Office of Personnel has determined that, lacking authority to grant a waiver, that the residency requirement will have to be enforced beginning as early as March 24. Thus, failure to pass this legislation, H.R. 514, at this time could result in a significant exodus of highly trained and qualified personnel at a time of numerous sensitive investigations. This would clearly be unacceptable, particularly in light of the fact that the inspector general has just announced her resignation from the District and this would really leave the office utterly rudderless.

The Congressional Budget Office has certified that this bill would not effect the Federal budget. I would urge passage of H.R. 514.

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

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume. I would like to thank the gentleman from Indiana [Mr. BURTON], the gentleman from Virginia [Mr. DAVIS], and the gentleman from California [Mr. WAXMAN] for their work on the District of Columbia Inspector General Improvement Act.

Mr. Speaker, it is noncontroversial. A lot of work has gone into it, and Mr. Speaker, I would hope that the House would pass the bill.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I thank the very kind gentleman from Virginia [Mr. SCOTT] for yielding to me. I want to thank the gentleman from Indiana [Mr. BURTON] and the gentleman from Virginia [Mr. DAVIS], as well as the gentleman from California [Mr. WAXMAN], the ranking member, for their work on the District of Columbia Inspector General Improvement Act, a bill that would allow the District's director of personnel to waive the residency requirement for employees in the office of the inspector general at the inspector general's request.

In April 1995, the Congress passed the District of Columbia financial responsibility and management assistance authority law, which expanded and strengthened the office of inspector general in the District of Columbia. Pursuant to the financial authority statute, Angela Avant was appointed inspector general in January 1996.

Because of the apparent delay in finding a suitable candidate, Ms. Avant was under considerable pressure from Congress and the financial authority to recruit staff. She received some criticism for not filling positions quickly enough, in part because the positions allocated to the inspector general are "excepted service" positions and thus were subject to the requirement of District residency. The inspector general found that the residency requirement made it difficult to recruit several highly specialized personnel to staff her office. To alleviate these concerns, Mayor Barry transmitted legislation to the council on March 28, 1996, which contained a provision that waived the residency requirement under very limited circumstances.

When it appeared that it would take some time for the Council Committee on Government Operations to consider the bill, I called council member Harold Brazil, then chairman of the committee, who said that he had no objection to the waiver going forward in the Congress. The residency requirement for the inspector general then became part of H.R. 3664, the District of Columbia Improvement and Efficiency Act of 1996, and on the assurance that this noncontroversial waiver was likely to be enacted, the inspector general hired several staff members who reside outside of the District of Columbia on a temporary basis.

H.R. 3664 was never brought to the floor because another provision of the bill violated the pay-go rule. To overcome that problem, the gentleman from Virginia [Mr. DAVIS] submitted the residency language to the House District of Columbia Committee on Appropriations for inclusion in the 1997 omnibus appropriations bill, but in the rush to finalize the language of the omnibus bill in the final days of the 104th Congress, this provision apparently was omitted.

Mr. Speaker, it is urgent that the Congress pass this bill to allow the Office of Inspector General to keep on staff personnel that have already been hired. Under the Merit Personnel Act, the temporary waiver of residency expires for employees who are "excepted service" after 6 months. Several of the employees hired by the inspector general will be in violation of this rule as early as March 24, if this legislation is not enacted.

Maintaining the inspector general's staff is a high priority for the Congress and the financial authority because of the urgent need to uncover instances of waste, fraud, and abuse in the D.C. government. By passing this bill, the House sends a message that it wants to encourage fast action on these important priorities.

I emphasize that this bill involves no violation of home rule because all branches of government, the Mayor, and the city council apparently agree that it should be passed expeditiously without going through the council, which would not be prepared to take it up as quickly as we have been.

I ask the House to pass this piece of unfinished business from the 104th Congress, the District of Columbia Inspector General Improvement Act, H.R. 514.

Mr. DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Let me thank the gentlewoman from the District of Columbia [Ms. NORTON] for her comments and help in bringing

this to the floor as well as the gentleman from California [Mr. WAXMAN] and the gentleman from Virginia [Mr. SCOTT] the gentleman from Virginia for his remarks.

As the gentlewoman from the District of Columbia [Ms. NORTON] has noted, the Mayor and the council support this legislation, as does the control board.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SCOTT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CAMP). The question is on the motion offered by the gentleman from Virginia [Mr. DAVIS] that the House suspend the rules and pass the bill H.R. 514, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to permit the waiver of District of Columbia residency requirements for certain employees of the Office of the Inspector General of the District of Columbia.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 514.

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

There was no objection.

OROVILLE-TONASKET CLAIM SETTLEMENT AND CONVEYANCE ACT

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 94 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 97

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 412) to approve a settlement agreement between the Bureau of Reclamation and the Oroville-Tonasket Irrigation District. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Resources now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Washington [Mr. HASTINGS] is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York [Ms. SLAUGHTER], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, the resolution provides for consideration of H.R. 412, the Oroville-Tonasket Claim Settlement and Conveyance Act under an open rule. The rule provides for 1 hour of general debate equally divided between the chairman and ranking member of the Committee on Resources. The rule makes in order the Committee on Resources amendment in the nature of a substitute now printed in the bill as an original bill for purposes of amendment. The amendment in the nature of a substitute shall be considered as read. The rule further provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 412 approves the settlement reached between the U.S. Department of the Interior and the Oroville-Tonasket Irrigation District in order to avoid litigation concerning the construction of the Oroville-Tonasket Unit Extension in my district.

This settlement was initiated by the Bureau of Reclamation and is widely supported by all concerned parties, including the Colville Indian Tribes. Under the terms of the settlement, legislation must be enacted prior to April 15 of this year or the proposed settlement is voided.

We began work on this bill in the 104th Congress and, thanks to the support of the gentleman from Alaska [Mr. YOUNG] and the gentleman from California [Mr. DOOLITTLE], H.R. 412 was reported by voice vote out of the Committee on Resources on March 5.

Mr. Speaker, the legislation we will consider today would ratify what I consider to be a very solid agreement. It is the result of a good faith effort by the Interior Department and my constituents to resolve a situation that both parties wish had never developed.

This agreement will save taxpayers millions of dollars and avoid a lawsuit the Federal Government would almost surely lose. Members doubting that the Government would lose this should ask the question, Why would the Bureau of Reclamation have been so eager to initiate this proposed settlement if they had not thought that they would be on the losing end?

Mr. Speaker, we had hoped to bring H.R. 412 to the House under a suspension of the rules. However, during full committee markup we learned for the first time of the gentleman from California's concern about the bill and, accordingly, we are pleased to request an open rule so that the gentleman from California [Mr. MILLER] may put before the full House an amendment seeking to perfect the bill.

Although I plan to oppose the gentleman's amendment, I look forward to its consideration in the Committee of the Whole later today.

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

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume. I thank the gentleman for yielding the time to me.

Mr. Speaker, this is an open rule that will allow full debate on this bill, and I ask my colleagues to support the rule so that we may proceed with consideration of the merits of the legislation.

As my colleague has noted, H.R. 412 approves an agreement between the Bureau of Reclamation, an agency of the Department of the Interior, and the Oroville-Tonasket Irrigation District of Washington. This agreement would transfer the federally funded irrigation project to the irrigation district at no cost.

Proponents of the measure note that the irrigation system does not work as planned and that operation costs are higher than projected. Several of my colleagues expressed concern, however, that this conveyance amounts to a giveaway of Federal assets, a giveaway that has had little to no congressional oversight. It is their strong belief that the district should be allowed to take possession of the project only after paying fair market value based on an independent appraisal.

Furthermore, it is my understanding that the Department of Justice did not participate in this settlement agreement and thus opponents argue that Congress should have the opportunity to address the dispute in question and to reach an equitable settlement. Since this is an open rule, however, I urge my colleagues' support for the rule to allow full debate.

Mr. Speaker, I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 94 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. 412.

□ 1508

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. 412) to approve a settlement agreement between the Bureau of Reclamation and the Oroville-Tonasket Irrigation District, with Mr. EVERETT 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 California [Mr. DOOLITTLE] and the gentleman from California [Mr. MILLER] each will control 30 minutes.

The Chair recognizes the gentleman from California [Mr. DOOLITTLE].

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

H.R. 412, the Oroville-Tonasket Claim Settlement Act approves the settlement of a lawsuit filed by the Oroville-Tonasket irrigation district against the United States regarding an irrigation works poorly designed and shoddily constructed by the Bureau of Reclamation in north central Washington State. Despite literally decades of repairs and reconstruction, the system does not work as planned and is very expensive to operate and maintain.

When the bureau notified the district that the project was substantially complete in 1990, thus triggering a repayment obligation under Federal reclamation law, the district sued for $51 million in damages and relief from its repayment obligation. The Bureau of Reclamation, the Justice Department and the district have negotiated a settlement agreement for this lawsuit, which must be ratified by law by the date of April 15, 1997. Under the agreement the district agrees to release all claims against the United States associated with the faulty irrigation system estimated by the bureau at $4.5 million plus an estimated $14 million requirement the U.S. Government presently has to repair deteriorating pipes, indemnify the United States from third party claims, pay $350,000 and release the United States from its obligation to remove existing dilapidated structures and accept limited power generation for irrigation water pumping.

In return the United States agrees to transfer title to the defective irrigation system of the district and forgive the district's repayment obligation calculated by the bureau to have a present value of $4.2 million.

Mr. Chairman, the Justice Department in fact did participate, contrary to the representation that was earlier made. It recommends that this settlement be entered into. As we can see from the facts, the district has more in claims against the Government acknowledged as valid by the Bureau of Reclamation than it has those in the amount of money to be repaid under the contract.

The district did not seek to take title to these irrigation works. That was a condition insisted upon by the Government itself. I would point out that the administration, even the Clinton administration supports this bill.

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

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to H.R. 412, the Oroville-Tonasket Claim Settlement and Conveyance Act. This district has yet to pay a dime toward the $14 million that it owes the taxpayers to repay their investment in the Oroville-Tonasket project. Yet this legislation would transfer the projects to the district for free and commit the Federal Government to continue to provide cheap power for pumping water through the year 2040, 45 years of additional subsidies to an irrigation district that is seeking now to get the project for free.

While this irrigation district argues that these problems of the project should be corrected, the need to repair the project certainly does not justify giving it away and having the taxpayers absorb the loss. The taxpayers have spent $88 million to build this project, and the power users in the region from Bonneville and others will subsidize this with power to the extent of somewhere around $75 million. What we are arguing here is over $14 million which the district owes and has refused to pay because they have not liked the design and the problems that we are having with the project. But the fact of the matter is that this district, this project has been delivering a benefit to this irrigation district now for a number of years, and it certainly is envisioned that it will deliver a benefit to this district for the next 50 years.

Ordinarily what we would do in this situation is we would sit down and we would discuss whether or not they have got all of the benefit that they felt that they were deserving of. We have been through this in the central Arizona project, and we have been through it on other reclamation projects. But in this situation what we now see is the suggestion that they should pay nothing for what they got. The fact of the matter is, why do they not give the project back? It was suggested by the chairman of the subcommittee that this is a lemon law, that you have to give the car back. Well, you would, you would give the car back and you would cease making payments. Here they keep the project. They continue to get the water. They continue to get the economic benefit somewhere around 8,000 to 10,000 acres of orchards, and the fact of the matter is now they seek not to pay for it.

What my amendment suggests and what I will offer later when the House reconvenes is an amendment that says we ought to have an appraisal. We ought to determine the fair market value, take into consideration their arguments and let them pay that for the project. That may be net present value. That may be some other figure, but the taxpayers are entitled to have something back for the benefit that they bestowed on these individuals.

□ 1515

Because the simple fact of the matter is that they are going to continue to get that benefit.

Now, they will continue to get subsidized power. They will continue to get subsidized power for a long time. Why do we give people subsidized power? Because when we calculate these projects, the fact of the matter is that these farmers and others are not able to pay for this project.

They could not have financed this back in 1962, they could not finance this in 1976, so what we do is we reach into the pockets of all of the other power users in the area and we say they have to pony up money so that these farmers can stay in business because they have to pay the Federal Government back.

Now these people will not pay the Federal Government back, but they want to keep their hands in the pockets of the power users. Everybody else that gets subsidized power is in the business of paying the Government back. These people, in fact, are not going to pay the Government back.

The point is that their costs are about the same as other districts in the region. Their O&M costs are about $35 an acre foot. That is consistent with what other projects in the region pay. So what is the extraordinary expense? What is the extraordinary detriment of this project that so diminishes the benefits that now the taxpayer is entitled to nothing from the beneficiaries of this project? I suspect what is so extraordinary is the Bureau of Reclamation is somewhat embarrassed by their design and the implementation of this plan. The farmers have them on a hook. They got into a room and they cut a fat hog in the rear.

The point is that it is the public that is getting stuck. We are getting stuck because we are not getting repaid from the district. And those people who buy their power are paying higher rates for power because they are paying subsidized rates, they are dishing off subsidized rates to this district.

This is not to punish this district, this is not to deny this district what they are fairly entitled to. It simply says before we give the project away, why do we not determine if, in fact, there is fair market value in this for the United States of America, which is financed by the taxpayers that we all represent.

What we are saying is, have an appraisal, pick independent parties, let them make their determination and let the district decide whether or not they want to pay this. I think that is fairer to the taxpayers. I think it removes any notion of precedent by other projects that think that now maybe this is the way to do it. Just refuse to pay your bills and eventually the Federal Government says, "Oh, forget it, you never were going to pay us so we will not collect anything from you."

All those people paying their taxes on April 15 would like to know they could get such a deal; that they could get such a deal if they refused to pay their taxes over a period of years and then the Government says, "Forget it, you guys probably never were going to pay us."

So what do we do now? We bail out the deadbeats and the people that refuse to pay even though they are getting the benefit? I do not think that is what this Congress should be involved in. It is not a lot of money. It is $14 million. But it is $14 million, and if people are getting a benefit from that expenditure they should pay something back.

We go after people on student loans who are in hardship, we go after people on welfare, we go after people on food stamps, we go after people who do not pay their taxes, but here we set up a structure and they decide "We do not want to pay for this because we do not think it is worth it." They certainly thought it was worth it when they came to Congress in 1952, 1962, 1976, 1982, and in 1995 and 1996, and now in 1997. They think there is something worth it here.

What is worth it is that they continue to get water to their lands to grow their crops to economically benefit from. And they should pay back the venture capitalist, the people of the United States, that put the money in up front. They ought to pay them back for the benefit that they are receiving.

If that benefit is not 100 percent of what they thought it should be, then let the appraisers make that determination. I think what we should do is get the interested parties out of the room of cutting this deal, put some independent parties into the room in determining what the value is, and let the taxpayers receive that.

Mr. Chairman, I will be offering that amendment when the House reconvenes for that purpose. If that amendment is not accepted, I would urge people to vote against this legislation.

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

Mr. DOOLITTLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington, [Mr. HASTINGS].

Mr. HASTINGS of Washington. Mr. Chairman, I thank the gentleman for yielding me this time, and let me just give a little background on this bill from my perspective, and I want to respond to a few remarks that the gentleman from California made earlier.

Mr. Chairman, this bill is a result of settlement negotiations between the U.S. Bureau of Reclamation and the Oroville-Tonasket irrigation district, which is located in my district in central Washington.

As explained by my colleague from California, H.R. 412 transfers the title of the irrigation facilities to the local authorities and relieves the Bureau's responsibility for any repair, which is substantial, and future operational costs to the district. It also ends the current lawsuit against the Bureau of Reclamation.

Let me assure my colleagues that this settlement is a fair solution for all parties involved. These facilities have not performed as the Bureau promised, and the district, after lengthy negotiations, has agreed to fix the current problems and pay for future operations of the facilities. To me, that is fair.

The Bureau has said that they do not have the money to fix the problems of the Oroville-Tonasket irrigation district. They want the district to start paying for something that is not finished. That is a very important point, paying for something that is not finished. So we have a long court case ahead of us, and one that the Bureau, in all probability, would lose.

I have seen the problems firsthand, and these are pictures of some of the work that was done and which is at issue. These are main water-carrying pipes, 24- and 21-inch pipes that have broken in 2 different years after it was supposed to have been substantially complete. I can tell my colleagues, in an area where rainfall is approximately 10 to 12 inches, to have a break of irrigation pipes in July and in April, at the time when the irrigation season has started and in the middle of the irrigation season, is not a very good situation.

This is the work that is in dispute right now. There are other pictures here also to substantiate. This is a blow-up of one of the other pictures I alluded to earlier.

I have seen the project firsthand, and this project is a poorly constructed irrigation unit that has plagued farmers in my district, frankly, long enough. Right now, over 1,000 farms depend on these irrigation facilities. And I want to emphasize the point that the rainfall in that area is 10 to 15 inches. We need the irrigation.

Apple, pear and cherry orchards, some of the most valuable and world renowned crops of Washington State, are jeopardized every time one of the Bureau's inadequate pipes explode. Every time the system cannot pump clean water and instead pumps mud, which has happened, as we can see the silt here, where it pumps mud through the farmers' pipes and out through their sprinkler heads, and that has happened, where they have had mud literally come out of the sprinkler heads, I can tell my colleagues that the trees they are trying to irrigate are in jeopardy.

A perfect example of the problems associated with these facilities happened in 1990, and those were the pictures I just showed, where the main pipes exploded. I know some of my colleagues are not from farming districts, but I can assure them that those people who depend on water at the opportune time need to have this water when it is timely.

What is the solution, then, after this problem that has built up over time? Clearly, the easiest solution would be to come back to Congress and ask for another appropriation to fix something that was mishandled in the first place. That costs money. It would probably waste taxpayers' dollars one more time. The irrigation district came to this conclusion also, and they started negotiations with the Bureau.

So what we need to do is turn these facilities over to the irrigation district so they can upgrade the facilities and pump water, not mud, to the farmers of central Washington. Preferably, I would like to see them working in perfect order before the Bureau transfers them to the district but, frankly, that is not going to happen. The best that we can do is let the district replace the pipes and control the mud entering the system and get the Federal Government out of the Oroville-Tonasket irrigation district.

Let us stop mishandling this facility, let us end the potential $51 million lawsuit against the U.S. Government, and help assure the farmers of my district a stable source of irrigated water for the future. I think this is a fiscally responsible solution. In fact, I might add, it is endorsed by the organization known as Citizens Against Government Waste, that all of us are familiar with.

I want to respond to a few points that the gentleman from California, the distinguished ranking member, made. He opened his remarks by talking about this is a giveaway of $14 million. The $14 million that the gentleman is alluding to would be the potential payback if everything were set and the contract was fulfilled. This contract has not been fulfilled. So there is nothing there from that standpoint.

We are not giving away anything other than air, and no one would want to pay for air if it was not performing

correctly. That is really what the issue is.

The gentleman also talked about the power issue. And I think the gentleman from California recognizes that in the West, when we started reclaiming land with the Bureau of Reclamation, irrigation always got first call at that power. That was the incentive to allow people to come out and to create new wealth. This was all part of reclamation law. It applies to Washington State, it applies to California, it applies to Colorado, it applies to Idaho and Oregon, and all the Western States. This is nothing unusual.

As a matter of fact, when the gentleman suggests that we shift costs to the customers that are using the electricity, I might add that the people that use electricity are in the Northwest. We accept that.

Finally, it has been alluded to that we should correct this lemon law. I will give an analogy that I think is appropriate in this case. I ask my colleagues to put themselves in the situation where they have a house and that house is substantially built and completed and paid for, with just the exception of maybe a small part of the mortgage and the contractor is asked to come in and build a guest room.

As a result of going through that process, the contractor had to get into the house, change the roof, change the electricity, change the heating and all those sort of things. Now, there was an agreed-upon time line that this should be completed and all of a sudden the contractor says, Okay, I want to get paid because that was what was in the contract. At that time it rains and the discovery is made that the roof leaks, that the wiring may cause a fire, and the duct work does not work.

Do any of my colleagues think they would want to pay that contractor for that work? Of course not. No one would do that. As a matter of fact, we would probably sue the contractor and try to get the thing corrected.

That is precisely what is going on here with the Oroville-Tonasket irrigation district. It is nonperformance by the Bureau. And one of the reasons why this nonperformance and why this analogy works so well in my mind is the Bureau sees this makes sense. That is why they asked to enter into this agreement with the irrigation district.

So, Mr. Chairman, this bill, I think, corrects something. It is a settlement bill. It is a bill that will transfer authority and obligations and whatever lawsuits that may come up in the future away from the Federal Government and put it back to the district.

Now, as a result of that, the CBO has scored this and the CBO expects that the Federal Government would probably save money if this bill were enacted. CBO estimates that there would be no effect on 1997 spending and that any potential effect on 1998 spending would be savings relative to the current law.

So this is budget neutral and makes perfectly good sense to me that this bill ought to be passed. And, as a matter of fact, in the long run, because if we avoid a lawsuit, it would save a potential easily of $50 million.

So I urge my colleagues to support H.R. 412 when we vote on final passage. I would also urge my colleagues to vote against the amendment that will be offered by the gentleman from California, because if that amendment were to be adopted, it would, frankly, be a killer amendment on a bill that settles a potential claim.

Mr. DOOLITTLE. Mr. Chairman, I yield myself such time as I may consume to note, in terms of the figures we have heard, the gentleman from California [Mr. MILLER], represented that this is $14 million, but $13.9 million is the amount due the Government. But it is due over the next 45 years. It is not due today.

So the present value, the accountants calculate that amount, $13.9 million over 45 years, today's value of that, is $4.2 million. Now, the Bureau of Reclamation acknowledges the validity of the district's claims against the Federal Government in the amount of $4.5 million. So already there is $300,000 more dollars that is owed to the district than they owe to the Federal Government based on the present value.

There is also another 14 million dollars worth of repairs to the pipes that the gentleman from Washington [Mr. HASTINGS], showed us in the pictures that are the obligation of the Federal Government. That obligation would be removed and would not be a burden on the taxpayer in this settlement.

Mr. Chairman, I just want to make sure everybody understands that even the Government itself acknowledges that the district is owed money, more money from the Government than the district owes to the Government for this. Essentially, this disastrous project, which I called in the committee a lemon, has no worth.

□ 1530

It was not the district that seeks title; it was insisted that title be given, that the lemon be stuck with the recipient, because the Government does not want the lemon. They are the ones who insisted on that title transfer from the Federal Government to this Oroville-Tonasket Irrigation District. This settlement saves the taxpayer money.

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

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

I appreciate the interpretation, the spin my learned colleagues would put on my remarks. I said this is about $14 million. Nobody has suggested that the district pay $14 million. What I have suggested is that we have some independent voices and an appraisal of what this district ought to pay for the benefit it received.

As I said, it is not that these lands now lie fallow. It is not that these orchards are out of production. They are in fact engaged in raising crops and engaged in an economic benefit. If it is $4.2 million in the net present value for this project, maybe that is what they ought to pay. They can have the project, if that is what they want, if they want to have the project. All I am asking is, should they not pay something for the benefit they are receiving? My colleagues are using two words over there. One argues it is sort of substantially completed, but not completed, and then it is of no value. It is somewhere in between. If it is substantially completed, then you have an obligation for $14 million. If it is somewhat less than that, then you have an obligation somewhat less than that. This is not about punishing the district. It is about protecting the taxpayers on the way out.

The Bureau has never acknowledged that it is $14 million or that this whole pipeline has to be replaced. That is not here, and the Bureau has not put a value on this project. That is my reason for opposing this legislation and for offering the amendment, that in fact that we get a realistic value, that we get a true value.

The fact that this money is not going to be paid over 45 years, what we normally do with these districts when they want to buy out the project, when they want to buy out their obligations, we let them claim net present value of the project because the Government gets the value of having the money sooner. Nobody has suggested that is not the case here or could not be the case.

I appreciate that both of my colleagues are wonderful counsels for the plaintiff in this case and are making their case. It is just not clear that their case accurately reflects the interest of the taxpayers in the granting of this millions of dollars of relief to the district.

If you were not to do this, if it turns out that the $14 million is needed to rebuild, although the Bureau has not acknowledged it, that would be an obligation of the district under current law. It is not like that is an obligation you relieve us of. There is a repayment obligation. I just think this is about taxpayer equity. I will offer my amendment later, but let us just be clear on the figures.

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

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

I will just observe that there are other claims as well that the district in

the settlement will forgo against the Government. If we delay this settlement, in essence not delay it but we will abrogate the settlement by failing to pass this bill, the taxpayer is at far greater risk. Right now that $13.9 million of obligation for repayment by the district to the Federal Government is over 45 years. But, in fact, the net present value, which I think is undisputed of that $13.9 million, is $4.2 million. That is what the district is agreeing is the net present value and they are offsetting their payment to the Government of that $4.2 million against the $4.5 million that the Government acknowledges is valid in the district's claims against the Government. And then these other claims that are referenced in a CBO letter and that we have talked about, those other claims are also being forgone.

So I think it is not fair to say the district is not paying anything. The district has been saddled with this thing for years. It does not work. The Government would not go ahead and admit that the claims by the district were valid if they did not feel that they had an overwhelming liability on their part.

This is, after all, the Justice Department that is involved in this. The Clinton administration itself supports this. The Citizens Against Government Waste supports this bill. They are pretty good spokesmen, some think, for the taxpayers.

I think, Mr. Chairman, that the bill of the gentleman from Washington [Mr. HASTINGS] is a very timely bill. We support this bill, precisely because it saves the taxpayers money. We are not seeking to give anything away here. We are seeking to save the taxpayers money that will otherwise have to be paid when this goes to court and when the full $51 million in claims by the district is asserted against the Federal Government. They stand a lot to lose. They know that. That is why the Clinton administration itself supports the Hastings bill.

Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. HASTINGS].

Mr. HASTINGS of Washington. Mr. Chairman, I thank the gentleman for yielding me this time.

We will discuss, I think, at length the amendment that will be offered, and that appears to be the crux of the argument that the gentleman from California is talking about, is that part of the fair value, and I think that is certainly something valid to debate. But I want to make this point. This irrigation district was started right after the turn of the century when all the reclamation projects in the West were started. Part of this settlement, which has already been paid, the $350,000, satisfies the repayment obligation back of the initial irrigation project. What is in dispute here is the extension unit. That is what is in dispute.

The extension unit, of course, affects the whole district, and that is why the Bureau settled precisely this way with the irrigation district, by saying, OK, the whole thing really is in jeopardy. We acknowledge that you needed to fulfill your obligation earlier, which is part of this settlement.

The irrigation district has some claims currently on the extension unit against the Bureau in excess of $4 million. The current value of the extension unit is slightly over $4 million. In other words, it is about a wash. When you sit down and negotiate these things, they say, OK, let us just kind of wash these things out.

In return for that, of course, you have to assume all of the liabilities and all of the obligations heretofore, and if there are any claims against the irrigation district, you cannot come back to the Federal Government and ask for relief.

So the irrigation district, after being under Federal Bureau law for all these years, is really assuming quite an obligation that could happen, because they are going to have to clean up this district, that, I might add, their operation and maintenance has increased by some 200 percent over the period of time that this project started. So there has been a real time cost to those irrigators.

I can tell you, if you are in cherries, you are in cherries and you are ready to harvest and all of a sudden a rainstorm comes. Believe me, your whole crop can be wiped out in one day. They roll the dice on this and unfortunately, I will not say unfortunately, I admire farmers because they do that. But within this district, they are assuming a responsibility in the future on this, and I think the fact that the Bureau in this dispute felt that they may in fact lose this suit, that is why they wanted to work out an accommodation with the irrigation district. I think that is why this is in the best interests, and I think that is why the Department of Interior and the President support this settlement claim.

So I think that we can debate the merits of the gentleman's amendment when he brings it up later on, but I think for now, Mr. Chairman, that this bill, H.R. 412, needs to be adopted by this House so we can get this legislation passed, so that the claim can be settled before April 15, 1997.

Mr. DOOLITTLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. NETHERCUTT].

Mr. NETHERCUTT. I thank the gentleman from California [Mr. DOOLITTLE] for yielding me this time.

Mr. Chairman, I rise in support of H.R. 412 and the American taxpayer. That is what really this bill is all about. I appreciate the leadership of the gentleman from California [Mr. DOOLITTLE] and the gentleman from Washington [Mr. HASTINGS] on this issue.

Frankly, I am very concerned about the future fiscal impact that rejecting this bill would have. The Congressional Budget Office has said that this bill would have no effect on 1997 spending and that there would be a future savings to current law if this bill is passed. I think we need to look carefully at really the background of this case, as Congressman DOOLITTLE and Congressman HASTINGS have set forth. This was a settlement agreement by the administration, the administration that the gentleman from California [Mr. MILLER] I believe supports more often than not, and I find myself not always in agreement with this administration on matters of policy but in this one they are right.

I have been practicing law for years and I know that a settlement is a good settlement if both parties agree, and it saves everybody a lot of time and effort and liability and exposure and money in the future, and that is really what this is about. We are going to have a savings of $51 million plus legal fees ranging up to $1 million. So I think that is something that all of us ought to take into great account as we decide whether this is a good bill or a bad.

Another thing that is very important, in my judgment, is that if this irrigation district wins only a partial settlement the U.S. taxpayers are still liable for whatever the court decides. The Bureau of Reclamation has stated that they are probably liable for at least $4 million, but that is only an estimate.

My judgment is, let us get this settled, let us move on. If the United States were to win this lawsuit and not be liable for the $51 million of exposure that they have, the taxpayers would still have to pay to maintain and operate these facilities. Taxpayer dollars can be better spent, Mr. Chairman, and the Colville Confederated Tribe in my district supports this, the Oroville-Tonasket Facilities District supports this, the Federal Government, Mr. Clinton, Mr. Babbitt support this. We should support it, too. Let the local officials of this irrigation district run this project. Repair the damage that exists and make it work for the farmers of this area.

Mr. Chairman, I conclude certainly by saying this is a cost saver. This is a taxpayer saving by passage of this bill. I urge my colleagues to support it.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in strong support of H.R. 412, Congressman DOC HASTINGS' bill to approve a settlement in a lawsuit filed by the Oroville-Tonasket Irrigation District against the Bureau of Reclamation.

This is a lawsuit which should not have happened. The Bureau of Reclamation was charged with designing and building an irrigation system for the District in north-central Washington State. Although the original canal

and flume system date from the early 1900's, Congress has authorized rehabilitation, repair, redesign, and construction of new works in 1962, 1976, and 1987 in ever increasing amounts. But the system has never worked as promised. In 1990, the Bureau told the District that it was washing its hands of the system and sought repayments of approximately $300,000 per year for the District's small share of the project. However, the District refused payment, arguing that the irrigation system does not work as planned and that the project operation and maintenance costs were much higher than the Bureau of Reclamation had led them to believe. The District has filed two lawsuits in this case, the latest seeking $51 million in damages and forgiveness of its repayment obligations.

I don't blame the District for withholding payment, because as you can see from the photographs of the project displayed in the chamber, this project is a turkey. I am also embarrassed for the Bureau, which has had decades to make this irrigation system work and failed. The District believes it can make the system deliver usable water by repairing it at a lower cost than the Federal Government. The Government agrees and is also seeking to be relieved of what could be substantial liability for this faulty system.

CBO believes enactment of H.R. 412 will probably save the U.S. Treasury and the taxpayers money. The vast majority of the project costs are not borne by the District, but the Bonneville Power Administration and by any calculation the District is foregoing much more in claims than is the Federal Government. This is not a give-away of a Federal asset, as some might have you believe.

Therefore, I ask Members to support H.R. 412 as reported from the Committee on Resources. The bill has bipartisan support from Members, the Administration, and even Citizens Against Government Waste. Let's put an end to this public works nightmare and settle what could be an expensive, protracted lawsuit.

Mr. DOOLITTLE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. DOOLITTLE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HASTINGS of Washington) having assumed the chair, Mr. EVERETT, 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. 412) to approve a settlement agreement between the Bureau of Reclamation and the Oroville-Tonasket Irrigation District, had come to no resolution thereon.

GENERAL LEAVE

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 412.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California:

There was no objection.

□ 1545

RECESS

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Pursuant to clause 12 of rule I, the House stands in recess until approximately 5 p.m.

Accordingly (at 3 o'clock and 45 minutes p.m.), the House stood in recess until approximately 5 p.m.

□ 1700

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HASTINGS of Washington) at 5 p.m.

OROVILLE-TONASKET CLAIM SETTLEMENT AND CONVEYANCE ACT

The SPEAKER pro tempore. Pursuant to House Resolution 94 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. 412.

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. 412) to approve a settlement agreement between the Bureau of Reclamation and the Oroville-Tonasket Irrigation District, with Mr. EVERETT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, all time for debate again had expired. The Committee amendment in the nature of a substitute printed in the bill shall be considered by sections as an original bill for the purpose of amendment, and pursuant to the rule each section is considered read.

The CHAIRMAN. The Clerk will designate section 1.

The text of section 1 is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Oroville-Tonasket Claim Settlement and Conveyance Act".

The CHAIRMAN. Are there any amendments to section 1?

The Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. PURPOSES.

The purposes of this Act are to authorize the Secretary of the Interior to implement the provisions of the negotiated Settlement Agreement including conveyance of the Project Irrigation Works, identified as not having national importance, to the District, and for other purposes.

The CHAIRMAN. Are there any amendments to section 2?

If not, the Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Reclamation" means the United States Bureau of Reclamation.

(3) The term "District" or "Oroville-Tonasket Irrigation District" means the project beneficiary organized and operating under the laws of the State of Washington, which is the operating and repayment entity for the Project.

(4) The term "Project" means the Oroville-Tonasket unit extension, Okanogan-Similkameen division, Chief Joseph Dam Project, Washington, constructed and rehabilitated by the United States under the Act of September 28, 1976 (Public Law 94-423, 90 Stat. 1324), previously authorized and constructed under the Act of October 9, 1962 (Public Law 87-762, 76 Stat. 761), under the Federal reclamation laws (including the Act of June 17, 1902 (ch. 1093, 32 Stat. 388), and Acts supplementary thereto or amendatory thereof).

(5) The term "Project Irrigation Works" means—

(A) those works actually in existence and described in subarticle 3(a) of the Repayment Contract, excluding Wildlife Mitigation Facilities, and depicted on the maps held by the District and Reclamation, consisting of the really with improvements and real estate interests;

(B) all equipment, parts, inventories, and tools associated with the Project Irrigation Works realty and improvements and currently in the District's possession; and

(C) all third party agreements.

(6)(A) The term "Basic Contract" means Repayment Contract No. 14-06-100-4442, dated December 26, 1964, as amended and supplemented, between the United States and the District;

(B) the term "Repayment Contract" means Repayment Contract No. 00-7-10-W0242, dated November 28, 1979, as amended and supplemented, between the United States and the District; and

(C) the term "third party agreements" means existing contractual duties, obligations, and responsibilities that exist because of all leases, licenses, and easements with third-parties related to the Project Irrigation Works, or the lands or rights-of-way for the Project Irrigation Works, but excepting power arrangements with the Bonneville Power Administration.

(7) The term "Wildlife Mitigation Facilities" means—

(A) land, improvements, or easements, or any combination thereof, secured for access to such lands, acquired by the United States under the Fish and Wildlife Coordination Act (16 U.S.C. 661-667e); and

(B) all third party agreements associated with the land, improvements, or easements referred to in subparagraph (A).

(8) The term "Indian Trust Lands" means approximately 61 acres of lands identified on land classification maps on file with the District and Reclamation beneficially owned by the Confederated Tribes of the Colville Reservation (Colville Tribes) or by individual Indians, and held in trust by the United States

for the benefit of the Colville Tribes in accordance with the Executive Order of April 9, 1872.

(9) The term "Settlement Agreement" means the Agreement made and entered on April 15, 1996, between the United States of America acting through the Regional Director, Pacific Northwest Region, Bureau of Reclamation, and the Oroville-Tonasket Irrigation District.

(10) The term "operations and maintenance" means normal and reasonable care, control, operation, repair, replacement, and maintenance.

The CHAIRMAN. Are there any amendments to section 3?

The Clerk will designate section 4.

The text of section 4 is as follows:

SEC. 4. AGREEMENT AUTHORIZATION

The Settlement Agreement is approved and the Secretary of the Interior is authorized to conduct all necessary and appropriate investigations, studies, and required Federal actions to implement the Settlement Agreement.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California:

Page 5, line 14, strike "The Settlement Agreement is approved" and insert "Upon payment to the United States of fair market value for the property and facilities transferred, and upon consideration and satisfaction of outstanding obligations as provided in section 5, the Settlement Agreement is approved".

Page 5, line 17, after the period insert: "Fair market value shall be determined by majority vote of a panel of 3 impartial appraisers qualified in accordance with State regulatory requirements. The District shall select one member of the panel. The Secretary shall select one member of the panel. The third member of the panel shall be selected by the other two members.".

Mr. MILLER of California (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 California?

There was no objection.

Mr. DOOLITTLE. Mr. Chairman, I have consulted with the gentleman from California [Mr. MILLER] and I ask unanimous consent that the debate on all amendments to H.R. 412 be limited to 10 minutes on each side.

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

There was no objection.

The CHAIRMAN. The gentleman from California [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank my colleagues for that agreement.

Mr. Chairman, earlier this afternoon we had general debate on this legislation, and I said at that time I would be offering an amendment. This is the amendment that I discussed during general debate. The purpose of this amendment is to get a fair appraisal of the value of this project before the Federal Government gives this project to the irrigation district.

As some may remember from the general debate, in fact what we have here is we have an expenditure by the Federal Government of some $88 million, a portion of that which will be paid by power users to subsidize the power to the irrigation district and pay back some of the obligations to the Federal Government, and then the question of the $14 million that this irrigation district owes with respect to its repayment contract for this project.

This is a project that has been plagued by problems, that has not operated in a manner in which the irrigators believe that it should but, in spite of all that, is delivering a benefit to the irrigators within this district. And I believe that before we turn this project over to those irrigators and to the beneficiaries of this expenditure of public moneys, we ought to have an independent appraisal as to the value of this project. If it turns out that the benefit and value have been diminished, so be it, they should pay us back a diminished value. What we ought not to do is to have the parties of interest get into a room and negotiate this and then decide that this is a fair deal when in fact we can end up with the irrigators of some 10,000 acres of orchards paying the Federal Government nothing for a project that is in fact delivering a benefit to them.

During the general debate, the suggestion was that the Federal Government is on the hook for a lot of additional costs and that therefore we should settle this agreement. Those are allegations, I appreciate, in the complaints of the district. In its lawsuit they choose to sue the Federal Government rather than negotiate and correct this project and pay the value of those corrections, but we do not know whether or not the Federal Government is in fact on the hook for those. The Bureau of Reclamation has not admitted that in spite of the allegations that that is the suggestion.

I think what this amendment does is it guarantees simply fair value for the taxpayers and a fair deal for the irrigation district, and I think that is important. In the past when we have had these problems, we have corrected them, the Federal Government has absorbed those costs, but we have not allowed people who continue to get a benefit to escape all of their obligations to the Federal Government. And the fact of the matter is that this district, even its O&M and others is in line with what other people in the area are paying and we ought not to make an exception in this case.

I would hope that people would support this amendment on behalf of the taxpayers.

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

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

Mr. Chairman, I rise in strong opposition to the amendment. This amendment, although perhaps on its face it appears reasonable, is really a killer amendment. It will void the settlement agreement which has taken the irrigation district and the Federal Government 6 years to develop. If the amendment is adopted, the parties are right back where they started with the Federal Government on the hook for at least $51 million in damages and the irrigation district refusing to make payments on this defective irrigation system. If title is not transferred to the district, the Federal Government will still have to make the repairs to this lemon of a public works project.

Given that the Bureau of Reclamation has had 30 years to get the project right, without success and with the greater costs involved whenever we get the Federal Government building something, I would say it is the taxpayers who will be taking a bath if the Miller amendment is adopted.

That is why Citizens Against Government Waste is supporting H.R. 412. That is why the Clinton administration is supporting H.R. 412. I think we ought to give the irrigation district the chance to fix the system.

I just remind you, Mr. Chairman, that indeed it was the Federal Government; they know this is such a bad project, they insisted that the district take title. The district did not want title but the Federal Government insisted that the district take title, and by giving the title of the works, this nonprofit entity should be able to get the financing it needs to make these expensive, far-reaching pairs.

Despite what my colleague from California has been implying, this is clearly not a case of something for nothing. Let us look at what the district has agreed to under the settlement agreement:

First, it has agreed to pay $350,000 in cash; second, to repair deteriorating water pipes at a cost of at least $14 million which the Federal Government will otherwise have to pay absent this settlement; third, it agrees to waive its claims against the United States which have been estimated by the Government to be at least $4.5 million; fourth, the district agrees to accept the United States liability for third party claims associated with the project; fifth, it agrees to reduce the time and the amount of power it will receive to help pump irrigation water, where under current law the district is entitled to unlimited power forever; and sixth, it will provide free water for federally-owned wildlife mitigation facilities.

In turn, the Federal Government will, first, transfer the defective water system to the district which is causing untold damage to public and private property; and second, it will forgive the district's contract repayment which the Government estimates has a present value of $4.2 million, not 13.9, which is over 45 years at present value of 4.2 million, an amount even less than the value of the claims the district has waived against the United States.

As my colleagues can see, enactment of H.R. 412 as reported from the Committee on Resources will save the Federal Government money according to the CBO. By voiding the settlement agreement and subjecting the United States to a lengthy lawsuit, the Miller amendment will only increase the exposure of the Federal purse and ultimately result in higher costs to the taxpayer.

What is the market value of this defective water irrigation system? Zero. These works are not portable sprinklers, but are gigantic fixed pipes and flumes which have a single use, to supply the water for irrigation to the Oroville-Tonasket region, a job that it does quite poorly. The water in the system already belongs to the district so to what other use can the delivery system be put?

I think these facts illustrate the real reason this amendment is being offered. Mr. MILLER opposes transferring any Federal asset to local ownership. This local government unit can repair and operate this Government facility and save taxpayer money. The Government does not want this decrepid system and wants to avoid the substantial liability associated with it.

This transfer will not serve as precedent. This lawsuit involves the total and complete failure of the Government to design, build, and deliver a working irrigation system, an event which I hope should be rare.

In addition, the committee report clearly states that, H.R. 412 also should not be regarded as precedent for legislative action to transfer Bureau of Reclamation facilities at other projects. The litigation problems surrounding the transfer of the Oroville-Tonasket unit and continued provision of power at low project power rates are unique.

This is one of those times when the Clinton administration and I agree on something. I urge the Members to oppose the killer Miller amendment and let the people in north central Washington correct this substandard irrigation works while saving the Federal Government money.

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

Mr. DOOLITTLE. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY of California. Mr. Chairman, I rise in opposition to this amendment. While on the surface of it, it may appear that there is some merit to it, I would say that in the implementation, trying to appoint a three-member panel that could accurately ascertain the fair market value of a project which is subject to a lot of exigencies and their impact in value would make it impossible for that group to come to an accurate conclusion.

The bottom line is we have the Government agency which has the greatest knowledge about the value of this project that entered into an agreement willingly with the water district in order to transfer title to it. They made that decision in order to minimize the costs to the Federal Government and made that agreement in order that they would also be working in the best interests of the taxpayers of the United States.

The Miller amendment, I fear, would scuttle this agreement; it would expose the taxpayers to greater potential costs. We should defeat this amendment, and we should pass the bill which has the support of the Clinton administration.

Mr. DOOLITTLE. Mr. Chairman, may I inquire, does the gentleman from California have further speakers? I know he wishes the right to close.

Mr. MILLER of California. No, it is just me.

Mr. DOOLITTLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. HASTINGS].

Mr. HASTINGS of Washington. Mr. Chairman, let us take a look at the facts. This is a very narrowly drawn claim settlement bill. There is no net market value to this project. For example, the CBO in their scoring of this, weighed what the district owed versus what the Federal Government was for and determined that the Government would save money by having the Government unload this district. In other words, liabilities in this case exceeds the value.

I believe that the gentleman from California [Mr. MILLER] knows this. I believe that he knows there is no market value to this project. I believe that he knows that no one except the district would even consider taking over this project; and furthermore, Washington State law prohibits any irrigation district in that State from raising its fees to purchase a project.

So I wonder why is the gentleman offering this amendment at this eleventh hour?

□ 1715

I think it is simple. I think the gentleman knows that this amendment would kill the agreement between the Clinton administration and the local irrigation district; and I might emphasize, by law, this agreement must be approved by April 15 of this year. Failure to ratify this agreement will simply send the issue back to the courts and will mean the district would pursue its pending $51 million lawsuit. That is a bad deal for Uncle Sam, and it is a bad deal for this Congress.

That is why the Clinton administration, and not the local irrigation district, proposed the transfer of this facility. It is the only way for the Government to avoid millions of dollars in court costs, millions of dollars in repair costs, and millions of dollars in damages that they would be forced to pay if they should lose the court case.

Mr. Chairman, let me propose three reasons to oppose this amendment. First, a vote for the Miller amendment is a vote to stick the taxpayers with tens of millions of dollars in repair costs. Second, a vote for the Miller amendment is a vote to stick the taxpayers with untold billions of dollars in damages as a result of the court case. Finally, a vote for the Miller amendment is to send the issue back to the court and stick the taxpayers with hundreds of thousands of dollars in additional legal fees to the Government. As I mentioned from the outset, this is a very narrowly drawn bill.

Mr. Chairman, as a result then, I urge my colleagues to oppose the feel-good Miller amendment and support my commonsense bill to relieve the Federal Government of this tremendous liability.

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

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I find it rather interesting that the proponents of this legislation keep standing up and saying that there is no value to this project, but the beneficiaries of this project are willing to take this project, and they say they are going to have to spend millions of more dollars on this project, but they will take it anyway, because there is no value to it.

The fact of the matter is there is value to this project. There may not be value to this project for people in Pennsylvania or California or Washington, DC, but to the beneficiaries this project, with the expenditure of over $88 million, Federal dollars, is delivering water to the land of the members of this irrigation district, and they are receiving an economic benefit from it, a gross income of about $3,000 an acre, according to the Bureau of Reclamation, and that is the benefit of this project.

They can have the project. There is nothing in my amendment that does not let them have the project. They can have the project. All I want is an impartial appraisal as to the value of this project in its diminished state, if that is the case, and then pay the taxpayers for what they created for us.

They keep saying no value, it is not worth anything. Yes, it is. It is delivering thousands of acres of feed of water to land that otherwise would not have it. That is why they came back here in 1952 and 1962 and 1976 and 1995 and 1996, because there is value.

Mr. Chairman, what we ought to do is recognize two things: The project was not properly designed and this operation has been impaired and the value has been diminished, but what we ought to do is get an appraisal as to what that means and then ask the district to relieve the taxpayers of that burden. They can have the project, they can manage it, they can make the improvements if they want.

So I think it does not quite add up when something has no value, but some are fighting so hard to take it, and then they say what they are giving up is millions of dollars in benefits that they could receive in the cost of a court case and millions of dollars in future expenditures, and they still want to take on the project. So there is something that does not ring true here.

The fact that the Committee on the Budget has said that this is budget-neutral in an opinion, in a letter that they sent to the committee, they said, while seemingly perverse, this estimate may in fact accurately represent. Yes, it is perverse, when it is said to people who have refused to pay the Government what they owe them, then there is a finding that they probably would have never paid us; therefore, there is no budget implications.

If we keep doing business that way, I say to my colleagues, we will end up with no money in the Federal Government. We do not say that to people who cannot pay their taxes or decide not to pay their taxes. We do not say that to people who do not want to pay for services rendered. But all of a sudden, they can say, we do not like this, we are not going to pay for it, and then the CBO comes along and says, because they did not pay for it, they probably will never pay for it, and therefore, we are not going to charge it against the Treasury.

The fact of the matter is the Treasury is owed this money, these people signed a contract for this, this project is delivering a benefit, and what we ought to do now is simply protect the taxpayers in the process of transferring this project to the beneficiaries of it. I urge an "aye" vote on the Miller amendment.

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

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

I think it is very clear that both the Clinton administration and Citizens Against Government Waste and the bipartisan opponents to the Miller amendment understand that this amendment will cost the taxpayers money.

The gentleman from California [Mr. MILLER] argues in favor of the taxpayers, but advances a proposition that will expose the Government to much greater liability than it already has. For that reason we oppose the Miller amendment. For that reason, the Clinton administration has actually come out in support of this bill as the settlement was reflected in the bill.

That is something I have noted that has been very rare. I cannot think of another time we have had that happen in the last couple of years, when the administration has actually supported something like this. Why? It is because they believe it is in the best interest of the Government. Over here, the taxpayer groups represented by Citizens Against Government Waste also believe it is in the best interest of the Government.

The facility, as we pointed out, is in a terrible state of repair. There are significant claims that this district has that can be asserted against the Government. The Bureau of Reclamation has recognized that at least $4.5 million are valid claims, according to the Government, that the district has against them, and for that reason this settlement has been proposed.

The Miller amendment is a bad amendment because it will nullify the settlement and will force renegotiation and force a court action. For that reason, I urge a "no" vote on the Miller amendment and a "yes" vote on H.R. 412.

Mr. YOUNG of Alaska. Mr. Chairman, Congressman MILLER has offered similar fair market value amendments on the floor before.

In the 104th Congress, H.R. 535 transferred the title of the Corning National Fish Hatchery from the Department of the Interior to the State of Arkansas. In committee and on the floor, Mr. MILLER offered an amendment much like the one he offers today to require the payment of fair market value before the asset is transferred. He also offered this same amendment to H.R. 584, which transferred the Fairport National Fish Hatchery from the Department of the Interior to the State of Iowa.

His amendments both failed resoundingly, in one case 96 to 315 the other by voice vote.

The arguments made against those amendments apply equally here:

First, the Federal Government does not want this asset—in this case the irrigation works. As you can see from the photographs displaying the deplorable state of the irrigation system and the harm that it has caused other public and private property, I can certainly see why the Federal Government is happy to transfer the works and avoid any past or future claims associated with its failure to operate.

Second, the recipient has made some investment in the project in the past and will make substantial financial commitments to the project in the future. The Oroville-Tonasket Irrigation District has already paid $350,000 and will be obligated to pay at least $14 million to repair deteriorating water pipes. This district is also waiving its claims against the Government, estimated even by the Bureau of Reclamation to be $4.5 million at a minimum. In addition, the district is accepting liability for third party claims associated with the project. Finally, the district is also accepting a reduction on the time and amount of power it will receive to help pump irrigation water. This is clearly not a case of something for nothing.

The district is a not-for-profit entity and having title to the project will allow it to raise the funds needed to repair the extensive piping system so that it will operate as promised by the Bureau of Reclamation.

Third, transferring the project under the bill as reported from the Resources Committee will likely save the Federal Government money—these are the words of the Congressional Budget Office, not mine. If the Miller amendment is adopted, the settlement agreement will be void and the parties will default to the courts. The Government will continue to be exposed to liability for damages. When the suit was filed in 1995, the irrigation district claimed $51 million in damages; these may have increased since then. In addition, the Government may ultimately pay for court costs and interest on the claims. These can be substantial. In the Whitney Benefits, Inc. versus U.S. case filed under the surface mining law, where the initial claim filed was for $60 million, the Government's failure to timely settle meant the U.S. Treasury was held liable for $150 million in principal and interest after 8 years of additional litigation. The Miller amendment will not save the taxpayers money but will only increase the exposure of the Federal purse and ultimately to the taxpayers.

Fourth, like the fish hatchery transferred under H.R. 535, it is unclear what, if any, fair market value the irrigation works have. It is not as though these works are portable sprinklers so that other purchasers could make use of them. They are gigantic, fixed pipes which have a single use—to supply water for irrigation to the Oroville-Tonasket region, a job these works do poorly. The water in the system already belongs to the district. I know that I would not be quick to purchase these faulty, single-purpose works even at fire sale prices and I can't imagine others would either. The fair market value is likely to be zero or less.

Fifth, opposition to transferring assets from Federal to local government ownership. Perhaps the real reason that this amendment is being offered is that its author is opposed to transferring any asset out of Federal ownership, whether a fish hatchery in Arkansas or an irrigation system in Washington. If this local government unit can repair and operate this Bureau of Reclamation facility and in doing so save the Federal Government money, then I say, let it.

The proponent of the amendment also argues that this bill sets a dangerous precedent for future asset transfers. I should hope not, where the whole reason for the transfer is the total and complete failure of the Federal Government to design, build, and deliver a working irrigation system in the first place, an event I hope will be rare.

Therefore, I ask my colleagues to once again defeat this killer Miller amendment and allow the parties to settle this lawsuit.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MILLER].

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

RECORDED VOTE

Mr. MILLER of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 195, noes 232, not voting 5, as follows:

[Roll No. 51]

AYES—195

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Etheridge
Evans
Farr
Fattah
Fawell
Filner
Flake
Foglietta
Forbes
Ford
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hoekstra
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klug
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McGovern
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Porter
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rivers
Rothman
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith (MI)
Spratt
Stabenow
Stark
Stokes
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—232

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Boucher
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fazio
Foley
Fowler
Fox
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jenkins
John
Johnson, Sam
Jones
Kelly
Kim
King (NY)
Kingston
Klink
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Quinn
Radanovich
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stearns
Stenholm
Strickland
Stump
Sununu
Talent
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Wamp
Watkins
Watts (OK)
Weldon (FL)
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—5

Eshoo
Istook
Kaptur
Tauzin
Turner

□ 1744

The Clerk announced the following pair:

On this vote:

Ms. Kaptur (OH) for, with Mr. Istook (OK) against.

Messrs. CHAMBLISS, SUNUNU, HANSEN, and BONO changed their vote from "aye" to "no".

Ms. KILPATRICK, Ms. DEGETTE, and Messrs. SCOTT, ALLEN, FAWELL, and FORBES changed their vote from "no" to "aye".

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Without objection, the Clerk will designate sections 5 through 11.

There was no objection.

The text of sections 5 through 11 is as follows:

SEC. 5. CONSIDERATION AND SATISFACTION OF OUTSTANDING OBLIGATIONS.

(a) CONSIDERATION TO UNITED STATES.—Consideration by the District to the United States in accordance with the Settlement Agreement approved by this Act shall be—

(1) payment of $350,000 by the District to the United States;

(2) assumption by the District of full liability and responsibility and release of the United States of all further responsibility, obligations, and liability for removing irrigation facilities constructed and rehabilitated by the United States under the Act of October 9, 1962 (Public Law 87–762, 76 Stat. 761), or referenced in section 201 of the Act of September 28, 1976 (Public Law 94–423, 90 Stat. 1324), and identified in Article 3(a)(8) of the Repayment Contract;

(3) assumption by the District of sole and absolute responsibility for the operations and maintenance of the Project Irrigation Works;

(4) release and discharge by the District as to the United States from all past and future claims, whether now known or unknown, arising from or in any way related to the Project, including any arising from the Project Irrigation Works constructed pursuant to the 1964 Basic Contract or the 1979 Repayment Contract;

(5) assumption by the District of full responsibility to indemnify and defend the United States against any third party claims associated with any aspect of the Project, except for that claim known as the Grillo Claim, government contractor construction claims accruing at any time, and any other suits or claims filed as of the date of the Settlement Agreement; and

(6) continued obligation by the District to deliver water to and provide for operations and maintenance of the Wildlife Mitigation Facilities at its own expense in accordance with the Settlement Agreement.

(b) RESPONSIBILITIES OF UNITED STATES.—In return the United States shall—

(1) release and discharge the District's obligation, including any delinquent or accrued payments, or assessments of any nature under the 1979 Repayment Contract, including the unpaid obligation of the 1964 Basic Contract;

(2) transfer title of the Project Irrigation Works to the District;

(3) assign to the District all third party agreements associated with the Project Irrigation Works;

(4) continue power deliveries provided under section 6 of this Act; and

(5) assume full responsibility to indemnify and defend the District against any claim known as the Grillo Claim, government contractor construction claims accruing at any time, and any other suits or claims filed against the United States as of the date of the Settlement Agreement.

(c) PROJECT CONSTRUCTION COSTS.—The transfer of title authorized by this Act shall not affect the timing or amount of the obligation of the Bonneville Power Administration for the repayment of construction costs incurred by the Federal government under section 202 of the Act of September 28, 1976 (90 Stat. 1324, 1326) that the Secretary of the Interior has determined to be beyond the ability of the irrigators to pay. The obligation shall remain charged to, and be returned to the Reclamation Fund as provided for in section 2 of the Act of June 14, 1966 (80 Stat. 200) as amended by section 6 of the Act of September 7, 1966 (80 Stat. 707, 714).

SEC. 6. POWER.

Nothing in this Act shall be construed as having any affect on power arrangements under Public Law 94–423 (90 Stat. 1324). The United States shall continue to provide to the District power and energy for irrigation water pumping for the Project, including Dairy Point Pumping Plant. However, the amount and term of reserved power shall not exceed, respectively—

(1) 27,100,000 kilowatt hours per year; and

(2) 50 years commencing October 18, 1990.

The rate that the District shall pay the Secretary for such reserved power shall continue to reflect full recovery of Bonneville Power Administration transmission costs.

SEC. 7. CONVEYANCE.

(a) CONVEYANCE OF INTERESTS OF UNITED STATES.—Subject to valid existing rights, the Secretary is authorized to convey all right, title, and interest, without warranties, of the United States in and to all Project Irrigation Works to the District. In the event a significant cultural resource or hazardous waste site is identified, the Secretary is authorized to defer or delay transfer to title to any parcel until required Federal action is completed.

(b) RETENTION OF TITLE TO WILDLIFE MITIGATION FACILITIES.—The Secretary will retain title to the Wildlife Mitigation Facilities. The District shall remain obligated to deliver water to and provide for the operations and maintenance of the Wildlife Mitigation Facilities at its own expense in accordance with the Settlement Agreement.

(c) RESERVATION.—The transfer of rights and interests pursuant to subsection (a) shall reserve to the United States all oil, gas, and other mineral deposits and a perpetual right to existing public access open to public fishing, hunting, and other outdoor recreation purposes, and such other existing public uses.

SEC. 8. REPAYMENT CONTRACT.

Upon conveyance of title to the Project Irrigation Works notwithstanding any parcels delayed in accordance with section 7(a), the 1964 Basic Contract, and the 1979 Repayment Contract between the District and Reclamation, shall be terminated and of no further force or effect.

SEC. 9. INDIAN TRUST RESPONSIBILITIES.

The District shall remain obligated to deliver water under appropriate water service contracts to Indian Trust Lands upon request from the owners or lessees of such land.

SEC. 10. LIABILITY.

Upon completion of the conveyance of Project Irrigation Works under this Act, the District shall—

(1) be liable for all acts or omissions relating to the operation and use of the Project Irrigation Works that occur before or after the conveyance except for the Grillo Claim, government contractor construction claims accruing at any time, and any other suits or claims filed as of the date of the Settlement Agreement;

(2) absolve the United States and its officers and agents of responsibility and liability for the design and construction including latent defects associated with the Project; and

(3) assume responsibility to indemnify and defend the United States against all claims whether now known or unknown and including those of third party claims associated with, arising from, or in any way related to, the Project except for the Grillo Claim, government contractor construction claims accruing at any time, and any other suits or claims filed as of the date of the Settlement Agreement.

SEC. 11. CERTAIN ACTS NOT APPLICABLE AND TERMINATION OF MANDATES.

(a) RECLAMATION LAWS.—All mandates imposed by the Reclamation Act of 1902, and all Acts supplementary thereto or amendatory thereof, including the Reclamation Reform Act of 1982, upon the Project Irrigation Works shall be terminated upon the completion of the transfers as provided by this Act and the Settlement Agreement.

(b) RELATIONSHIP TO OTHER LAWS.—The transfer of title authorized by this Act shall not—

(1) be subject to the provisions of chapter 5 of title 5, United States Code (commonly known as the "Administrative Procedure Act"); or

(2) be considered a disposal of surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) and the Surplus Property Act of 1944 (50 U.S.C. App. 1601 et seq.).

(c) DEAUTHORIZATION.—Effective upon transfer of title to the District under this Act, that portion of the Oroville-Tonasket Unit Extension, Okanogan-Similkameen Division, Chief Joseph Dam Project, Washington, referred to in section 7(a) as the Project Irrigation Works is hereby deauthorized. After transfer of title, the District shall not be entitled to receive any further Reclamation benefits pursuant to the Reclamation Act of June 17, 1902, and Act supplementary thereto or amendatory thereof.

The CHAIRMAN. Are there further amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute.

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

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. EVERETT, 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. 412) to approve a settlement agreement between the Bureau of Reclamation and the Oroville-Tonasket Irrigation District, pursuant to House Resolution 94, 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.

The question is on the committee amendment in the nature of a substitue.

The committee amendment in the nature of a substitute 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, and passed, and a motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 789

Mr. MCDERMOTT. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 789.

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

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1, WORKING FAMILIES FLEXIBILITY ACT OF 1997

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 105–31) on the resolution (H. Res. 99) providing for consideration of the bill (H.R. 1) to amend the Fair Labor Standards Act of 1938 to provide compensatory time for employees in the private sector, which was referred to the House Calendar and ordered to be printed.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 993

Mr. TIAHRT. Mr. Speaker, I ask unanimous consent that the gentleman from Colorado, DAN SCHAEFER, be removed as a cosponsor from H.R. 993, which I introduced on March 6.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5 of rule 1, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 924, de novo; and H.R. 672, de novo.

VICTIM RIGHTS CLARIFICATION ACT OF 1997

The SPEAKER pro tempore. The pending business is the question de novo of suspending the rules and passing the bill, H.R. 924, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by gentleman from Florida [Mr. MCCOLLUM] that the House suspend the rules and pass the bill, H.R. 924, as amended.

The question was taken.

Mr. MCCOLLUM. 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 418, nays 9, not voting 5, as follows:

[Roll No. 52]

YEAS—418

Abercrombie	Aderholt	Andrews
Ackerman	Allen	Archer

Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
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
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
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
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
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
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Schumer
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—9

Clay
Delahunt
Hastings (FL)
Hilliard
Jackson (IL)
Meek
Scott
Waters
Watt (NC)

NOT VOTING—5

Farr
Granger
Kaptur
Tauzin
Turner

□ 1807

Mr. JACKSON of Illinois, Mrs. MEEK of Florida, Ms. WATERS, and Mr. CLAY changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TECHNICAL AMENDMENTS TO COPYRIGHT LAWS

The SPEAKER pro tempore (Mr. EWING). The pending business is the question de novo of suspending the rules and passing the bill, H.R. 672, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. COBLE] that the House suspend the rules and pass the bill, H.R. 672, as amended.

The question was taken.

RECORDED VOTE

Mr. GUTKNECHT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 424, noes 2, not voting 6, as follows:

[Roll No. 53]

AYES—424

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Becerra
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
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
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
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
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
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica

Millender-McDonald	Rahall	Solomon
Miller (CA)	Ramstad	Souder
Miller (FL)	Rangel	Spence
Minge	Regula	Spratt
Mink	Reyes	Stabenow
Moakley	Riggs	Stark
Molinari	Riley	Stearns
Mollohan	Rivers	Stenholm
Moran (KS)	Roemer	Stokes
Moran (VA)	Rogan	Strickland
Morella	Rogers	Stump
Murtha	Rohrabacher	Stupak
Myrick	Ros-Lehtinen	Sununu
Nadler	Rothman	Talent
Neal	Roukema	Tanner
Nethercutt	Roybal-Allard	Tauscher
Neumann	Royce	Taylor (MS)
Ney	Rush	Taylor (NC)
Northup	Ryun	Thomas
Norwood	Sabo	Thompson
Nussle	Salmon	Thornberry
Oberstar	Sanchez	Thune
Obey	Sanders	Thurman
Olver	Sandlin	Tiahrt
Ortiz	Sanford	Tierney
Owens	Sawyer	Torres
Oxley	Saxton	Towns
Packard	Scarborough	Traficant
Pallone	Schaefer, Dan	Upton
Pappas	Schaffer, Bob	Velázquez
Parker	Schiff	Vento
Pascrell	Schumer	Visclosky
Pastor	Scott	Walsh
Paul	Sensenbrenner	Wamp
Paxon	Serrano	Waters
Payne	Sessions	Watkins
Pease	Shadegg	Watt (NC)
Pelosi	Shaw	Watts (OK)
Peterson (MN)	Shays	Waxman
Peterson (PA)	Sherman	Weldon (FL)
Petri	Shimkus	Weldon (PA)
Pickering	Shuster	Weller
Pickett	Sisisky	Wexler
Pitts	Skaggs	Weygand
Pombo	Skeen	White
Pomeroy	Skelton	Whitfield
Porter	Smith (MI)	Wicker
Portman	Smith (NJ)	Wise
Poshard	Smith (OR)	Wolf
Price (NC)	Smith (TX)	Woolsey
Pryce (OH)	Smith, Adam	Wynn
Quinn	Smith, Linda	Yates
Radanovich	Snowbarger	Young (AK)
	Snyder	Young (FL)

NOES—2

Barton	Kucinich

NOT VOTING—6

Ganske	Kaptur	Tauzin
Granger	Slaughter	Turner

□ 1827

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXTENDING EFFECTIVE DATE OF INVESTMENT ADVISORS SUPERVISION COORDINATION ACT

Mr. GILLMOR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 410) to extend the effective date of the Investment Advisors Supervision Coordination Act, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

Mr. MANTON. Mr. Speaker, reserving the right to object, I am pleased to join the gentleman from Ohio [Mr. GILLMOR] on this unanimous consent request, and I rise in strong support of S. 410, a bill that will simply extend the effective date of the Investment Advisors' Supervision Coordination Act for 90 days.

This act was passed last year as title III of the National Securities Markets Improvement Act. In essence, this title shifts the registration and regulatory responsibility for smaller advisors from the SEC to the State where the advisors have their principal place of business. Without S. 410, the Securities and Exchange Commission will have inadequate time to comply with this title which could, in turn, jeopardize State regulatory and enforcement programs.

Mr. Speaker, our goal in enacting this provision was to allow for more efficient and effective regulation of the investment advisory industry and the 22,500 investment advisors currently registered with the SEC. Under the new set of rules, the SEC is the primary regulator of advisors with assets under management of $25 million or more, while those advisors handling assets below this amount are required to register and be regulated by their State.

The new system, set up by last year's bill, requires a great deal of coordination and interaction between State and Federal regulators. By providing the Commission with an additional 90 days to complete its work under this provision, we will give investment advisors much needed time to comply with the new rules and thereby avoid any disruption of the State's regulatory efforts.

I would like to commend the SEC for all of its hard work in getting their rulemakings out for public comment by December of last year. However, understanding the amount of work still needed to be done, I urge all of my colleagues to support S. 410 so that the SEC has sufficient time to implement the important reforms intended by this title.

I would like to thank the gentleman from Ohio [Mr. OXLEY] for addressing the SEC's concerns in this matter in such a timely fashion.

Mr. DINGELL. Mr. Speaker, I rise in strong support of S. 410, a bill that would extend the April 9 effective date of the Investment Advisers Supervision Coordination Act by 90 days to July 8, and urge its immediate adoption by the House.

These investment adviser provisions were enacted as title III of the National Securities Markets Improvement Act in October of last year. The process by which a final agreement was brokered between the House and the Senate involved a take-it-or-leave-it package that was delivered by the Senate to the majority on Friday, October 27, and to the minority conferees on Saturday, October 28, a mere 3 hours before the conference report was due to be taken up on the House Floor. We were reading the final language on the House Floor in the minutes before it was brought up, leaving no time or process for the correction of technical errors or substantive problems. S. 410 corrects the problems created by the other body having allowed just 180 days, or 6 months, for the Securities and Exchange Commission to adopt all the necessary rules and rule changes, and for the necessary registrations and deregistrations to be effected at both Federal and State levels as required by the act. This timing makes absolutely no sense and would result in the statutory reforms being frustrated and would provide regulatory breaches for crooks to operate in.

To remind my colleagues, the number of investment advisers registered with the SEC has increased dramatically from 5,680 in 1980 to approximately 22,500 today. By 1995, the SEC was able to examine smaller advisers on a routine basis only once every 44 years on average. Investment advisers, no matter what their size and complexity, only pay a one-time fee of $150 to register when they apply for SEC registration. House efforts over three Congresses to enact an industry-crafted graduated-user-fee table to give the SEC more resources to supervise investment advisers were repeatedly frustrated by opposition in the other body. Alternatively, therefore, title III of NSMIA, among other things, reallocates Federal and State responsibilities for the regulation of approximately 22,500 investment advisers currently registered with the SEC by providing that the SEC will be the primary regulator of first, investment advisers managing assets of $25 million or more and second, investment advisers to registered investment companies, with smaller investment advisers required to be registered with and regulated by the State in which the adviser has its principle office and place of business. The role of the States is not entirely preempted for federally regulated investment advisers. A State where an adviser has a place of business may continue to require licensing of the adviser's individual representatives. Moreover, NSMIA also preserves the right of States to bring enforcement actions for fraud and deceit against any adviser, and to require notice filings of all documents filed with the SEC, as well as a consent to service of process. Furthermore, the availability of the Federal preemption is conditioned on the payment of current fees for the next 3 years. Title III also requires the SEC to establish and maintain a readily accessible telephone hot-line for investors to access information about disciplinary actions and investor complaints, if any, involving investment advisers they contemplate doing business with.

As Members can clearly see, this new scheme involves a lot of hard work and coordination between State and Federal regulators. The SEC is to be commended for getting a very complex set of rulemakings out for public comment in December. The proposals have received a large number of thoughtful comment letters and the agency is actively reviewing them and working toward final rules and forms as well as interpretative responses to a myriad of complex questions. However, it is nowhere within the realm of possibility for all this work to be completed by April 9. It is unfortunate that the author of the investment adviser provisions did not provide for an adequate and reasonable effective date. S. 410

corrects that deficiency so that the important reforms of title III can be achieved.

Mr. MARKEY. Mr. Speaker, I rise in support of S. 410, the Investment Advisers Coordination Act.

This bill would extend the April 9 effective date of the Investment Advisers Supervision Coordination Act by 90 days to July 8. This change is needed to give the SEC time to adopt appropriate rules, and for the necessary registrations at both the Federal and State levels to be made, as required under the act. Unfortunately, because this title of the National Securities Markets Improvement Act was added by the Senate at the last minute, it contains several technical and other drafting errors, some of which require correction. Giving the SEC additional time to issue its rules before the title becomes effective will prevent any regulatory gaps from developing.

While I strongly commend the SEC's Herculean efforts to promulgate a complex package of rules within the tight time limits set by the Improvement Act, I am compelled to express serious concerns with certain aspects of the SEC's proposed rules that, if uncorrected, will have a highly negative impact on investors. I note and concur with the comment letters submitted to the SEC by the Secretary of the Commonwealth of Massachusetts and the Office of the Attorney General. For the benefit of Members, I included copies of these letters in the RECORD at the end of my remarks.

It is important to keep in mind that Congress struck a careful balance in the Improvement Act's investment adviser provisions between the roles of the SEC and of the States. I am very concerned that the SEC's proposed definitions of investment adviser representative [IAR] and of place of business seek to limit the authority of State regulators beyond the intent of Congress. The definition of IAR is so different from the NASAA Uniform Securities Act as to virtually guarantee a wide divergence between State investment adviser registration requirements and SEC investment adviser registration requirements for firms having investment adviser representatives. I therefore strongly urge the SEC to withdraw the proposed definition and for the SEC and NASAA to move quickly to develop a national uniform definition of the term that both levels of government can support.

I am also concerned that the place of business definition in the SEC's proposed rule could impede the ability of State regulators to take action against fraudulent or deceptive practices by investment advisers over the phone or the Internet. I urge the SEC to assure that State regulators will be fully capable of protecting investors from false or deceptive telemarketing or Internet-directed activities by investment advisers.

I also strongly oppose the SEC's attempts to broaden the scope of the Improvement Act's Federal preemption for SEC-registered investment advisers and supervised persons beyond that contemplated by the Congress. Congress refused to place overly broad and unwise restrictions on the ability of the States to police the licensing of and prosecute fraudulent advisers and their representatives. It is incomprehensible that the SEC would willfully roll back State protections that Congress intended to apply, thereby leaving investors prey to abusive practices by unscrupulous advisers and planners seeking to avoid State regulation and enforcement authority.

Finally, I would note that the Improvement Act contains a provision mandating establishment of a toll-free 800 number or Internet site that investors can use to check on the disciplinary records—if any—of their investment adviser and its supervised persons. It is consistent with the intent of the Congress for the Commission to delegate this responsibility to the self-regulatory organization which already administers the broker-dealer hotline—the NASD. In doing so, the SEC must assure that the NASD is effectively disseminating all the information that investors need to make informed choices about the financial professionals they are considering doing business with, whether the NASD is carrying through on the commitments it has made to expand the types of disclosable information disseminated to investors, whether the NASD is carrying out its promise to do more to publicize the existence of the hotline, and whether the NASD is moving quickly to provide for Internet access.

Again, while I have some concerns about some of the pending rulemaking efforts and intend to closely monitor implementation, I rise in support of this bill.

THE COMMONWEALTH OF MASSACHUSETTS, SECRETARY OF THE COMMONWEALTH,

Boston, MA, February 7, 1997.

Re rules implementing amendments to the Investment Advisers Act of 1940; release No. IA-1601; file No. S7-31-96.

Mr. JONATHAN G. KATZ,

Secretary, U.S. Securities and Exchange Commission, Washington, DC.

DEAR SECRETARY KATZ: I am writing to formally comment as the Chief Securities Regulator of the Commonwealth of Massachusetts on the above-captioned proposed rules.

I am gravely concerned that several of the proposed rules will seriously and adversely affect Massachusetts investors. In many instances these proposed rules are in direct conflict with the intent of the NSMIA as annunciated by various members of Congress in the Congressional Record. As an active participant in the external discussions relating to NSMIA, I am very disturbed to see rulemaking that so clearly contradicts the often stated and well understood purpose of this statute. In particular, the attempt of the Commission to define the term "investment adviser representative" and thus limit the authority of state regulators is a direct contradiction of the Act in which Congress deliberately declined to define the term. Under the terms of the Act, only the states are specifically required to license or otherwise qualify investment adviser representatives. The authority to license must, by implication, contain the ability to define. The Commission should not impede the rights of the states in this regard.

Of even greater concern to Massachusetts consumers would be the effect of the proposed preemptions of state enforcement authority against dishonest or unethical conduct which does not rise to the level of fraud. This proposed rule is clearly anti-consumer and would provide safe harbor to those who deftly mislead. Moreover, it has the potential to drain the resources of state enforcement authority by possibly causing them to repeatedly litigate the enforceability of state regulation on a case by case basis. I strongly urge this portion of the rule be significantly amended or stricken.

Another portion of the proposed rule which represents an inappropriate preemption of state authority would be the effect of the proposed rule to limit state authority over investment adviser representatives to those that provide advice to natural persons. Such a preemption would leave a significant void in the regulatory plan. Not only small businesses would be left unprotected, but also many family trusts, retirement trusts and charitable institutions. This is a most unwise and unnecessary restriction.

On behalf of Massachusetts investors, I strongly object to the proposed exemption for individuals licensed as broker dealer agents from the definition of investment adviser representatives. This is a wholly inappropriate exemption since investment adviser representatives are fiduciaries who are much more likely to have discretion over client funds and, therefore, should be held to a different and higher standard.

Lastly, I would urge the Commission to eliminate the term "regularly" from the definition of "place of business". The use of this undefined term can only cause confusion in the interpretation of the rules particularly in an era of multiple media communications by investment agents.

All of these are significant issues which I urge the Commission to address before proceeding further with the rules.

Respectfully submitted,

WILLIAM FRANCIS GALVIN,
Secretary of the Commonwealth.

THE COMMONWEALTH OF MASSACHUSETTS, OFFICE OF THE ATTORNEY GENERAL,

Boston, MA, February 10, 1997.

Mr. JONATHAN KATZ,

Secretary, U.S. Securities and Exchange Commission, Washington, DC.

DEAR SECRETARY KATZ: Thank you for the opportunity to comment on the SEC's proposed Rules Implementing Amendments to the Investment Advisers Act. The Commission should be commended for continuing the efforts begun last Congress, with the National Securities Market Improvement Act of 1996 ("NSMIA"), to eliminate existing duplicative and inconsistent federal and state oversight efforts which sometimes result in greater delay, expense, and confusion without any apparent tangible benefit to investors. I have been very supportive of the federal/state efforts to streamline specific regulatory areas, such as mutual fund disclosure practices.

However, I am writing today to reiterate the important protections and preventative measures afforded by state regulatory and enforcement action. As a state Attorney General who often prosecutes enforcement cases involving fraud and deception in the securities and financial services area, I believe, as I did when the legislation was under consideration, that it is critical to preserve the necessary state enforcement powers in the area of sales and distribution practices.

On many of the occasions when my office investigates and prosecutes consumer protection related issues, elders are all too often the victims of fraudulent or deceptively sold investment schemes, financial planning abuses and other financial exploitation. In my opinion, protection of these small dollar, often elderly investors generally is provided by vigorous state involvement in the securities area. Yet, some of the language of the proposed Rules, through which the Commission attempts to achieve national uniformity, suggest an unknown, if not troublesome, impact on the states' ability to investigate, prosecute and regulate these areas. I

especially feel compelled to bring this to the Commission's attention, given that I have made elder protection a top priority in my present tenure as President of the National Association of Attorneys General, and in my past 14 years as a public prosecutor.

For example, language which purports to prohibit states from prosecuting or regulating "dishonest" or "unethical" business practices could seriously impede the broader state antideception and fraud enforcement efforts. The Commission's attempt to implement a new, narrow federal standard in this area is unwise and constitutes a clear threat to investor protection. In Massachusetts, for example, cases involving deception may be difficult to pursue under the Commission's standard. Moreover, cases that typically are pursued by a rigorous Attorney General or state securities division, may not trigger the Commission's or the U.S. Attorney's inquiry or involvement, particularly given that the Commission only audits smaller investments once every four years.

Additionally, the Commission should proceed cautiously before implementing rules which may have an adverse impact on state revenue, and more importantly may place broad and unwise restrictions on the ability of state regulators, securities agencies and legislatures to police the licensing of and prosecute fraudulent brokers, dealers, advisers, planners and their agents. In particular, the definition proposed by the Commission seeks to limit state registration and licensing requirements to include only those "investment adviser representatives" who provide advice to clients who are "natural persons." This specifically excludes "investment adviser representatives," whose clients are investment companies, businesses, educational institutions, charitable institutions and other entities, but who historically have been regulated by the states, not the Commission. Indeed, this would preempt even minimal criteria established by securities enforcement authorities in virtually all states which often protects less-sophisticated retail entities, such as small businesses and charitable institutions. In the wake of the New Era debacle and other large-scale scams targeting our non-profit sector, I urge the Commission not to leave our public charities easy prey to abusive sales practices in the investment area.

The Commission's definition of "place of business" limiting state registration and qualifications to those who have "regular" contact with residents of Massachusetts also is troublesome in light of the telemarketing and Internet activities by unscrupulous investment advisers, many of whom prey on the elderly and less sophisticated investors. Of questionable legality in our federalist system, this limitation on the reach of state law to protect its own citizens may make it even more difficult for state prosecutors to target and punish fraudulent out of state telemarketers who frequently relocate and purposefully avoid physical presence in various states. This proposed federal definition of "place of business" inevitably will cause confusion and legal challenge given that jurisdictional issues raised by Internet activities remain unresolved. Without a more comprehensive definition, this could result in unfettered telephone or Internet-directed contact to any Massachusetts residents given the uncertainties surrounding where a person who sends out a general message on the Internet is doing business. Courts only now are beginning to address such questions arising out of where the computer is located, where the home page is listed, and where all or some of the customers or potential customers reside.

Finally, in the Commission's otherwise prudent efforts to streamline and eliminate duplicative state/Commission registering and de-registering within the same year, it proposes a standard by which new applicants could avoid state qualification (and registration) based on a "reasonable expectation" they will exceed $25 million in assets. However, this standard is subject to manipulation, may be difficult to monitor, may result in arbitrary enforcement, and may become vulnerable to abuse by unscrupulous advisers seeking to avoid state regulation and authority.

Congress attempted to maintain the correct balance while promoting uniform regulation and more efficient division of responsibility for regulation between the Federal and State governments. The Commission should avoid now setting forth sweeping and legally unsound federal preemption standards, that could endanger elderly and other small dollar investors by adversely impacting state enforcement of state securities anti-fraud and consumer protection statutes. In addition, the continued state-level registration and review of small dollar/regional securities offerings, investment advisers and financial planners is essential to consumer protection.

I urge the Commission to promulgate rules that will ensure that federal laws continue to permit states to gather the resources and retain the authority to effectively and comprehensively continue their role in securing investor protection and market integrity.

Thank you for your consideration.

Sincerely,

SCOTT HARSHBARGER,
Attorney General.

Mr. BLILEY. Mr. Speaker, at the time S. 410 was brought up for consideration in the House and passed, the Congressional Budget Office had not completed its cost estimate for the bill. The Congressional Budget Office has since completed its estimate and I ask that it be inserted in the CONGRESSIONAL RECORD at the appropriate place in the debate on S. 410.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 21, 1997.

Hon. TOM BLILEY,
Chairman, Committee on Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: At your request, the Congressional Budget Office has prepared the enclosed cost estimate for S. 410, an act to extend the effective date of the Investment Advisors Supervision Coordination Act, as passed by the House of Representatives on March 18, 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Rachel Forward and Pepper Santalucia.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 410—An act to extend the effective date of the Investment Advisors Supervision Coordination Act

CBO estimates that S. 410 would have no significant effect on the federal budget. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply. In addition, S. 410 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would impose no costs on state, local, or tribal governments.

S. 410 would delay, from April 9, 1997, to July 8, 1997, the effective date for the Investment Advisors Supervision Coordination Act, enacted on October 11, 1996, as title III of Public Law 104–864. The Investment Advisors Supervision Coordination Act eases registration and bookkeeping requirements for certain investment advisers. The law exempts investment advisers already regulated by a state from registering with the Securities and Exchange Commission (SEC) unless the investment adviser manages assets greater than $25 million or acts as an adviser to an investment or business development company. In addition, the law restricts the ability of a state to impose certain requirements on investment advisers who conduct business in a state but maintain their principal place of business elsewhere.

Enacting S. 410 would provide the SEC and states with more time to prepare for the changes required by the 1996 act. CBO estimates that the SEC's workload would not change significantly as a result of the 90-day extension.

The CBO staff contacts for this estimate are Rachel Forward, for the federal budgetary impact, and Pepper Santalucia, for the state and local impact. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

Mr. GILLMOR. Mr. Speaker, will the gentleman yield to me under his reservation for an explanation?

Mr. MANTON. I yield to the gentleman from Ohio.

Mr. GILLMOR. Mr. Speaker, I thank the gentleman for yielding. As the gentleman has said, this bill does provide a 90-day extension of the effective date of title III of the National Securities Markets Improvement Act of 1996. The reason for the extension, which has been requested by SEC Chairman Arthur Levitt, is necessary to ensure the orderly implementation of the provisions of the Investment Advisors Supervision Coordination Act, which is title III of the Improvement Act.

Pursuant to that act, the regulatory status of over 22,000 investment advisors in the country will change. The SEC has proposed rules that will guide the investment advisors as to whether they are subject to either Federal or State regulation under the act, as opposed to being subject to regulation at both the Federal and State levels under the current law.

Chairman Levitt has expressed concerns that the effective date of title III, which is April 9, will not permit adequate time to permit investment advisors to consult with counsel to determine their regulatory status, and to submit the necessary forms to the commission to deregister if they are deemed to be small advisors and therefore subject to State, rather than Federal, regulation.

Lack of sufficient time would cause these small investment advisors, who are intended by the act to be regulated by the States, to be unable to deregister from the Commission prior to the effective date. That would result

in the State being preempted from regulating the very advisors that they are intended to regulate under the act.

Accordingly, the Chairman has requested this extension in a letter to the gentleman from Virginia [Mr. BLILEY], the Chairman of the Committee on Commerce, dated February 12. This is a responsible request that I strongly support. I think Congress in the last session marked a significant achievement with the passage of the improvement act, which is going to bring greater efficiency and effectiveness to the regulation of U.S. security markets, including the regulation of investment advisors, and I would urge my colleagues to support S. 410.

Mr. MANTON. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 410

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

SECTION 1. EXTENSION OF EFFECTIVE DATE.

Section 308(a) of the Investment Advisers Supervision Coordination Act (110 Stat. 3440) is amended by striking "180" and inserting "270".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider to laid on the table.

GENERAL LEAVE

Mr. GILLMOR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 410.

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

There was no objection.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule 1, the pending business is the question de novo of the Speaker's approval of the Journal.

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

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House a communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 18, 1997.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Under Clause 4 of Rule III of the Rules of the U.S. House of Representatives, in addition to Ms. Julie Perrier, Assistant Clerk, I herewith designate Ray Strong, Assistant Clerk, to sign any and all papers and do all other acts for me under the name of the Clerk of the House which he would be authorized to do by virtue of this designation, except such as are provided by statute, in case of my temporary absence or disability.

This designation shall remain in effect for the 105th Congress or until modified by me.

With warm regards,

ROBIN H. CARLE,
Clerk, House of Representatives.

SPECIAL ORDERS

The SPEAKER pro tempore. 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.

CONFIRMATION OF ALEXIS HERMAN AS SECRETARY OF LABOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. HILLIARD] is recognized for 5 minutes.

Mr. HILLIARD. Mr. Speaker, I am proud to rise to urge the confirmation of Alexis Herman as the next Secretary of Labor. Mrs. Herman will make a great Secretary. Her background is a modern day equivalent of being born in a log cabin, and her career successes mirror that of a Wall Street broker. That is an all-American combination.

Mrs. Herman is well aware of what this Nation needs to keep its labor force on the great track already established by the President. That is why she will make a great Secretary of Labor. She worked at the Labor Department during the Carter administration as the department director of the Women's Bureau, the youngest in history to hold that office. She did a tremendous job. She excelled in assisting women to find meaningful employment in those breakthrough years for women, and she will bring this same type of creativity, the same zeal with her as she confronts the issues of the 21st century.

Throughout her career, Alexis has been one who has tried to bring workers and employers together, white collars and blue collars, black and white, men and women together.

Mr. Speaker, we need a Secretary of Labor who will bring people together, who will aid and assist people in being trained for the new technologies and the new jobs of the 21st century. We need someone with the strength and the desire to bring diversity to the workplace. Alexis Herman is the one to deliver.

RULES OF PROCEDURE FOR THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE, 105TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, pursuant to the requirement of clause 2(a) of rule XI of the Rules of the House of Representatives, I submit herewith the rules of the Committee on National Security for the 105th Congress and ask that they be printed in the RECORD at this point.

RULES OF PROCEDURE FOR THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

U.S. HOUSE OF REPRESENTATIVES—REVISED MARCH 1997

1. CONVENING OF MEETINGS

The regular meeting day of the Permanent Select Committee on Intelligence for the transaction of committee business shall be on the first Wednesday of each month, unless otherwise directed by the chairman.

In the case of any meeting of the committee, other than a regularly scheduled meeting, the clerk of the committee shall notify every member of the committee of the time and place of the meeting and shall give reasonable notice which, except in extraordinary circumstances, shall be at least 24 hours in advance of any meeting held in Washington, D.C., and at least 48 hours in the case of any meeting held outside Washington, D.C.

2. PREPARATIONS FOR COMMITTEE MEETINGS

Under direction of the chairman, designated committee staff members shall brief members of the committee at a time sufficiently prior to any committee or subcommittee meeting to assist the committee members in preparation for such meeting and to determine any matter which the committee members might wish considered during the meeting. Such briefing shall, at the request of a member, include a list of all pertinent papers and other materials that have been obtained by the committee that bear on matters to be considered at the meeting.

The staff director shall recommend to the chairman the testimony, papers, and other materials to be presented to the committee or subcommittee at any meeting. The determination whether such testimony, papers, and other materials shall be presented in open or executive session shall be made pursuant to the Rules of the House and these rules.

3. MEETING PROCEDURES

Meetings of the committee and its subcommittees shall be open to the public except that a portion or portions of any such meeting may be closed to the public if the committee or subcommittee, as the case may be, determines by record vote in open session and with a majority present that the matters to be discussed or the testimony to be taken on such matters would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person, or otherwise would violate any law or rule of the House.

Except for purposes of taking testimony or receiving evidence, for which purposes a quorum shall consist of two committee members, a quorum for the transaction of any other committee business shall consist of nine committee members. Decisions of the committee shall be by majority vote of the members present and voting.

Whenever the committee by rollcall vote reports any measure or matter, the report of the committee upon such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter.

4. PROCEDURES RELATED TO THE TAKING OF TESTIMONY

Notice.—Reasonable notice shall be given to all witnesses appearing before the committee.

Oath or Affirmation.—Testimony of witnesses shall be given under oath or affirmation which may be administered by any member of the committee, except that the chairman of the committee or of any subcommittee shall not require an oath or affirmation where the chairman determines that it would not be appropriate under the circumstances.

Interrogation.—Committee or subcommittee interrogation shall be conducted by members of the committee and such committee staff as are authorized by the chairman or the presiding member.

Counsel for the Witness.—(A) Any witness may be accompanied by counsel. A witness who is unable to obtain counsel may inform the committee of such fact. If the witness informs the committee of this fact at least 24 hours prior to the witness' appearance before the committee, the committee shall then endeavor to obtain voluntary counsel for the witness. Failure to obtain such counsel will not excuse the witness from appearing and testifying.

(B) Counsel shall conduct themselves in an ethical and professional manner. Failure to do so shall, upon a finding to that effect by a majority of the members of the committee, a majority being present, subject such counsel to disciplinary action which may include censure, removal, or a recommendation of contempt proceedings, except that the chairman of the committee or of a subcommittee may temporarily remove counsel during proceedings before the committee or subcommittee unless a majority of the members of the committee or subcommittee, a majority being present, vote to reverse the ruling of the chair.

(C) There shall be no direct cross-examination by counsel. However, counsel may submit in writing any question counsel wishes propounded to a client or to any other witness and may, at the conclusion of such testimony, suggest the presentation of other evidence or the calling of other witnesses. The committee or subcommittee may use such questions and dispose of such suggestions as it deems appropriate.

Statements by Witnesses.—A witness may make a statement, which shall be brief and relevant, at the beginning and conclusion of the witness' testimony. Such statements shall not exceed a reasonable period of time as determined by the chairman, or other presiding member. Any witness desiring to make a prepared or written statement for the record of the proceedings shall file a copy with the clerk of the committee, and insofar as practicable and consistent with the notice given, shall do so at least 72 hours in advance of the witness' appearance before the committee.

Objections and Ruling.—Any objection raised by a witness or counsel shall be ruled upon by the chairman or other presiding member, and such ruling shall be the ruling of the committee unless a majority of the committee present overrules the ruling of the chair.

Transcripts.—A transcript shall be made of the testimony of each witness appearing before the committee or any subcommittee during a committee or subcommittee hearing.

Inspection and Correction.—All witnesses testifying before the committee or any subcommittee shall be given a reasonable opportunity to inspect the transcript of their testimony to determine whether such testimony was correctly transcribed. The witness may be accompanied by counsel. Any corrections the witness desires to make in the transcript shall be submitted in writing to the committee within 5 days from the date when the transcript was made available to the witness. Corrections shall be limited to grammar and minor editing, and may not be made to change the substance of the testimony. Any questions arising with respect to such corrections shall be decided by the chairman. Upon request, those parts of testimony given by a witness in executive session which are subsequently quoted or made part of a public record shall be made available to that witness at the witness' expense.

Requests to Testify.—The committee or subcommittee will consider requests to testify on any matter or measure pending before the committee or subcommittee. A person who believes that testimony or other evidence presented at a public hearing, or any comment made by a committee member or a member of the committee staff may tend to affect adversely that person's reputation, may request to appear personally before the committee to testify on his or her own behalf, or may file a sworn statement of facts relevant to the testimony, evidence, or comment, or may submit to the chairman proposed questions in writing for the cross-examination of other witnesses. The committee shall take such actions as it deems appropriate.

Contempt Procedures.—No recommendation that a person be cited for contempt of Congress shall be forwarded to the House unless and until the committee has, upon notice to all its members, met and considered the alleged contempt, afforded the person an opportunity to state in writing or in person why he or she should not be held in contempt, and agreed, by majority vote of the committee to forward such recommendation to the House.

Release of Name of Witness.—At the request of any witness, the name of that witness scheduled to be heard by the committee shall not be released prior to, or after, the witness' appearance before the committee, unless otherwise authorized by the chairman.

Closing Hearings.—A vote to close a committee or subcommittee hearing may not be taken by less than a majority of the committee or the subcommittee pursuant to clause 4 of House Rule XLVIII unless at least one member of the minority is present to vote upon a motion to close the hearing.

5. SUBCOMMITTEES

Creation of subcommittees shall be by majority vote of the committee. Subcommittees shall deal with such legislation and oversight of programs as the committee may direct. The subcommittees shall be governed by the rules of the committee.

Except for purposes of taking testimony or receiving evidence, for which purposes a quorum shall consist of two subcommittee members, a quorum for the transaction of any other subcommittee business shall consist of a majority of the subcommittee.

There are hereby established the following subcommittees: (1) Human Intelligence, Analysis and Counterintelligence; and (2) Technical and Tactical Intelligence.

The Chairman and Ranking Minority Member of the full committee are authorized to sit as ex officio members of each subcommittee and to participate in the work of the subcommittee, except, when sitting as ex officio members, they shall not have a vote in the subcommittee [nor be counted for purposes of determining a quorum].

6. INVESTIGATIONS

No investigation shall be conducted by the committee unless approved by the full committee, a majority being present; provided, however, that an investigation may be initiated—

(1) at the direction of the chairman of the full committee, with notice to the ranking minority member of the full committee; or

(2) at the written request to the chairman of the full committee of at least five members of the committee, except that any investigation initiated under (1) or (2) must be brought to the attention of the full committee for approval at the next regular meeting of the full committee following initiation of the investigation. Authorized investigations may be conducted by members of the committee and/or designated committee staff members.

7. SUBPOENAS

Unless otherwise determined by the committee, the chairman, upon consultation with the ranking minority member, or the committee, shall authorize and issue subpoenas. Subpoenas for the attendance of witnesses or the production of memoranda, documents, records or any other material may be issued by the chairman, or any member of the committee designated by the chairman, and may be served by any person designated by the chairman or member issuing the subpoenas. Each subpoena shall have attached thereto a copy of these rules.

8. STAFF

For the purpose of these rules, committee staff means employees of the committee, consultants to the committee, employees of other Government agencies detailed to the committee, or any other person engaged by contract or otherwise to perform services for or at the request of the committee. In addition, the Speaker and minority leader each may designate a member of their leadership staff to assist them in their capacity as ex officio members, with the same access to committee meetings, hearings, briefings, and materials as if employees of the select committee, and subject to the same security clearance and confidentiality requirements as employees of the select committee under this rule.

The appointment of committee staff shall be by the chairman in consultation with the ranking minority member. After confirmation, the chairman shall certify committee staff appointments to the Clerk of the House in writing.

The committee staff works for the committee as a whole, under the supervision of the chairman of the committee. Except as otherwise provided by the committee, the duties of committee staff shall be performed and committee staff personnel affairs and day-to-day operations, including security and control of classified documents and material, shall be administered under the direct supervision and control of the staff director.

The committee staff shall assist the minority as fully as the majority in all matters of committee business and in the preparation and filing of additional, separate and minority views, to the end that all points of view may be fully considered by the committee and the House.

The members of the committee staff shall not discuss either the classified substance or procedure of the work of the committee with any person not a member of the committee or the committee staff for any purpose or in connection with any proceeding, judicial or

otherwise, either during that person's tenure as a member of the committee staff or at any time thereafter except as directed by the committee in accordance with clause 7 of House Rule XLVIII and the provisions of these rules, or, in the event of the termination of the committee, in such a manner as may be determined by the House.

No member of the committee staff shall be employed by the committee unless and until such a member of the committee staff agrees in writing, as a condition of employment, not to divulge any classified information which comes into such person's possession while a member of the committee staff or any classified information which comes into such person's possession by virtue of his or her position as a member of the committee staff to any person not a member of the committee or the committee staff, either while a member of the committee staff or at any time thereafter except as directed by the committee in accordance with clause 7 of House Rule XLVIII and the provisions of these rules, or in the event of the termination of the committee, in such manner as may be determined by the House.

No member of the committee staff shall be employed by the committee unless and until such a member of the committee staff agrees in writing, as a condition of employment, to notify the committee, or, in the event of the committee's termination, the House, of any request for testimony, either while a member of the committee staff or at any time thereafter with respect to classified information which came into the staff member's possession by virtue of his or her position as a member of the committee staff. Such classified information shall not be disclosed in response to such requests except as directed by the committee in accordance with clause 7 of House Rule XLVIII and the provisions of these rules, or in the event of the termination of the committee, in such manner as may be determined by the House.

The committee shall immediately consider disciplinary action to be taken in case any member of the committee staff fails to conform to any of these rules. Such disciplinary action may include, but shall not be limited to, immediate dismissal from the committee staff.

9. RECEIPT OF CLASSIFIED MATERIAL

In the case of any information classified under established security procedures and submitted to the committee by the executive or legislative branch, the committee's acceptance of such information shall constitute a decision by the committee that it is executive session material and shall not be disclosed publicly or released unless the committee, by rollcall vote, determines, in a manner consistent with clause 7 of House Rule XLVIII, that it should be disclosed publicly or otherwise released. For purposes of receiving information from either the executive or legislative branch, the committee staff may accept information on behalf of the committee.

10. PROCEDURES RELATED TO CLASSIFIED OR SENSITIVE MATERIAL

(a) Committee staff offices shall operate under strict security precautions. At least one security officer shall be on duty at all times by the entrance to control entry. Before entering the office all persons shall identify themselves.

Sensitive or classified documents and material shall be segregated in a security storage area. They may be examined only at secure reading facilities. Copying, duplicating, or removal from the committee offices of such documents and other materials are prohibited except as is necessary for use in, or preparation for, interviews or committee meetings, including the taking of testimony in conformity with these rules.

Each member of the committee shall at all times have access to all papers and other material received from any source. The staff director shall be responsible for the maintenance, under appropriate security procedures, of a registry which will number and identify all classified papers and other classified materials in the possession of the committee and such registry shall be available to any member of the committee.

(b) Pursuant to clause (7)(c)(2) of House Rule XLVIII and to clause (2)(e)(2) and clause 2(g)(2) of House Rule XI, members who are not members of the committee shall be granted access to such transcripts, records, data, charts, and files of the committee and be admitted on a nonparticipatory basis to hearings or briefings of the committee which involve classified material, on the basis of the following provisions:

(1) Members who desire to examine materials in the possession of the committee or to attend committee hearings or briefings on a nonparticipatory basis should notify the clerk of the committee in writing.

(2) Each such request by a member must be considered by the committee, a quorum being present, at the earliest practicable opportunity. The committee must determine by record vote whatever action it deems necessary in light of all the circumstances of each individual request. The committee shall take into account, in its deliberations, such considerations, as the sensitivity of the information sought to the national defense or the confidential conduct of the foreign relations of the United States, the likelihood of its being directly or indirectly disclosed, the jurisdictional interest of the member making the request and such other concerns—constitutional or otherwise—as affect the public interest of the United States. Such actions as the committee may take include, but are not limited to: (i) approving the request, in whole or part; (ii) denying the request; (iii) providing in different form than requested information or material which is the subject of the request.

(3) In matters touching on such requests, the committee may, in its discretion, consult the Director of Central Intelligence and such other officials as it may deem necessary.

(4) In the event that the member making the request in question does not accede to the determination or any part thereof of the committee as regards the request, that member should notify the committee in writing of the grounds for such disagreement. The committee shall subsequently consider the matter and decide, by record vote, what further action or recommendation, if any, it will take.

(c) Pursuant to Section 501 of the National Security Act of 1947 (50 U.S.C. 413) and to clauses 3(a) and 7(c)(2) of House Rule XLVIII, the committee shall call to the attention of the House or to any other appropriate committee or committees of the House any matters requiring the attention of the House or such other committee or committees of the House on the basis of the following provisions:

(1) At the request of any member of the committee, the committee shall meet at the earliest practicable opportunity to consider a suggestion that the committee call to the attention of the House or any other committee or committees of the House executive session material.

(2) In determining whether any matter requires the attention of the House or any other committee or committees of the House, the committee shall consider, among such other matters it deems appropriate—

(A) the effect of the matter in question upon the national defense or the foreign relations of the United States; (B) whether the matter in question involves sensitive intelligence sources and methods; (C) whether the matter in question otherwise raises serious questions about the national interest; and (D) whether the matter in question affects matters within the jurisdiction of another committee or committees of the House.

(3) In examining the considerations described in paragraph (2), the committee may seek the opinion of members of the committee appointed from standing committees of the House with jurisdiction over the matter in question or to submissions from such other committees. Further, the committee may seek the advice in its deliberations of any executive branch official.

(4) If the committee, with a quorum present, by record vote decides that a matter requires the attention of the House or a committee or committees of the House which the committee deems appropriate, it shall make arrangements to notify the House or committee or committees promptly.

(5) In bringing a matter to the attention of another committee or committees of the House, the committee, with due regard for the protection of intelligence sources and methods, shall take all necessary steps to safeguard materials or information relating to the matter in question.

(6) The method of communicating matters to other committees of the House shall insure that information or material designated by the committee is promptly made available to the chairman and ranking minority member of such other committees.

(7) The committee may bring a matter to the attention of the House when it considers the matter in question so grave that it requires the attention of all members of the House, if time is of the essence, or for any other reason which the committee finds compelling. In such case, the committee shall consider whether to request an immediate secret session of the House (with time equally divided between the majority and the minority) or to publicly disclose the matter in question pursuant to clause 7 of House Rule XLVIII.

(d) Whenever the select committee makes classified material available to any other committee of the House or to any member of the House not a member of the committee, the clerk of the committee shall be notified. The clerk shall at that time provide a copy of the applicable portions of these rules and of House Rule XLVIII and other pertinent Rules of the House to such members or such committee and insure that the conditions contained therein under which the classified materials provided are clearly presented to the recipient. The clerk of the committee shall also maintain a written record identifying the particular information transmitted, the reasons agreed upon by the committee for approving such transmission and the committee or members of the House receiving such information. The staff director of the committee is further empowered to provide for such additional measures as he or she deems necessary in providing material which the committee has determined to make available to a member of the House or a committee of the House.

(e) Access to classified information supplied to the committee shall be limited to

those committee staff members with appropriate security clearance and a need-to-know, as determined by the committee, and under the committee's direction, the staff director.

No member of the committee or of the committee staff shall disclose, in whole or in part or by way of summary, to any person not a member of the committee or the committee staff for any purpose or in connection with any proceeding, judicial or otherwise, any testimony given before the committee in executive session, or the contents of any classified papers or other classified materials or other classified information received by the committee report as authorized by the committee in a manner consistent with clause 7 of House Rule XLVIII and the provisions of these rules, or in the event of the termination of the committee, in such a manner as may be determined by the House.

Before the committee makes any decision regarding a request for access to any testimony, papers or other materials in its possession or a proposal to bring any matter to the attention of the House or a committee or committees of the House, committee members shall have a reasonable opportunity to examine all pertinent testimony, papers, and other materials that have been obtained by the committee.

(f) Before any member of the committee or the committee staff may have access to classified information the following oath shall be executed:

I do solemnly swear (or affirm) that I will not disclose any classified information received in the course of my service on the House Permanent Select Committee on Intelligence, except when authorized to do so by the committee or the House of Representatives.

Copies of the executed oath shall be retained in the files of the committee.

11. LEGISLATIVE CALENDAR

The clerk of the committee shall maintain a printed calendar for the information of each committee member showing the measures introduced and referred to the committee and the status of such measures—and such other matters as the committee determines shall be included. The calendar shall be revised from time to time to show pertinent changes. A copy of each such revision shall be furnished to each member of the committee.

Unless otherwise ordered, measures referred to the committee shall be referred by the clerk of the committee to the appropriate department or agency of the Government for reports thereon.

12. COMMITTEE TRAVEL

No member of the committee or committee staff shall travel on committee business unless specifically authorized by the chairman. Requests for authorization of such travel shall state the purpose and extent of the trip. A full report shall be filed with the committee when travel is completed.

A report on all foreign travel shall be filed with the committee clerk within 60 calendar days of the completion of said travel. The report shall contain a description of all issues discussed during the trip. If a member of the committee or an individual with the committee staff fails to comply with this requirement, no further travel requests requiring the authorization of the chairman will be authorized for these individuals until compliance is achieved.

When the chairman approves the foreign travel of a member of the committee staff not accompanying a member of the committee, all members of the committee are to be advised, prior to the commencement of such travel of its extent, nature and purpose. The report referred to in the previous paragraph shall be furnished to all members of the committee and shall not be otherwise disseminated without the express authorization of the committee pursuant to the rules of the committee.

13. BROADCASTING COMMITTEE MEETINGS

Whenever any hearing or meeting conducted by the committee or any subcommittee is open to the public, a majority of the committee or subcommittee, as the case may be, may permit that hearing or meeting to be covered, in whole or in part, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage, subject to the provisions and in accordance with the spirit of the purposes enumerated in clause 3 of Rule XI of the Rules of the House.

14. COMMITTEE RECORDS TRANSFERRED TO THE NATIONAL ARCHIVES

The records of the committee at the National Archives and Records Administration shall be made available for public use in accordance with rule XXXVI of the Rules of the House of Representatives. The chairman shall notify the ranking minority member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the committee for a determination on the written request of any member of the committee.

15. CHANGES IN RULES

These rules may be modified, amended, or repealed by the committee, provided that a notice in writing of the proposed change has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken.

ALEXIS HERMAN—EXCELLENT CANDIDATE FOR SECRETARY OF LABOR

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Ms. BROWN] is recognized for 5 minutes.

Ms. BROWN of Florida. Mr. Speaker, I rise today in support of Alexis Herman, who is the most appropriate person to head this country's Department of Labor. As many of my colleagues know, Mrs. Herman has spent much of her life preparing for this job. Almost 20 years ago, Mrs. Herman headed the women's division of the Department of Labor under President Carter and she has been building on that success ever since. Mrs. Herman has spent most of her working life as an advocate for minorities in businesses, including the corporate sector.

□ 1845

She has been an effective leader, and she has looked out for the interests of the working people of this country. Because of her efforts, this country is now a better place for business and for the workers. Mrs. Herman has done a great job heading the President's liaison office for the last 4 years, and she will do even a better job as heading the Department of Labor.

As an African-American and a woman, Mrs. Herman has overcome many obstacles in her rise to become one of the leading advocates for business and economic development in our country. I implore my colleagues in the Senate to confirm the nomination of Alexis Herman without delay.

Ms. Herman has earned our support and our confidence.

Mr. Speaker, I yield to the gentleman from Alabama [Mr. HILLIARD] for a colloquy.

Mr. HILLIARD. Mr. Speaker, I understand the gentlewoman from Florida has a fantastic story she would like to tell us about Ms. Alexis Herman.

Ms. BROWN of Florida. Mr. Speaker, I thank the gentleman.

Recently in Eatonville, a little town in my district, a young lady came up to me and asked me did I know Mrs. Alexis Herman because she was from Mobile, AL. And speaking of family values, she told me about her mother who was the librarian in the little school there and taught them the importance of taking care of what they had since they did not have much. Her father was a community leader and sent best wishes to Ms. Alexis Herman. So when we talk about family values, it is important to understand that Alexis Herman comes from the kind of roots that has made this country great.

Mr. Speaker, I yield to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. Mr. Speaker, I thank the gentlewoman for yielding to me. Once in a while good people come into government, good people who base their decisionmaking on experience, good people who base their decisionmaking on the love of God and faith in the people. Alexis Herman is that kind of person.

I stand to ask support of the Senate to confirm Ms. Alexis Herman. They could not find a better person, both from an educational point of view, from a professional point of view and from a personal point of view. They will find someone who is a team player, who will look through both parties, not one, who will look to the education of our children to be sure that they learn to work. She understands the work ethic. She understands labor. She is fair.

Mr. Speaker, to my dear colleagues, I think today this country and our wonderful Nation did itself proud in the U.S. Senate, because there was a very, very good and positive hearing about Alexis Herman's qualifications. I am very pleased that we are here today to say that. We have a person who understands. She is no ordinary person. She is no ordinary government worker. She is an extraordinary person who understands how to do ordinary things.

GENERAL LEAVE

Ms. BROWN of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within

which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore [Mr. EWING]. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair reminds all Members that they should refrain from referring to the confirmation proceedings in the Senate by advocating that it take certain action with respect to a Presidential nominee.

ORDER OF BUSINESS

Mr. MCINNIS. Mr. Speaker, I ask unanimous consent that I be able to switch times with the gentleman from Pennsylvania [Mr. GEKAS].

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

There was no objection.

PARTIAL BIRTH ABORTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. MCINNIS] is recognized for 5 minutes.

Mr. MCINNIS. Mr. Speaker, this evening my comments are going to be about a procedure that I did not even know existed as of 2 years ago, and that is called partial birth abortion. What is partial birth abortion? I think it is incumbent upon every citizen of this country, every American in this country to understand what that procedure is.

Now, let me explain it to my colleagues without trying to get too graphic. What it is, it is the abortion in the late term of a pregnancy. What do I mean by that and how does this procedure carry it out? What I mean is that in this country it is legal for a pregnant individual to go into the delivery room on delivery date, 9 months, upon delivery date and have that fetus aborted.

How is the procedure carried out? The baby is actually delivered feet first all the way out of the woman's body except for about 1 inch of the baby's head. At that point in time, a procedure is instituted which pierces the skull and, frankly, sucks the brains out of this individual. This is at 9 months or 8 months or 7 months. This is not the usual term of abortion as we think about it or hear about it. This procedure is actually performed not rarely, by the way. Even an advocate of this procedure admitted that he lied last year when he said that it was a rare procedure. It is a procedure that is performed on a fairly common basis.

Think of it in our country. We have some of the most advanced hospitals in the world. On one end of the hospital we will use whatever technology is available, whatever cash resources are necessary to save the life of a premature baby that on a lot of occasions may be no larger than your hand. On the other end of the hospital, a 9-month delivery, a regular delivery, no prematurity, a regular delivery, we allow under our laws in this country for any reason whatsoever for that child's life to be terminated, terminated through this procedure.

Some will tell us that this is a rare procedure, that it is a procedure performed for medical necessity.

Let me quote from C. Everett Koop: "I believe Mr. Clinton was misled by his medical advisors on what is fact and what is fiction on the matter," he said.

Such a procedure, he added, cannot truthfully be called medically necessary for either the mother or, he scarcely need point out, for the baby.

Dr. Romer, Dr. Smith, Dr. Cook and Dr. DeCook:

> None of this risk is ever necessary for any reason. We and many other doctors across the United States regularly treat women whose unborn children suffer the same conditions as those cited by the women who appeared in the veto ceremony held a year ago by the President. Never is the partial birth procedure necessary.

Let me quote from the Wall Street Journal, Thursday April 25:

> With capital punishment back in vogue, we ought to devise a modern method of execution for particularly fiendish criminals, the Unabomber, if convicted of these diabolical acts of which he is suspected, for example. We have a modest proposal. Why not stick a catheter in his brain and suck it out until his skull collapses. We jest, of course. No one would think of doing this to another human being, even the Unabomber, but the President of the United States stands up foursquare for doing to it babies still in the womb but nearing birth, vetoing Congress's attempt to ban this procedure in late term abortions. And of course he gets plaudits from all those eager to brand the Christian right or other abortion foes as extremists.

Let me say, the Wall Street Journal is not a pro-life publication. These columns, speaking of the Wall Street Journal, have never been part of the pro-life movement.

> Lay aside the Unabomber, how about a baboon, for that matter a white rat? The Federal Government has extensive sets of rules and regulations on the humane treatment of animals in biomedical research. There are U.S. government principles on the utilization and the care of vertebrate animals, for example, and a Federal Animal Welfare Act. Each research institution must ponder these issues through a committee with at least one outside member representing the public. The regulations mandate "avoidance of minimization of discomfort, distress and pain," and specify "Surgical or other painful procedures should not be performed on unanesthetized animals paralyzed by chemical agents.

To the people of this country, to my colleagues in this Chamber, understand what partial birth abortion means. It is wrong. Understand that this procedure is not an abortion performed the day after intercourse takes place. This is a procedure that legally in this country can be performed 9 months after that intercourse takes place, on delivery date. It is important that we all support the ban on this procedure. It is wrong to allow it to happen in this country.

SUPPORT FOR NOMINATION OF ALEXIS HERMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Michigan [Ms. KILPATRICK] is recognized for 5 minutes.

Ms. KILPATRICK. Mr. Speaker, as most Americans know, March is the month for women. It is Women's History Month in the United States.

I first want to commend the five women in Aberdeen last week who came forward and recanted their stories that they had been raped by their drill sergeants. I think that was an outstanding tribute to women, and I think their courage for coming forth and telling the truth must be congratulated.

Today the Senate started their hearings for a fine African-American woman, Alexis Herman, to become the next Secretary of our Labor Department. We are almost in the second quarter of 1997. Nearly 3 months have passed and we do not have yet the President's nominee for the Department of Labor. I commend the Senate for beginning the hearings for Ms. Alexis Herman.

Ms. Herman, like me, is an African-American woman. Ms. Herman is a lover of education and is well documented and degreed like myself.

Ms. Herman is a civil rights activist for men and women, black and white in this country, and her record speaks for itself.

With all that said, that is not why I believe Alexis Herman ought to be confirmed. She is qualified. She is dedicated, and she will provide for this U.S. Labor Department what we need, which is a strong fighter for jobs, one who will make opportunities available for our young people, one who will give her best to see that our Labor Department reaches its goal of full employment in America.

I strongly support Ms. Herman. Her record of advancing programs for young people, for going that extra mile to develop creative, innovative work experiences for young and old, black and white, is to be commended.

Alexis Herman will make a fine Labor Secretary. Her hard work up to this time has proven that she is one who will take risks. She will speak out. She will look out for our young people and take care of our labor movement.

I urge my colleagues, all of us, to work together, to speak out, to see

that this most important department in our government, the Labor Department, confirms this fine woman. What better tribute could we give to women in this country than to confirm Alexis Herman as our new Secretary of Labor?

EDUCATION AT A CROSSROADS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. HOEKSTRA] is recognized for 5 minutes.

Mr. HOEKSTRA. Mr. Speaker, over the last few months we have been engaged in a process which we call Education at a Crossroads, visiting different parts of the country, visiting different school districts within my congressional district, getting feedback on the effectiveness, the quality, and the impact that Federal education programs have had.

There has been some dispute about some of the findings that we may have received, but what we have been hearing consistently is that there is significant room for improvement in how the Washington establishment, how the Federal bureaucracy delivers programs to the classroom, how we help kids at the local level.

A couple of weeks ago in Delaware, Bill Manning, the local superintendent of the Red Clay School District in Wilmington, DE, said he would rather see safe and drug free schools money go to academic programs of the district's choosing, asking for district flexibility. "It is time to ask ourselves whether the time we take out of the classroom for drug awareness programs is time well spent," he said.

He is looking for more flexibility to do for the kids in Wilmington, Delaware what they believe is most needed.

Mr. Carper, the Democratic Governor of Delaware, said, We must free the schools of regulations.

In California, Arizona, Delaware, we have heard time and time again that there are too many regulations associated with the hundreds of Federal programs that we have for education in America today. Marian Berguson, representative of Governor Wilson in California said, Federal requirements and dictates are stifling. That is not what we want in education at the local level. We want innovation; we want creativity, and we want results.

Lisa Graham Keegan, Arizona State Superintendent, noted that 8 percent of Arizona's education money comes from the Federal Government and that easily more than 50 percent of the work in the State Department and in the school district is a result of receiving this 8 percent of their money. Ten percent funds versus 50 percent of the paperwork? It does not make sense to me.

We are going to continue these hearings to get a better idea of exactly whether Federal programs are helping or whether they are hurting.

□ 1900

What is working and what is wasted in education in America today.

We are also engaged in another process. We are taking a look at somewhere in the neighborhood of 700, 800, maybe 900 Federal programs. There are some people who ask where do we come up with the number, and it is pretty tough because when we ask the executive branch they cannot give us one. But we went to a document which is called the Catalog of Federal and Domestic Assistance. For short, and this is about the only short thing there is associated with it, it is called the CFDA.

It is, very simply, if we go to the section marked education and go through the pages we find out that this document, which lists all Federal grant programs, take a look at this, all Federal grant programs, and the title under education lists about 660 programs.

We then went to the Congressional Research Service and said, "They tell us there are 660 programs. What do you think?" They went out and they came back and they said, "There are probably more. We have identified a total of 116 programs that might be added to the 661 programs that you already have identified." That puts us well over 750 programs.

They went on to say that we do not claim to have identified all Federal programs related to education, it is virtually impossible that this will be exhaustive, but we are aware of no better source of this information than the CFDA. So we know that there are the hundreds of programs. This is as we take a look and ask Federal agencies to identify it.

We then go out and we take a look at outside sources. What do outside sources say that we have in Federal education programs? This is an independent, outside, small little cottage industry, the Guide to Federal Funding for Education, volume one and volume two. They mark it as saying there are over 500 programs receiving funding that approach education.

As we begin a debate on who cares more about education and the impact that the Federal Government has on education, the most important question that we can ask before we do additional funding is what works and what is wasted. Is there not some money in these 700-plus programs, that go through 39 different agencies, that spend $120 billion, to fund some of the President's new initiatives?

We do not need a new layer of programs. If we want some additional programs, now is the time to dig through these two binders, to go through this binder and say enough is enough, let us get reasonable, let us find out what works and what is wasted before we create any more programs.

THE ALEXIS HERMAN NOMINATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, Alexis Herman is more than qualified to serve as America's next Secretary of Labor.

None can question her training, experience and preparation for this position.

But, she brings more than those important qualities to the task.

She is a hard worker, with excellent skills, a reputation for fairness, superior intellect and is known to have the highest integrity and ethical conduct.

These are vital attributes as we begin to grapple with some of the toughest labor issues of our time.

The massive transition of millions from welfare to work will be greatly helped by the rich background of Ms. Herman.

And, the difficult budget issues we face in our efforts to reduce the deficit will be made easier by one who understands the complex, yet necessary tension between labor and management.

At this time in our Nation's history, we need leaders who are the best, the brightest, the most honest and honorable among us. Alexis Herman meets and exceeds all of those critical qualities. She has earned confirmation.

THE FIGHT TO CURE DIABETES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. NETHERCUTT] is recognized for 5 minutes.

Mr. NETHERCUTT. Mr. Speaker, March 19, 1997, is a very important day in the fight to cure diabetes. Between 11 a.m. and 3 p.m. tomorrow, in the Rayburn House Office Building foyer, Members of Congress, the U.S. Senate, staff, family, and the public are invited to undertake a very important test. It is called a blood glucose test. It is free of charge.

It takes about 1 minute, and what will happen is this: If you show up in the Rayburn foyer tomorrow morning between 11 in the morning and 3 p.m., there will be a test administered. Your finger will be stuck and a drop of blood will be placed on a test strip and put into a little computer and it will measure your blood glucose level. That test will determine whether or not you may have diabetes.

This testing is part of an NIH, National Institutes of Health, study which will focus on a cure for diabetes, and literature will also be there available for members of the public and Members of Congress to learn about this very important disease. It is a very serious disease in our country.

Over 16 million Americans have diabetes. About half of that 16 million do not know that they have this disease and they will not be diagnosed until serious complications develop. Diabetes

affects all races, both genders, all religions, Democrats, Republicans, it is indiscriminate. All are subject to becoming diabetic and over a million children in our country have insulin-dependent diabetes.

The incidence of diabetes is prevailing throughout the world. The earlier diabetes is diagnosed, the easier it is to slow the progression of this disease and prevent very, very costly complications; costly in terms of health status and dollars and cents.

This diabetes screening test on Capitol Hill is sponsored by the Congressional Diabetes Caucus. It has 51 Members of Congress who are associated in this fight to cure diabetes. This test is also in association with the Diabetes Prevention Program, which will conduct this test; Eli Lilly & Co.; the American Diabetes Association; the Juvenile Diabetes Foundation; the American Association of Diabetes Educators; the Endocrine Society; and many others who care deeply about curing this disease.

Diabetes is a silent disease. It is a serious disease. Taking this simple test could save your life. So I urge my colleagues and the staff who may be listening and watching and learning about diabetes, as well as the public, to come and take this test tomorrow in the Rayburn foyer from 11 a.m. to 3 p.m. And I urge others across the country to take this simple test in your hometown or in your area and learn if you have diabetes. It could save your life.

I hope that there will be a great turnout tomorrow, with a lot of press focusing on this very important and very serious disease.

KUWAITI POWS IN IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise this evening to highlight a serious issue that still has not been resolved, even though we have, in fact, seen the success of the operation of the United States and a number of other nations of the world in removing the illegal Iraqi Government from the independent nation of Kuwait. While we celebrate that fact that occurred on February 26, 1991, we must remember that the U.N. also passed resolutions 686 and 687 as part of a broad cease-fire agreement which was accepted by Iraq.

Now, there are those in this institution and around the country who think that we should begin to normalize, to some degree, relations with Iraq. But, Mr. Speaker, I think it is important that we in this institution highlight the fact that the government of Saddam Hussein and the Iraqi nation still has 608 people that are still unaccounted for.

These are prisoners of war that were taken hostage by the Iraqi Government. These include both military personnel and civilians. These are individuals who represent the broad spectrum of the population in Kuwait. They are husbands and wives, they are children, they are people who are not all Kuwaitis, in fact. In fact, there are a number of other nationalities who happened to be in Kuwait and who were taken hostage by Saddam and they still have not been accounted for.

My interest in this, Mr. Speaker, dates back to my chairing the Kuwaiti Task Force for the Human Rights Caucus, where we documented the atrocities Saddam perpetrated on the people of Kuwait both before and during the illegal occupation. But I also have one constituent who was, in fact, a POW captured by Saddam and actually was in the control of Iraqis up until we went and did the liberation.

This individual, who I took back to Kuwait with me 1 week after the liberation, has documented to me on a number of occasions the illegal actions of the Iraqi Government and the fact that there are these hundreds of people, who are ordinary people in many cases, who were not involved in the conflict itself, who are now being held against their will by the Iraqis.

Mr. Speaker, this is violation not only of the U.N. resolutions, it is a violation of every human rights agreement that this world acknowledges between countries. It is about time that America spoke out loudly and strongly that we will not sit idly by and allow these 608 citizens, each of whose cases has been individually documented, each of whose situations has been chronicled, so that this is factual information. In fact, some of these people have been sighted within the territorial limits of Iraq. Yet the international Red Cross has not been able to bring these individuals back to their homeland.

Mr. Speaker, this is outrageous and this is wrong. This institution needs to go on record on a regular basis, letting Saddam and the Iraqi Government know that we are watching and that we are asking the question why these people are not being allowed to be reunited with their loved ones. The war is over. The conflict has ended. Saddam, in fact, accepted the terms of U.N. resolutions 686 and 687, and yet here we are in 1997 in March and we still do not have these people returned to their homeland.

I would say, Mr. Speaker, that if Saddam Hussein ever expects to have the world community give him the kind of respect and perhaps the cooperation that he has said that he would like to have, and in fact that he says he deserves, he should start by coming to the public, to the world public at large, and explaining why these people are being held; and, in fact, he should take the effort to return these people back to their homeland.

As I said before, Mr. Speaker, the documentation for these individuals is, in fact, very substantive. The National Committee of Missing and POW Affairs has reported the number to be 608. This committee knows the exact numbers because they have a separate file and a separate computer database established for each of these POWs.

What we are saying, Mr. Speaker, I know what my good friend and colleague, the gentleman from California, DANA ROHRABACHER, who wanted to be here with me this evening. He would say, if he were here, that we want the Iraqi Government to allow these people to go back to their homelands and that we want to have a full accounting for these individuals, and that we expect the United Nations and the world community at large to assist us in making sure that we do not, in fact, allow these people to be kept under the illegal control of Saddam Hussein and the Iraqi Government.

There have been concerted efforts through an allied coalition, but these efforts have largely been unsuccessful. We are saying it is about time now that these other nations respectfully demand that which we are demanding, and that is a full accounting and return of these hostages.

Mr. Speaker, I yield to my good friend and colleague, Mr. ROHRABACHER, for such time as he may want to use.

Mr. ROHRABACHER. Mr. Speaker, I join with the gentleman from Pennsylvania [Mr. WELDON] and my colleagues tonight in calling on Saddam Hussein to release his captives. The war in the gulf is not over until the hostages that Saddam Hussein is holding have been released.

The United States should not normalize relations with the regime in Iraq until these innocent people, the sons and the daughters, the husbands and the wives of the people of Kuwait have been released by their Iraqi captors.

KUWAITIS STILL BEING HELD PRISONER BY IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. ROHRABACHER] is recognized for 5 minutes.

Mr. ROHRABACHER. Mr. Speaker, it is my pleasure tonight to join with the gentleman from Pennsylvania, Mr. CURT WELDON. The gentleman and I have both been active in working with the Kuwaitis on this issue.

Most people do not even understand that there are hundreds of people being held by Saddam Hussein in Iraq, who are just innocent women and children, husbands and wives, men and women, just ordinary Kuwaitis who have been whisked away by the Iraqi Army during the Gulf War and have never been returned.

It is one-tenth of 1 percent of the population of Kuwait that is still being held by Saddam Hussein. That is the equivalent in the United States of 250,000 people being held prisoner by a foreign hostile power.

□ 1915

The United States can be proud and we Americans can be proud in particular of the role that we played in freeing the people of Kuwait from the aggression of Saddam Hussein and from the hold of Saddam Hussein. We can be proud that our soldiers, our men and women marched off and struggled for peace and freedom and succeeded. But the job is not done when the equivalent of 250,000 Kuwaitis are still in the hands of Saddam Hussein. One thing that we can be proud of, we won the war against Saddam Hussein. We won it. In fact, I was just in Kuwait several months ago and they have initiated democratic reforms in that country that seem to make it all worthwhile. They now have free newspapers and radios and criticism of the government, opposition parties. This is one of the highlights of the Middle East. This is a shining example of what happens when people really do want to try to set up a free society. The human rights abuses that Kuwait used to be known for have somewhat disappeared. But now they turn around, the people of Kuwait, their sons and their daughters are gone. Their husbands and wives are missing. Over 600 people are missing. The United States should make it clear that there will be no normalization of relations with Iraq until those prisoners are released.

Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON of Pennsylvania. I would just add for the record that as I mentioned earlier, we also include nationals from nine other nations who are being held illegally by Iraq. These are not all Kuwaitis, these were people living in Kuwait, but some of them were actually of the nationality of nine other countries which include India, Bahrain, Oman, the Philippines, Lebanon, Syria, Egypt, Iran, and Saudi Arabia. There is a total of nine other nations. And we are not just talking about military personnel, we are talking about 29 people from the private sector, we are talking about 128 students, students that were taken away from Kuwait, their parents have no idea where they are or what happened to them. We are talking about 3 housewives, 18 retired people, and 26 who are unemployed. So it was across the broad spectrum. These are ordinary people.

Kuwait's point is and the world community's point should be if these people have been killed, then Iraq should come forward and say they have been killed. They should tell the families the whereabouts of these individuals. But that has not happened. We should not sit still while this atrocity continues.

I thank my colleague for joining me and for yielding to me.

Mr. ROHRABACHER. As I say, we have every reason to be proud of what the United States did during the gulf war to protect Kuwait and the other people of the Middle East against aggression. We have every reason to be proud of Kuwait since then because they have become a more democratized system. They have more of a functioning, representative government and they have reached out to end human rights abuses and moved forward to establish freedoms they did not have before.

We can also be very proud of the Kuwaitis for what they did when they were being held hostage and occupied by Saddam Hussein. They in fact risked their lives, common Kuwaitis risked their lives to protect the lives of American citizens who happened to be in Kuwait at the time that Saddam Hussein invaded. Just as the Kuwaiti people risked their lives for those Americans they did not even know, we should tonight make it our business to tell Saddam Hussein and the regime in Iraq that those Kuwaitis who they hold must be released and we must think about them. We may not know them but we know the Kuwaiti people risked their lives for Americans they did not know. Let us pay that courtesy back and insist that Saddam Hussein release all those prisoners.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore (Mr. GIBBONS). Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, for tonight's special order, the topic that I would like to address is campaign finance reform.

I wanted to point out that today at a press conference that was held by several of the women members of the Democratic Caucus, they basically urged Speaker GINGRICH and the Republican leadership to stop the delay on campaign finance reform, and I know that some of the Members who were at that press conference will be joining me tonight to discuss the issue.

Obviously campaign finance reform is certainly not a new issue to Members of this House or to the American people. The Democrats have been leaders on this issue for several years and the Republicans, I believe, have been obstructionists. As I mentioned in my remarks to the House this morning, for the past five Congresses the Republican leadership has pulled every legislative maneuver known to the Congress to keep campaign finance reform bills from becoming law. Now of course there is a renewed interest in the issue, and of course the flaws that the campaign finance system and that the Democrats have highlighted for years are becoming more prevalent and the American people have had enough. According to one poll, 85 percent of the American people think the campaign finance system is now in a crisis state. I have to point out, though, it did not have to come to this. If reforms the Democrats have been proposing since 1989 had been in place today, the country might well have been spared the abuses and excesses that we are hearing about. Unfortunately the Republicans stopped us cold. They have delayed and filibustered and stalled in really every conceivable way on this issue. I just wanted to point out, and then I would like to yield to my colleague from Hawaii, that on the first day of this session of Congress, every single House Republican voted against requiring action on campaign reform in the first 100 days of the new Congress. That was rollcall vote No. 4. Then when the President and the congressional leaders met in February, Republican leaders rejected the Democrats' suggestion that campaign finance reform join the priority list for bipartisan action. In the agenda Republicans laid out for the 105th Congress on March 6, their stated position is the status quo, to ensure that current laws are followed and enforced and require full and timely disclosure of all campaign contributions. Specifically in the case of the Speaker who testified before the House Oversight Committee on November 2, 1995, he said, quote, he would emphasize far more money in the political process.

Recently one of our colleagues from the Senate, MITCH MCCONNELL, stated, "We're not spending too much on politics in America. This whole notion that we're spending too much on politics is nonsense."

Clearly again the Republicans are in the majority and they have done nothing to suggest that they will be willing to move on campaign finance reform this session.

I would like to yield now to my colleague the gentlewoman from Hawaii [Mrs. MINK] who was one of the Democratic women Members who participated in this press conference today.

Mrs. MINK of Hawaii. I thank the gentleman for yielding.

The press conference that the Democratic women held at noon today was to emphasize our great frustration at the failure of the leadership to schedule even hearings at the committee level on this very critical problem. Any blind person, I think, could realize that the whole system is in crisis and it is really up to us. No one else can change it. No one else can fix it. It is up to the Congress of the United States to take this issue and to hear all the different versions. I am not certain exactly

where I am going to stand in the final analysis on many of these aspects of the reform legislation, but I do think it is time to start, and so the women gathered today to make a special appeal to the country to contact the leadership of this House and to stress the point that they, the public, is really exhausted with their patience in waiting for this Chamber to begin its deliberations.

Last night, the Speaker took the floor during special orders and outlined a 13-point program in which he explained in great detail in his 1-hour special order exactly what positions and programs the Republicans were supporting. I listened the entire hour because my special order came afterwards, and I was astounded that he did not include mention of campaign finance reform, something which really goes to the very heart of our democracy. It is challenging the viability, the essence of our democracy, all the things that we read about. When $2.7 billion is being spent in campaigns to elect us and the President, something is strictly wrong, and we need to fix it. There have been a lot of different suggestions that have come forward and the gentleman in the well pointed out to me a short little column which I am sure he will explain later in detail from the National Journal on March 13, reported that a group of political science professors forming a task force by the Citizens Research Foundation came up with certain recommendations on campaign reform. They are saying, "Put aside all the stuff that you have been debating in the past. Start anew. Look at this problem fresh." And I think that is a very interesting approach and something which this House probably ought to consider.

We have had no hearings yet. There are investigations which I certainly support. One of the reporters asked at our press conference, well, does it mean since we are pushing for campaign reform that we are minimizing the importance of the investigations of the past activities?

Certainly not. We want to see those investigations carry forth. But they have no ending if we at the same time are not considering ways in which we can make the system better, bring back the importance of ordinary people, not big financial contributions.

The campaign reform report that the Citizens Research Foundation task force recommended said, abolish soft money. I totally agree with that. And many of the suggestions that have come forward have made that suggestion. I do not know if it will be in the final form. I hope so. I have introduced a bill to do exactly that. I do not think the American public out there wants to read in the paper night after night about contributions coming in to the various party organizations, of $500,000, $600,000, maybe cumulatively over a 2-year period of $1 million. Something has gone amuck if we tolerate that kind of interventions of big money into a political process that should belong to the ordinary citizen.

The gentleman and I running for Congress operate under severe limits. Our individual contributions are limited to $1,000 for the primary, $1,000 for the general. We have PAC contributions that come to us, but they are limited, $5,000 in the primary, $5,000 in the general. Why can the others in our society that want to participate in a different way, not to our campaigns but to our parties or to independent organizations not operate under the same rules, $1,000 for individuals and $5,000 for the larger entities or committees that are contributing? I think that is fair.

The Supreme Court's decision with regard to campaign contributions was that the limitations on how much people can give is a perfectly legitimate limitation, and we operate under that. No one has said those limitations are not proper or are unconstitutional. We have lived under it for many, many years.

What the Supreme Court has been challenging as a free limitation is the spending end and that brings into picture a much more difficult part of this whole reform effort. But for the moment, it seems to me the people are concentrating on the whole idea of these uncontrolled contributions, and the court has never said that we cannot establish limits there.

And so I support this task force report. It is remarkably in line with what I think. But that is really not the point of my presence here tonight, because myself together with the other women who joined in the press conference are not championing any particular reform or particular items. What we want to see is the beginning of serious consideration of this issue, putting it on the priority list, for instance, that the Speaker came to the well last night to announce to the American people. Why is it not on his agenda for America? Americans are concerned about it. The pollsters are telling us 85 percent of the Americans think there is a crisis today in campaign spending and campaign contributions. And so what this tells us and what our mail certainly tells us, what the phone calls are telling us that are coming in from our districts, we better pay heed. The American people are really disillusioned about this process and we cannot afford to let this go by unattended.

Again I join the gentleman who is doing a wonderful job in leading us in this whole effort about campaign reform, to get with it and call upon the Speaker and the leadership to bring this matter to a head, call the hearings, let us have a chance to express ourselves on behalf of our constituents, bring together both sides, call task forces, bring in the parties. They do not want to give up this opportunity to raise large money. We cannot expect them to come in with voluntary solutions, voluntary limits.

□ 1930

It is time for us to enact laws to safeguard that very precious element of the public's right to really participate in the electoral process, and they cannot if they are swamped by big money.

Mr. Speaker, I thank the gentleman for yielding to me tonight.

Mr. PALLONE. Mr. Speaker, I want to thank the gentlewoman from Hawaii and particularly in your pointing out that after all we, as Democrats, are in the minority here. What we are asking is that the majority, the Republican majority and their leadership, bring this issue to the forefront and make it a priority, and, as you mentioned, they have had several opportunities to do that: first with the President who called for this issue to come to the floor and be resolved by July 4; and then there were bipartisan meetings at the White House, and once again the Republicans refused to put it on a priority list; and now the Speaker has come forward again, and it is not on the priority list of his agenda for this Congress.

All we are asking is that this be prioritized and a date certain be set when it is going to come to the floor, and, as you know already, some of our colleagues, some of our Democratic colleagues, have started to use procedural motions, motions to adjourn, on other bills to try to make this point because that is really the only avenue we have to make the point to speak out and say that it must come forward.

I just want to mention one more thought that you pointed out and I think, as we have been saying, we just want to bring this issue up and we want it to be heard. We have not necessarily come up with a specific proposal about how to address it. But you made a very good point when you said that when it comes to our individual races for Congress we have very strict requirements in terms of how much money we can raise, a thousand for individuals, $5,000 for PAC's, and all of that has to be disclosed.

And when you look at this report that was done by the Citizens Research Foundation at the University of Southern California, one of the points that they make in their summary, and of course it is endless and you know we are not going to be able to go through it all tonight, is that they are very concerned about the lack of disclosure for sources and receipt of money outside the confines of individual races. They talk about the issue advocacy now, the independent expenditures, issue advocacy being done by party committees, independent expenditures

being done by various organizations, and in each case the biggest problem there is lack of disclosure. And I think that is one of the things that I think is almost universal. Regardless of what program or bill comes to the floor, the real problem is that one of the major problems is once you go outside of our individual races, disclosure is much more difficult, it is more difficult to track where the money is coming from and where it is going to.

Mrs. MINK of Hawaii. If the gentleman will yield, that is precisely the point why the public is so disillusioned, because this matter is being disclosed in the newspaper. Nobody has access to the records. We cannot go anywhere to see the degree to which this type of fundraising has gone on and who has contributed. We wait every day for new announcements.

That is simply not the way to preserve democracy in America, so I really commend the gentleman for his point. It is very, very critical to this debate.

Mr. PALLONE. Well, thank you, and I see my colleague from Connecticut, Ms. DELAURO, who joins with me on a regular basis here. I would like to yield to her. I know she has made a major point of this issue of campaign finance reform.

Ms. DELAURO. Mr. Speaker, I want to thank my colleagues for taking up this special order tonight, and I am sorry I was not here for the first part of the dialog, but I think in what I have been listening to, the issue of the 1996 elections, I think it was clear that the 1996 elections prove that there is too much money in politics.

What does it mean when you say that? It means that there is too much influence for special interests, not enough representation for people who work hard every single day and who want government to represent their views and their needs, and government is not in a sense an abstract concept. Government means that they want the people who they have elected to represent them, to make sure that their views are put forward.

I wanted to join with you tonight just simply to say that I want to call on the leadership of this House to take action to reform our campaign finance system. Again I am sorry that the 1996 elections were record breaking in what I view as the wrong way. The final tallies reported in the Washington Post show that the campaign was the most expensive ever with an estimated cost of $2.7 billion. If we were to adjust for inflation, spending on campaigns tripled during the past 20 years, and what they reinforced was that we need less money in our political system.

Now if you take a look at the leadership of the House, Speaker GINGRICH thinks that we should have more money in the political system. The majority leader of the House believes that there should be more money in the system. The majority whip believes that there should be more money in the system. The former head of the Republican National Committee believes that there ought to be more money. Now I am not making that up. Those are statements that are on the record.

So, in fact, there is a philosophical difference in terms of the Republican leadership wanting more money in the process, and a Democratic position in the House has been to see limitations put on the amount of money spent in the process. The Washington Post further showed that 8 in 10 Americans agree that the money has too much influence on who wins elections. When you take a look at what the preponderance of views are amongst the Republican leadership, you can see that there is that tie on why we see a refusal, if you will, to bring campaign finance reform to a vote, and I have to believe it is a sincerely held view that they do not think that there is a problem with the role that money plays in the American political system.

I think that the American public believes differently from that, as I am sure that you have talked about and our colleague from Hawaii is talking about, but I think it is so real to the American public that there is too much money in the system. I think it has been reflected in their staying away from the polls in their, if you will, disappointment and potentially even their disgust with government. They have little faith in government. You know, in terms of staying away from the polls, we have had less than half of those eligible to vote voted last November.

One 50-year-old woman in the article who said she might expect to live to age 80 said, "I will be dead in the ground long before anything changes." It is a sad day if her words accurately reflect our perceived ability to tackle the challenge of campaign finance reform.

I think we have a wonderful opportunity here, and that opportunity is to restore faith in the Government, in the Congress. But in order to do that we have to prove that we are serious about reforming campaign finance and that we have to do that now. Waiting would push campaign finance reform efforts closer to the next election season and likely doom campaign finance efforts as happened in past Congresses.

I was pleased that the President, in his State of the Union message, talked about a realistic challenge for the Congress, and that is to pass campaign finance reform by the Fourth of July.

Lest their be any confusion about what we are talking about here tonight, I would just say very forthrightly that we do have investigations underway and if there was any wrongdoing, then in fact wrongdoing should be punished. No one is suggesting that that is not the case. I think very honestly, and investigations will go on, but what we need to do is to—we know that the system needs to be reformed. So let us have the opportunity to debate the number of initiatives that already on both sides of the aisle have been brought to the table, including the Meehan-Shays bill and the Senate Feingold—the Feingold-McCain bill. Our colleague from California, SAM FARR has a good working piece of legislation. There have been two constitutional amendments that have been introduced or that you put a limitation on the amount of money that is spent to contravene a Supreme Court decision a number of years ago. So that we have opportunities here to have a debate, and a number of people have talked about, you know, different pieces which can be debated so that in fact we can come to some consensus on both sides of the aisle about how we ought to be raising money for campaigns in the future.

I think if we can use the goal post of July 4, it is a decent period of time in which to have the debate, and it is also symbolically, I think, very important in terms of it being Independence Day in that we, in fact, you know, wrest the control of our campaigns from the special interests and return it back to the people. And I would urge the House leadership to move to campaign finance reform by that time, and we can start working now at this effort.

I was proud to join my Democratic colleagues. The women, Democratic women of the House, today had a press conference to talk about this issue to have a full debate, which I am sure my colleague from Hawaii talked about. I understand that Members of the freshman class on both sides of the aisle, a bipartisan effort is underway to talk about how we can move this forward.

I am a cosponsor of our colleague Sam Farr's bill. I think there have been some good suggestions about the broadcasters and issuing free time, especially in light of what is going on with the sale of the spectrum in which the broadcasters are going to reap, you know, myriad of benefits. Therefore, in fact, they could talk about free airtime to candidates. I think there are some good measures is essentially what I am saying, and I know my colleague from New Jersey feels the same about this.

And let us take this opportunity to take some of these good measures to develop consensus on this issue and move forward to meaningful campaign finance reform. I think it would do so much for our ability to go to the American public and say, "We're responding to what you are talking about with your disgust and with your lack of faith." Let us do this, and let us talk and then allow them to believe us when we talk about wanting to ensure, making sure that 10 million kids in this

country have health insurance, which they now do not have, and that we are serious about doing something about their ability to be able to send their kids to school and so forth. I think it would go a long way in restoring faith in what we do in this body.

So, as my colleague has also called for, I join him in calling for the passage of campaign finance reform as soon as possible. But first and foremost let us have the debate and the hearings that are necessary in order that we can pass campaign finance reform, and I thank you for calling this special order.

Mr. PALLONE. I thank you too and, you know, I think that one of the things that you pointed out which is, I think, very sad, and of course I do not buy it, is that many people do believe, and I hear it all the time, that we are just never going to see this, it is not possible for Members of the House of Representatives to limit campaign finance reform. It is not going to happen, it is not in their interests, they will not do it. And of course I have been here long enough to know that the reality is around this place fortunately because it is a democracy, and we are representatives, that if people demand that certain action be taken on this floor, it will be taken, and I need to, you know, stress that again. I think our colleagues all understand and I think the people should understand that if there is enough pressure, if people speak out and they feel strongly that there needs to be reform, and I think that is the sentiment out there now, this House will take action, and I think that the President's proposal to have a date certain—he mentioned July 4—is really what we need. We need to set a deadline and say, OK, this is when we are going to do it, and we need to have Republican leadership basically come forward and say July 4 is going to be the deadline or whatever the deadline is.

You mentioned a few things though that I just wanted to add to, if I could, when Congresswoman MINK was here from Hawaii and we talked a little bit about disclosure and the need to have disclosure. You stressed the problem of too much money in the system and the need for spending limit which I think, as much as disclosure is important, the need for spending limit is also important. And I have been very upset really to hear some of the leadership and some of our colleagues on the other side of the aisle talk about how there is not enough money in campaigns. And we mentioned before, I think, on the—in the other body Senator MCCONNELL who stated just recently we are not spending too much on politics in America. His whole notion that we are spending too much is nonsense. That is simply not the case. We are spending too much.

I mean there is a need for some kind of spending limit. I think that has to be the heart of this thing. And also again the cynicism with regard to small donors. I have people come up to me now and say, "Well, why should I contribute $5 or $10 or even $100 to the campaign?" You know, this is all big money now. This is $1,000, $5,000, $10,000, a million—you know, depending on whether it is going to a national committee or independents. This is big money; the little guy does not matter.

□ 1945

That is not true and we need to dispel that. I think that a spending limit could go far to dispel that.

What I would like to see, just my own view, not even in a bill form, but I really think that if we had a spending limit, and we said, say it was $5,000, which really is a lot of money, but that could be a limit, I just take it out of a hat, and then we say that we will use existing means, we can still have $1,000 for individuals and $5,000 for PAC's, but we have some requirement of small donor contributions, either small donor individuals, or small donor PAC's, and then we couple that with public financing. I know it probably is the case that the majority of the Members of this body are not in favor of public financing. I happen to be in favor of it.

Ms. DELAURO. Mr. Speaker, if the gentleman would yield, so am I.

Mr. PALLONE. Mr. Speaker, I think that if we take a spending limit and we then require a small amount of donations and then we still have larger donations, individual donations and PAC's, and then we have a public mechanism to match it, that would go far toward keeping the amount of money down and also making people understand that the small donations really are meaningful in this process, which I think that they are. However, again, the issue right now for us is not what the reform is going to be, but that we need to address reform.

Ms. DELAURO. Mr. Speaker, if the gentleman would yield, that is the point. We did pass a bill in this House, and then when it went over to the Senate and the current Senator from Kentucky, who is still of the view that there is not enough money in politics, filibustered it and in the last session it was turned away. In a prior session when it was passed in this House, the then President George Bush vetoed the legislation.

The fact is that we passed here spending limits. We need to limit the amount of money it takes to run for a congressional seat or a Senate seat.

There are differences with regard to public financing. I support public financing, a voluntary, that is nobody should be coerced, or the other pieces, the ban on soft money which is in the Farr bill, which I support, a ban on soft money. These are all pieces, again, the constitutional pieces, the broadcasters you can deal with. We have to get to the point where we can have a good, hard debate on these issues, and a place in which they can unfold so that we can try to come to some consensus and viewpoint as to what we ought to pass.

Without that debate, we are not going to see anything happen here. We are just going to go along and the public will be reconfirmed in their view that this body is not able to police itself or to look at ways in which the amount of money can be curtailed.

There are a number of ways in which we can go after this goal. What there has to be is the willingness and the will, if you will, or the political will, to determine that we are going to pass meaningful campaign finance reform and that we are going to take it on.

Mr. PALLONE. Mr. Speaker, I agree. The gentlewoman did mention this idea with regard to the broadcast time, and if I could just develop that a little bit more, because I think that is important. One of the proposals that has been laid out is with regard to premier time for political ads.

The gentlewoman is in Connecticut and I am in New Jersey, so we are both in the New York metropolitan area. Members who live in the New York metropolitan area know how expensive the radio and TV market is for New York. If one is in New Jersey and one is running statewide for Senate, for example, one has to contend with not only New York, but Philadelphia; in both cases very expensive markets for TV time.

So I think that when the President recently suggested linking free broadcast time to the stations' interest in some of the spectrum, or I guess it is this digital high definition television, these licenses that are now being put forth, I thought that was particularly interesting.

There was an article in the New York Times on March 13, just a few days ago, and if I could just bring out a couple of points in that. It said, "Supporters of free political ads have proposed a national political time bank into which every radio and TV station would deposit one or two hours of prime advertising time for each two-year political cycle." It says, "Based on the $500 million and the time back, the Federal Election Commission would dispense vouchers redeemable at any station. Half the vouchers would go to qualifying congressional candidates * * * Using vouchers, candidates could buy blocks of time at any station during any program, and such flexibility is critical, because different campaigns have different audiences."

The way I understand the President's proposal, he asks that broadcasters surrender time to candidates in exchange for new licenses to provide this digital high definition TV.

The President said that the free broadcast time would take the pressure

off candidates to raise money, obviously, and the time bank would reimburse stations that provided more than 1 or 2 hours worth of free time using money from the stations that provided fewer.

I thought it was an interesting proposal. Again, this is something that the President put forward. We obviously can debate it. If we look at one of the reasons why so much money has to be raised, particularly I think for races in the other body, but also for many in the House, it is because of the cost of TV time in these very expensive markets. This would go far toward alleviating some of that problem.

Ms. DELAURO. Mr. Speaker, I think most campaigns, and this is across the board, if we talk to anyone on both sides of the aisle about where the bulk of their money goes in a campaign, and it is to pay for the TV costs, for the broadcast costs.

I was just looking at an article from the Hartford, CT, paper, which actually said what the broadcasters could do here in terms of what they are about to reap in profit from the sale here and the licenses is that they ought to give back something and take on some responsibility here in terms of the free air time. I think we ought to move in that direction, because the costs obviously vary in different parts of the country, but the fact of the matter is that we do run for reelection and we do have to raise money. But whenever we are listening to people, it is mostly because the volume of money that they are trying to raise has to do with trying to be on TV and to pay those costs. Even some of the solicitations from Members to folks that they want contributing to their campaigns, say such and such an amount of money will allow me to be on television so many times, so that that is where the bulk of the money is being spent. I think we need to take a very, very hard look at that and a look at the various proposals that are on the table with regard to that issue.

I think what we have to do on this is do what similarly was done with regard to the minimum wage legislation in the last session of the Congress, and that is to use every opportunity that we can on this floor to raise the issue. Some Members were engaged in that effort last week. I suspect that they will continue to try to raise the issue.

This has now been, what is it, January, February, March, and there have been letters. I do not know if it has been mentioned before, but a bipartisan list of Members sent a letter to the leadership asking that campaign finance reform be made a high priority, and so far we have seen nothing as an opportunity for us to move in this direction.

So what we need to do is to utilize the opportunities that this institution offers to raise the issue continuously so in fact we can have some meaningful dialog on this issue.

Mr. PALLONE. Mr. Speaker, I have noticed, I am certainly not an expert on it, but if we look at some other countries in Western Europe and other democracies, many of them do in fact have the free TV time or the free newspaper time or whatever. It is not an unusual thing to do that. In fact, I think it is very common in a lot of other democracies. So there are precedents for doing that, and I think we need to look at some of these precedents in deciding what kind of a forum we should make.

I guess we are running out of time, but I just wanted to finish our special order.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. Mr. Speaker, the gentleman has his special order next, so I am not going to yield to him at this time.

Mr. GEKAS. The gentleman is not going to yield to me?

Mr. PALLONE. No, I am not.

Mr. GEKAS. I feel offended. There is certain blame being cast here that I wish we could rebut at this time. I am offended.

Mr. PALLONE. Mr. Speaker, I did mention earlier this report on this task force of campaign finance reform that came out from the Citizens Research Foundation of the University of Southern California, and this is something that we could talk about and we probably can discuss more as we go on, but it is called New Realities, New Thinking. I think the one thing that it points out that I am thinking about a lot, because I think it made me rethink the whole idea of what we need for campaign finance reform, is it says that "Campaign finance today is characterized by an expanding political arena in which significant amounts of money flow in new and constantly changing ways."

This is a quote.

> We have gone from a process where parties ran campaigns to an area where candidates ran their own campaigns and now we are experiencing a much more dynamic, diffuse funding system in which a broad range of political entities, political parties, individuals, PAC's, issue organizations and others spend money in campaigns that candidates neither raise nor control.

The report indicates that these new realities, basically, raise serious questions about accountability, electoral competitiveness, the sources of campaign funds and resources. So you are thinking new realities, and what they are saying is that the nature of campaigns have changed dramatically in the last few years, with the issue advocacy, with the independent expenditures, and I think that that is the reason why there is a need for reform, because there is so much more money now and it is going in so many different ways. We do not know where it is coming from, disclosure, enforcement, all of these things that were mechanisms that we relied upon in the past where we were only dealing with our own campaigns, this is increasingly a thing of the past.

That is why the system cries out for reform. There need to be changes. We just cannot pretend that we are living with a system that we lived with 5 years ago or 10 years ago. It is not the same anymore. So that is why I think that we need to continue with our effort to say that this campaign finance reform issue has to be addressed on the floor.

I just want to thank the gentlewoman again. I know this is just the beginning of our effort to make sure that this issue is raised by the GOP leadership and that we do have the time when it is considered.

GREEK INDEPENDENCE DAY, 176 YEARS OF FREEDOM AND DEMOCRACY

The SPEAKER pro tempore (Mr. GIBBONS). Under the Speaker's announced policy of January 7, 1997, the gentleman from Florida [Mr. BILIRAKIS] is recognized for 60 minutes as the designee of the majority leader.

Mr. BILIRAKIS. Mr. Speaker, I rise this evening to honor the spirit of freedom by commemorating 176 years of Greek independence. March 25 is Greek Independence Day, and every year I speak on the House floor to recognize this important historical event.

The significance of Greek Independence Day can never be overstated. Like the Fourth of July, it continues to remind all of us to honor freedom regardless of the price.

Mr. Speaker, I yield to the gentleman from Pennsylvania, my very good friend and colleague [Mr. GEKAS], at this point.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding. We have grown accustomed to the gentleman from Florida and his repetitive and necessary emphasis on Greek Independence Day and its celebration throughout the world.

The most noteworthy part of the celebration in which Americans of Greek descent yearly participate has to do, in my judgment, with the historical partnership of the American democracy and the way our country, the United States, gained its independence, and that which followed in the 1820's when the Greek nationals began their movement for independence.

□ 2000

What was the common bond that the American institution of independence had with its later Greek movement for independence in the 1820's? It was their own Greek heritage. That is, the ideals of democracy and self-government which were first practiced by the classical Greeks were the foundation for

the Jeffersons and Madisons and the Adamses and the Washingtons as they moved strenuously to bring their country into a mode of freedom. The Declaration of Independence and the Constitution that followed all were based in the authorship of the American Founders themselves, founded on the principles of classical Greek democracy, Athenian democracy.

And so 50 years later, when Greece itself felt the need to overthrow the yoke of Turkish domination, they were harking back to two historical events: First, the American independence movement and, still further back, in which both democracies had relied so heavily, the classical Greek democracy.

So how did I learn this lesson? In the parochial setting of our Greek school, church-related studies, it became evident to me that America was as much a part of the Greek revolution in 1821 as was the raising of the flag by Father Germanos and all the heroic exploits of the great generals of Greek independence.

As a matter of fact, in the city of Philadelphia, the City of Brotherly Love, the public officials of that day in the 1820's spoke mightily of the need for the international community to come to the aid of the Greek independence movement. And in fact President Monroe, on many occasions, was insistent upon American spiritual and moral and material aid for the potential overthrow of the Turkish domination of Greece.

Members of the House of Representatives in which we stand tonight were eloquent in their phraseology of freedom, just as the gentleman from Florida began his dissertation this evening, with the celebration of freedom. His predecessors and mine on the floor of the House of Representatives in the 1820's were repetitive and strongly exhortative of the movement of freedom on the Greek mainland.

So when the gentleman says, as he does rightly, that this is a celebration of freedom, it is a celebration of American freedom just as much as it is this small setting of Greek independence that arose in the 1820's. That is what makes it so extraordinarily valuable to us of Greek descent, Americans of Greek descent. Here we are, privileged enough to be Members of the Congress of the United States where our every day, our every breath is spent in trying to improve our country, the United States. And it happens that our heritage, the parents that we had who came from another world and from another era, were able to inculcate in us the spirit of freedom and independence and democracy which they and their forefathers knew so well in their country of origin, and then they make sure that we in our education, in our commitment to faith, in our interrelationships with our fellow Americans, that we never forget that the spirit of freedom that began with that wonderful Athenian democracy can be practiced by their sons and daughters on the very floor of the most, the strongest station of freedom that the world has ever known, the Congress of the United States.

I thank the gentleman for yielding to me.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman. He is always so very eloquent on all subjects, I might add.

I now yield to the gentleman from New Jersey [Mr. PAPPAS], one of our newest Members of the House, very welcome here.

Mr. PAPPAS. Mr. Speaker, I proudly rise today and join my distinguished colleague and dear friend from Florida in recognizing the great achievement of the 176th anniversary of Greek independence from the Ottoman Empire.

Over 200 years ago, America's Founding Fathers turned to Greece, the birthplace of democracy, as an idol in setting the course as a new nation. It was only fitting that Greece in turn look to the United States 50 years later as a role model for democratic government after struggling under the oppressive Ottoman Empire.

Living under the rule of the Ottoman Empire fostered a revolutionary spirit in its people who had been subjected to decades of slavery, abuse, and cultural deprivation. It is this spirit that we recognize today. We recognize the spirit of Greeks that have gone on before, the Greeks that have brought so much to this country and those Greek-Americans living here today.

A well-known Greek revolutionary who was burned alive by the Turks said in one of his famous poems that "I would rather live free for one hour than suffer slavery and imprisonment for 40 years."

The United States-Greek relationship is among our strongest. Greece has fought by the side of the United States in numerous tests throughout the years. Both countries share a passion for freedom. Greece has sent some of its brightest to the shores of America to pursue dreams in this, the land of opportunity.

My grandparents emigrated to the United States of America early in this century. My mother's parents, Stelios and Olga Macaronis, were born in a village called Atsiki on the island of Lemnos in the Aegean Sea. My paternal grandmother, Anastasia Pappas, was from Athens, and my father's father, whose name was Mike Pappas, was born in Smyrna, which is now part of Turkey.

They worked hard to learn the language and supported a growing family. They became U.S. citizens. They started businesses. They had children and, yes, they had grandchildren. One of these grandchildren today is a Member of the U.S. Congress.

The United States has given our Greek-American family the opportunity to see these dreams come through. As a Member of this Congress, I share the responsibility to ensure that the opportunity for the realization of these types of dreams will always be possible for others.

Winning the election last year to the U.S. Congress was a great responsibility or is a great responsibility and honor. However, in reading the papers the day after the election, my favorite pictures are not the ones with me and my supporters at the election celebration. It was the pictures of me taking my grandmother, Olga Macaronis, to vote just as I have done for many years.

My grandmother, Olga Macaronis, is 94 years old today, and I do not think that she has ever missed an election in her many years since becoming a citizen. While taking her to vote to the polls, you can sense her sense of civic duty. I guess the respect and sense of responsibility rubbed off on me, and that is part of the reason why I became involved in public service.

Another great quality that you cannot help but notice within the Greek-American community is its strong entrepreneurial spirit. Not only strong businesses but strong families, churches, and communities.

The reason I come to the well of this Chamber and talk a lot about tax relief, regulatory relief, small businesses, and balancing our budget is because of the basic commonsense upbringing that I had in a small business with my dad, Jim Pappas, or talking to my friends like George and Peter Stavrianidis. The tight interrelationship between family, friends and community businesses is critically important to all Greek Americans.

As a new Member of Congress, I am very honored to see so many leaders on both sides of the political aisle recognize the significance of the United States-Greek relationship. I hope to add to this as the newest Member of this Congress of Greek descent.

Greece has survived through a lot of turmoil over the years and has reached maturity because of its people: proud, God-fearing, freedom-loving, and, yes, peaceful. And that has nourished and upheld the ideals on which their modern nation was conceived on March 25, 1821. It is this heritage that we, the thousands of Greek-Americans, bring to the United States of America.

I want to thank my colleague and friend from Florida, chairman of the Hellenic Caucus, for the opportunity to address this issue which is so close to my heart.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for doing so very well.

The Greek struggle for independence, as has already been related by Mr. GEKAS and Mr. PAPPAS, is filled with

stories of heroes and acts of heroism. It is the story of the Hydriots, seafarers who broke the Ottoman naval blockade. It is the story of Bishop Germanos of Patras who raised the Greek flag at the Peloponnese Monastery of Agias Lavras and cried out, Eleftheria I Thanotos, liberty or death.

It is the story of Philhellenes, like Lord Byron, who gave his life for this cause. It is also the story of U.S. President James Monroe, who said the following in his 1822 State of the Union Address, and I quote:

The mention of Greece fills the mind with the most exalted sentiments and arouses in our bosoms the best feelings of which our nature is susceptible. That such a country should have been overwhelmed and so long hidden, as it were, from the world under a gloomy despotism has been a cause of unceasing and deep regret to generous minds for ages past. A strong hope is entertained that these people will recover their independence and resume their equal station among the nations of the earth.

These acts of courage, Mr. Speaker, and the words of President Monroe serve to highlight an important bond between America and Greece: the love of freedom. Like our Founding Fathers, the Greek people sought the right to govern themselves and to determine their own destiny. They felt that there is nothing more precious than freedom and democracy.

Mr. Speaker, I yield to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I just want to begin as I do every year, by thanking the gentleman from Florida [Mr. BILIRAKIS] for organizing this hour to honor the anniversary of Greek independence day. As you know, he is the chairman of the Hellenic caucus. He works tirelessly and is an outspoken champion really of Greek-American relations. I thank him for his tireless effort to strengthen the ties between our two countries.

I just wanted to say, many of us here in Congress are staunchly committed to preserving and strengthening the ties between the Greek and the American people. It is very important. I think sometimes people diminish the significance of these commemoratory evenings as we are having now, but I think it is very important that we speak out and talk about Greek independence day and talk about the ties that bind the Greek and the American people.

I usually try to find a quote for this occasion. And I just wanted to mention, I found one from Daniel Webster, who just 2 years after the Greek people began the revolution that would lead to their freedom, mentioned, and this is a quote, he talked about the oppression that the Greeks were having to deal with under rule by the Ottoman Empire and he said, and I quote, "This, the Greek people, a people of intelligence, ingenuity, refinement, spirit and enterprise, have been for centuries under the atrocious and unparalleled barbarism that ever oppressed the human race."

If you think of Congressman Webster's words in describing the Greek people, intelligence, ingenuity, refinement, spirit and enterprise, they are certainly no less apt today as they were when he said those words, I guess it is, I do not know how many years ago. I am sure it is over 100 years ago now.

The other thing that I think we need to point out and we have and Mr. BILIRAKIS has many times is how Greece has been a staunch military ally of the United States in World War I. In War II, when Hitler's war machine was decimating Europe, Greece joined the United States to repulse perhaps the greatest threat to freedom the world has ever seen.

We hear about the historic battle of Crete in which the spirit of the Greek people forced Hitler to delay his planned invasion of Russia, one of the most important battles of the Second World War. Of course, in the aftermath of the Second World War, Greece became a NATO ally and has been to this day joining forces with the United States and played no small role in preserving and protecting the freedoms enjoyed by an unprecedented number of the world's people.

The other thing that I think about is the contribution that Greek-Americans have made to this country. If you think about Webster's words again, these values that have guided the Greek Americans to the top of some of the Nation's most competitive professions, law, the arts, entertainment, the sporting world, education and medicine and, of course, government, we see so many Greek-American Congressmen here tonight and in the Congress, but perhaps the most enduring of Greek qualities is that of endurance itself.

The Greeks gave the world democracy, and today the world is as free as it ever has been. There are more democracies now than there ever have been, I think, historically. Four hundred years of control by the Ottoman Empire could not, as Webster observed, overcome the Greek people's determination to be free. And this is no less advisable in modern times.

□ 2015

I just wanted to mention Cyprus, because for almost 23 years now Greece has stood firm in its determination to bring freedom and independence to the illegally occupied nation of Cyprus. Like their forefathers, who were under the control of a hostile foreign power for four centuries, the Cypriot people hold fast in defiance of their Turkish aggressors with every confidence that they will again be a sovereign nation. And I believe they will, and the United States will be by their side in both the fight to secure that freedom and the celebration to mark the day when it finally arrives.

I want to say in conclusion, again, to congratulate the Greek people for 176 years of independence, thank them for their contributions to American life, and thank the gentleman again, Mr. BILIRAKIS, for making sure that we do this special order every year on a regular basis.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for again joining in this special order, this remembrance and this celebration.

Mr. Speaker, I would like to say at this time that the gentlewoman from New York [Mrs. MALONEY], my cochairman of the Hellenic caucus, was on the floor, but she took ill and had to leave and asked me to insert her remarks in the RECORD, and I do miss her attendance here today and her participation.

But Mr. Speaker, the gentleman from California [Mr. FILNER] is with us today and I would recognize him at this time.

Mr. FILNER. Mr. Speaker, I thank the gentleman, and like the previous speakers, I thank Mr. BILIRAKIS for this annual special order in which we take some time to remember our relationship and our debt to the people and the nation of Greece. It is a privilege and an honor to participate with him.

We all know that March 25 will mark the 176th anniversary of the struggle that ultimately freed the Greek people from the Ottoman Empire. Back then, in 1821, the Greeks raised the flag of revolution against 400 years of Turkish rule and began a series of wars that lasted a full decade and resulted in freedom for the nation of Greece.

We look to Greece for many of our cultural attributes, whether it is science, literature, art, architecture, philosophy. For over 2,000 years we have looked to Greece for inspiration.

Before I entered this Chamber, Mr. BILIRAKIS, I taught a course on the history of science at the university level; spent a good part of that course on the contributions of ancient Greece.

It was in the 6th and 5th century B.C. that the Athenians and the Greeks living in the Ionian cities for the first time asked rational questions about the natural world we live in and demanded rational answers. Whether it was on the structure of the universe or the nature of the human body, they invented what we call science. The process that they began back then, in fact, became the most productive and the most profound method of trying to discover truth in the world, and we owe the Greeks that.

We look at Greeks, of course, foremost for the model of democracy that they gave us. I think every democratic nation on earth, past and present, has owed a debt to the Greeks, who said that human beings can rule themselves. We have the capacity, we have the intelligence to, in fact, rule ourselves. We do not have to look at kings,

we do not have to look at outside forces. We can do it ourselves.

As the gentleman knows, there was some debate earlier on spending limits. I think the Greeks might have laughed at that. They believed, in terms of their democracy, that everybody who was a citizen could serve in their assembly or other offices, and they chose their leaders each year by lot, by random selection. There were no campaigns for office that they had to put campaign spending limits on. Term limits were also built into their system. An individual served for a year and then returned to their job, and it seemed to work very well, at least for the cities of Greece at that time.

Our Founding Fathers certainly looked to the Greek model of democracy as they drafted our Constitution. During World War II, as we have heard, Americans and Greeks stood shoulder to shoulder in the battlefields of Europe as we fought for freedom. And certainly in recent years Americans and Greeks have watched with pride as nations all over the world have rejected tyranny and embraced the democratic ideals we both share. Americans and Greeks alike understand the importance of supporting the seeds of democracy around the world and working toward a day when everyone is permitted the rights and liberties that our country so cherishes.

Mr. Speaker, Greek Independence Day celebrates the fight against oppression and the struggle for freedom. We thank the gentleman again for helping us to remember that each year. This weekend when I go back to San Diego, I am proud to be joining the Greek community in my hometown for a grand celebration of Greek Independence Day, and I wish the entire Greek-American community a joyous celebration of Greek and American democracy.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for his very profound remarks and for participating in this special order. And I suppose maybe the most draconian but possibly best form of campaign reform might be the lot process. I am not sure whether we would all agree that that is the way we should go.

Continuing on, Mr. Speaker, at one time or another we have all read the passionate and stirring words of our American patriot Patrick Henry. It was 222 years ago on March 23, 1775, that Mr. Henry admonished all of history when he proclaimed, and I quote, "Is life so dear or peace so sweet as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take; but as for me, give me liberty or give me death." We all learned that certainly in our schooling.

This same yearning for freedom, Mr. Speaker, would echo throughout the hearts and minds of every Greek patriot fighting for liberty. As these Greek freedom fighters boldly challenged Ottoman-Turk domination, they too proclaimed the defiant battle cry, "eletheria I thanatos!" Liberty or death.

During this battle for freedom rose the exceptional figure of Demetrios Ypsilantis. In 1825, Ypsilantis, along with 300 soldiers, defended the Castle of Argos for 3 days against an army of 30,000 Turks. After they had exhausted their ammunition, Ypsilantis, along with his 300 men, secretly escaped through Turkish lines without any losses.

This brave feat moved the whole world. The story reached as far as the United States. In fact, so inspired were the inhabitants of a new town in Michigan that they decided to name the town after Ypsilantis. Today the town of Ypsilantis, MI, has 30,000 people and a statue of Demetrios Ypsilantis still stands next to the old water tower.

This epic account certainly illustrates the common bond and heritage that both the United States and Greece share. The relationship between our two countries is based on mutual respect and admiration.

Like many Americans, Mr. Speaker, I am the son of immigrants who taught me a great love for the United States. I am proud that the values of freedom and democracy that we as Americans hold so dear originated in ancient Greece. We are all reminded that these democratic principles born so long in Greece were embraced by our Founding Fathers. Others have said this. It is an example of the ancient Greeks that we recognize each March the 25th.

We also celebrate the return of democracy to Greece on this day of glory for the Greek people. The spirit of democracy lives on. Many today continue to give their lives in order to defend its principles. We owe it to those defenders of democracy that we honor the freedom and independence of Greece on the floor of the House of Representatives here tonight, the world's greatest hall of democracy. In doing so, I think that we reaffirm the democratic heritage that Greece and the United States have shared throughout the years.

These principles are not uniquely Greek or American. However, our battles for democracy have given courage to the rest of the world. Freedom and independence form a legacy that we cherish and have a responsibility to protect and to defend. We must ensure that the light of liberty shines bright throughout the world. Wherever it is not, we have a responsibility to share our example.

Unfortunately, today liberty is not shining in all parts of the world. One need only to look at the current civil unrest in Albania or the dictatorship in Cuba to realize that more work must be done. While the Berlin Wall has been dismantled and Russia has been opened to the world, the Nicosia wall continues to divide the country of Cyprus.

Mr. Speaker, we must stop this senseless division. A divided Cyprus only serves to fuel more tension between Greece and Turkey. In fact, Secretary of State Madeleine Albright, in her own testimony before the House Committee on International Relations stated that, and I quote her words, "The dispute divides more than two Cypriot communities; it continues to act as a wedge between two NATO allies, Turkey and Greece. In doing so, it threatens European stability and our vital interests."

According to Secretary Albright, the United States, and I quote her, "Is prepared to play a larger role in promoting a resolution to the conflict."

As lovers of freedom, Americans cannot continue to tolerate the aggressive behavior of Turkey, which still suppresses the light of liberty in Cyprus. As we celebrate democracy today, let us remember that our fight is not over; that more work must be done, but that together we can ensure that freedom and democracy comes to Cyprus.

Mr. HORN. Mr. Speaker, this is the 176th anniversary of Greek independence, following 400 years of control by the Ottoman Empire. As the birthplace of democracy, America has a special debt to Greece.

America is committed to Greece as an ally in the fight for freedom and democracy. That commitment was renewed by the Truman doctrine and more recently within the NATO community.

America also is indebted to the great service of the Greek-American community, including Members of this House such as Congressman BILIRAKIS.

Ms. PELOSI. Mr. Speaker, I rise today to join with my colleagues to pay tribute to Greece, a nation that has contributed much to the civilized world. On March 25, we celebrate the 176th anniversary of Greek independence.

It was on this day in 1821 that, as one of the stories goes, Bishop Germanos of Patras declared in St. George's Square "Eleftheria I(ee) Thanatos": Freedom or death. The phrase became the battle cry of the Greeks and all who came to their aid in the ensuing revolution to end 400 years of Ottoman rule.

More than 2,000 years after it brought forth the concept of democracy, Greece would begin its long struggle for independence, and the right to claim for itself that which it had so selflessly given to the rest of the free world: governance by the people. It is the etymology of the word "democracy": "demos" meaning people, "kratos" meaning state, hence the people's state.

Half way around the world, another young nation was in the midst of its growing pains. The United States of America, barely 45 years old in 1821, was putting into practice, the principles of ancient Greece. The ideals of Greek democracy were not lost on our forefathers who drew inspiration from the ancient traditions. "To the Ancient Greeks," said Thomas Jefferson, "we are all indebted for the light which led ourselves out of Gothic darkness."

Time and again, the Greeks have shown themselves to be fierce protectors of democratic ideals. During World War II, in the

mountains of northern Greece, shepherds turned rebel fighters used the terrain and meager arms to baffle the Axis and slow the Nazi march into the Balkans. One in seven Greeks died for freedom during the war.

In times of peace and prosperity too, the contributions of the Greek community are immeasurable. Greek-Americans have played a significant role in all aspects to American life. Here in this Chamber, the children of Greek immigrants have brought their legacy and inspiration, and have made this place a better one for their contributions. The social fabric that is San Francisco would be less vibrant, less vital were it not for the presence of the Greek-American community which has worked tirelessly in the best interests of diversity.

Mr. MEEHAN. Mr. Speaker, I rise today in celebration of Greek independence from the Ottoman Empire. March 25, 1997, will mark the 176th anniversary of the start of Greece's struggle for independence. A historic series of uprisings against the Greek's Turkish oppressors began on this day. Soon the nation would erupt into a revolution attracting international attention and support.

The struggle of the Greek people against the Ottoman Empire exemplifies the remarkable ability of a people to overcome all obstacles if the will to endure is strong enough and the goal, freedom, is bright enough.

Today, the United States of America represents what we know as true freedom and democracy. Although no nation is perfect in its policies, America is still considered the standard by which citizens around the world compare their own governments. People living under oppressive regimes have looked to the United States for generations to gain strength in their struggles to overcome their oppressors.

The parallels between the two countries, the United States and Greece, are remarkable. American political thought was influenced just as much by Greek philosophy as the Greek revolution of 1821 was inspired by the American fight for freedom in 1776. In fact, Greek intellectuals translated our Declaration of Independence and used it as their own declaration. The incredible historical struggles we share have created a bond between our two nations that goes far beyond present day foreign relations, trade agreements and security pacts.

Mr. Speaker, I am proud to represent a large and active Greek community in the Fifth District of Massachusetts. As a supporter of issues of concern in the Greek-American community, I would like to recognize this population and their interests. Greek civilization touches our lives as Americans, and enhances the cultural existence of this great Nation.

Mr. VISCLOSKY. Mr. Speaker, I rise today to pay tribute to the 176th anniversary of Greek Independence Day, which is on March 24. I use this occasion not only to mark Greek independence, but also to celebrate the unique relationship that exists between the Greek and American peoples.

As almost every school child knows, modern democracy has its roots in the ancient Athenian system of government that was developed over 2,500 years ago. While the democratic ideals developed during this time did not always rule in Greece, the writings of its leaders and philosophers have influenced generations of people in almost every country around the world.

Among those who were influenced by ancient Greek philosophers was American Founding Father Thomas Jefferson, who taught himself how to read Greek at an early age. In his adulthood, Jefferson called upon his knowledge of the Greek tradition of democracy when writing the Declaration of Independence and other important works, which were a catalyst to American independence from the British. Years later, Jefferson's writings helped inspire the Greek people to rise up and successfully win their independence from the Ottoman Empire—the very event that we celebrate today.

This close and symbiotic relationship continues to this day. Greece is one of the only countries to have supported the United States during every major international conflict this century, and it plays a vital role in the North Atlantic Treaty Organization. The United States, in turn, has worked to bring a peaceful solution to the situation on the island of Cyprus, which was brutally invaded by Turkey in 1974.

Mr. Speaker, I am proud to join my colleagues in celebrating Greek Independence Day. I salute the Greek people for having the courage to break the bonds of oppression 176 years ago and I look forward to continued cooperation between our two nations. Finally, I would like to salute my distinguished colleague from Florida, Mr. BILIRAKIS, for arranging this special order today.

Mr. WELDON of Pennsylvania. Mr. Speaker, in commemoration of March 25, 1997, the 176th anniversary of Greek independence from oppressive Ottoman rule, I would like to acknowledge and honor the tremendous contributions that the Greek people have made to the world. The invaluable scientific, philosophical, and cultural gifts of the Greek people are countless, and all have come in spite of the historical adversity this determined nation has faced.

March 25, 1821, marked the Greek Declaration of Independence, a day ending almost 400 years of subjugation and persecution at the hands of the Ottoman Empire. Deprived of civil rights, as well as access to the educational and religious institutions for which they were famous, the Greeks waged a valiant war of independence to reacquire for themselves the vital rights they themselves had established for the rest of the world to enjoy.

The hard-won victory for independence has been followed by continuous adversity which the Greeks have repeatedly overcome and still been able to thrive. Greece has been a true friend to America and has aligned with the United States for every major conflict in the 20th century. This loyalty and dedication to the tenets of freedom did not come at a cheap price—over 600,000 Greeks lost their lives in World War II while fighting against the Axis Powers. Since that time, Greece again unflinchingly sided with the forces of democracy by joining the North Atlantic Treaty Organization [NATO] in 1952 in spite of Soviet threats of dire consequences for such action.

Greece continues to inspire the rest of the world with its persistent dedication to democracy and freedom, and it has particularly blessed the United States with 1.1 million Americans of Greek ancestry who continue to exemplify the importance of family, education, and hard work. Born right here in our Nation's Capital, Pete Sampras, the No. 1 tennis player in the world, is but one Greek-American whose work-ethic and determination epitomizes the rich heritage for which all Americans should be thankful.

I am proud to represent the many Greek-Americans living in the Seventh Congressional District of Pennsylvania and contributing to the diverse culture we enjoy. These hard-working families demonstrate the values and cohesion to which all Americans aspire.

As we look to March 25, let us bear in mind the tremendous sacrifices made by Greece and appreciate the democracy that we, as Americans, enjoy in large measure because of Greece's role as the birthplace of democracy.

Mr. MANTON. Mr. Speaker, I am proud to join my colleague and friend, Mr. BILIRAKIS, to mark the 176th anniversary of the revolution liberating the people of Greece from the nearly 400 years of domination by the Ottoman Empire.

We, as Americans, owe much to the country of Greece. The very foundation of our form of Government and the freedoms we enjoy are based upon the democratic teachings of early Greece. The Greek culture has played a crucial role in fostering freedom and democracy throughout the world. In the great words of Charles Eliot Norton, "A knowledge of Greek thought and life, and of the arts in which the Greeks expressed their thought and sentiment, is essential to high culture."

The relationship between Greece and the United States is one based on mutual respect and admiration. This is illustrated in Greece's national anthem, "* * * There was heartfelt joy in the land of Washington remembering the chains which had tied them too." Our Founding Fathers and the American Revolution served as ideals for the Greek people when they began their modern fight for independence in the 1820's. The Greeks translated the United States Declaration of Independence into their own language so they could share in the same ideas of freedom as the United States.

Mr. Speaker, the relationship between the United States and Greece has continued and thrived in modern times. Greece is one of only three countries in the world that has been allied with the United States in every international conflict this century. More than 600,000 Greek soldiers died fighting against the Axis Powers during World War II. Many Greek soldiers continued their fight for freedom and democracy after World War II when they fought against Communist rebels who threatened the liberty of the Greek people, however, the Greeks were successful in ensuring the stability and strength of democracy in their victorious nation.

On this occasion of commemorating the unique and historic relationship between the United States and Greece, I invite my colleagues to join me as a Member of the Congressional Caucus on Hellenic Issues. It is an excellent chance for Members to work together in a bipartisan manner on issues which effect all Greeks and Greek-Americans.

Mr. Speaker, I intend to continue my strong commitment to the Greek Community on

issues which effect them, including the permanent solution of the Cyprus problem; promoting a positive relationship between Greece and Macedonia; as well as ensuring that the countries of Turkey and Albania cease their infringement on human rights and violations of international law.

Mr. Speaker, I urge my colleagues to join me in celebrating the strong friendship between the people of the United States and Greece and pay tribute to the important contributions the Greek culture and Greek-Americans have made throughout the world.

Mrs. LOWEY. Mr. Speaker, I rise today to commemorate the 176th anniversary of Greece's independence from the Ottoman Empire, and to celebrate the shared democratic heritage of Greece and the United States. I thank my colleague from Florida, Congressman BILIRAKIS, for organizing this special order and for his leadership on issues of importance to the Greek-American community.

On March 25, 1821, after more than 400 years of Ottoman Turk domination, Greece declared its independence and resumed its rightful place in the world as a beacon of democracy.

The people of Greece and the United States share a common bond in their commitment to democracy. Our Founding Fathers looked to the teachings of Greek philosophy in their struggle for freedom and democracy. And the American experience in turn inspired the Greek people who fought so hard for independence 176 years ago.

This bond between our two peoples stretches beyond the philosophy of democracy. The relationship between the United States and Greece has grown stronger and stronger through the years, and Greece remains today one of our most important allies.

And the contribution Greece makes to life in America is even stronger than the ties between our two countries. Greek-Americans are a vital part of our cultural heritage. My district in New York would not be what it is today without the valuable contributions made by the Greek-American community.

I am proud to stand today in commemoration of Greek independence and in recognition of the contribution Greece and Greek-Americans have made to our country.

Mr. LOBIONDO. Mr. Speaker, I rise as a member of the congressional caucus on Hellenic issues to again recognize Greek Independence Day. This is a day to honor the sacrifices made by the Greek people over hundreds of years in their struggle against the oppressive rule of the Ottoman Empire.

This day also reminds us that Greece and the United States share much in common, including the 1.1 million American citizens who are of Greek ancestry. I am pleased to join New Jersey's Greek-American citizens in their celebration.

Many artistic and intellectual traditions have been handed down to the people of the United States of America by the people of Greece. Our Nation is richer for these traditions, and we remain grateful to Greece.

The ties that bind America to Greece are not only historical, but also modern. Americans have fought side by side with Greeks in two world wars as well as in the Persian Gulf war. Today, Greece is our invaluable ally in the North Atlantic Treaty Organization. I call upon President Clinton and the Secretary of State, Madeleine Albright, to make Greece—and the protection of Greeks in Cyprus and Turkey—a primary focus of United States foreign policy.

Mr. Speaker, in closing, I would ask all Members of the House to join with me in honoring the historical ties between the United States and Greece and in continuing to foster the close relationship between our two countries that has proven so successful.

Mr. LAFALCE. Mr. Speaker, I rise today to commemorate Greek Independence Day—a national day of celebration of Greek and American democracy. March 25 marks the 176th anniversary of the beginning of the revolution that freed the Greek people from the Ottoman Empire.

An historic bond exists between Greece and America, forged by our shared democratic heritage. America is truly indebted to the Ancient Greeks for giving the world the first example of democracy. As this neoclassically designed building provides a protected place for our own democratic government to flourish, the philosophical and democratic influences of the Ancient Greeks provides the inspiration. It is therefore fitting that Members of this Chamber join in paying tribute to the long struggle for freedom that Greece endured.

On March 25, 1821, when Germanos, the archbishop of Patros, proclaimed Greek independence, another link between Greece and the United States was forged. The American Revolution served as a model for the Greek struggle for freedom, and the Declaration of Independence, translated into Greek, served as the declaration of the end of the Greek struggle in 1830.

The interconnection between Greek and American democracies lies not only in the philosophical underpinnings of our government, but in many areas of American life. The English poet Percy Bysshe Shelley once said, "We are all Greeks! Our laws, our literature, our religion, our art, have their roots in Greece." The tremendous influence that Greece has had on American life continues today through the activities of the dynamic Greek community in America. In every field—politics, entertainment, business, and education—Greek-Americans continue to make a valuable contribution to American life.

I am honored to pay tribute to the Greek community on the anniversary of their independence day.

Mr. KENNEDY of Rhode Island. Mr. Speaker, today is a great day in Greece's history for we are once again celebrating the independence of Greece, one of our Nation's closest allies. I want to commend the gentleman from Florida, for assembling this special order and for organizing the congressional caucus on Hellenic issues. I am pleased to be part of an organized and concerted effort to speak out on those issues which are important to Greece, Cyprus, and our constituents of Hellenic descent.

It is time to celebrate the beginning of Greece's struggle for independence from the oppression of the Ottoman Empire. The people of Greece began their struggle for freedom on March 25, 1821. The colonists of America offered an example to Greece in the struggle against oppression, and, also, Athenian democracy was an inspiration to our revolutionary heroes.

Today, we honor the ties between these two countries. Each day that we meet is a celebration of the debt America owes to Greece for founding the idea of democracy. We pay homage to this every day when we meet and debate and vote and freely share ideas.

Furthermore, there is much to be attributed to the hard work of the sons and daughters of Greece who have come to the United States have made a tremendous impact on their communities.

In my State of Rhode Island, there are incredibly strong and productive Greek communities. Since the turn of the century, Greek immigrants have settled in Providence, Pawtucket, and Newport, RI. There they built businesses, neighborhoods, churches, schools, and raised families. Rhode Island is richer because of all they have given.

Today, we celebrate what Ancient Greece gave to the founding of our Nation, the success of the Greek Independence movement, and what Greek-Americans have devoted to the development of the United States. I thank my colleagues for all of their hard work in making this special order possible and look forward to further work with the Hellenic caucus.

Mr. GILMAN. Mr. Speaker, I'm pleased to be able to rise to speak on this occasion which marks a day of historical significance for Americans and all who revere the blessings which a democratic way of life have afforded us. I thank the gentleman from Florida [Mr. BILIRAKIS] for organizing this special order, and I wish to let him know how much we appreciate his efforts in the House to keep Hellenic issues before us.

On March 25th, Greece will celebrate the 176th anniversary of its declaration of independence from foreign domination. We revere and honor the contribution that Greek civilization has made to our democratic traditions.

The cause of Greek independence and the adherence of the Greek nation to the path of democracy and true respect for the will of the people to determine their political course has always been dear to the hearts of democrats (with a small d) everywhere. Modern Greece rekindled the flame of democracy that first burned in the hearts of the citizens of ancient Athens when it threw off the tyrannical yoke of the Ottoman overlords in 1821, an act that inspired all the peoples of Europe and this hemisphere.

Mr. FROST. Mr. Speaker, I am pleased to again rise in support of our annual special order in recognition of Greek Independence Day.

Today, as we pay tribute to the movement for Greek independence that began 176 years ago, I would like to espouse the importance of this island nation to the lives of all Americans. Greece has been called the birthplace of democracy, having contributed much to the structure of our society and to the establishment of this very institution. While today we may take it for granted, the concept of majority rule with full respect for the rights of the minority was first developed in ancient Greece. This notion is deeply embedded in our own Declaration of Independence and Constitution.

Today, as we struggle with problems and crises that were unimaginable two thousand years ago, we are guided by the philosophies of ancient Greece.

Of course, the influence of Greece continues to this day. Here in the United States and throughout the world, Greek-Americans continue to make significant contributions to all aspects of our culture.

So, in recognition of all of the achievements and contributions the Greek people have made to this country and toward the betterment of the human race, I salute Greece in their celebration of independence and freedom.

In particular, we in America are gratified by Greece's role as a close American ally, and by the contribution that the Greek-American community makes to this country—and we only have to look around this chamber to see our members of Greek heritage with whom I know we are all proud to serve. We also appreciate the role that Greece plays as a stable anchor in the heart of the turbulent Balkans as anarchy wracks its neighbor to the north, Albania.

Mr. Speaker, we look to Greece to continue to play the strong and responsible role it has played in assuring that the Aegean and eastern Mediterranean remain a region of peace and stability. I trust that our government will also continue to support a free, prosperous, and strong Greece. I urge all our members to join in wishing the people and government of Greece our best wishes and heartfelt hopes for a bright future.

Mr. FRELINGHUYSEN. Mr. Speaker, I rise to join with my colleagues to celebrate the 176th anniversary of Greek Independence Day, a day in which the United States and Greece share our democratic ideals. Our mutual respect for freedom and liberty dates back to the late 18th century when our Founding Fathers looked to ancient Greece for direction in writing our own Constitution. Benjamin Franklin and Thomas Jefferson persuaded a noted Greek scholar, John Paradise, to come to the United States for consultation on the political philosophy of democracy. As a result of this earlier friendship, the Greeks adopted the American Declaration of Independence as their own, sealing a bond which has endured between our two nations ever since.

For Greek-Americans and those who practice the Greek Orthodox faith, March 25 marks the date when in 1821, the Greek people rose against four centuries of Ottoman rule. Under the leadership of Alexander Ypsilanti, the Greek people fought valiantly in pursuit of freedom and self-rule for eight years. Finally, in 1827, the Allied powers lent support to the Greek effort. In 1829, not only did the united forces defeat the Turks, but the Greek people also gained recognition of their independence by the very power that had oppressed them since the Fifteenth Century.

The Greek people continued their struggle against the threat of undemocratic regimes into the 20th century. At the height of World War II, when it appeared that Nazi forces would soon overrun Europe, the Greek people fought courageously on behalf of the rest of the world—at a cost of a half a million lives. The Greek people dealt a severe blow to the ability of the Axis forces to control the Mediterranean and sealed off the Black Sea which helped to turn the tide of World War II.

Today, Greece is still threatened by outside forces and knows too well that freedom and independence come at a price—vigilance. While March 25 marks Greece's accomplishment as an independent nation, it also symbolizes the Greek people's continued defense of democracy, an idea given birth by the great philosophers in Athens more than 2,500 years ago. Greece's presence as a free and lasting democracy in an often unstable region of former totalitarian states is one reason why some of the infant democracies of the Balkans may yet survive and flourish. In fact, just this week, the Greek government sent humanitarian aid to her strife torn neighbor, Albania. Greece remains a shining example of democracy in the Balkans.

Once again, I am grateful for the opportunity to join my colleagues and my constituents in observing this very important celebration. Each March, I remember where America's own democratic principles were derived, and I honor the invaluable contributions Greek-Americans have brought to this country. The more than 700,000 Greeks who have come here, have benefitted us with a stronger, civilized and more cultured heritage. Mr. Speaker, I salute Greece and Greek-Americans for their outstanding achievements and their commitment to the ideals of freedom.

Mr. DOYLE. Mr. Speaker, I rise today in support of Greek Independence Day.

Throughout the 20th century, Greece has stood strong, first in the face of imperialism during World War I, then against the Fascist incursion of the Axis Powers during World War II, and finally in facing down the Communist threat during the cold war.

The shared victory of Western democracies in defeating communism would not have been possible without the dedicated participation of Greece. Also, as Americans, we must continue to recognize the pivotal role played by Greece in meeting our goal of maintaining and enhancing the economic and political stability of Europe and the Mediterranean.

Greece continues to stand firm as a bulwark of stability in an otherwise volatile region. Just today, Prime Minister Costos Simitis has called for a summit of Balkan leaders to deal with the crisis in Albania. It is this type of action—working for regional stability when it is most needed—that clearly demonstrates the important role the people and Government of Greece continue to play in the modern world.

Again, I congratulate the people of Greece on their ongoing positive contribution to peace and democracy throughout the world, and wish them all the best on their independence day.

Mr. BONIOR. Mr. Speaker, I am pleased to join the Greek community to celebrate the 176th anniversary of Greek independence.

On March 25, 1821, the Archbishop of Patras blessed the Greek flag at the Aghia Lavra Monastery near Kalavrita, marking the beginning of the Greek war of independence in which nearly 400 years of Ottoman rule were turned aside.

Ancient Greece was the birthplace of democratic values. It brought forth the notion that the ultimate power to govern belongs in the hands of the people. It inspired a system of checks and balances to ensure that one branch of government does not dominate any other branch.

These ideals inspired our Founding Fathers as they wrote the Constitution. In the words of Thomas Jefferson, "to the ancient Greeks * * * we are all indebted for the light which led ourselves out of Gothic darkness."

Today, the United States is enriched not only by Greek principles but also by its sons and daughters. Greek-Americans have made major contributions to American society, including our arts, sports, medicine, religion, and politics.

My home State of Michigan has been enhanced by the Greek community. In Macomb and St. Clair Counties, we are served by St. John's Greek Orthodox Church and Assumption Greek Orthodox Church. These institutions provide a multitude of community services and add to the rich diversity of the area.

Mr. Speaker, I join the people of Greece and those of Greek ancestry around the world celebrating Greek Independence Day. I salute all of them for the tremendous contributions to freedom and human dignity which they have made.

Mr. COYNE. Mr. Speaker, I rise today to join in this special order commemorating Greek Independence Day.

In 1821, 176 years ago, the Greek people undertook a prolonged, uncertain, and painful struggle to win their independence. The cause of Greek independence required nearly 10 years of courage, persistence, and sacrifice. The price of freedom was very heavy. In the end, however, the Greek people were successful in winning their freedom and establishing an independent nation.

Congress recognizes Greek Independence Day because we believe that it is important to commemorate the struggle of the Greek people to secure the right of democratic self-government. This triumph in itself is significant as a testament to the importance of freedom, but given the special place that Greece holds in world history as the birthplace of democracy, the story of the 19th-century Greek struggle for independence takes on added poignancy. Congress also recognizes Greek Independence Day because the concepts of personal liberty and self-government that were developed in ancient Greece were subsequently adopted by 17th- and 18th-century philosophers and formed the basis for the political beliefs that fueled the French and American Revolutions.

Greece and the United States have much in common. Greece and the United States can each legitimately claim to be the cradle of democracy. Each country's legacy inspired patriots of the other country in their struggle for independence. And each country has had an important influence on Western culture and modern intellectual thought. Moreover, both the Greek and the American people share many common qualities—qualities like energy, creativity, entrepreneurship, and courage. It should, then, come as no surprise that Greek Independence Day is being observed today in the U.S. House of Representatives. I am pleased to join my colleagues and our country's Greek-American citizens in celebrating Greek Independence Day.

Mr. BLUMENAUER. Mr. Speaker, I rise today to offer my congratulations and support to the nation of Greece and Greek descendants everywhere in the celebration of Greek

Independence Day. As a nation that has played and continues to play a dramatic and important historical role, Greece deserves our every respect and admiration on their day of independence.

Ancient Greece served as a model for many ideas that have transformed the world for the better. Two of those ideas, democracy and the Olympic games, serve to bring people together in the spirit of friendly debate and competition, and bring out the best in everyone involved.

When our Founding Fathers looked to the lessons of the ancients and their system of government in order to build a government that could both respond to the people's concerns and stand the test of time, they used the Greek system of government as their primary inspiration. When Thomas Jefferson wrote "I consider the people who constitute a society or nation as the source of all authority in that nation," he was building on the example that the ancient Greeks set over 2,000 years ago.

This body's bipartisan retreat last weekend in Hershey, PA, was certainly an example of where the Greeks inspired us to work together. The Olympics have always been an opportunity for athletes to put aside their differences and compete honestly and in the spirit of fair play. Our work together in Hershey was an effort to bring that way of thinking back to this body, and I'd like to think that the spirit of the Greeks watched over us at that retreat and guided our actions to produce better and more civilized debate about the issues that we are working on.

I represent a large number of Greek descendants, and the Greek community is a very active one in my hometown of Portland, OR. Their contribution to our culture and our community is an overwhelmingly positive one, and it is one I enjoy taking part in every year. Today, I am happy to honor not only the members of the Greek community in my district, but around the State of Oregon and the nation, by celebrating their nation's independence day.

Mr. BLAGOJEVICH. Mr. Speaker, on behalf of the 200,000 Greek Americans of Chicagoland, I am proud to pay tribute to the 176th anniversary of Greek Independence Day. Theirs is a rich heritage to be celebrated by all Americans and those who enjoy the freedoms of democracy across the world.

Greek-Americans have played a vital role in shaping the progress of the city of Chicago. Their leadership in areas including commerce, civics, the arts, and education has extended far beyond the benefits of their historic legacy of democracy. They are good neighbors and citizens who share a culture for which Chicagoans hold the deepest affection. Recently undergoing a wonderful restoration to host America at the Democratic National Convention, our city's Greek Town community has come to be nationally renowned for its authenticity and devotion to ethnic tradition.

And while I am proud to be a part of a Nation that recognizes the contributions of Greek-Americans and the fundamental significance of this historic day, I am quick to remember that this is a spirit to which we must be true each and every day. A spirit that must never be forgotten or taken for granted for a single moment. Ironically, Greece is one nation that knows this only too well.

For over 20 long years, the world has shared the outrage felt by the residents of Cyprus whose land has been illegally occupied by Turkish forces, and shared the pain of the families of the 1,619 Greek Cypriots who are still missing from the invasion. In the midst of our celebration of the freedoms we enjoy as a result of Greece's contributions to society, we must not overlook this issue.

In honor of all those who have struggled in the cause for democracy, I ask that we renew our commitment to reaching a fair resolution to the conflict in Cyprus.

Until then, I wish all of the Greek-Americans of Chicago and across the Nation a very happy Greek Independence Day. On this and every day, their invaluable contributions to our society will not be forgotten.

Mr. ACKERMAN. Mr. Speaker, I rise today to join in recognition of the 176th anniversary of the independence of Greece.

Greek Independence Day, which is celebrated in a variety of ways nationwide, commemorates the birth of modern Greece. Whether the festivities take the form of parades, dances, songs, or feasts, the common thread of freedom runs through all activities. The battle for liberty fought by the Greeks ended with the triumph of democracy. This struggle has significant relevance for the United States. Sacrificing for the principle of democracy is a fundamental value Greece and the United States share.

The commemoration of Greek Independence Day also represents the special relationship between Greece and the United States. The bond reaches back to the early 19th century when Americans went to aid Greece in their war of independence. Now, approaching the 21st century, we're embarking upon a reinvigorated alliance. Sharing in the NATO partnership and working toward a sustained peace in the Balkans are two prominent examples of this relationship.

Another praiseworthy element exemplified by Greek Independence Day is community involvement. In the United States, Greek-Americans make invaluable contributions to the cultural, educational, and social fabric of American society. As a lifelong New Yorker, I know firsthand about the robust civic spirit the Greek-American community embodies. The hard work demonstrated by the many volunteers to put the Greek Independence Day celebrations together represents this strong sense of community. All members of the Greek community should be very proud of the multiplicity of events celebrating Greek Independence Day.

I want to thank my colleague from Florida, Mr. BILIRAKIS, for organizing this special order to celebrate Greek Independence Day. We should take this moment to salute the heroic feats of Greeks in their struggle for independence, recognize the strong bonds that exist between the United States and Greece, and applaud the contribution Greek-Americans make to communities across the country.

Mr. ROTHMAN. Mr. Speaker, I rise today to join with my colleagues in paying tribute to Greek Independence Day.

Some 61 years ago President Franklin Delano Roosevelt remarked that, "In the truest sense freedom cannot be bestowed, it must be achieved." It is this very achievement, the embrace of liberty by the Greek nation, that we celebrate here today. And in a sense, today we celebrate not only the 176th year of Greek independence, but we honor the ideals upon which independence was secured in 1821. Values like honor, dedication, and perseverance were the call-words in the establishment of an independent Greek state.

For the thousands of Greek-Americans living in my congressional district, this day is representative of the determination of the Greek people to secure freedom against all odds. After being under Ottoman rule for four centuries, the Greek people realized their national aspirations by securing their independence in 1821. It was that realization that began a new era for Greece and has resulted in a warm relationship with the United States of America.

Today, Greece is a prosperous country and a fully engaged member of NATO and the European Union. And today, in all walks of life, Greek-Americans continue to make remarkable contributions to our country in the arts, humanities, and the areas of sport and commerce.

Mr. Speaker, as a strong supporter of issues dear to the Greek-American community, I am proud to recognize Greek Independence Day and I wish to extend on this special day my congratulations to all Greek-Americans and all the citizens of Greece.

Ms. ROS-LEHTINEN. Mr. Speaker, I am honored to join my colleagues today in remembering the 176th anniversary Greek Independence Day. I especially wish to thank my friend and fellow Floridian, Congressman MIKE BILIRAKIS, and my other good friend, Congresswoman CAROLYN MALONEY, for calling the special order to raise the public's awareness of the history of Greece and the important role Greece has played in the United States and the world.

When we celebrate Greek Independence Day we need to note that March 25 is not the day that all of Greece gained its independence. March 25 was the day that Athens and a small portion of Greece gained independence and then areas populated by Greeks were liberated one by one until we have the Greece of today.

It has often been said Greece's great gift to the United States and to the world is the governmental system of democracy. Well that is indeed a great gift which has brought much happiness to the world. But, it was the Greek courage, spirit and desire for liberty which helped the world to understand that democracy is the best way for people to join together in common association.

The Greek people, through their history, have shown an indomitable will to fight for their freedom. The Greek victories are well known throughout history. There was the Greek war for independence that freed part of Greece from the Ottoman Empire and later during World War II the Nazi invaders. But Greeks have suffered less known tragedies that would have broken the spirit or destroyed a lesser people.

Today Greek minorities in Turkey and other places in Eastern Europe are suffering political and religious persecution. That is why this special order is so important. In addition to reminding the American people of their roots to

the cradle of democracy in Greece, we need to continue raising the public's awareness of the constant threat Greeks live under in Eastern Europe.

The Greek Cypriots in occupied northern Cyprus live under intolerable inhuman conditions since their land was occupied by a military force. Tensions continue to rise around Cyprus and I urge the administration to apply the same degree of commitment to finding a peaceful solution to the Cyprus crisis that it applied to the Bosnian crisis.

I introduced legislation last Congress to help relieve the suffering of the enclaved Greek Cypriots and am considering similar legislation in this Congress. We must end the senseless persecution of these brave people. I just hope that the administration does not allow this situation to continue to fester hoping it will go away.

Mr. Speaker, the link between the United States and Greece is a strong bond and I believe the United States should thank the Greek people for not just being a good ally to America but for their gifts of our heritage of democracy and individual liberty. I am happy to join my colleagues in celebrating this joyous anniversary.

Again, I thank my friends Congressman BILIRAKIS and Congresswoman MALONEY for calling this special order and for their leadership on Hellenic issues.

Mrs. MALONEY of New York. Mr. Speaker, I first of all want to thank the gentleman from Florida [Mr. BILIRAKIS] for organizing this special order to celebrate Greek Independence Day.

I am very fortunate and very pleased and privileged to represent Astoria, NY—one of the largest and most vibrant communities of Greek and Cypriot Americans in this country.

It is truly one of my greatest pleasures as a Member of Congress to be able to participate in the life of this community, and the wonderful and vital Greek-American friends that I have come to know are one of its greatest rewards.

I have also had the pleasure of establishing the Congressional Caucus on Hellenic Issues with the gentleman from Florida. This caucus allows Members of the House to join together to find ways to work toward better United States-Greek and Cypriot relations.

March 25, 1997, will mark the 176th anniversary of the day when Greece declared her independence, beginning an 8-year struggle for freedom.

From the fall of Constantinople in 1453, until the Declaration of Independence in 1821, almost 400 years, Greece remained under the heel of the Ottoman Empire. During that time, the people were deprived of all civil rights. Schools and churches.

One hundred seventy-six years ago, the Greek people were able to resume their rightful place as an ideal of democracy for the rest of the Western world.

The ancient Greek paradigm of democracy and individual liberties inspired our country to seek its own independence, and in that sense, as the American philosopher Will Durant observed, "Greece is the bright morning star of that Western civilization which is our nourishment and life."

Yet half a century later, the American Revolution became one of the ideals of the Greeks as they fought for their own independence. Since their independence, Greece has become one of the most trusted partners allied with the United States in every major international conflict in this century.

In light of this special and longstanding relationship, some recent actions taken by the administration are particularly troubling. The proposed sale of Seahawk naval helicopters sends the wrong signal to Turkey, particularly given the tense situation on Cyprus.

The Hellenic Caucus responded by sending a letter condemning this sale to President Clinton that was signed by over 80 Members of Congress. I believe that it is time for the administration to reach the same conclusion and end unfortunate weapons sales until certain actions are halted. We need a rational policy that does not encourage aggressive actions and attitudes. There can be no middle or neutral position between those who uphold the rules of law and those who violate it.

Mr. Speaker, I am proud to join in celebrating Greek independence and the indomitable, life-giving spirit of its people.

FAIR LABOR STANDARDS ACT TO BE CHANGED BY H.R. 1

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS. I want to alert everybody to the fact that we are going to be considering H.R. 1, the bill which deals with the denial of cash payments for overtime pay work to workers.

H.R. 1 is called, rightly by the Democrats, the Paycheck Reduction Act, or some of us call it the Employer Cash Enhancement Act.

I will have an amendment on the floor tomorrow in connection with H.R. 1. That amendment deals with two-thirds of the American work force, two-thirds of the people out there in the work force making $10 an hour or less, and my amendment deals with trying to protect their interests.

I have been given the grand sum of 10 minutes to debate my amendment. That is 5 minutes for the opposition and 5 minutes for myself to debate an amendment which impacts on two-thirds of the work force.

We are going into the session tomorrow with the most important bill that we have considered thus far in this session. It is called H.R. 1 because the majority party, the majority Republicans, consider it to be so important as to give it that distinction of being H.R. 1.

It is first in priority, and it deals with changing the Fair Labor Standards Act, which has existed since Franklin Roosevelt and the New Deal. The Fair Labor Standards Act will now be changed to remove from it the mandate that when workers work more than 40 hours a week, they must be paid at a rate of time and a half. If an individual is making $10 an hour and they work over 40 hours a week, every hour over 40 hours must be paid at the rate of $15 an hour. It is that simple.

This bill did not fall from heaven. The act did not fall from heaven. It was the result of exploitation of workers by employers in large numbers, exploitation in terms of low payment of wages in general and working workers around the clock, late hours each day, weekends, Sundays, Saturdays. There was great exploitation at the time this New Deal legislation came into being.

It did two things: It made the workers fortunate to have jobs get better treatment and better pay; and it also made employers employ more workers. If employers were going to have to pay time and a half rate to people who were employed, instead of driving the work force that they have incessantly, they are likely to want to hire people, more people, and pay them at the regular rate.

So it had both effects, that more people got jobs, and those who had the jobs had better working conditions.

Now we are about to make a drastic change. It is a revolutionary change in labor law. This is no small item. It is a revolutionary change in labor law. It is an extreme measure, an extreme step to take. It is an extreme step to take and it does not have to be that way. If we want flexibility in the law, and no law is written in stone, it does not have to be forever. Things change. Each generation has the right to look at the laws that it might be bound by and change those laws. There is nothing sacred about laws made by mankind.

□ 2030

So we can change it. But why take a great step which just happens to be a step on the backs of the people at the bottom of the economic structure? The lowest income people will suffer the most. Why do that when you do not have to? You could take some steps toward changing the law, making the law more flexible, without hurting so many people.

The statistics show that two-thirds of the people who are working, fortunate enough to have a job, are earning less than $10 an hour. I propose that if you have to go forward and change the labor law, the Fair Labor Standards Act, and it looks as if the votes are there, the majority Republicans have the vote in the House of Representatives. In the other body, in the Senate, they are steam rolling forward. They have the votes. So the likelihood is that this Republican-controlled Congress will come out with a bill that they both agree on, and it will have to be negotiated with the White House.

The White House is saying that they will not sign such a bill, they will veto the bill as it is. But when the White House says it will veto a bill as it is, that is a clear statement even to a sophomore in high school that what they are saying is we will negotiate.

What will the negotiations be? What I am saying is that it is likely that this revolutionary change in labor law which is rolling forward, it is likely that it is going to pass, it is likely that we are going to have some change in the next couple of years. Before this session is out, something is going to change.

I hope that nothing changes. I am in the same position as those who say just vote no, but I see the change coming. Just vote no is a beginning position. I will vote no. But I realize that just voting no is not enough. One of the reasons that just voting no is not enough is that there is a great deal of sentiment in certain quarters in this Nation, and I have said this before, I do not want to be redundant, there is sentiment among upper income, middle-income folks to have more flexibility in the way their employers treat them. They would like to have time off instead of having the employer being bound by the labor law to pay them in cash. There is no reason why we cannot accomplish that and relieve the anxiety or the bind that certain upper income people find themselves in without hurting those at the very bottom.

The compromise that I have proposed in the spirit of this bipartisan Congress is that let us go forward and make the changes and give the flexibility to the people at the very top of the wage structure, that one-third of the work force that is above the $10 an hour. Let us have an experiment, let us do it for 2 years, 5 years.

I understand that the bill the Republican majority will have on the floor tomorrow will modify the bill to say we shall have a sunset provision in the bill and in 5 years reconsider it. OK, let us reconsider it in 5 years. In the meantime, have a bill which exempts the two-thirds of the work force making $10 an hour or less and go forward with the experiment for those people at the top who want this so badly. It is a win-win situation.

I did not go to the Democratic-Republican retreat. We had a bipartisan retreat, and part of the retreat's purpose was to see to it that we work together in a more civil manner, that we work together in this session of Congress in a more productive manner, that we avoid gridlock, that we avoid ideological locks just for the sake of defending positions.

I am all in favor of reason prevailing. So I offer this reasonable proposal and I will offer the amendment on the floor tomorrow to take care of those people at the very bottom of the work force, those folks who make 2.5 times the minimum wage, and that formula is used in order to make certain that as wages rise we are still protecting the people at the very bottom.

I say this as a repetition of what I have said before in the last 10 days. I will not go any further in that vein. I just want to spin from that, the fact that this bill will be on the floor tomorrow, to the larger issue. The larger issue is that H.R. 1 is a bill which hurts workers as it is now. What this Republican-controlled 105th Congress has done is laid on the table its battle plan for the destruction of working families. We are going to pursue a course of action very similar to the one pursued in the 104th Congress, and in many ways the signals have come clear to us that this is going to be a different Congress. Certainly in the area of education, we are going to cooperate and have some productive, forward movement on the improvement of education in America. But the signal that is being sent now for working people and the laws and regulations that govern the lives of working people, the signal is also clear, nothing is different from last year.

The Speaker said that politics is war without blood, and with respect to organized labor and the things that affect working people, that still holds. Politics is war without blood, and war has been declared on working people. War has been declared on those laws. What will be on the floor tomorrow, H.R. 1, is just the beginning.

There is also a TEAM Act that is in the works. The TEAM Act is similar to the TEAM Act that was on the floor last session. There is also a move to curtail the participation of labor unions in politics, the ability of labor unions to support candidates that are supporting their interests. There are also other efforts going forward to curb the Davis-Bacon law. Across the board there are things occurring which make it clear that war is still the modus operandi of the Republican Party in respect to things that affect working people. If they were happening one by one, I would not be as alarmed as I am, but they are not happening one by one. There is a clear battle plan. Part of the battle plan also extends to the failure of the other body to move forward to confirm Alexis Herman as the Secretary of the Department of Labor. The Department of Labor is without a head, no direction, no general. The troops are there, the functions of the agency cannot go forward. It is in limbo in respect to the Secretary of Labor. The denial of the Secretary of Labor's immediate confirmation sort of demoralizes the people who are in organized labor, the people who are workers. It is all psychological warfare, too.

So the warfare is there, and we should take it very seriously. I am here again to talk about this because it needs to be seen in the broader perspective. I also talked last week about the fact that everybody is not paying their taxes in the way which the Internal Revenue Code defines they should be paying their taxes. Corporations are not paying their taxes in accordance with the code. The Tax Code says that corporations cannot do certain things and on a wholesale basis they are doing them.

As we approach April 15, every taxpayer ought to stop and think about the fact, they try to obey the law and our society is based on the rule of law and any group that does not obey the law is automatically a threat to society. Every time the law is systematically downgraded, held in contempt, ignored, then the whole rule of law concept is in jeopardy.

I want to link that up with what is happening with organized labor. On the one hand, you have this brutal scrutiny of everything related to organized labor, a brutal scrutiny. There was a hearing this morning related to the contributions that labor unions give to political candidates for political education purposes. The other party, the majority party, is very alarmed about the fact that large sums of money were spent last year by the AFL–CIO on political education that they thought hurt some of their Members, unduly criticized them, and they are waging this vendetta against organized labor by developing legislation which will curtail their use of their own dues. The dues paid by the members are now being subjected to more regulations. Labor unions already are the most regulated institution in our society. You do not find corporations being regulated in the same way. You do not find educational organizations. There are a number of other bodies, the Red Cross, all kinds of groups that exist in our society that collect money and have money, wield influence, and they are not as regulated as labor unions. But they are going to enforce, try to add to that another layer of regulation. The majority party in this House is determined to get rid of regulations.

What I am saying is there is a linkage between the fact that we have this series of moves being taken against working families and any kinds of laws, regulations, rules that affect working families or help them, and on the other hand we have certain Tax Code laws being ignored, and big corporations and rich people are the ones who are ignoring those tax laws. I made the speech about the need to have the Tax Code enforced last week. I just want to link these two items up.

What I said last week is there is a provision in the Internal Revenue Code which says that corporations cannot buy back their own stock. They cannot buy back their stock except if it in some way relates to their capital needs. That is, any business has a right to take parts of its profits and put those profits into taking care of certain capital needs. They have a right to put the profits into certain options for the executives. There are certain things they can do. But once they have used their profits for that purpose, they have to justify any additional purchase of their own stock and show

that they are not doing that in order to, first, prevent the payment of taxes by their shareholders, and, second, they are not manipulating the stock market. The IRS is not concerned about the manipulation of the stock market. That is the SEC. But the IRS is concerned about having corporations buy back their own stock in large quantities that are not needed for legitimate purposes and their shareholders do not pay any taxes then because they do not get those shares distributed among themselves and the corporations end up hoarding large amounts of money that it should not be hoarding, it should distribute them. It is not fair to the shareholders, first. Some shareholders may not want to have their shares distributed to them because they do not want to pay the extra taxes that year, but most shareholders probably do want any profits that they have received, any dividends that have been accrued, to be distributed. The law is very clear. It has existed since 1913. It says a corporation may not do this.

It is not against the law, by the way. It is interesting that the Tax Code does not make this illegal. Nobody will go to jail. What the Tax Code says at this point, sections 533 to 537 of the Tax Code, Internal Revenue Code, it says you will have to pay a 39.6-percent penalty if you do this. That is a pretty stiff penalty; 39.6-percent of what you did not handle properly, you must pay in penalties. You can see if you have $1 billion that you use to buy back stock improperly, a 39.6-percent penalty on that is a considerable penalty. That is in the code, since 1913.

For a long time corporations and other people tried to misinterpret that to mean only closely held corporations, family corporations. But in 1984 the Congress, the Ways and Means Committee, made it crystal clear that this provision shall apply to all corporations. It is not being enforced. The buyback phenomenon has been taking place for the last 10 years, large amounts of stock being bought back by corporations, and it has accelerated and escalated.

So what I am saying is that when it comes to the rich, nobody is looking. When it comes to corporations and their power, nobody wants the law enforced. When it comes to labor unions, on the other hand, with much smaller amounts of money, and they are operating within the regulations, they are under intense scrutiny.

Now, one might say, well, the problem is that labor unions made large contributions to Democrats during the last election and they spent a large amount of money on what you call political education. They asked for trouble.

I have a chart here which shows that labor unions were little spenders compared to what other groups spent on the last election, labor unions were small fry. The biggest spenders were in the area of finances, corporations, financial institutions of various kinds.

□ 2045

This chart shows that across the board, when you look at the various sectors of our economy, if you look at agriculture, construction, defense, energy, health, law, transport, miscellaneous business, labor, you look at all of them, they all spent large amounts of money. But the one thing that stands out about labor, the labor contributions were the only ones where the contributions to the Democrats exceeded the contributions to the Republicans. All of these other categories in great amounts exceeded—the contributions to the Republicans exceeded the contributions to the Democrats right across the board.

So you can see from this chart why it is that the Republicans spent seven times more money in the last election than the Democrats, seven times more, and yet we are scrutinizing, focusing a microscope only on this sector, labor, at present. We are not looking at the kinds of activities that took place in respect to corporations, financial institutions, et cetera. Are we examining their practices? Are we saying to them did you get the permission of your shareholders? Did you ask them who to support in the election?

That is what we are asking labor unions. You did not get the permission of the people. They had the right to decide who their money was going to support, you should not be using their dues to support anybody that they do not agree with, that they do not themselves, each one of the members. If a union has a million members, you have got to have agreement among—all million have to support somebody. Otherwise give the people their money back.

No other institution in America operates that way, but that is what is being proposed in my committee, the Committee on Education and the Workforce. The Subcommittee on Employer-Employee Relations had a hearing this morning where the Republican Members in the majority were saying in essence, "You have committed a gross unethical violation by not asking your members who you should support," and the answer of the union members who were testifying, and there were not many of them, there were only two of them, and seven of the people there were brought in to testify against the unions, but at least they did allow us to have two witnesses in defense of union policy. What they said was, unions are democratic organizations and as democratic organizations what the majority decides the minority must go along with.

I mean that is the way America operates. The majority elected the Members of this House of Representatives. They happen to give the majority to the Republicans. So the Republicans are in the majority of the House of Representatives. They rule. We have certain rights; sometimes they are violated wholesale, but we do have—we pretend to have rights in the minority and that is across America. The minority is supposed to have certain rights; the majority rules. So why are we asking unions to behave differently and allow the minority to determine what the union does or does not do?

There is a set of myths that we went through this morning relating to this whole matter, how unions operate. I am not going to go a great deal, but it is called "Separating Myth from Fact Regarding Beck." There was a Beck decision of the Supreme Court, the Communications Workers of America versus Beck, and it dealt with this whole problem of how unions can spend the dues of members and what kinds of activities it cannot engage in, and that is what is back on the table. The Republican majority wants to interpret Beck, the Beck decision, to mean that unions should be almost paralyzed.

I am not going to read all of it because this is not really the primary topic of discussion. I would like to submit a statement called "Separating Myth from Fact Regarding Beck." I ask unanimous consent to submit this statement in its entirety. It is just two pages, and I think it is illuminating at this point.

The SPEAKER pro tempore (Mr. GIBBONS). Is there objection to the request of the gentleman from New York?

There was no objection.

SEPARATING MYTH FROM FACT REGARDING BECK

Fact: Unions are voluntary organizations. A union exists only where a majority of the employees democratically decide to form a union.

Fact: No one can be forced to join a union. The "closed shop" is illegal. Where a union exists, it is up to each individual employee to decide whether to join a union.

Fact: Unions are democratic organizations and union members control their activities, including spending decisions, by voting at union meetings and conventions and by electing their union officers.

Fact: Under Federal law, union membership dues levels are set by the members themselves; any dues increase must be approved by majority vote.

Fact: As with other voluntary membership organizations, those who do choose to join a union and enjoy full membership rights are expected to pay the organizations' regular dues.

Fact: Unlike other kinds of organizations, however, unions must represent all employees in a bargaining unit including those who do not choose to join the union, equally and without discrimination. All employees—members and non-members alike—receive the benefits the union negotiates with the employer. And all employees—members and non-members alike—can use the union's grievance procedures.

Fact: In many states, unions and employers may agree to require non-members who

are represented by the union to pay an "agency fee" to the union for the representation provided by the union. But under the National Labor Relations Act, as it currently exists, those who object to paying an amount equal to union dues cannot be required to pay more than their pro rata share of the union's cost of "activities germane to collective bargaining, contract administration, and grievance adjustment." That is the precise holding in the Supreme Court case, *Communications Workers of America* v. *Beck*, 487 U.S. 735 (1988).

Fact: The NLRA, as definitively construed by the Supreme Court in Beck, thus already assures that no employee can be required, over objection, to contribute to a union's political communications to union members, a union's voter registration and "get-out-the-vote" campaigns, or to any other expenditures by a union for political and ideological purposes unrelated to collective bargaining.

Fact: To assure that no employee is compelled to support union's political or ideological activities, the National Labor Relations Board has held that a union which seeks to collect agency fees must notify non-members of their right to object to paying for such activities and their right to pay a reduced fee based upon the union's cost of activities germane to the cost of collective bargaining. The NLRB has further held that the union must provide non-members with sufficient information about the union's activities to enable the non-member to decide whether to object. This, too, is already the law.

Fact: There are approximately 50,000 local unions in United States, thousands of state regional unions, and over 75 national and international unions. These unions range in size from a handful of members to over 1,000,000 members, and differ greatly from each other in terms of accounting systems, methods of communication, and the like. Procedures that work in one union will not work in another, and Washington should not impose a straitjacket on what varying unions do to meet their obligations under Beck.

Fact: Any nonmember who believes that he or she is being required to support union activities unrelated to collective bargaining or who believes that the union's the right either to file a complaint with the NLRB or to go directly to court. In such cases, the NLRB and the Federal courts will decide whether particular procedures the individual union has developed are legally adequate.

Mr. OWENS. But what I am trying to show is that on the one hand we have labor unions under attack. This Beck decision and its interpretation is just one of the ways that labor unions and working people and laws that benefit working people are under attack, just one of the ways they are under attack.

Another way is the TEAM Act. The TEAM Act allows union employers to select groups of employees that they want to form a TEAM committee with, and those employees are empowered to work with the management in order to do the things that management wants done. Well, you will never be able to organize an independent union if the labor law is pushed aside and you can have employers and management selecting people that they want to bond with among the employees. Unions are supposed to be independent; that is the whole thrust of labor law. And yet the TEAM Act would eliminate that independence by allowing the management to select who they are going to bargain with, who they going to work with and negotiate with in the plan. That is another problem.

The other problem that I mentioned before is Davis-Bacon is being attacked. Of course comp time, and you know NLRB is under attack, National Labor Relations Board, being attacked. All of these institutions that were set up under Franklin Roosevelt, the New Deal, under attack now.

You know, here we have a situation in America where when Franklin Roosevelt became President, there were people saying that you can never make America work if you have things like Social Security. You can never—America will never work if you have a National Labor Relations Board. If workers can organize and they can confront management, our whole society is going to collapse.

It did not happen. We had the great sit-down strikes and the plants in Detroit, we had organized labor all over the country getting together, and they created a situation where the workers were paid decent wages, some of the best wages in the world for a long time, and because they were paid the best wages in the world they created the biggest consumer market in the world. That consumer market is still the biggest in the world. Despite the fact that we have less population than many nations, our consumer market is the biggest in the world. We are the engine for capitalism all over the world.

The Chinese have a booming economy only because they have a place to sell the products. Unfortunately, I wish they were not selling their products here. I wish we had our own workers manufacturing the products that they are making in China and not having the Chinese workers making products there at very low wages and bring them here and sell them at high prices so that the people who own the factories, they make a killing. They get things produced at a very low price, they bring them here and sell them at a high price, and they are making a killing, and they are destroying our labor force and eventually they will destroy the consumers. That great body of consumers that makes the world go is here in America. The great overwhelming part of our gross national product is consumer spending.

Now these are not conjectures or these are not theories of MAJOR OWENS. These are facts. Consumer spending drives our economy still, despite the fact that you have a lot of other things happening, you know, with the age of information, electronics, and you have a lot of investment in equipment and capital. All kinds of things are happening. Consumer spending still drives the economy.

If you destroy the great consumer base, the masses of consumers in America—there are some people in the rest of the world that think the closest they will ever get to heaven is if they come to America, but we have it here already. Normal, ordinary people live better, eat better, have better accommodation in terms of housing. We have better clothing, drive cars. Nothing else like this has ever happened on the face of the Earth.

Why do we want to destroy it? Why do we want to destroy the workers and the work force which becomes the consumers, which establishes the wealth and drives the economy of capitalism all over the world? Is there a danger of destroying it, or is this some farfetched set of assumptions that I am making here? Is there any danger if we let corporations and people with power not obey the law? We are back to the taxes. If they do not obey the law in one respect, and they do not obey it in another respect, and they have it galloping on, they buy influence either in the Senate or the House, or they buy influence in the White House, and they are able to run roughshod over certain laws and certain regulations and get things done outside of the channels of our democratic processes. Then you will have a situation where you may have a threat to this engine that drives capitalism all over the world. You may have a lopsided situation created where to facilitate the short term gains of making money in the corporations, we destroy the labor unions, we destroy the capacity of our working class to demand good wages, and we destroy our consumer market. You know, we can have that if we have a lopsided situation, if we wipe out the Government's involvement and the Government's protection of workers.

One of the people who testified this morning was a professor from somewhere in Texas, and his proposal was that we follow the example of New Zealand, that New Zealand has almost wiped out all of their laws with respect to labor. It is up to the management and the unions to negotiate, and they do not have any guidelines and any parameters that are set by government, and he wants America to become that way.

That would be a risky experiment indeed. That would be an extreme experiment. It would be a revolutionary experiment.

We should not become so complacent that we think our great American society is not susceptible to great collapses. We have not looked at it closely enough, but we ought to take a look at the savings and loan swindle. The savings and loan swindle was a partial collapse of our economy that never has been really recognized because the forces that control that situation were so great until most Americans do not realize what happened to them.

You know, about $500 billion in taxpayers' money will go down the drain

as a result of the savings and loan swindle. Five hundred billion. Most people cannot comprehend that. You know it is very hard, you know. An aircraft carrier costs $3 billion. You can comprehend that maybe if you stretch your mind; an aircraft carrier costs $3 billion. But when you get up to 500 billion, it is just hard to comprehend, but when you add all the money that went down the drain in the savings and loan association that the taxpayers have to put back in because fortunately for the economy, fortunately for our system, we had a Federal Deposit Insurance Corporation. Government regulation was in place so that people whose money was jeopardized by the savings and loan swindle, which was a massive swindle that spread across the whole Nation—never before has anything in the history of the world happened on the scale that the swindle of the savings and loan association demonstrated to us.

We really do not understand yet what happened. Part of the reason we do not understand is because this country is so rich. There is so much wealth here until you can have a massive swindle like that take place, and resources and money were moved in mainly from the American taxpayers to cover it so that you did not have any massive dislocation.

What if we had been in the position of Albania? Now little Albania is tiny, but I am going to use Albania as an example because it is a recent development. Most people I am certain will listen to me are not concerned with Albania. People are concerned about what is happening in Africa where the disruptions and the collapse of societies in certain places means that people get massacred. The Hutus and the Tutsis, the fight there, people massacred in large numbers, bodies floating down the rivers; it is very dramatic, and rightly so we should be concerned.

People are concerned about, you know, other kinds of upheavals that have happened. In Cambodia you had the killing fields where millions were murdered in Cambodia by political forces, the Pol Pot Red Army. You know we should be excited about those kinds of collapses, and of course, the collapse that took place in Nazi Germany, the collapse of society where some people said German society did not collapse, the subways are running on time. You know, they were very efficient. You know, some of the most educated people in the world were in Germany. The German army was the most efficient army ever created in the field. All kinds of things, civilization. The German army troops sometimes sang Beethoven and Bach as they marched. So there was no collapse of society. But when you have a situation where millions of people within that Nation were massacred, and then millions of people in the surrounding Nation were massacred, and you had a barbarous war perpetrated on a scale never before seen, there was a collapse in the German society. It was a collapse. It was a failed society, and that failed society dragged a whole lot of other innocent human beings and the surrounding societies down with them.

So societies can collapse that are very sophisticated. Societies can collapse that are very educated. Societies can collapse. Society of Tojo in Japan, they went like savages through China massacring people; you know, very educated, sophisticated people, very high degree of science, very high degree of education. But it collapsed.

Albania is not a jungle. Albania has been suffering for years, almost 50 years, as a result of the overwhelming domination of the Soviet Union; isolated, forced to operate under the Communist hammer, but they have educated people, they have scientists, they have a structure. But Albania in the transition into capitalism has suffered a gross collapse. You know what has happened there is outrageous.

□ 2100

The Albanians happily embrace capitalism. The government did not protect the citizens who invested their money in certain investment schemes. There was deregulation on a scale of the kind that is requested here often on this floor: Just get out of it; the government should get out of it. So the people of Albania had no government protection.

They had hopes. They believed in capitalism coming to their rescue after so many years of communism. They put their savings into various investment schemes, and most of them have lost them completely. The investment schemes have blown up. Those that had some basis have just collapsed because they were unreal; others were complete swindles, and the people who took the money have disappeared.

So what is Albania? Albania is now a collapsed, failed society, a collapsed society, a society that has subways, buses, government structure, parliament, that a few months ago looked like a civilized place but now there is complete anarchy.

Let me just read to my colleagues from one of the items related to Albania. This is March 18, that is today's Washington Post:

> In Albania, the army and the police have ceased to exist and the navy and air force have relocated themselves to Italy or Greece. One leaking ship or decrepit airplane has gone at a time. The prisons have been emptied. That fellow on the corner with the newly liberated AK-47 may be your neighborhood grocer or he may be a murderer who recently liberated himself. U.S. ships are plucking desperate refugees from choppy, open seas.
>
> The anarchy that has descended on the impoverished Balkan nation just north of Greece and across the Adriatic from Italy should make us appreciate the relatively smooth transitions that most of the other nations of the formerly communist world have managed to accomplish. Albania was one of the most isolated of all of those nations, sealed off for decades by a lunatic regime that expected attack from anywhere and everywhere. It remains the most impoverished of European nations.
>
> People have risen up now with an anger that is more primal than political, a rebellion against not only 45 years of Communist rule, but also the past 6 years of disappointment and disillusion. It was only 6 years ago, after all, that 300,000 jubilant Albanians jammed their capital's central square to see visiting Secretary of State James Baker and the arrival of democracy, free markets and the West. What they have gotten instead is corruption and Mafia politics. Because the government refused to regulate the financial sector, massive numbers of people have been defrauded and total anarchy has broken out in Albania.

A civilized society in the civilized sense that we usually mean, a society with educated people, a society with structure, et cetera, has completely collapsed. Let it be a warning that we are not above the same thing happening.

What would have happened if the savings and loan swindle had taken place? Billions of dollars, people losing their money and when they went to the bank, the Federal Deposit Insurance Corporation of America was not standing behind every deposit up to $100,000. People would have gone crazy, mad in the street. They would have good reason to. But the government was regulated. The government was not only regulated, it was standing behind these banks, ensuring that people who had deposits of $100,000 or less would not lose their money.

The government had resources. Massive amounts of dollars were poured into the savings and loan swindle, so we did not have any collapse of that sector of our society. In fact, there were very liberal policies put forward to save the banks because certain people felt it would lead to a collapse of the economy or a great deal of strain and dislocation in the economy, and that was the reason they gave for being so generous of the people who had stolen so much money.

Mr. Speaker, if my colleagues want to know about the continuation of the savings and loan scandal, recently one of the most celebrated crooks, the most celebrated, most heinous criminals in the savings and loan swindle was released from jail. Charles Keating was told that due to technicalities he does not have to stay in jail any more, although his savings and loan association was guilty of swindling the American people out of more than $2 billion. Two billion dollars. Now, that is almost an aircraft carrier; that is a submarine; $2 billion, $2 billion by one savings and loan association.

Mr. Charles Keating was responsible for that, and he went to jail originally in California because after he had gotten through swindling people via that

route, he went a little further and went out, had his workers go out in the lobby and sell securities that did not have the FDIC standing behind them, had no government insurance behind them, and lots of elderly people lost their savings and they did not have any insurance by the FDIC to back up the bank failure. And on and on it goes.

There have been Members of Congress involved with savings and loan associations that have gotten away. The Vice President, he was Vice President at the time, Vice President Bush's son was involved with Silverado Bank in Colorado. Silverado in Colorado also was above the $1 billion mark, close to $2 billion.

Silverado was guilty of doing something that was celebrated. They actually loaned a borrower $26 million, and the borrower had come to them asking for $13 million. They told the borrower, "We will give you twice as much as you are asking for, if you will put the extra back in the bank because the auditors are coming and we need to show we have some more money in the bank." So they actually loaned the guy $26 million, he only needed $13 million, and he redeposited the extra $13 million back.

This was revealed as one of many crimes committed by the Silverado Bank, of which a relative of Vice President Bush at that time, and President Bush later, was sitting on the board. It reached to high circles.

The savings and loan swindle; most writers found it defied description. They gave up. Most reporters were told by their editors to just cool it, it is too complicated. But, I think that it is an example of how the media, instead of going to bat to analyze events and to inform the public, obeys some forces that are unseen that control their paychecks.

So the savings and loan swindle is not clearly understood. It would have been like Albania if it had not been for tight government regulation, government insurance. You would have a little bit of Albania, but we are too big to have a total collapse.

But societies do collapse totally when you have a corruption among the leadership where nobody confronts the evils. If we are going to stand still and let the forces of this Government beat upon organized labor, beat upon the working people, and we are going to let a lopsided situation develop where workers have no leverage against employers, we are going to destroy capitalism as we know it. We are going to tilt the scales so much until corporations will be determining what our Government does.

Everybody knows, we learn early in high school or college that we have a doctrine of laissez-faire. Laissez-faire means the Government should leave the private sector alone; that is the usual interpretation. What we need is a two-way laissez-faire. Laissez-faire, leave it alone. The Government should leave the private sector alone as much as possible, and the private sector should leave the Government alone as much as possible.

These furors about contributions to campaigns that are raging now, the furors relate to the fact that people are waking up and for a brief moment we have a snapshot of how much money has gone into politics. This last political race shook everybody up. The Lincoln bedroom was up for sale, coffee in the White House. Nobody is talking about what the Republicans were doing out of sight, without a White House, but they raised 7 times and spent 7 times as much as the Democrats, so sooner or later the spotlight will fall there and we will find some very unusual things happening with the way both parties raise money.

But money is in the driver's seat; money, money, money is in command. Money commands a lot that happens in the world outside of the United States as well as inside the United States. Never before has there been a Nation as rich as this. We are the wealthiest Nation that has ever existed in the history of the world. Rome was just a little colony compared to the imperial power of the United States of America, compared to our wealth that has been accumulated, that exists.

God must be proud of what the American democracy has done. The combination of American democracy and American capitalism has produced something we have never seen before, and the question is, what shall we do next? What good is it all? How does it redound to the good of man, that here we have a vast population of more than 250 million people who have, for the most part, enough to eat, enough clothes to wear, and they enjoy life a great deal.

When the human creatures created by God reach that point, how do they behave? Will they have compassion, and will they use their leisure time and their comfort to look out at the rest of the world, first in their own world, to make sure that there is compassion and sharing? Or do they look out at the rest of the world and say that we cannot sit next to Haiti and see the misery in Haiti without taking some ways to see how we can help?

We cannot sit here because Haiti and the problems of Haiti are partially problems created by the people who live in this part of the hemisphere. We installed a regime in Haiti that endured for many decades. Our Army went in and trained the Haitian army that kept in power a mulatto class that oppressed the great majority of the Haitians, and all movement in that economy was governed by what that grand mulatto group that we protected with our Army and our diplomatic maneuvers and our threats.

So what happens in Haiti now cannot be separated from what happened in the past and what we have made to happen. We recently redeemed ourselves by going in to liberate Haiti from a criminal regime, and that is to our credit.

There is a collapse of government in the Congo, what used to be called the Congo, its called Zaire now. Zaire has a rebel army that is marching through, taking control from the government because the government is so corrupt the people hate the government. What is the government that the people hate so much? It is a government installed by the United States of America, the government of Mobutu. Mobutu was installed by the CIA because at that time they feared that the Congo, as it was called at that time, would fall into the hands of the Communists, under their influence.

There was a poet from the post office who had made a political party and a political movement. His name was Patrice Lumumba. His son was recently in my office. He met with the congressional Black Caucus delegation, his son. Patrice Lumumba was assassinated with the assistance of the CIA, and the CIA took control of that country. Billions of dollars from taxpayers in the United States flowed into the Congo, which later became Zaire, to support Mobutu. I am sure Mobutu got a lot of the money from the American taxpayers that the CIA put in. I am sure that many CIA agents put a lot of money in their pockets. But the criminals were cutting it up.

Under the false notion that Zaire was a strategic country and we must keep it out of the hands of the Communists, we poured billions and billions of dollars in. We made Mobutu the strong man that he is. He has billions of dollars in European banks now.

But Mobutu is mortal, Mobutu is sick, Mobutu is about to die, and all of the people that he oppressed with our help for so many years are rising up to get revenge. And we say the Congo is falling apart and Zaire is falling apart. That is one more example of how African nations cannot govern themselves. Look at what happened in Rwanda, look at what is happening in Zaire. It is proof that Africans cannot govern themselves.

I want to close on a brief review of a book called "Out of America: A Black Man Confronts Africa," by Keith B. Richburg, and it is all about these failed societies, these failed nations in Africa where Mr. Richburg, who was a reporter, a correspondent for the Washington Post, and Mr. Richburg has gotten a lot of attention later because Mr. Richburg is black. "Out of America: A Black Man Confronts Africa," by Keith B. Richburg.

Mr. Richburg is appalled. It is somewhat of a traumatic experience for him to have been a reporter in Africa for

several years, because as a reporter he is dispatched and assigned to cover all of the developments that are violent and most gruesome, so if he lived in a state of trauma, we cannot be surprised or shocked. If he had to watch bodies flowing down the river in large numbers as a result of the massacre of the Tutsis by the Hutus in Rwanda, I can understand the trauma of that and how that would impact on him; if he had to be in Liberia and watch the Liberian society fall apart after we had held, we had, America, had kept the regime in power in Liberia, the Tubman regime. Tubman was kept in power by the American Government, so much so that the people began to hate them and an army sergeant named Sergeant Dole took over Liberia.

□ 2115

And he did not know what he was doing. So following Sergeant Doe was a set of rebellions that destroyed the country completely. The country went down in chaos as a result of a Sergeant Doe taking over from a corrupt regime that had been kept in power by America.

Mr. Keith Richburg has watched all this over a 3-year period in which of the most violent events developed. And he has concluded that the Africans, I will read from one of the reviews where they quote Mr. Richburg and in what is a shocking statement. And I understand his shock, but what he is saying is that Africa is the way it is because the people have not fully evolved as human beings. Africa is the way it is because they have not finished the process of evolution.

I find that statement shocking, that a black man would hate himself so much and hate his people so much that he would subscribe to the theory that we are inferior beings who have not yet fully evolved. That is a very shocking statement.

Mr. Richburg is a journalist, and journalists are supposed to report what they see and to some degree interpret it. But in his book he becomes a philosopher, and journalists are not automatic philosophers. Most philosophers were not journalists. Plato was not a journalist, Socrates was not a journalist, Jesus was not a journalist. I mean journalists should stay in their place and understand that they are not philosophers and do not try to get too far in your conclusions.

Mr. Richburg concludes that it is fortunate that Africa was raided by the slave traders. The slave traders brought millions of Africans to America. The millions of African Americans who suffered for 232 years under the bonds of slavery, another 100 years in the oppression of discrimination, second class citizenship, they are fortunate. We are fortunate that we were snatched from Africa where people are still evolving and brought into civilization. That is part of his conclusion.

He saw terrible things but he came to the conclusion as a journalist and he did not have the equipment to deal with it. Because if he was a philosopher and a real thinker, he would not conclude that savagery and the failure of a society mean anything about the evolution of a people. If savagery and the killing of large numbers of people, if the bodies floating down the river as a result of the massacres in Rwanda are the result of people not having fully evolved, then what was the Holocaust all about? What was the systematic extermination of 6 million people by the Germans, the Nazis, the gestapo, what was that all about? Were they not fully evolved? When do you stop evolving? They had the world's best science. They invented rockets. We copied our rockets from German advanced science in rocketry and German scientists. The German composers and the German artists are the bedrock of certain parts of our civilization. Did the murder of 6 million Jews in gas chambers, did the burning of bodies in crematoria signify that they had not fully evolved?

What happened in Cambodia in a short period of time, the Pol Pot regime in one of Asia's oldest societies, they had been around much longer than most Western societies. And yet a million people in a short period of time were murdered in the Pol Pot killing fields. Does that mean they have not fully evolved?

What happened in Bosnia, in Croatia? All across the world there are examples of millions of people being slaughtered by various collapsed societies, failed nations. They have failed and been taken over by dictatorial oligopolists or dictatorial individuals, and their aims are not civilized aims and, therefore, terrible things happen.

America, the taxpayers' dollars in this country have been used to support some of that. Certainly in the case of the Congress, we must bear responsibility for the collapse of society, the brutality, corruption that has existed for so many years in Zaire under Mobutu, our CIA had a direct link there. In Haiti, we had a direct link there.

We have a direct responsibility for not taking steps in other places to ameliorate or to end savagery, and we have future responsibilities. Why? Because God has blessed us, we are among all nations the most blessed. We are blessed with high technology, blessed with peace. We did not endure World War I on our soil. We did not have to put up with World War II on our soil. Our cities were not destroyed. Our universities were not destroyed. Yes, we gave a lot in those wars. Some of the greatest examples of bravery that ever have been exhibited by mankind were exhibited by American troops going into World War II. The beaches of Normandy, fantastic in terms of the sacrifices that were made there and the bravery that was exhibited.

America has risen to the occasion to protect the world from a total takeover by savage, well educated, scientific beasts. But we have to do more. And we have to be careful.

The warning here is that we have to be careful that we do not collapse from within. America from within can collapse if we lose our sense of proportion, if we destroy certain segments of society which help balance us off and keep us going. If we destroy our workers and their working class and the workers energy and the workers contribution to the economy, we begin the downhill slope where only one class of people is in charge. We, too, might face some kind of shallow analysis in the future where conclusions are made that we have just not evolved fully as human beings. That is rubbish.

We are what our society is willing to do in terms of taking what is learned from the past, taking the leisure time that we have, the information on the Web sites, the information on the Internet, all kinds of knowledge and information that are flowing to us. Let us use it in ways which expand the compassionate parameters of mankind, in ways that say, we want in our own society, in our own Nation to share as much of the wealth as possible and see to it that nobody goes hungry, that no segment of the population is oppressed unduly by another segment, that no segment of the population is pushed to the point where it is not a part of the economy, that no segment of the population has to bow down politically and not exercise its full rights in this democracy. That is step one.

Step two is to go beyond our own society and say that our richness, our fortunate wealth, the fact that we are fortunately located in this hemisphere, with the right kinds of climates and a number of things that have happened, we had the land to expand on, we had the European background to help in many cases. We relied on, we had the Native Americans to help us through some critical periods and we never thanked them for that or did not treat them very well. Nevertheless, all these fortunate occurrences came together to create a great America.

The great America should go forward never to take the position where they never will allow a Zaire to happen where our forces were used to oppose people. We will never allow another Haiti to happen. And we will see to it that our institutions are constantly working to improve the world without condemning the world. And never should we come to the conclusion Mr. Richburg has come to, that certain people are in certain kinds of positions and they are having trouble because they have not fully evolved.

All human beings are guilty of unspeakable atrocities, and we must work to make certain that that does not prevail. Our civilization, our structures,

our patterns of government, our mores, everything must operate to make sure that the best comes out in mankind and not the worst.

ISSUES OF IMPORTANCE TO THE 105TH CONGRESS

The SPEAKER pro tempore (Mr. GIBBONS). Under the Speaker's announced policy of January 7, 1997, the gentleman from Pennsylvania [Mr. FOX] is recognized for 60 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I appreciate the opportunity to address my colleagues tonight on a number of issues that are of importance not only to the 105th Congress in the House, but to the Senate and the American people as well. I asked that the opportunity be given to the gentleman from Michigan [Mr. HOEKSTRA] to join me in this dialog, and we will be discussing a number of topics, not the least of which, Mr. Speaker, is one important to everyone in each State, and that would be the balanced budget.

By what we have seen in the last 12 to 24 months, Mr. Speaker, is no longer are we just talking about whether we are going to balance the budget. Now it is going to be, how we do it? And one realizes that there are great advantages to balancing the budget.

We know the State governments have to balance their budgets. Home budgets are balanced. Local governments are balanced, school districts, small townships, boroughs, cities all across America have to balance the budget. Only in the U.S. Federal Government do we not balance our budget. That is how we have acquired a $5 trillion debt.

So, hopefully, in a continuing dialog with the American people, we can make those kinds of meaningful changes where valuable and important government programs continue but those best left to the private sector will be maintained. And we can have the kind of economy that is going to thrive, because with lower interest rates that will be the direct result of a balanced budget, we will be able to reduce home mortgage costs for each family. We will be able to reduce college loan costs and, as well, be able to reduce our monthly vehicle loan costs.

So I really believe that we are on the threshold here in the 105th Congress of being able to get our budget in a situation which is in control, is going to do right by the American people as far as the Federal Government's interrelationship with the State governments in providing services that do not duplicate but actually enhance the quality of life, quality of each life here in the United States.

I now call on my colleague, the gentleman from Michigan [Mr. HOEKSTRA], to join me and to give us his perspective as a more senior Member of Congress, as chairman of the reform caucus, a gentleman who has been at the cutting edge of the debate in Congress on how we can achieve this balanced budget and from his perspective why it is so important for his district and from his personal perspective.

I yield to the gentleman from Michigan [Mr. HOEKSTRA].

Mr. HOEKSTRA. Mr. Speaker, I thank my colleague for yielding to me and for allowing us to really have this dialog this evening about the need for, and I have moved away from the term, I do not know what works for you, but I have moved away from the term "balanced budget". When you are talking about $1.6 trillion, $1.5, we will never get it into balance. In reality, we will either be at deficit or we will be at surplus. And I think it is important for us to move to a position where we are in a surplus budget and not in a deficit mode.

I think the thing is, I had three town meetings over the weekend, and it really becomes an issue of talking about how we can save the American family, the traditional American family which over the last number of years has really come under attack.

One of the biggest reasons that the American family has come under attack is that we develop a brochure which we call the Tale of Two Visions. It is a tale that has one vision which says our future is by growing Washington. And we use this and say, you know, the street that you and I cross each and every day when we come to the Capitol and we have the opportunity to vote is called Independence Avenue. And over the last number of years, it may have become more appropriate to call it Dependence Avenue. Because when you take a look down the street and you see who is lined up along that street, it is a whole series of Federal bureaucracies that have assumed control and power and tax dollars away from the American citizens and have moved it here to Washington.

Last year, we together were engaged in a historic debate on welfare and moving control and power back to the States and the local level. And it appears in many ways that this welfare reform bill is working exceedingly well. So this is more of a story of getting to a surplus budget, but it is also very much a story of taking a look at problems that America faces and trying to design a more effective way to solve those problems.

When we talk about the budget, some things that we talk about in our tale of two visions, the case for saving America's families, is that we move from what we call now a two-wage requirement back to where it is a one-wage earner.

□ 2130

And that a two-wage-earner family is an option, it is not a requirement. Think about the number of families today that one of the parents might want to stay home, but they really believe that they have to go to work. The primary reason is one of them is working for Government and one of them is supporting the family.

Mr. FOX of Pennsylvania. Mr. Speaker, the fact is the gentleman's vision, and the correct vision for America, is where he is headed by saying instead of having two parents both forced to be working, not only do they not have a chance to get the family together and time to be with the children, but we have lost that independence of being able to make the choice because we have created, I think, to some extent, so much bureaucracy here in Washington of telling people how to run their lives instead of, as we did last year with our welfare reform legislation, take that back to the States, let them run it closer to the people, closer to where the local Government is, less expensively, and in this case, obviously, where direct services can go right to the people they want to serve.

Mr. HOEKSTRA. That is right. I think the Republican vision, I think Congress' vision for where we need to go with the budget is more than a surplus budget. For all we know the Soviet Union ran surplus budgets. I do not know what their budget was, but our vision is to get to a surplus budget, but a surplus budget that can be funded by a one-wage-earner family and not a requirement that we need two wage earners in the family to support this government and this bureaucracy in Washington.

I think another key debate that we have as we work toward getting to a surplus budget is the whole question of whether new spending equals new tax burdens.

One of the major things that we see in the budget that the President has presented to us, and that the gentleman and I are concerned about when we take a look at this budget, under the best of circumstances, the most optimistic economic assumptions, we believe that this budget barely comes into a surplus mode. But under a more realistic assumption, the most likely set of assumptions, this budget is still going to be $70 billion in the red in the year 2002.

One of the primary reasons that this is happening is that this President has decided to move more power to this town by significant new increases in the number of programs that we have. This is not about slow growth and increasing the spending on Social Security because we have more seniors, or increasing the spending on Medicare because we have more seniors and those kinds of things. This is a conscious effort by this President to have an overlay of significant new programs on what we already have in Washington.

I have taken a look at roughly the baseline between where the President

is and where our conference may come out with a budget, and it looks like the President is somewhere between $250 and $300 billion above our baseline. The vast majority of that spending is new programs.

There may be issues that we have to deal with, but when we have a $1.6 trillion budget, over 5 years we are going to spend $8 trillion, one would think that we could find, for new priorities, $250 billion out of that $8 trillion and just say there are some programs that we have had for years that are not working anymore, they are not as effective, we have a better way of solving the problem. Let us stop that program and move the money to this new priority rather than overlaying on what already exists.

If this President would just be disciplined, and I think this is where I am, and the gentleman and I have not had the opportunity, but where I am, this Congress is going to have to be measured by the statement of "Just say no." Just say no to new spending. If we just say no to new spending, if we kick the habit of new programs and new spending, we will be well on our way toward getting to a surplus budget without doing anything else.

We can deal with tax cuts and those other kinds of things in the process, but what we talk about now, the biggest tax savings, the biggest reduction in tax burden to the American taxpayer is to stop the $250 to $300 billion of new spending that this President wants.

I know exactly what we will do. We will not ask the American people to pay for it. We will put this $300 billion of new spending onto our kids and we will increase the debt and we will hope that we will get to a balanced budget or a surplus budget by the year 2002. This Congress should really say no to new spending until we get to a surplus.

Mr. FOX of Pennsylvania. I think the American people want what the gentleman is talking about. They want to make sure we maintain Social Security and that it is there to take care of our grandparents and our parents and eventually our generation. They want to make sure that Medicare is fully funded to take care of the health care for seniors.

But when it comes to those new programs the gentleman is speaking about, our communities are reaching out to do things on their own. There are corporations, there are civic associations. We are about to have, in Philadelphia in April, a national volunteer conference with several of our past Presidents and our current President, for the purpose of reaching out.

The best programs I have found, and we are speaking of some of these new programs the President is talking about, can best be accomplished by a public-private partnership, where universities, schools, civic groups, hospitals all work together to provide the kind of networking and the American spirit that Alexis de Toqueville spoke of many years ago. That is the America I dream about. And I think our constituents want us to let them be part of that American dream and not have to take so much of their dollars. Because, frankly, we spend more on paying the interest on the debt than we pay for all our Defense Department, and that is an alarming figure.

Mr. HOEKSTRA. I am glad the gentleman brought that up. We have a sheet on that.

Our choice is between new or expanded government programs or new or expanded nonprofit faith-based organizations. It is not a dream, what the gentleman was talking about: Corporations and individuals and churches and nonprofits being involved. It is happening every day.

Last night I had the opportunity to speak to a group in a church that has reached out, and 1 hour every week a number of the members from this congregation go into their local school and they tutor the children in that school, one-on-one, 1 hour every week, and they form a lasting and an important relationship with that child. Some of them have been involved for 3 years.

That is how we make the difference. The question is, are we going to suck the money out of the local community, creating more two-wage-earner families, and create these programs that are run out of these buildings here in Washington; or are we going to leave some of the money in the local community, and a parent or an adult saying, "I have some free time, I am going to go to that school and I am going to help. I will go out and reach out and form a personal relationship with a child in that school."

It is a wonderful way to improve the community. We help the child but we also personally get a great benefit out of that kind of an activity.

So it is a choice between more new government programs versus some more free time that enables our nonprofits and our faith-based and our individuals to step up in the community.

I see we have been joined. The gentleman from Pennsylvania may want to yield to our colleague from Georgia.

Mr. FOX of Pennsylvania. Mr. Speaker, I do want to yield to the gentleman from Georgia [Mr. KINGSTON], to give us his perspective on what he sees not only in his State but in the country, the value of balancing the budget, the value of giving back in tax decreases to our families a chance to realize the American dream.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from Pennsylvania. I want to reinforce what the gentleman from Michigan was saying, because there is often, I would say, a Washington, big government bias toward the government running something as opposed to the nonprofit private sector doing it. It is similar to the accusation of saying, "Well, I have the Boy Scouts and they do a good job, but if you want to win a war, you send in the U.S. Army." That is not an accurate comparison when we are talking about charity and the private sector.

In 1995, Americans donated $147 billion to charity, to churches, to museums, to just private causes of all nature, and that does not count the casseroles, the cakes, the soft costs that happen when a neighbor is sick or someone has died and people step forward in that good old American way, as we have done for over 200 years. So we have a hard cost of $147 billion in direct donations to charity. In addition to that, we have 90 million Americans donating 4 hours each and every week to charity.

Now, if we do the math on that, we will find we have donated each year about 19 billion manhours, each year, running T-ball, running the hospice, running the United Way, running all kinds of church institutions and faith-based charities that the gentleman has already mentioned. If we do the math on 19 billion manhours times $10 an hour, some of it will be worth less, some of it, though, far more, and we will find $190 billion that would be donated through hours.

If we add the two of those together, America is not new at handling problems, at having volunteers go out and doing all sorts of things. Yet there is this Washington bias that unless there is a government program and unless there is legislation, unless there is law, that it cannot happen. There is just no way it can go without the blessing of Congress.

So I certainly think that the budget that deemphasizes command control problem solving out of Washington, returning it back to the streets of America, I think, is absolutely the right direction to move to.

Mr. FOX of Pennsylvania. If I can carry forward, Mr. Speaker, with what the gentleman from Georgia was just saying, the fact is that not only do we have to have a balanced budget, which will have the opportunity for the economy to grow, we also need to reduce the taxes on our American families, whether it is a $500-per-child tax credit, reducing capital gains for individuals and businesses to encourage investment, savings and jobs, or reducing inheritance taxes.

How many family farms across the country cannot be exchanged or given to the next generation without fear that all the taxes are going to take away the lands and take away the farm? We need to make sure that we unbridle some of the regulations that we have that are stifling America's businesses from growing, America's families from achieving the American dream.

Mr. Speaker, I yield once again to the gentleman from Michigan.

Mr. HOEKSTRA. The gentleman is a pretty good lead. We are developing two other segments in what we call our tale of two visions, because one of the things that we talk about when we talk about more government spending, whether it is increasing spending or reducing taxes, the choice is pretty clear. The choice is between government spending versus family savings. A very clear choice.

We take a friend with us almost wherever we go just to talk about this, and the choice is sending money to a Washington bureaucrat or leaving it with a family. It is a decision between Washington bureaucracy versus our children.

What we are going to do in each of the next few weeks is build on this tale of two visions and discuss each one of those: Washington bureaucracy versus our children; government spending versus family savings; a one-wage option versus a two-wage requirement; deficit spending versus surplus savings; and new government programs versus new nonprofits.

Those are things that are important. That is what a budget sets. A budget tells us who we are, what is important to us. We are more than about a surplus budget. We are about strengthening families; restoring and strengthening our families and designing a system.

I think in a few minutes we are going to talk about education. I have had the opportunity to go around the country, in my oversight capabilities, to schools in New York and California and Arizona and Delaware, and talk about education. Somebody said, "Well, Mr. HOEKSTRA, maybe you should come to my classroom and you can see what is really going on in the classroom." I said I do not know if I will ever be an expert in the classroom, but what we in Washington and what people in the State bureaucracy are supposed to be good at doing is designing systems that empower teachers and parents to help their children at a classroom level, at the local level.

Soon we will talk about the kind of systems that we currently have in place. We are about empowering people at the local level to make a difference because systems at the local level, most often, are the ones that have the greatest impact.

□ 2145

Mr. FOX of Pennsylvania. The fact of the matter is the gentleman from Michigan [Mr. HOEKSTRA] hit the nail on the head. Because the school districts back home in each of our States, we elected those people, in some cases they may have been appointed in certain cities, and they are the ones who have been entrusted locally to take care of the local educational policy. And while they may receive, and should, funds from the Federal Government for transportation for the students, schoolbooks and maybe even school lunches, of course, the policy implementation of what is important for that district and what is important for that State should be left to the local district. That is really integral, I believe, to the American education system.

Mr. KINGSTON. On that subject, I am fascinated with the hard work the gentleman has done in his subcommittee because you have certainly been all over the country.

One of the stories the gentleman came out with is that the Federal Government has a kitty litter policy. Perhaps the Federal Government should have a manure policy, for obvious reasons, but kitty litter seems to be stretching it a little bit. As I understand it, it had to do with the housing, a HUD program that you gentlemen unearthed, and I have it with me. I am cheating a little bit on the gentleman from Michigan, but I am a fan of your newsletter, as I told you earlier today. Section 5.350 part 2 of the HUD manual of the Federal——

Mr. HOEKSTRA. If the gentleman will yield, I encourage my colleague from Pennsylvania to listen to this very closely, because there are some bureaucrats in HUD who thought that this was a very important regulation, and you can see the wisdom of some of the people in our bureaucracies and the kind of issues that they are dealing with.

Mr. KINGSTON. This is none other from the Secretary of Housing and Urban Development, Secretary Henry Cisneros, created rules regarding pet ownership by the elderly and disabled in public housing.

It says under section 5.350:

> In the case of cats and other pets using litter boxes, the pet rules may require the pet owner to change the litter but not more than twice each week; may require pet owners to separate pet waste from litter, but not more than once a day; and may prescribe methods for the disposal of pet waste and used litter.

I am so glad that the Federal Government is finally addressing the kitty litter problem. We have got a $5.1 trillion debt, and we are getting into the kitty litter business.

Mr. FOX of Pennsylvania. It seems to me that we have to make sure we have quality housing and make sure those who are coming from shelters for the homeless have transition housing, and first-time home buyers, but I do not understand how we are spending time in the Government working on kitty litter when that is something that probably could be left to homeowners and individuals on their own. It just occurs to me, but maybe that is a new idea.

Mr. HOEKSTRA. If the gentleman will yield, we have two cats at home, and it is not too difficult to tell when you need to change the kitty litter. I am not sure we need a Federal regulation for doing it in public housing. I think in public housing they can tell as quickly as what we can at home about what happens.

Mr. KINGSTON. What I am concerned about is what about hamster owners? Why do they not have to have the same regulations? And what about people with goldfish, should they not be required to change the water? And Mynah birds. Do you know anybody with a Mynah bird? They are filthy.

In this era when the end of big government has come, it just seems amazing to me that we are so inconsistent with administering the pet policy. And when I say us, let us make sure that the folks understand, this is not the U.S. Congress, these are the unelected bureaucracies who never have to have town meetings, never have to have their name on the ballot and never have to answer constituent mail. They are the ones making these rules.

Mr. FOX of Pennsylvania. Perhaps in our housing subcommittee, we can certainly address that. It seems to me that one of the items of legislation that I have introduced that I think would address this is sunset review of Federal agencies, to say if they are not really fulfilling their original purpose, maybe they need to be downsized, privatized, or eliminated. The fact is while we need to have a housing policy to take care of assisting those in need, I do not think it goes to the assistance on pet deportment.

Mr. HOEKSTRA. If the gentleman will yield, in the same issue, the February issue of Tale of Two Visions, if my colleague from Georgia read on, he would know that we took care of the kitty litter. We also went on in the Federal Government to take care of rabbits. This gets to be interesting. The National Institutes of Health required one university to replace all of the school's rabbit cages. This carried a price tag of $250,000. We care about rabbits as much as we care about kitties. However, less than a year later, the Agriculture Department declared that the cages were the wrong size. The university had to once again replace the cages.

We should feel really good that we have two agencies in Washington that are caring about rabbits. The frustrating thing is, I think, and the gentleman has talked about the sunset legislation for rules and regulations. There are a couple of other bills that have been introduced, one of which would require congressional review of rules and regulations before they actually go into effect, and I have introduced a piece of legislation. Can you imagine how frustrated this university was after they had just spent $250,000 on rabbit cages and another department came in and said, "You've got to

change it." We have said where you have got conflicting regulations, we have to provide an expedited way to review that and you are held harmless for following one set of guidelines when another agency comes in and tries to tell you that you did the wrong thing, so we protect the people in those cases.

Mr. KINGSTON. If the gentleman will yield, I have heard, and Georgia has a lot of poultry processing and poultry processing is very water intensive and you have to keep the area very, very clean for the USDA inspectors. You have to have it clean. But then the Occupational Safety and Health Administration comes in and they say the place is too wet. So you clean it enough to process the food and then it gets too dangerous for the workers and you have two Federal agencies once again responding to the same problem that many times they are creating.

Mr. HOEKSTRA. The key to this is, it is not that these rules or regulations are good or bad, I think they go too far. This is taxpayer dollars. This is why we have too many families in America today that are two-wage-earner families as a requirement, not by choice, not by option, to support these kinds of activities.

Mr. FOX of Pennsylvania. I would point out that some of these two-wage-earner families actually have more than one job apiece.

Mr. HOEKSTRA. The gentleman is correct.

Mr. KINGSTON. I know the gentleman has done a lot of study on the U.S. Department of Education, how big it is, but before we get to that I want to mention another bureaucracy that has 111,000 employees, and that is the IRS.

Listen to this story that was from an article written by Dan Gifford in Insight magazine, April 29, 1996:

A man's brother was killed in the 1988 terrorist bombing of Pan Am Flight 103. The IRS demanded that he pay $64 million to them because they had guessed that he had received about $11 million in a settlement.

They wanted $64 million from the guy because they had guessed he had received $11 million, and the fact was that he had never received one dime for the settlement at the time the IRS wanted it.

Another story said there was a 10-year-old girl, the daughter of a man, and the IRS claimed he owed $1,000 in taxes, $600 paper route savings since she had a little paper route, $600 in her savings were seized by the IRS. This is a 10-year-old girl. I have an 11-year-old son. This is somebody who rides bicycles. So the IRS seizes $600 in a paper route savings and would not give it back to her until her father paid the $1,000 on taxes that he owed. It is just absurd. It is a bureaucracy out of control and out of touch.

Mr. HOEKSTRA. Going back to the Tale of Two Visions, we all know how complex our Tax Code is. It is so complex that the IRS has spent in the neighborhood of $8 billion trying to design and automate and computerize the system. They now acknowledge that $4 billion of this will never be able to be used. When you talk about a two-wage-earner family, that is 2 million families where the second wage earner paid $2,000 to the Federal Government and did not get one dime of value. Two million families where the second wage earner paid $2,000 in taxes and the Government threw it away, because our Tax Code is too complex. That is why 2 million men or women went to work for a year and got absolutely no value. That is waste, that is wrong, and that is what is killing America's families today.

Mr. FOX of Pennsylvania. There are two other points I want to add. Both the gentlemen have made good points about the need for the IRS reform. It seems to me we need a couple of other areas of reform. We have the problem with IRS in that we do not have a simplified form. There are so many complications to the IRS Tax Code that we do not even have a simplified form that people can use. I do not think that is fair. No. 2, we have a situation where most of our Anglo-American law, the person who is involved in court is presumed to be innocent, whether it is a defendant involved in one court case or another, the Government has the burden of proof and the defendant in a criminal case, my God, is presumed innocent.

Here you have a taxpayer, there can be no presumption he did anything wrong, but the current code says they are presumed to be wrong and the IRS Commissioner is presumed to be right. I think this Congress has got to take the bull by the horns and switch that presumption and put the burden back on the Federal Government and not on the taxpayer.

Mr. KINGSTON. Here is another interesting statistic. From 1954 to 1994, the number of words in the section of the IRS code relating just to income taxes, not all the other taxes but just to income taxes went from less than 200,000 to over 800,000.

In 1994, businesses across America spent more than 3.6 billion hours preparing their tax returns, and individuals spent more than 1.8 billion hours preparing their tax returns. Looking at it this way, that approximates to 3 million people working full-time 12 months a year just to comply with the Tax Code. You talk about wasted energy and wasted manpower. That is absolutely ridiculous. We have got to move toward a simplified tax system. I do not know if the answer is the flat tax, but we have got to give it serious debate, and we have got to do it very soon.

Mr. FOX of Pennsylvania. If the gentleman from Michigan would continue for the benefit of our colleagues of what he has learned in his educational survey, I know that the gentleman from Georgia [Mr. KINGSTON] and I would certainly like to hear more about it.

Mr. HOEKSTRA. We are going to be coming to your States. What we are doing is we are working on a project which we call Education at a Crossroads: What's Working and What's Wasted. We have evidence that there are problems in education around the country, but we know that there has been a Federal response. It is kind of interesting. We have kind of gotten into a debate with how many programs are there really. Nobody can really tell us. Are there 500 programs? Are there 700 programs? We started this process a year ago and we went to this book, which is called the Catalog of Federal Domestic Assistance. This is one big book.

Mr. KINGSTON. Was it good reading?

Mr. HOEKSTRA. I have some very qualified staff people who have the opportunity to read these.

But this Catalog of Federal Domestic Assistance, you go to the section that is called Education, and this is all in fine print, and you read this, and you count them, and you find in this document that there are at least 660 education programs just under the Education title.

You then go on to the Office of Management and Budget, and you ask them how many programs there are, and you go to the Congressional Research Service, and they say, "Well, we think you maybe don't have all the programs," so they find about another 116 programs. Here is what the Congressional Research says, and the Department says:

"As is noted below, these counts do not include possible additions of education-related programs in the areas of foreign aid, educational or cultural exchanges bringing foreign citizens to the United States."

They also go on to say that they cannot verify the completeness of this information.

"We are aware of no listing or other source of information on Federal education-related programs that is sufficiently comprehensive in detail to fully meet your needs."

Remember, our need was a very simple question: How many Federal education programs are there? That was our need. They said there is not an exhaustive list. "At the same time we are aware of no better source of this information than the CFDA," which is the big binder that I held up.

So we know that, according to Government documents, there are well over 750, 760 programs that go through 39 different agencies and spend over $120 billion per year. What it means is that for a long time, Washington has

been working on a program, and we are doing different lessons in education every week, but this is lesson No. 2, that we like kids, we care about kids in Washington, but we have designed a system that has given us this kind of mechanism and this kind of cottage industry.

□ 2200

And this is two binders, OK? These are two big binders, and the title of this binder is Guide to Federal Funding for Education. And so what we have done is we have just developed layer on layer of education programs, and you know as the gentleman from Pennsylvania said earlier, we recognize we need to help kids. But when we put together this kind of process, and this tells you who to go to and how to apply for the grant and how to write your grant, and then there is an interesting thing in here that is called—what is this called? It is called the Funding Opportunity Rating System. The following system rates programs for most competitive, which is one star, to least competitive, which is five stars, to tell you that the feasibility and the probability of getting Federal funding, and what we have done is we have created a complex system that means we are friends at the IRS; you know, 110,000 plus are out there taking taxpayer dollars, taking dollars away from families. We design a complex system so that you have got to have these kinds of binders to find out exactly how to get the money. Then they go back to the classroom with all kinds of rules and regulations.

The end result is we are going through this process, and we will find out more when we go to Pennsylvania and when we go to Georgia. Our expectation is that maybe only 65 or 70 cents gets to the child. That is not good enough.

Mr. FOX of Pennsylvania. Where is the rest of it; in bureaucracy?

Mr. HOEKSTRA. The rest of it is in applying for the funds, finding out about the funds, promoting the programs, the bureaucracy, administration, all of those kinds of things, and you know as we are talking about some of these new programs that the President wants to do, the debate here on some of these programs is not going to be about whether these are things that we should be doing. We need to be in certain cases helping improve education. The debate will be if we are only getting 65 cents of the dollar to the child, are we going to increase spending to $1.20 to get up to 70 cents or 75 cents to the child, or are we going to take a look at that 30 to 35 cents and say that is too much going to bureaucrats and bureaucracy? Let us see if we cannot cut the overhead like we did in welfare, if we cannot cut the overhead in the bureaucracy and get the money to the child and get it to the classroom without having to increase taxes or increase deficit spending.

Mr. KINGSTON. You know, it is interesting during this period of time, and I generally attribute most of it since the conception of the Department of Education in Washington, and the gentleman may know the exact year. I believe it was 1978; but was it not 1978?

Mr. HOEKSTRA. Anyway our colleague in the back might—1978 or 1979?

Mr. KINGSTON. I am certain it was when Jimmy Carter was President, and so let us just say thereabouts. But what is interesting, during that same period of time that we have had this absolute explosion in programs, which has also taken away the flexibility and freedom for the teacher to teach in her or his own classroom, what has also happened is the SAT scores have fallen from approximately 937 to about 910 points, if not more than that, and the interesting thing as you know, the SAT scores have been recalibrated, and 900 in 1975 would equal about a thousand today. So in reality the SAT scores have fallen more than 30 points, but to probably about a hundred despite all of this Federal Government help to States which has proven not to be help but hindrance.

Mr. FOX of Pennsylvania. I would ask Congressman HOEKSTRA, how do we get education to be more child centered?

Mr. HOEKSTRA. Well, this is exactly what we are talking about. I think our vision of education, the vision that we see, and you know the exciting thing about going around the country and in some cases going to some of the most troubled areas and some of the roughest areas in the country, education in many of those areas is working. There are entrepreneurs, there are strong, driven individuals, there are parents that are going in and they are making a difference. And you know this is our vision for education. Our vision for education is a child-centered approach where the programs that we have in place are focused on helping the child, they are empowering parents, they are recognizing the importance of teachers in this process, that it is a partnership with teachers and parents and the student coming together to help that child learn.

You know, one of the exciting things about this is we have seen lots of innovations in getting to a child-centered education. Charter schools; we have got them in Michigan, we saw them in California, we visited them in Phoenix. And when we had our hearing in Phoenix, the National Education Association came out and said they are going to be doing four charter schools around the country.

I think that is exciting. I think it is wonderful that the teachers' unions are accepting the challenge of charter schools which provide them a new flexibility to try to redesign and recreate what goes on in a school outside of the bureaucratic maze, and I am, you know, I am excited that they are taking that challenge because if anybody can work and design a good school, it should be teachers in the local community working with parents and designing what that community needs.

I am looking forward to where they establish them. I am hoping and expecting that they will establish a charter school in the State of Michigan so that we can learn from their experience and their expertise. But the focus is this model right here along the bottom. It is parents focused on the student, it is teachers focused on the student, and the important thing is here the teachers know the name of the kids, the parents know the names of the kids; and it is an alternative to what the Washington Senate approach is, which is where we are today, which is at the end of the stream is the student, at the top of the stream is the bureaucrat. The bureaucrat does not know the name of the kids.

Mr. FOX of Pennsylvania. The gentleman from Michigan is right on target because the fact is that each district knows best what is good for their students, what the needs are, special programs that relate to industry in the district that relates to industry maybe having adopt-a-school programs to bring in community scholars. There are all kinds of innovations. If we tap into the private sector, there is no telling how far we can go. And education, just like every other area of life, business, the arts, everything is being questioned of how can we improve, how can we spend less by getting our money's worth, getting the taxpayer what they want, quality education at a reasonable price, making sure we maximize dollars but minimize waste.

Mr. KINGSTON. The gentleman in your newsletter, and I am attributing everything to you that I am plagiarizing here, but you pointed out in Washington, DC, a 57-year-old grandmother who started a program called Children of Mine, and the program in Washington, DC, provides hot meals, homework help, tutoring, computer instruction, Bible study, and a safe place for at-risk children to play, go to after school, to know that they are safe and have security and so forth. And the interesting thing is as this woman, Miss Hannah Hawkins, has turned around the lives of so many children since—well, I am not sure she started it in 1970 or how long she has been doing it, but not one dime comes from the Federal Government.

And you are finding all kinds of programs similar to this Children of Mine.

Mr. HOEKSTRA. I thank the gentleman for yielding. That is exactly what we are doing with A Tale of Two Visions, and you know the earlier examples that we cited were examples of Government inefficiency, Government

being asked to do things that maybe it could not do or that it should not do, and in the same issue of every edition of this newsletter we also publish success stories, nonprofits, individuals, private enterprise, churches going out and making a difference in their community so that people can get a sense of actually what is going on in the country.

Mr. FOX of Pennsylvania. If the gentleman will yield, I have seen back in my home area of Montgomery County, PA, just how what you talked about is happening. Whether it is churches or synagogues or civic groups or boys and girls clubs, they have done the thing which is related to education in community youth groups. Whether it is the DARE Program, the Drug Abuse Resistance Education, through our sheriff's office, our town watch programs; no Government funding there. It is the eyes and ears of local police departments. Community policing; it is an idea where local police departments work with the community, work with the civic organizations, and that is really where we are making a great difference because it is not the Government trying to solve all problems. We are part of the solution, and that whole idea is, I think, coming to fruition.

Mr. KINGSTON. We have an example in Savannah, GA, which I mentioned to Mr. HOEKSTRA about, of a weight lifting coach named Michael Cone who actually had been an Olympic weight lifter, and he went to work in the school, worked in the school system for 10 years, and under his jurisdiction was the Presidential Fitness Program, and we all took the Presidential Fitness Program when we were growing up, and, as he described it very accurately, you go to the class and you say:

All right kids, everybody come up here and do a pullup.

Well, children really cannot do pullups. There are a few who can, but the majority of kids cannot. So what happens? One kid goes up and cannot do a pullup. The other 29 in the class say we are not trying because they know not trying is better than failure. And so you got one kid who has been humiliated, and 29 say we are not going to touch that ball. And what happened is the Presidential Fitness Program has become somewhat humiliating to some kids. It has also become cumbersome in terms of testing the children, and the results do not lead to anything.

And so what Mr. Cone did in Savannah, GA, he went in with a local hospital and got them to underwrite and say: Why don't we prepare a physical fitness program for kids, a measurement so that each child could do something of the test? And let's don't throw in an 11-year-old who is 140 pounds with an 11-year-old who is 90 pounds because physically they are not equal. Why have their measurement tested the same way? Let's do it by weight more than age and so forth; just some practical commonsense approaches.

As a result of Mr. Cone working with the local hospitals, they now had an ongoing physical measurement program for kids all over Chatham County where they can find out if these kids have any physical problems, if they changed from the year before. If they are overweight they can make recommendations and so forth. But the best part is it is less extensive than the Federal program and it goes a lot quicker. They can test it in about a third of the time that the Presidential Fitness Training Program does, and again it is an example of local initiative.

But you know Mr. Cone told me the unbelievable part is he had to fight the bureaucracy to get this thing approved and get it running.

Mr. HOEKSTRA. The system that I think we are looking forward to is developing and bringing back in balance a role for Government, highlighting the role that individuals can play, highlighting the role that private enterprise can play and highlighting the role, the responsibility of nonprofit faith-based types of organizations that American society where there is an equal balance between those four is when we really excel, and that when one of those becomes too dominant is when maybe we encounter most of our problems.

And I think what we have seen over the last number of years is where the role of the Federal Government has gotten so big and where we are spending $1.6 trillion per year and we are $5, approaching $6 trillion in debt, and we are saddling our kids with interest payments of $258 billion per year. We are out of whack. You know when a two-wage earner family is a requirement and not an option, we are out of whack and we have got to bring that back into focus.

I ask my colleague, and I know my colleague from Pennsylvania has a passion for higher education, and I ask my colleague if he saw this last edition of Time Magazine talking about the cost of higher education, whether you have had an opportunity to read that article?

Mr. FOX of Pennsylvania. Briefly; yes, sir.

Mr. HOEKSTRA. And I think, you know, as we really take a look at how we help young people for those that select and believe that they want to go to higher education, I think that article points out that before we throw a lot more money and programs at some of this we need to take a look at the correlation and the dynamics between Federal spending and the cost of education. And it is kind of a complex issue, but we ought to at least have some hearings and have some debate and dialog on that to make sure that when we fund higher education programs and we are trying to help kids, that is exactly the result that we are going to have, and we do not fuel a price war in the wrong direction toward increased prices.

Mr. FOX of Pennsylvania. If the gentleman yields, I believe that, you know, there is a greater role for the Federal Government in this area. There are many students who I found in my district who are qualified to go to school but yet do not have the financial means. So they need the loans and grant program.

One of the important pieces of legislation that is before us during this session that I hope in fact has passed will improve the opportunity for students. One will last; for instance, the reinstatement for employers, the deductibility for helping the students pay the tuition, and it will not be treated as a gift to the student to provide a disincentive.

The fact is we have to provide the incentives for qualified students to go into higher education not only to take over positions of government but to discover things in medicine to help us live longer and better, and our universities provide that kind of opportunity, and I understand what you are saying. Obviously we need accountability, too, that we are not overcharging our students for what a quality education should be, and that is part of what your committee will continue doing, and I hope that will give Congressman KINGSTON and me a chance to weigh in and be a part of your crusade.

□ 2215

Mr. KINGSTON. One of the things that is interesting in one of the statistics your committee came out with is that 30 percent of the American students entering higher education, entering colleges and universities have to take remedial courses.

I believe one of the reasons that they have to take remedial courses is because this bureaucracy that we are throwing on local school systems makes teachers spend far more time in paperwork than they should be and far less time helping students, because when they are filling out paperwork they cannot help that marginal student who needs just a little extra help in math that day. I mean a C student, C-plus student who might come up to a B or B-plus or an A, but instead moves in the opposite direction because the teachers are not there any more.

So what does the President do? He says we need tutors, so let us go in with these $20,000 a year volunteers from AmeriCorps to solve this problem. It is absolutely absurd. We do not need more Federal programs, we need less, and more flexibility for the teachers; we need less paperwork for them.

Mr. HOEKSTRA. Mr. Speaker, if the gentleman will yield, my subcommittee also has oversight on the

Corporation for National Service, which is the parent corporation for AmeriCorps.

There is debate about whether AmeriCorps works or whether it does not. I originally voted for the program, and as I have now had oversight over the program for the last 3 years, I have some questions about the program and exactly how it has worked, and it is working different than what I maybe anticipated it was going to do. There are two fundamental facts. Their books are not auditable, and we have known that for about 12, 18 months, that we really do not get a full accounting of where the money goes.

We have had hearings on this and there has been some explanation that the corporation came together and it had some old programs with dirty books and they had to kind of clean those up, and they are getting there. But more disturbingly, within the last 10 days, the auditors have come out and said that their trust fund is not auditable, which means that there is not an integrity to the system that the scholarships for the kids that worked, that will actually be able to match up the scholarship money to the kids that actually did the work. So it is kind of disturbing that there is not that integrity in the system.

I also wanted to build off on what my colleague from Pennsylvania is talking about, the tax deductibility for corporations to enable their employees to go to college. But in my State, it is important for them to get additional training, but it is also very important because being a huge automotive producing State, we need machinists, we need journeymen, and so we need the kids to go into the basic trades, which are great jobs, which certain kids have a great aptitude for and they love doing.

I could not do it. My colleagues would not want to take a look at the parts that came off the machine after I spent a few hours on them. But we need those kids, because it is part of the heart of our industrial strength, is having the journeymen and the people talented and skilled in those areas. It is really an art, and so we need the flexibility and the programs that we design that say if you are going to go to a 4-year college, if you are going to go to medical school, or if you are going to go and be a journeyman, we are going to support you in getting that additional learning, because we need that full range and that full breadth of skills, and we need to empower young people to match the skills that they want to get with the love and the profession that they have a passion for, and we cannot use these Government programs to coerce them into doing something that maybe they would not do otherwise.

Mr. FOX of Pennsylvania. Mr. Speaker, I think one of the other things that we need to do, for the students 18 and under, they have no direct voice here in Congress in the sense that there is someone their age, and I think of the youth Congress when they take over the 435 seats in this House, they elect a Speaker and they pass some legislation that they tell us about. Because while student loans are important, reducing crime is important, their dreams and aspirations are important also. We get this reflectively sometimes through their parents, and sometimes in our town meetings, and sometimes I hear about them when I go to visit a school, but I would love to have a youth Congress sometime this summer and hear directly from them, because sometimes I do not think we hear enough from them.

Mr. HOEKSTRA. Mr. Speaker, if the gentleman would yield, that is a wonderful idea, having a youth Congress for a week where maybe every Member of Congress has the opportunity to select one member to represent them in this youth Congress for a week, where we could define a range of issues, maybe two or three or four issues that we would like them to work on and debate for a week. The biggest fear that I would have is that at the end of the week, the American people might be more impressed with the youth Congress than what they are with us.

Mr. FOX of Pennsylvania. I think we can afford that risk to make the country stronger and better.

Mr. KINGSTON. Mr. Speaker, one of the great parts about this job is that we do get lots of students come and visiting our offices and I am always inspired. It is interesting that there are a lot of folks who are down on students, but I look at the kids who are in our classes today and I feel very, very optimistic. But often, it is because of their own effort or their parents more than it is because of the education system.

We were talking about preparing kids for the future. One of the realities that children of today will face a lot more than our generation is that they will be competing directly against German, Japanese, British, Canadian children and so forth.

The question is, are we preparing them best? Of the 760 different Federal education programs, it is interesting to note that there are 14 programs that deal with reading, but 39 deal with art. There are 11 that deal with mathematics, but 27 that deal with environment.

Now, I think it is important to know about art and it is important to know about environment, but when you are talking about competing in a global economy, you better know your math and you better know how to read. But because the Federal Government passes things based on politics and emotion far more than logic, it is a lot more popular to vote for art and environmental programs rather than math and reading because they are somewhat lackluster. But are we cheating our children when we do that? I think we are. We have to prepare them for the global marketplace.

Mr. HOEKSTRA. I know we are running close to the end of our time, and I thank the gentleman from Pennsylvania [Mr. FOX], for taking the hour tonight.

The gentleman from Georgia [Mr. KINGSTON] is absolutely right. We need to prepare our kids. But the bigger responsibility that we have is we need to prepare this country, which means I think that we have to carry forward on our vision toward getting a surplus budget and a government that can be funded by a one-wage-earner family, that a two-wage-earner family is an option, and that we get a government and we get it in a size and a scale that no longer sucks strength away from our families, but is in balance with what our families need.

If we can do that, we will prepare the proper environment for our children to be successful.

Mr. FOX of Pennsylvania. Mr. Speaker, I appreciate the gentleman's comments. I think that the gentleman's whole theme has been one that rings true for America, and that is to make our families stronger, and by doing that we make America stronger.

I did want to make one parenthetical comment, discussing AmeriCorps. I can tell my colleagues about a couple of programs that frankly in relationship back to what the Congressman from Georgia, Mr. KINGSTON, was talking about, the RSVP and the foster grandparent programs have been outstanding examples, and I will have to look into the tutor program you spoke of to see whether it is as accountable and as beneficial. But I think the overall theme that the gentleman from Michigan has presented tonight, balancing our budget, getting tax relief to families, letting them become one-wage-earner families, if that is what they want, so that they can again spend more time together, enjoy the quality of life, build their communities, and I think that kind of vision of America's dream is certainly one that people from my district will want to embrace.

I yield to the gentleman from Georgia for a concluding comment.

Mr. KINGSTON. Mr. Speaker, let me just say, I appreciate the gentleman from Pennsylvania and the gentleman from Michigan for letting me join them this evening, and I do agree with the title of the gentleman from Michigan's newsletter. We have two missions here, one of a command-control bureaucratic government where Washington experts tell the whole world how to run their lives, how to run education, and how to run their businesses and families and so forth, or we have a government that is smaller and based on common sense. The gentleman has an excellent newsletter, and if the gentleman would,

could we get his Net page number and so forth.

Mr. HOEKSTRA. For my colleagues, this newsletter is delivered on a monthly basis, and they can get it from 1122 Longworth House Office Building.

[From the Atlanta Journal, Oct. 14, 1996]

WASTEFUL AMERICORPS SURVIVES ANOTHER YEAR

AmeriCorps, President Clinton's much-vaunted "volunteer" program, has survived another year. Too bad. It's past time to kill this costly program before it becomes a permanent government fixture. It is fast-growing and expensive, it eats away at the very definition of volunteerism, and it's costing taxpayers a huge amount per participant without any measurable gains.

In announcing AmeriCorps in 1993, the president spoke of a largely privately funded program that would engage the nation's young people in volunteerism and community service:

"While the federal government will provide the seed money for national service," the president wrote in a New York Times op-ed article, "we are determined that the participants—the individuals who serve and the groups that sponsor their service—will guide the process. Spending tens of millions of tax dollars to build a massive bureaucracy would be self-defeating."

But it has been the federal government "guiding the process" with tax dollars. The program cost $217.3 million in 1994, but $427.3 million in 1995. Congress put the brakes on the president's effort to pump even more into the program this year. Undaunted, Clinton is now seeking $1 billion over the next five years.

The notion of private funding for AmeriCorps was also an illusion: Just 7 percent of the program is funded privately. National and state governments pick up the rest of the tab.

The General Accounting Office has discovered the program costs taxpayers $26,700 per participant for 10 months of volunteer work.

And the type of "work" is not always what taxpayers would have paid for. In San Francisco last year, AmeriCorps volunteers organized 40 groups to fight the federal crime bill's "three strikes and you're out" provision. In Denver, "volunteers" who were supposed to be helping neighborhoods instead were passing out fliers attacking a city councilperson. In Orange County, Calif., AmeriCorps volunteers were paid to knit a memorial quilt for victims of the Oklahoma City bombing—a chore they never even finished.

And AmeriCorps destroys the healthy notion of volunteerism by paying participants to "volunteer." Participants receive a stipend of $650 per month—about $7.50 per hour—and $4,725 a year for college costs. This even though more than half of Americans over 18 volunteer in the real sense—for free.

Neither are the benefits of AmeriCorps limited to the poor in need of financial aid for college. America's wealthiest are just as eligible—and far more likely to participate. While the program is supposed to give young people a chance to go to college, the cost of a single AmeriCorps participant would send 18 students to college with Pell Grants.

The president needs to look back at his original statement and ask if the program is indeed "self-defeating." It is, and it's an incredible waste of taxpayer dollars.

CIA OPERATIONS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentlewoman from California [Ms. WATERS] is recognized for 60 minutes.

Ms. WATERS. Mr. Speaker, earlier today I started a presentation and a conversation about the Central Intelligence Agency. Recently I have become involved in taking a closer look at the Central Intelligence Agency. This was after the San Jose Mercury News series detailing allegations that the CIA operatives were involved in the trafficking of crack cocaine in south central Los Angeles.

What we have learned is quite disturbing. The CIA operatives, Oscar Danilo Blandon and Norwin Meneses were indeed connected with both the CIA and the DEA; that is, the Drug Enforcement Agency. Both Blandon and Meneses have long histories of involvement with drugs. Mr. Meneses in particular was well-known among the United States and Latin American law enforcement agencies as having trafficked drugs for years. These men were staunch supporters of the Nicaraguan contras and the FDN. That is the army of the contras.

There are those who question whether the CIA had any involvement with the distribution or trafficking of crack cocaine into south central Los Angeles. One need only look no further than current newspapers to find recent cases of CIA involvement with drugs.

Before I began to detail some more of the recent involvement, I would like to just share for a moment the fact that Mr. Danilo Blandon and Mr. Norwin Meneses both have been identified not only as having been involved with the CIA, but Mr. Danilo Blandon himself testified in Federal court that he was a CIA operative.

There are those who question whether or not this really could have happened, and did this fuel the explosion of crack cocaine in south central Los Angeles and across the Nation. There are some of us who are well aware that in the 1980's in south central Los Angeles, where I have served for a number of years prior to coming to Congress, there was indeed a huge infusion of drugs, and it was commonly referred to as drugs that were being brought in by the Colombians. Little did we know until the San Jose Mercury News did this extensive investigation that indeed these operatives were directly in south central Los Angeles and Mr. Meneses himself was connected with these drug cartels that were bringing in the drugs to Mr. Danilo Blandon.

Well, the newspapers have been full of a lot about what took place. Not only did the San Jose Mercury News describe this whole operation and a young man in south central Los Angeles that was connected to the trafficking of huge amounts of crack cocaine, but since that time we have discovered that Mr. Danilo Blandon is now in the witness protection program of the DEA and, despite the fact he had been a large drug dealer, bringing all of this cocaine into south central Los Angeles, he was now on the DEA payroll, having been paid over $160,000 by them last year.

□ 2230

Ricky Ross, the young man that connected with him in south central Los Angeles, is now in prison for life. Well, some people may say that perhaps happened and perhaps the CIA did not really involve itself in the trafficking of cocaine, it just kind of turned its back and allowed it to happen. And that was the CIA of the past. And perhaps they were so involved in trying to support the Contras, because they felt that they were the correct organization to confront the Sandinistas, even though they did not have the support of the Congress of the United States, that perhaps they made a mistake.

Well, for those who think they made a mistake, let us take a look at recent events. Let us take a look at Venezuela. Earlier this year, General Ramon Davila Venezuela's former drug czar, was indicted by Federal prosecutors in Miami for smuggling cocaine into the United States.

Now, according to the New York Times, November 20, 1993 article, the CIA antidrug program in Venezuela shipped a ton of nearly pure cocaine to the United States in 1990. The CIA acknowledged that the drugs were sold on the streets of the United States of America. The joint CIA-Venezuelan force was headed by General Davila and the ranking CIA officer was Mark McFarlin, who worked with antiguerrilla forces in El Salvador in the 1980's. Not one CIA official has ever been indicted or prosecuted for this abuse of authority.

You need to know and understand that when the CIA came up with this cockamamie scheme of bringing the drugs into the United States, they claimed that this was the only way that they could gain the confidence of the drug dealers in Venezuela and thus set them up so that they could bust them for a bigger deal later on. They went to the DEA and told the DEA about the scheme and the DEA, who supposedly has the authority to determine whether or not you can do these kinds of operations, said to them, no. You cannot do it.

The CIA defied the DEA. They did it anyway. And they broke the law because they allowed the drugs to hit the streets.

Well, let me just say that whether we are looking at south central Los Angeles or any of our other major urban areas or even areas that are not so urban, and we see this continuing influx of cocaine that is cooked into

crack and we see all of this devastation and we wonder, where does it come from, and people in many of these communities will say, we have no airplanes, we do not have the wherewithal to bring the drugs in, so it must be coming from places as they would consider higher-ups.

We do not know where it comes from but we do know some things. We know that the ton of nearly pure cocaine that reached the streets in 1990 was cocaine that was brought in by the CIA. We know that. We do not care what they were attempting to do, we do not care that they thought they had a scheme that would help them to bust big dealers later on. The fact of the matter is, they brought the cocaine in and they defied the law. They broke the law. They allowed it to hit the streets.

Let us take a look at Haiti. In a March 8, 1997, Los Angeles Times article, it was reported that Lt. Col. Michel Francois, one of the CIA's reported Haitian agents, a former Army officer and a key leader in the military regime that ran Haiti between 1991 and 1994, was indicted in Miami and charged with smuggling 33 tons of cocaine into the United States.

The article detailed that Francois met face to face with the leaders of three Colombian cartels to arrange for drug shipments to pass through Haiti via a private air strip it helped to build and protect. Lt. Col. Francois was trained by the U.S. Army in military command training for foreign officers in Georgia. He was a senior member of the service intelligence agency, a Haitian intelligence organization, founded with the help of the CIA in 1986.

After the 1991 coup that put Francois in power, cocaine seizures in Haiti plummeted to near zero, according to DEA records. United States prosecutors have requested the extradition of Francois from Honduras where he has been living under a grant of political asylum.

What is important about this? We went through a very, very confrontational history right in this Congress in this House about Haiti. There were those of us who supported Aristide and there were those who did not support him but, rather, they supported Cedras and Francois and others who were involved in attempting to overthrow Aristide. These were the people we were fighting to get Aristide returned to Haiti. These were the people who were embraced by Members of this House who swore by them, who tried to make sure that Aristide never returned to power, who embraced Cedras and the head of Cedras's Army, Mr. Francois.

Members of this House literally had wrapped their arms around drug dealers. Members of this House not only swore by them and protected them, while they were protecting them, Francois was building an air strip in Haiti where he could receive the drugs flown in from Colombia on that air strip and the same air strip used to fly it right back out to the United States. This was a transshipment point.

This was the head of the army in Haiti working with Cedras, with Members of this House supporting them and working against the return of Aristide.

Well, we were able to get the support of the President of the United States and those who really began to understand what was going on down there. And we returned Aristide and, of course, Francois was helped out and given a grant of political asylum.

Now we find that he, too, is responsible for helping to put drugs on the streets of the United States of America, another instance where the CIA either knew or turned their backs and allowed it to happen. There are those who swear that the CIA was called when this large shipment of drugs was being prepared for entering into the United States, and the CIA did nothing.

Let us go a little bit further and try and discover who the CIA is and what they are doing and how they are viewed around the world.

In a Los Angeles Times article, we see a caption recently, just a day or so ago, that says, CIA finds itself out in the cold with U.S. allies. In this Los Angeles Times article, that was just Monday, March 17, our international allies' dislike of the CIA and their clandestine activities is stated, and I quote:

> Around the world America's friends are sending a quiet but stern message to the Central Intelligence Agency. The Cold War is over. The rules of the spy game have changed, and it is time, they said, for the United States to curb its espionage operations on allies' turf.

At least four friendly nations, Germany, Italy, Switzerland and France, have halted secret CIA operations on their territory during the last 2 years. In Germany, a CIA officer was ordered to leave the country, apparently for trying to recruit a German official in 1995. There was a major intelligence failure in Paris, when the French uncovered and put an end to an economic espionage operation run by the CIA.

Let us take a look at the Washington Post on the 18th. House panel affirms some allegations against the CIA. Just in today's Washington Post, there was a report that the House Permanent Select Committee on Intelligence report affirmed a previous conclusion that CIA contacts in Guatemala were involved in serious human rights violations with the agency's knowledge and their involvement was improperly kept from Congress in the early 1990s.

In fact, the article stated, and I quote, "The report represents a sharp criticism of the CIA from a Republican-controlled committee that has tended to be more sympathetic to CIA arguments that it must deal with unsavory individuals to get good intelligence."

Mr. Speaker, what is the mission of the CIA in a post-cold war environment? Is it really necessary to continue allocating $30 billion to the CIA? Should we not use these funds for other purposes such as job development or school infrastructure rehabilitation?

We are pleased that the New York Times on the 3rd of March this year recently reported on scrubbing, they call it, by the CIA in an effort to sever ties with 100 foreign agents, about half of them in Latin America, whose value as informers was outweighed by their acts of murder, assassination, torture, terrorism and other crimes.

According to these articles, the Latin American division of the CIA's clandestine service proved to be the one most riddled with foreign agents who were killers and torturers and that the CIA also has had on its payroll people who are terrorists and drug dealers or who were terrorists and drug dealers.

It is not enough to cleanse some of the rogue agents employed by the CIA in their clandestine activities. We need to take another look at the CIA.

What I have just said to you is this: In addition to the drug trafficking and allegations of continued involvement, in addition to the south central Los Angeles drug trafficking with Danilo Blandon and Norwin Meneses, in addition to the event that I just described to you in Venezuela, in addition to the connection in Haiti, we find that we have a CIA who is being questioned by some of our closest allies and who are saying, we do not want them around here anymore.

The CIA, in this latest attempt to try and cleanse itself, tried to send a message, we are getting rid of the terrorists. We are getting rid of the murderers and the drug dealers. We are scrubbing the agency.

Well, that is not good enough. What indeed is the mission of the CIA? The Cold War is over. What do they do? What are we paying $30 billion for?

They are meeting, that is the Permanent Select Committee on Intelligence of the House, is meeting this week in a little secret room upstairs with this not so secret organization anymore where they are talking about, I suppose, their mission and the funding of the CIA. But I think more than our allies who are questioning the mission of the CIA, many citizens in this country are discussing what is the mission of the CIA.

I think that that debate really needs to take place in this Congress. At a time when we are trying to balance the budget, when the resources are not so plentiful, where we are making serious and severe cuts in programs that have children and seniors, programs that provide housing, programs that are

really basically safety nets for American citizens, many of them who have been taxpayers, many of them elderly, many of them who need a helping hand from their government, we continue to fund the CIA to the tune of $30 billion without understanding what their mission is.

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What, indeed, is it that they do that cannot be done by the DIA, that is, the Defense Intelligence Agency? We know that there is an overlap. There has been some duplication in the past.

I would recommend that we turn whatever these responsibilities are over to the DIA, and I would recommend that we eliminate the CIA from the budget of this Nation.

I know there are some who will say that is a very, very harsh recommendation. It is no harsher than recommendations that came to this House from the other side of the aisle when they said get rid of the Department of Education. In addition to that, they said let us get rid of the Department of Commerce.

Not only did they question the value of the Department of Education, that has a responsibility for educating America's children, and the Department of Commerce, with the responsibility for trade, the same people are now coming forward to raise questions about outdated and outmoded operations such as the CIA.

I am very, very concerned about the CIA and this $30 billion. I am concerned that they have had a role in, that they have had operatives, that somehow too many times in too many ways their name and their operation and their business is connected to or identified with drug dealing.

I think it is time for us to have this debate. I am challenging this House to get involved in taking a real close look at who the CIA is and what do they do.

We have some investigations that are going on. When we brought the information to this House about drug trafficking in south central Los Angeles, with this drug ring in the 1980s that had dumped all of this cocaine into south central Los Angeles, we had enough information to convince the Speaker that there, indeed, should be investigations. And so our House Permanent Select Committee on Intelligence is involved in an investigation. This is running parallel with an investigation by the Inspector General of the CIA that is supposed to be independent and the Inspector General of the Justice Department. They are supposedly culling through thousands of documents and interviewing many people who were perhaps involved.

There are a lot of people who do not trust that the Inspector Generals of the CIA and the Justice Department will come back with the kind of information that will help us to understand who knew what, when did they know it, and how high did it go. They are suspicious of these investigations.

I tell them it is important that we let the process go forward; that some of us are not simply relying on these investigations, even though we think it is important for them to go forward. Some of us are responding to the calls that we are getting with people who have information about drug trafficking and intelligence community involvement.

We have met with any number of people who have called, given us documents and information. We are doing this because we want to be able to compare what we are learning with the so-called investigations that are going on. If and when hearings take place as a result of the investigations that are being done, we will be able to ask questions about why certain people are not being subpoenaed, why they are not being called, why certain documents are not being entered.

I am very serious about wanting to know who knew what and when did they know it and how high did it go, and whether or not the CIA or the DEA or the DIA or any other intelligence agency has been involved in drug trafficking. I would consider that the most profound undermining of the American people of any action that could be taken by anybody.

We do not pay our intelligence community to protect and serve, to find out that they are indeed involved in the kind of devastation that has been caused by this explosion of crack cocaine in our communities. And so, in essence, we are kind of running our own parallel investigation because we are responding to the calls that we get.

I went to Nicaragua myself because I was contacted by someone in Managua who had information, who knew about the drug cartels and who had been connected with Norwin Meneses. I went to a place called Grenada, up outside of Managua, and I went to a prison and I interviewed Mr. Enrique Miranda Jaime, who not only indicated his willingness to cooperate with the investigations that are going on here but asked that I share this information with the investigators.

I have done that. I have shared this information with the Inspector General of the Justice Department. I have asked him to go and take a look and to talk with Enrique Miranda Jaime and to make sure nothing happens to Enrique Miranda Jaime. I am concerned that if we do not get to him and place him in a witness protection program so that he can make the information available to us, that we may not have him available to us sometime later on.

I am going back to Nicaragua. I am going back to Managua. I have been requested to come back by some legislators who now understand a lot about what perhaps has taken place, and they have new information and they are looking at some money laundering schemes.

We have identified that one of the persons now in the Nicaraguan government was connected to Danilo Blandon and was responsible for laundering money out of Miami during the 1980's when Mr. Danilo Blandon was trafficking in cocaine and crack cocaine in south central Los Angeles.

So I will be going back. There will be others going back. We have people there who are documenting some of the information that is going to be necessary for us to make sure our investigators have. This is the kind of work that must be done because the Congressional Black Caucus of the Congress of the United States have decided that they are going to make the eradication of drugs in our community our number one priority.

We are sick and tired of drug addiction. We are sick and tired of the violence that is associated with drug trafficking. We are sick and tired of the babies that are being born addicted to crack cocaine. We are sick and tired of the loss of lives, the loss of opportunities and the loss of a future for our children in our communities because of cocaine and drugs and crack cocaine in particular.

We find that crack cocaine is one of the most devastating drugs that has ever been known to man. We find that it is the most addictive, that it is very difficult for people to get off of. We find that people commit some of the most horrendous acts in pursuit of more crack cocaine to fuel their habits.

We are sick and tired of waiting on others to do. We do not care if there is a drug czar, we do not care if there is advertising and continuation of programs that say "Just say no." We are in this now and we are going to provide leadership.

We have been working with the President of the United States to increase the drug budget. I have worked with the drug czar to support more prevention, more education and more rehabilitation, and we are going to fight for the budget that has been produced that would help us to deal with this securing in our communities.

But we are not going to stop there. We are going to do all of those things and we are going to work hard. We will be in the town meetings, we will be talking with the young people, we will do all we can do to help get rid of these drugs in our community. We are going to work to see that there is justice and fairness.

Just as the Justice Department has targeted small crack cocaine dealers, we are going after the big guys. We want to make sure that these dealers of large amounts of cocaine and crack cocaine are targeted and that they are

apprehended and that they are brought to justice.

We want to make sure that the Justice Department does not have the American public believing that they are doing something about drugs simply by getting these small crack cocaine dealers, getting them into these mandatory minimum prison sentences in the Federal prisons, filling up the prisons all over America with these small-time crack dealers, 19 and 20 years old, who are stupid, who should not be involved, should not have been involved, but the sentencing that they are getting does not match the crime.

Big drug dealers are going free, and those in the intelligence community, who we pay to protect and serve, may still be involved in these covert operations where drugs are involved and causing tons of drugs to be dumped on our streets.

We are tired of waiting on law enforcement to do it job. We are sick and tired of those who tell us, oh, you cannot do anything about interdiction; as long as the appetite is what it is in America, we will have drugs coming in in huge numbers because of the profits of it. Well, we do not think that is true. We think we should be involved in interdiction, just as we should be involved in education and prevention and rehabilitation.

We think that we are going to have to look very carefully at our relationship and our relationships to other countries. We are going to have to look carefully at our relationship to anybody that we think is involved in bringing drugs into the United States of America.

We heard this big debate about certification. Who are we certifying? What do we know about them? Are we turning our backs and fighting for certification despite the fact we may know some of our allies and some of our friends right here in this hemisphere are involved in drug trafficking?

We have got to understand there is no threat from the Soviet Union. There is no more Soviet Union. There is no threat from Russia, some of the countries that made up the Soviet Union. Nobody wants to fight with the United States of America. That is not where the threat is to this country anymore.

The threat to this country is this influx of drugs, of cocaine that is causing addiction and crime and violence and murder. The threat to this Nation is this influx of huge amounts of drugs that is undermining the very social fabric of our country.

Our national security must be redefined. The need to take a look at what our threat is is urgent. This debate must take place and we must redefine what our national security interests are.

I submit to my colleagues that one of the greatest threats that we have in this country today is this influx of drugs, this influx of cocaine, this scourge of crack cocaine in our communities and all of the violence that goes along with it, and so we cannot afford to let anybody off the hook.

We should have no friends that we love so much that we will allow them to bring drugs into our country because we have some trade relationship with them. We should allow no one to bring drugs into this country because we want to expand our ability to do business with them.

We should let the shoe fall wherever it should fall. We should be willing to identify those who undermine us with drugs, no matter who they are.

□ 2300

I challenge those who somehow think the CIA and the DEA and the DIA are so important that we should have a hands-off policy, that we should not question what the intelligence community is all about, that somehow we should not be concerned about the $30 billion in that CIA budget. There are those who say to me, "Oh, Ms. WATERS, you better be careful, you can't go around talking about the CIA. You can't challenge them. Don't you know what they do? Don't you know that they're very special, and that nobody talks about the CIA?"

I am here to say, I think the day for the CIA has come and gone. I think it has no mission that is worthy of the $30 billion that we are paying for its so-called operations. I think the CIA cannot scrub itself. This business of scrubbing, talking about they are getting rid of the terrorists and the drug traffickers and the murderers, is a day late and a dollar short. Not only have they involved themselves with the scum of the Earth, many of whom are responsible for horrendous crimes against our people, but it is no need to even try and make the American people believe that it is necessary to be involved with those kind of people anymore. For what?

And so this challenge that I bring right at the point that we are talking about funding the CIA one more time, at this time where their budgets supposedly are being looked at, at this moment in the debate of Congress about where we put our resources, where we make our priorities, there is no better time.

I would like all of those who embraced Mr. Francois, for example, down in Haiti, who swore by Mr. Cedras, who fought us day and night to try and make sure they were in control of Haiti, I ask them, this Mr. Francois that was trained right in Georgia by our people, who built an airstrip right when they were working with the CIA, who brought in the drugs from Colombia and sent them to the United States, I challenge those Members to make it right. They know who they are. They need but step forward and say, "We made a mistake. We should not have embraced Francois in Haiti. We should not have been involved with them at all."

The CIA's involvement was deep in Haiti for a long time. They know who these people are. They know what they were doing. And the Members of this House who embraced them and who fought for them need to step forward and make it right and say, "I made a mistake. I should not have embraced them and I'm not going to support them any longer."

We are going to not only take a look at what the CIA has done in the past, we are going to understand, or try to understand, what their mission is supposed to be and hopefully come to the conclusion that I would like them to come to, that they have no more mission. And if they conclude what I have concluded, we can find us $30 billion to help offset this deficit, $30 billion that we can place in our school systems in America.

Just think about it. The President of the United States has asked for $5 billion to help repair our infrastructure in our schools, to help rehabilitate our schools. The need is over $100 billion. The Congressional Black Caucus would at least like to have $20 billion so that we could leverage it up to about $80 billion, because our schools are crumbling down around us in many of our communities. We have schools where the air-conditioning does not work. We have schools that you cannot even put computers in because they are not wired for computers. We have schools that have no science labs. We have schools that have no place for the children to eat lunch. Thirty billion dollars could really help us rehabilitate these schools for our children, for our children's future. We need to get tough about stopping drugs and giving these children a chance. We need to get tough about redirecting our priorities to educate our young people, and to make them competitive, and to give them a chance to grow and to be and to realize their full potential as human beings. We cannot do that as long as we are allowing money to go out the window of something like the CIA.

I submit that it is time to totally eliminate the CIA. I understand exactly what I am saying. I am saying what I mean and I mean what I say. I am of the belief that they do not have a serious mission anymore, and I am further concerned and outraged by the fact that I have learned too much about them and their connection to drug trafficking. And when I go to parts of my district or to New York or Philadelphia, Missouri, St. Louis, and when I go into the South, places in Arkansas and Mississippi, and I see the scourge of crack cocaine and I think about the fact that the CIA or the DEA and others could have been involved in turning their backs or been involved in

covert operations that have allowed these drugs to hit our street, then I am convinced that we are making a mistake to continue to fund the CIA.

If there is any mission at all, if there are any activities they should be involved in, I submit to you that the DIA can take over those activities. Why are we paying all of these different intelligence communities to kind of trip over each other in a post-cold-war era? What are they doing? What is their responsibility? Who are they spying on? What information are they bringing us? If they know so much, why did they not know that the drug czar in Mexico was a drug dealer? Here we were allied with the drug czar in Mexico who was supposed to be working closely with us, who was supposed to be the man who was helping us to identify the drug dealers there, and to help us get rid of this transshipment point that is dumping tons of cocaine and heroin into America. But we did not know. Where was our CIA? Where was our DEA? Where were those in the intelligence community who should have known that the drug czar was the drug dealer? They did not know. They did not even know that the Mexican authorities had arrested him until days after it had been done.

If they have a mission, of protecting us, of knowing what is being done in foreign countries that may be harmful to us, they missed the mark. They missed the point. They did not do their job. But, I suppose whether it is the case in Mexico that they did not know the drug czar was a drug dealer, I suppose they did not know in Venezuela where they were working with the so-called drug czar who ended up again being the dope dealer and not only dumping drugs into the United States on his own behalf but on behalf of the CIA. It is enough information here for people to be angry about, for people to be concerned about, that people should want to be able to get to the bottom of what is going on.

I think the American public is going to move faster than the Members of this House. I think that the articles that you now see popping up in the newspapers are going to multiply. In addition to that, I know about some documentaries that are going to be done about the CIA and its mission or lack of a mission. I know that there is going to be increasing discussion outside of this House about the CIA and its role, and the American citizens are going to rise up against the funding of an agency that should be extinct. They too will join with me in the final analysis and call for the elimination of the CIA.

This is not the first time that I have been on this floor talking about the CIA and drugs. This is not the first time that I have reminded the public of the San Jose Mercury series called "The Dark Alliance" that helped to document their involvement in the dumping of cocaine into south central Los Angeles, and this will not be the last time.

I do not usually come to the floor this late at night, but I am willing to do some extraordinary things to try and communicate this threat, to try and engage not only my colleagues but the American public on this issue of drugs.

This country deserves better. We do not deserve to have to suffer what we are suffering with drugs overrunning too many communities in America. Not just the inner cities. Certainly it shows up there. But also it is in little towns and in rural areas, and it is not confined to any one ethnic group. It is not confined to any one age group. Increasingly people are getting involved and children are getting involved at a younger and younger age.

American citizens, we deserve better, and we deserve our policymakers to get serious. We deserve the policymakers who supposedly come here to represent the people of the United States of America to take this issue on, to give it some time and some attention, to be involved in interdiction and prevention and rehabilitation. The people should not have to wonder, have we been abandoned? They should not have to suffer being told we cannot do anything about it, as long as there is an appetite for it.

I wish all American citizens and all Members of Congress were perfect human beings, but we are not. We are all vulnerable in many ways. There are many people who get involved and get addicted who wish they could get out of it, and we should help provide them with some opportunities to rehabilitate. I wish there was no appetite. But I suppose, until we do our job on the front end to educate and to discourage and to teach and to prevent, many people will fall prey to this menace.

We should not be involved in a situation where we are allowing young people to either be addicted or to end up thinking that somehow they can sell a little bit of rock cocaine, earn enough money to have a better life. We should not allow these things to happen. Those young people who are sitting in the prisons, falling prey to this business, I can get away with selling a little drugs, these are young people whose lives are cut short. And even though again they were silly enough to get involved, oftentimes the crimes do not fit the punishment and the big guys are getting away.

I am going to keep talking about this, I am going to keep challenging this House, I am going to keep challenging America to challenge its elected officials, to get involved, to learn more, to get to the root of this problem, to deal with the intelligence agencies, to deal with the law enforcement agencies, to deal with the families, the children, the communities, despite the fact I am oftentime discouraged and frustrated as I travel around this country and I see what is going on.

I suppose in the final analysis, I am the eternal optimist. I believe we can do something about it. I believe if we put our minds to it, we can turn this situation around. I believe if we are committed to a future for our young people, we can indeed make this our top priority. The Congressional Black Caucus decided we are going to make this our top priority. We extend our hand to those who would like to join with us to make this a top priority of this Nation. America, we can do better.

BRINGING RUSSIA INTO THE WESTERN WORLD

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Under the Speaker's announced policy of January 7, 1997, the gentleman from California [Mr. HORN] is recognized until midnight.

Mr. HORN. Mr. Speaker, the United States must work to help align Russia with the democratic nations of the West. If we isolate Russia, we will miss a historic opportunity to bring Russia into the western world. If we do not, the result will be instability and unneeded conflict in the future.

One of the interesting questions of history has been whether or not Russia is western or an eastern power, whether it is a European or an Asian nation. The North Atlantic Treaty Organization, NATO as it is known, faces the task of deciding where the frontiers of Europe lie.

□ 2315

Over three centuries ago, in 1703, Czar Peter the Great founded St. Petersburg as his capital. He sought to give Russia a more western-oriented outlook. In the early 19th century, Napoleon of France invaded Russia. In the early 1940's Hitler invaded Russia, and Russia has cause to be wary of some of the Western Powers. During the Russian Civil War, after the communists had seized power and the Czar was removed and there had been a short bleep of democracy in Russian history; the West, including the United States of America, intervened on the side of the democratic Duma, a noble cause, the legislature, the only one of its day in 300 years of Russian history, and it provided that brief blip of democracy I mentioned, and it was a hopeful institution for a brief time. And yet the autocratic Czars and the totalitarian Soviets ruled Russia until very recent years.

Despite its suspicion of the West and our suspicion of Soviet Russia, as allies from 1941 to 1945 we were still able to cooperate to stop and defeat the vicious murderous Nazi Germany.

Western Europe and the United States now have a historic opportunity

to promote reconciliation and cooperation with Russia. We have fought one Cold War with the Soviet Russia, which is no more. If we are to avoid a nationalistic, autocratic Russia arising from the chance that we will have democracy, we need to take diplomatic risks now.

Let us recall that the enemies of the Second World War are now democracies. Germany, for example, and Germany's involvement with the European Community and NATO helped bind it further to the West. Germany, guided by progressive leadership since the end of the Second World War in the elimination of Hitler, overcame the deep and historic divisions which existed between France and Germany, two countries who had been at war with each other three times in 65 years. And then, of course, the great crimes of the Nazi period.

Japan. Japan was as far different culturally from the United States and Europe as one could imagine in 1945. In the decade which spanned the period 1935 to 1945, Japan waged an aggressive war against its neighbors in Asia as well as the United States of America. Yet under the leadership of Gen. Douglas MacArthur, we imposed democracy on Japanese institutions which were militaristic and feudal in nature, and our military occupation helped the Japanese rebuild their country which had been shattered and overcome those militaristic forces that had led their country into aggressive wars in that decade of 1935 to 1945. And the result now is that we have stability and peace in East Asia.

One obvious reason for the successful American alliance and the relationship we have with Germany and Japan is that we stationed our troops in both of those nations, and we had a major role in influencing the formation of new institutions in those countries. A second reason for the successful alliance was the common goal of halting the spread of communism as practiced by a number of Soviet dictators, the worst of which of course was Stalin. We must remember that we fought the Cold War against these dictators and zealots who ruled Russia through Communist ideology, fear, and militarism. For 75 years the Soviet Union was the leader of all of the Communist world except China. The Soviet Union, however, is no more. It collapsed in the face of its own weaknesses and because of the resolve of the western nations. We must show the same resolve to ensure that peace and stability represent the future of Europe.

For this to happen, Russia must not be isolated but must become a partner of the West in the economic submits, in the European Community, and in the North Atlantic Treaty Organization. NATO operates by consensus. No nation can veto NATO decisions. Giving Russia a seat at the table in NATO does not mean it will be able to veto any application of any other nations. Whether as a formal member of NATO or as an advisory nature, it is important that Russia do receive that seat, and this will not result in its ability to block decisions of a military nature. Its fundamental mission that NATO now has is to keep Europe at peace.

In brief, NATO is not the United Nations, whereas we know in the United Nations one of the five permanent members of the Security Council, including the United States of America, can exercise a veto over the actions of not only its colleagues on the Security Council, but the actions of the General Assembly which represents all nations in the United Nations.

Mr. Speaker, it is the right of every sovereign nation to choose who its friends are. Russia cannot decide for the nations of central and eastern Europe on the question of NATO membership. It would also be foolish for NATO to automatically rule out Russia or any other Nation from NATO based on some of the current economic or social conditions that exist within those countries. It makes sense to consult with Russia on the future of NATO and the future of Europe. Russia's military power has been substantially weakened, but it still remains the greatest nuclear power in Europe. Isolating Russia will only help the domestic political goals of the Communists, the Fascists, and the nationalists who wish to undermine the progressive reforms which have occurred in Russia under the leadership of President Boris Yeltsin.

We are at a point in history that will decide the future of our country for generations. Will the United States work to promote peace and cooperation in Europe? Or will we foolishly seek to gloat over our victory in the cold war by marginalizing Russia and thus helping the very elements of Russian society that we deplore, namely the Communists, the Fascists, and the nationalists who once in a while raise their head in this or that election.

Have we reached a peace with Russia that is only a pause in the conflict, or will we work to create a peace that brings stability and prosperity? The choice is ours. Russia has vast natural resources and an energetic people with a growing democracy and burgeoning market-based competitive economy. The Russian people need to be tied to the Western World.

Mr. Speaker, if the Government of the United States does not involve Russia in NATO, this country will have made the most critical foreign policy mistake in the last half of the 20th century.

The key question we face is whether we will address this issue of NATO expansion on the basis of common sense and our long-term national interest, or will we allow NATO expansion to continue to be a political football for various domestic audiences and ethnic groups? Clearly a balance must be struck between the legitimate interests of central Europe and Russia. The nations of central Europe have emerged from Soviet domination into an uncertain era where their sovereign rights of self-determination and self-defense have become real, but they have yet to be fully defined.

The United States in NATO must help give life and definition to those rights through thoughtful and effective steps, including membership in the North Atlantic Treaty Organization. However, we must be mindful of the fact that nothing we do will change geography. Poland will always be next door to Russia whether it is a member of NATO or not, so Poland and NATO must deal with the realities of the neighborhood. We can ignore, offend, and alienate Russia, and that will guarantee endless tension in Central Europe, or we can seek to be good neighbors and expect similar behavior from Russia.

Russia also has legitimate rights of self-determination and self-defense. It has an understandable concern with NATO expansion right to its doorstep. Imagine our concern if an international alliance was on our border and it included nations that were hostile to us in the recent past. We must not ignore or gloss over those concerns. We must deal with them openly and honestly so that the Russian people can see that the intentions of the American people and its Government are clear and that the motives are honest.

We must not assume that as victors of the cold war we can impose any conditions we wish on the losers. The allies made that mistake at the end of the First World War. We had won the war in 1918, and we lost the peace in 1919 by forcing on a vanquished Germany a Treaty of Versailles that every thoughtful person knew was completely unreasonable, harsh, and ultimately unsustainable. The result was not a lasting peace but a temporary truce between two great world wars. We must not repeat that mistake.

Mr. Speaker, let us work to involve Russia with the West and its major political institutions, the European Community and the North Atlantic Treaty Organization. Such involvement will result in a much more peaceful 21st century.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. KAPTUR (at the request of Mr. GEPHARDT) for today and the balance of the week on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. HILLIARD, for 5 minutes, today.

Ms. BROWN of Florida, for 5 minutes, today.

Ms. KILPATRICK, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

(The following Members (at the request of Mr. MCINNIS) to revise and extend their remarks and include extraneous material:)

Mr. MCINNIS, for 5 minutes each day, on today and March 19.

Mr. CHAMBLISS, for 5 minutes, on March 19.

Mr. HOEKSTRA, for 5 minutes, today.

Mr. CHRISTENSEN, for 5 minutes, on March 19.

Mr. WAMP, for 5 minutes, on March 19.

Mr. CANNON, for 5 minutes, on March 20.

Mrs. FOWLER, for 5 minutes, on March 19.

Mr. LAHOOD, for 5 minutes, on March 19.

Mr. HOUGHTON, for 5 minutes, on March 19.

Mrs. EMERSON, for 5 minutes, on March 19.

Mr. KINGSTON, for 5 minutes, on March 19.

Mr. NETHERCUTT, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes each, on today and March 19.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. ROHRABACHER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

The following Members (at the request of Mr. PALLONE) and to include extraneous matter:

Mr. REYES.
Ms. WOOLSEY.
Mr. PAYNE.
Mr. SANDERS.
Mr. STARK.
Mr. MEEHAN.
Mrs. MEEK of Florida.
Mr. STOKES.
Mr. TORRES.
Mr. PALLONE.
Mr. NEAL of Massachusetts.
Ms. ROYBAL-ALLARD.
Mr. FRANK of Massachusetts.
Mrs. MINK of Hawaii.
Mr. CAPPS, in two instances.
Mr. TOWNS.
Ms. EDDIE BERNICE JOHNSON of Texas.
Mrs. CLAYTON.
Mr. HINCHEY.
Mr. ANDREWS.
Mrs. LOWEY.
Mr. MILLER of California.
Mr. MARKEY.
Ms. KAPTUR.
Mr. KUCINICH.
Mr. BENTSEN.

The following Members (at the request of Mr. MCINNIS) and to include extraneous matter:

Mr. LEWIS of California.
Mr. SAXTON.
Mr. NETHERCUTT, in two instances.
Mr. HILL.
Mr. BRADY.
Mrs. ROUKEMA.
Mr. SHUSTER.
Mr. MCCOLLUM, in two instances.
Mr. PACKARD.

The following Members (at the request of Mr. HORN) to revise and extend their remarks and include extraneous material:

Ms. NORTON.
Mr. POMEROY.
Mr. RAHALL.
Mr. KNOLLENBERG.
Mr. COOKSEY.
Mr. ARCHER.
Mr. SANDERS.

ADJOURNMENT

Mr. HORN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 28 minutes p.m.), the House adjourned until tomorrow, Wednesday, March 19, 1997, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 or rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2295. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Oranges and Grapefruit Grown in the Lower Rio Grande Valley in Texas; Reapportionment of Membership on the Texas Valley Citrus Committee [Docket No. FV96-906-4FR] received March 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2296. A letter from the Acting Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Final Rulemaking Concerning Contract Market Rule Review [17 CFR Part 1] received March 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2297. A letter from the Acting Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Financial Reports of Futures Commission Merchants, Introducing Brokers and Leverage Transaction Merchants [17 CFR Parts 1 and 31] received March 10, 1997, pursuant to 5 U.S. 801(a)(1)(A); to the Committee on Agriculture.

2298. A letter from the Administrator, Food and Consumer Service, transmitting the Service's final rule—National School Lunch Program, School Breakfast Program, Summer Food Service Program for Children and Child and Adult Care Food Program: Meat Alternates used in the Child Nutrition Programs [Workplan Number 95-21] (RIN: 0584-AC15) received March 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2299. A letter from the Secretary, Panama Canal Commission, transmitting the Commission's final rule—Technical Amendments (RIN: 3207-AA34 and 3207-AA35) received March 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

2300. A letter from the Secretary, Panama Canal Commission, transmitting the Commission's final rule—Procedures for Changing Rules of Measurement or Rates of Tolls Technical Amendment (RIN: 3207-AA37) received March 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

2301. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Availability of Funds and Collection of Checks [Regulation CC; Docket No. R-0926] received March 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

2302. A letter from the Managing Director, Federal Housing Finance Board, transmitting the Board's final rule—Advances to Nonmembers [No. 97-18] received March 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

2303. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 668, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on the Budget.

2304. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans—State of Kansas; Correction [KS 002-1022; FRL-5707-9] received March 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2305. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Oklahoma: Final Authorization of State Hazardous Waste Management Program Revisions [FRL-5691-8] received March 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2306. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Registration of Fuels and Fuel Additives: Changes in Requirements, and Applicability to Blenders of Deposit Control Gasoline Additives [FRL-5707-7] received March 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2307. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Test Methods

for the Polymers and Resins I Rule Appendix A, Test Methods 310A,B,C, 312A,B,C, 313A,B [FRL-5700-9] (RIN: 2060-AE37) received March 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2308. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Approval and Promulgation of State Implementation Plan; Colorado; Prevention of Significant Deterioration; Designation of Areas for Air Quality Planning Purposes [CO-001-0015a; FRL-5700-3] received March 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2309. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; State of Nebraska [NE 020-1020; FRL-5708-7] received March 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2310. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans: Washington State [WA59-7134a; FRL-5708-3] received March 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2311. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Registration of Fuels and Fuel Additives: Extension of Specified Deadlines for Atypical Additives and Biodiesel Fuels; and, Reformulated Gasoline Complex Model: Modification of Survey Precision Requirements [FRL-5701-8] received March 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2312. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Leased Commercial Access [CS Docket No. 96-60] received March 18, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2313. A letter from the Director, Defense Security Assistance Agency, transmitting certification of the Automated Radar Management for Over-the-Horizon [OTH] Radars Project Arrangement [PA] implemented under the auspices of the United States-Australia Agreement Concerning Cooperative Research, Development and Engineering, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

2314. A letter from the Director, Office of Communications, Department of Agriculture, transmitting a report of activities under the Freedom of Information Act for the calendar year 1996, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

2315. A letter from the Executive Director, Interstate Commission on the Potomac River Basin, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2316. A letter from the Director, Office of Government Ethics, transmitting a report of activities under the Freedom of Information Act for the calendar year 1996, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

2317. A letter from the Acting Executive Director, Pension Benefit Guaranty Corporation, transmitting a report of activities under the Freedom of Information Act for the calendar year 1996, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

2318. A letter from the Chairman, U.S. Parole Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1996, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2319. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the Service's final rule—Processing of Certain H-1A Nurses Under Public Law 104-302 [INS 1806-96] (RIN: 1115-AD74) received March 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2320. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the Service's final rule—Exceptions to the Educational Requirements for Naturalization for Certain Applicants [INS No. 1702-96] (RIN: 1115-AE02) received March 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2321. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the Service's "Major" final rule—Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures [INS Nos. 1788-96; AG Order No. 2071-97] (RIN: 1115-AE47) received March 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2322. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Final Revisions to the Polychlorinated Biphenyl Criteria for Human Health and Wildlife for the Water Quality Guidance for the Great Lakes System [FRL-5708-8] (RIN: 2040-AC94) received March 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2323. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Rulemaking Procedures; Public Participation [38 CFR Part 1] (RIN: 2900-AI33) received March 5, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

2324. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Taxation of Fringe Benefits [Rev. Rul. 97-14] received March 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2325. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Examination of Returns and Claims for Refund, Credits or Abatement; Determination of Correct Tax Liability [Rev. Proc. 97-22] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

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. BLILEY: Committee on Commerce. H.R. 968. A bill to amend title XVIII and XIX of the Social Security Act to permit a waiver of the prohibition of offering nurse aide training and competency evaluation programs in certain nursing facilities; with amendments (Rept. 105-23 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 99. Resolution providing for consideration of the bill (H.R. 1) to amend the Fair Labor Standards Act of 1938 to provide compensatory time for employees in the private sector (Rept. 105-31). Referred to the House Calendar.

CORRECTIONS CALENDAR NO. 1

H.R. 968

Pursuant to clause 4 of rule XIII, the Speaker filed a notice with the Clerk requesting that the following bill be placed on the Corrections Calendar: H.R. 968.

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. EVANS (for himself, Mr. FILNER, Mr. LIPINSKI, Mr. MASCARA, Mr. FALEOMAVAEGA, Mr. SANDERS, Mr. HINCHEY, Mr. FROST, Ms. CHRISTIAN-GREEN, Mr. ABERCROMBIE, Mr. REYES, Mr. FRANK of Massachusetts, and Mrs. CLAYTON):

H.R. 1089. A bill to rename the U.S. Court of Veterans Appeals as the U.S. Court of Appeals for Veterans Claims; to the Committee on Veterans' Affairs.

By Mr. EVANS (for himself, Mr. STUMP, Mr. FILNER, Mr. FRANK of Massachusetts, Mrs. MALONEY of New York, Mr. PAYNE, Mr. ENGLISH of Pennsylvania, and Mr. LIPINSKI):

H.R. 1090. A bill to amend title 38, United States Code, to allow revision of veterans benefits decisions based on clear and unmistakable error; to the Committee on Veterans' Affairs.

By Mr. STUMP (for himself, Mr. CALLAHAN, and Mr. EVERETT):

H.R. 1091. A bill to impose certain requirements on health care liability claims; to the Committee on the Judiciary.

By Mr. STUMP (for himself and Mr. EVANS):

H.R. 1092. A bill to amend title 38, United States Code, to extend the authority of the Secretary of Veterans Affairs to enter into enhanced-use leases for Department of Veterans Affairs property, to rename the U.S. Court of Veterans Appeals and the National Cemetary System, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. FOX of Pennsylvania:

H.R. 1093. A bill to amend the medical device provisions of the Federal Food, Drug, and Cosmetic Act; to the Committee on Commerce.

H.R. 1094. A bill to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of drugs; to the Committee on Commerce.

By Mr. ARCHER (for himself and Mr. RANGEL):

H.R. 1095. A bill to amend the Internal Revenue Code of 1986 to make a technical correction relating to depreciation on property used within an Indian reservation; to the Committee on Ways and Means.

By Mr. ACKERMAN:

H.R. 1096. A bill to amend title 18, United States Code, to prevent nonimmigrants from

possessing a firearm for other than lawful hunting or sporting purposes, and to prevent permanent resident aliens from possessing a firearm until present in the United States for 1 year; to the Committee on the Judiciary.

By Mr. COBLE:

H.R. 1097. A bill to suspend temporarily the duty on Tinopal CBS–X; to the Committee on Ways and Means.

By Mr. DAVIS of Virginia (for himself, Mr. OLVER, Mr. TALENT, Mr. MORAN of Virginia, and Mrs. EMERSON):

H.R. 1098. A bill to require the continued availability of $1 Federal reserve notes for circulation; to the Committee on Banking and Financial Services.

By Mr. ENGLISH of Pennsylvania:

H.R. 1099. A bill to amend the Internal Revenue Code of 1986 to repeal the special deduction for the living expenses of Members of Congress; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania (for himself, Mrs. MYRICK, Mr. GOODLING, Mr. PITTS, Mr. ENSIGN, Mr. SHADEGG, Mr. STEARNS, Mr. COBLE, Mr. SOUDER, Mr. METCALF, Mr. BALDACCI, and Mr. CAMP):

H.R. 1100. A bill to eliminate automatic pay adjustments for Members of Congress; to the Committee on House Oversight, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOUGHTON (for himself and Mr. RANGEL):

H.R. 1101. A bill to provide for a project to demonstrate the application of telemedicine and medical informatics to improving the quality and cost-effectiveness in the delivery of health care services under the Medicare Program and other health programs; to the Committee on Commerce, and in addition to the Committee on Ways and Means, 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. JEFFERSON:

H.R. 1102. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the preservation of low-income housing; to the Committee on Ways and Means.

By Mr. LEWIS of California (for himself and Mr. BROWN of California):

H.R. 1103. A bill to modify the project for flood control, San Timoteo Creek, CA, to permit the non-Federal contribution for certain costs of the project to be made after completion of the project; to the Committee on Transportation and Infrastructure.

By Mrs. LOWEY (for herself, Mr. KENNEDY of Massachusetts, Mr. CLAY, Mrs. MALONEY of New York, Mr. SCHUMER, Ms. DELAURO, Mr. MILLER of California, Mr. KILDEE, Mr. MARTINEZ, Mr. SAWYER, Mr. GREEN, Ms. WATERS, Ms. NORTON, Mr. KUCINICH, Mr. DIXON, Mr. ANDREWS, Mr. HASTINGS of Florida, Ms. PELOSI, Mr. HINOJOSA, Mr. LEWIS of Georgia, Ms. SANCHEZ, Ms. CHRISTIAN-GREEN, Mrs. MCCARTHY of New York, Mr. MCGOVERN, Mr. NEAL of Massachusetts, Ms. MCCARTHY of Missouri, Mr. MATSUI, Mrs. MINK of Hawaii, Mr. STOKES, Mr. CONYERS, Mr. FROST, Mr. MCDERMOTT, Mr. BENTSEN, Mr. FORD, Mr. ETHERIDGE, Mr. UNDERWOOD, Mr. BALDACCI, Mr. FATTAH, Ms. MCKINNEY, Mr. GONZALEZ, Mr. MARKEY, and Mr. GUTIERREZ):

H.R. 1104. A bill to establish a partnership to rebuild and modernize America's school facilities; to the Committee on Education and the Workforce.

By Mrs. LOWEY:

H.R. 1105. A bill to provide additional pension security for spouses and former spouses, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, Government Reform and Oversight, and Transportation and Infrastructure, 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. MALONEY of New York (for herself, Mr. FILNER, Mr. MEEHAN, Mr. DELLUMS, Mr. LEWIS of Georgia, Ms. LOFGREN, and Mr. KUCINICH):

H.R. 1106. A bill to amend the Federal Oil and Gas Royalty Management Act of 1982 to require that any settlement, by an alternative means of dispute resolution, of a claim against the United States for payment of royalties under that act for an amount greater than $2,000,000 shall not be effective unless approved by the Secretary of the Interior; to the Committee on Resources.

H.R. 1107. A bill to transfer oil and gas royalty auditing and reconciling functions of the Secretary of the Interior to the Secretary of the Treasury, and to direct the Secretary of the Treasury, in performing functions relating to auditing and reconciling oil and gas production activities, to exercise all available authorities to ensure the U.S. Government receives all amounts of royalties to which it is entitled; to the Committee on Resources.

By Mr. MCCOLLUM (for himself, Mr. BENTSEN, Mr. LAZIO of New York, Mr. MORAN of Virginia, and Mrs. ROUKEMA):

H.R. 1108. A bill to affirm the role of States in setting reasonable occupancy standards, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. MCCOLLUM (for himself, Mr. BERMAN):

H.R. 1109. A bill to amend the Immigration and Nationality Technical Corrections Act of 1994 to eliminate the special transition rule for issuance of a certificate of citizenship for certain children born outside the United States; to the Committee on the Judiciary.

By Mr. MEEHAN (for himself, Mr. MARKEY, Mr. TIERNEY, Mr. MOAKLEY, Mr. OLVER, Mr. FRANK of Massachusetts, Mr. NEAL of Massachusetts, Mr. MCGOVERN, Mr. KENNEDY of Massachusetts, Mr. DELAHUNT, Mrs. JOHNSON of Connecticut, Mr. BASS, Mr. SUNUNU, and Mr. SHAYS):

H.R. 1110. A bill to designate a portion of the Sudbury, Assabet, and Concord Rivers as a component of the National Wild and Scenic Rivers System; to the Committee on Resources.

By Mrs. MEEK of Florida:

H.R. 1111. A bill to amend the Public Health Service Act to provide for research and services with respect to lupus; to the Committee on Commerce.

By Mr. MORAN of Virginia (for himself and Mr. YATES):

H.R. 1112. A bill to amend the Internal Revenue Code of 1986 to provide that the preferential income tax treatment of political organizations shall apply only to principal campaign committees, to provide that a cancellation of a loan to such a committee shall be includible in such committee's taxable income, and for other purposes; to the Committee on Ways and Means.

By Ms. NORTON:

H.R. 1113. A bill to provide that if an employer provides additional leave to a parent for the birth, such employer shall provide the same leave to a parent for an adopted child or a foster child; to the Committee on Education and the Workforce, and in addition to the Committees on Government Reform and Oversight, and House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ORTIZ (for himself and Mr. BONILLA):

H.R. 1114. A bill to provide surveillance, research, and services aimed at prevention of birth defects, and for other purposes; to the Committee on Commerce.

By Mr. OWENS (for himself, Mr. MARTINEZ, Mrs. MINK of Hawaii, Mr. PAYNE, Mr. FLAKE, Mr. FORD, Mr. CONYERS, Mr. TOWNS, Mr. MCGOVERN, Mr. FATTAH, Mr. ENGEL, Mr. SCOTT, Ms. NORTON, Mr. FROST, Ms. LOFGREN, and Ms. CHRISTIAN-GREEN):

H.R. 1115. A bill to amend the Goals 2000: Educate America Act to restore opportunity-to-learn standards; to the Committee on Education and the Workforce.

By Mr. REYES:

H.R. 1116. A bill to provide for the conveyance of the reversionary interest of the United States in certain lands to the Clint Independent School District and the Fabens Independent School District; to the Committee on International Relations.

By Mr. SANDERS (for himself, Mrs. MORELLA, Mr. DEFAZIO, Mr. SCHUMER, Mr. ACKERMAN, Mr. BALDACCI, Mr. BARRETT of Wisconsin, Mr. BISHOP, Mr. BLUMENAUER, Mr. DAVIS of Illinois, Ms. DEGETTE, Mr. DELLUMS, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FILNER, Mr. FLAKE, Mr. GEJDENSON, Mr. GREEN, Mr. HINCHEY, Mr. HOLDEN, Ms. JACKSON-LEE, Mr. JEFFERSON, Mr. LAFALCE, Ms. LOFGREN, Mr. MANTON, Mr. MCDERMOTT, Mr. MCHUGH, Mr. MEEHAN, Mrs. MINK of Hawaii, Mr. NADLER, Mr. OWENS, Ms. ROYBAL-ALLARD, Ms. SLAUGHTER, Mr. STARK, and Ms. WATERS):

H.R. 1117. A bill to prevent discrimination against victims of abuse in all lines of insurance; to the Committee on Commerce, 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. SCHUMER:

H.R. 1118. A bill to prohibit a rental car company from imposing a fee based upon the residence of a renter; to the Committee on Commerce.

MEMORIALS

Under clause 4 of rule XXII.

27. The SPEAKER presented a memorial of the Legislature of the State of South Dakota, relative to House Concurrent Resolution No. 1012, urging Congress to reauthorize the Federal surface transportation program in a timely manner and to continue to recognize the national interest in the investment

in highways which serve and cross rural Western States; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 12: Mr. CAMPBELL, Mr. ACKERMAN, Mrs. MCCARTHY of New York, and Mr. TIERNEY.

H.R. 14: Mr. DELAY, Mr. MCCOLLUM, Mr. MORAN of Kansas, Mr. SUNUNU, Mr. WELLER, Mr. PICKERING, Mr. KING of New York, Mr. GOODE, Mr. MCINTOSH, and Mr. GEKAS.

H.R. 80: Mr. UPTON, Mr. NETHERCUTT, and Mr. BARCIA of Michigan.

H.R. 84: Ms. KAPTUR.

H.R. 96: Mr. GIBBONS, Mrs. KENNELLY of Connecticut, Mrs. EMERSON, Mr. UNDERWOOD, and Mr. TAYLOR of North Carolina.

H.R. 109: Mr. NADLER.

H.R. 166: Mr. MARTINEZ.

H.R. 167: Mr. MARTINEZ.

H.R. 168: Mr. MARTINEZ.

H.R. 180: Mr. BILIRAKIS.

H.R. 192: Mr. CAMPBELL, Mr. WHITFIELD, Mr. COBLE, Mrs. CLAYTON, Mr. SCOTT, Mr. PICKETT, Mrs. KELLY, Mr. SAWYER, Mr. ROYCE, Mr. CRAMER, Mr. SANDLIN, Mr. HASTINGS of Washington, Mr. DICKS, Mr. SCHIFF, Mr. KENNEDY of Rhode Island, Mr. SMITH of New Jersey, Mrs. MYRICK, Mr. ACKERMAN, and Mr. SMITH of Texas.

H.R. 228: Mr. CANADY of Florida.

H.R. 230: Mr. KLUG.

H.R. 296: Mr. KLUG.

H.R. 305: Mr. SNOWBARGER, Mr. YATES, Mr. EVANS, Mr. THOMPSON, Mr. FOLEY, Mr. MARTINEZ, and Mr. LIPINSKI.

H.R. 306: Mr. LAMPSON, Ms. DEGETTE, and Mr. PORTER.

H.R. 366: Mr. YATES.

H.R. 367: Mr. JONES and Mr. KLINK.

H.R. 383: Mr. LAMPSON.

H.R. 400: Mr. FROST, Mr. CHAMBLISS, Mr. DELLUMS, and Mrs. LOWEY.

H.R. 407: Mr. PASTOR, Mr. ENSIGN, and Mr. TIERNEY.

H.R. 414: Mr. CAMPBELL, Mrs. CLAYTON, Mr. SCOTT, Mrs. KELLY, Mr. SAWYER, Mr. SANDLIN, Mr. HASTINGS of Washington, Mr. KENNEDY of Rhode Island, Mr. SMITH of New Jersey, Mr. ACKERMAN, and Mr. SMITH of Texas.

H.R. 446: Mr. CHAMBLISS, Mr. PAUL, Ms. GRANGER, Mr. WICKER, Mr. MALONEY of Connecticut, Mr. HILL, and Mr. NUSSLE.

H.R. 450: Mr. HOUGHTON, Mr. BURR of North Carolina, and Mr. SAXTON.

H.R. 493: Mr. YATES.

H.R. 538: Mr. ACKERMAN.

H.R. 586: Mr. BAESLER, Mr. BROWN of California, Mr. CONYERS, Mr. DUNCAN, Mr. LEWIS of Kentucky, Mr. LINDER, Mr. RYUN, and Mr. SCHIFF.

H.R. 598: Mr. STUMP and Mrs. KELLY.

H.R. 633: Mr. MCGOVERN, Mr. BERMAN, Mr. HORN, and Mr. ACKERMAN.

H.R. 636: Mr. WELDON of Pennsylvania and Mr. HAYWORTH.

H.R. 669: Mr. LINDER.

H.R. 685: Ms. NORTON and Mr. DAVIS of Illinois.

H.R. 695: Mr. DEFAZIO.

H.R. 715: Mr. SOLOMON, Mr. CLEMENT, and Mr. ACKERMAN.

H.R. 716: Mr. HILLEARY.

H.R. 723: Mr. GOODE.

H.R. 724: Mr. POMEROY.

H.R. 755: Mr. PICKERING and Ms. JACKSON-LEE.

H.R. 760: Mr. FALEOMAVAEGA.

H.R. 774: Mr. CLEMENT, Mr. VENTO, Ms. SANCHEZ, and Ms. STABENOW.

H.R. 816: Mr. GOSS, Mr. BEREUTER, and Mr. HILLEARY.

H.R. 855: Mr. FOGLIETTA, Mr. VENTO, Mr. OBERSTAR, Mr. FROST, Mr. DELLUMS, Ms. NORTON, Mr. FATTAH, Mr. FOX of Pennsylvania, Mr. PASTOR, and Ms. LOFGREN.

H.R. 875: Mr. SHAYS and Mr. SCHIFF.

H.R. 879: Mr. STARK and Mr. ABERCROMBIE.

H.R. 899: Mr. CONYERS, Mr. FROST, Mr. ACKERMAN, Ms. LOFGREN, Mr. MEEHAN, Mr. BALDACCI, and Mr. MARTINEZ.

H.R. 901: Mr. JOHN, Mr. JONES, Mr. LEWIS of Kentucky, Mr. MCHUGH, Mr. CANNON, Mr. ISTOOK, and Mrs. MYRICK.

H.R. 919: Mr. DELAHUNT and Mr. CONYERS.

H.R. 955: Ms. CHRISTIAN-GREEN, Mrs. MYRICK, Mr. CANADY of Florida, and Mr. PETERSON of Pennsylvania.

H.R. 956: Mr. FILNER, Mr. BONIOR, Ms. STABENOW, and Mr. FORBES.

H.R. 972: Mr. BLAGOJEVICH.

H.R. 977: Mr. DOOLEY of California and Mr. MATSUI.

H.R. 983: Mr. MARTINEZ and Mr. JEFFERSON.

H.R. 991: Mr. METCALF and Mr. NEY.

H.R. 1012: Mr. HUTCHINSON.

H.R. 1040: Mr. HEFLEY, Mr. NORWOOD, Mr. SANFORD, and Mr. SMITH of Michigan.

H.R. 1042: Mr. WELLER, Mr. FAWELL, Mr. DAVIS of Illinois, and Mr. EVANS.

H.R. 1057: Mr. BUYER, Mrs. CARSON, Mr. HAMILTON, Mr. HOSTETTLER, Mr. MCINTOSH, Mr. PEASE, Mr. ROEMER, Mr. SOUDER, and Mr. VISCLOSKY.

H.R. 1058: Mr. BUYER, Mrs. CARSON, Mr. HAMILTON, Mr. HOSTETTLER, Mr. MCINTOSH, Mr. ROEMER, Mr. SOUDER, and Mr. VISCLOSKY.

H.R. 1064: Mr. EVANS.

H.R. 1080: Mr. SMITH of New Jersey.

H.J. Res. 17: Mr. ROTHMAN.

H.J. Res. 40: Mr. PICKERING.

H. Con. Res. 13: Ms. DEGETTE, Mr. FOX of Pennsylvania, Mr. CRAMER, Mr. GOSS, Mr. ANDREWS, Mr. CARDIN, Mr. HILL, Mr. RUSH, Mr. TAYLOR of North Carolina, Mr. BAESLER, and Ms. SANCHEZ.

H. Con. Res. 23: Mr. VENTO.

H. Res. 20: Mr. PETERSON of Minnesota.

H. Res. 26: Mr. FROST, Mr. JACKSON, Mr. CONYERS, Mr. SCHUMER, Mr. CLYBURN, Ms. WATERS, Mr. LEVIN, Mr. ABERCROMBIE, and Mr. ACKERMAN.

H. Res. 39: Mr. DELAHUNT, Mr. VENTO, Ms. DEGETTE, Mr. WAXMAN, and Mr. ACKERMAN.

H. Res. 48: Mrs. MYRICK, Mr. GILMAN, and Mr. ACKERMAN.

H. Res. 98: Mr. WATTS of Oklahoma, Mr. RYUN, Mr. SKEEN, Mr. MILLER of Florida, Mr. KNOLLENBERG, Mr. HASTINGS of Washington, and Mr. BURR of North Carolina.

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. 789:

Mr. MCDERMOTT.

H.R. 993:

Mr. DAN SCHAEFER OF COLORADO.

EXTENSIONS OF REMARKS

MAYOR TOM CUNNINGHAM, A MAN FOR THE PEOPLE

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. SHUSTER. Mr. Speaker, I take the floor today to recognize one of the great men in my district. In the words of Edmund Burke, one of the great statesmen to serve in the British House of Commons, "Great men are the guideposts and landmarks in the state." No phrase is more attributable to Mayor Tom Cunningham of Hyndman, PA. For the last 28 years, Tom Cunningham has served as mayor to the small town of Hyndman, PA. For 24 of those years, I had the distinct pleasure of representing Hyndman and working hand-in-hand with Tom on helping to improve the lives of our constituents.

Now the time has come in Tom's life, after a stellar career in service to his country and his neighbors, that he has decided to retire. His resume speaks for itself; a Korean war veteran, a borough councilman, member of the Hyndman Rescue Squad, volunteer to the Boy Scouts of America, Post Commander of the VFW, board member to the Bedford County Development Association, Hyndman-Londonderry Industrial Development Corp., the Redevelopment Authority of the County of Bedford, and the Bedford County Planning Commission. The recipient of many awards and honors, Tom's success as mayor leaves a powerful legacy to everyone who knows him.

My most memorable experience working with Mayor Tom, and probably Tom's too, has been the reoccurring flooding problem in Hyndman. Wills Creek, which runs directly through Hyndman, is notorious for its flood problems. The cause of thousands of dollars of damage to the small borough, Wills Creek was Mayor Tom Cunningham's biggest challenge. A challenge which could not be conquered without the strong leadership and perseverance exemplified by Mayor Tom. Tom worked hard to rally the support of the citizens of Hyndman to demand action from Federal and State governments. It was truly a privilege to assist Tom in his battle against bureaucratic redtape which in the end almost prevented a solution to Wills Creek flooding. However, Tom's perseverance prevailed and the borough he so aptly represents, will soon have a permanent flood protection project. While all of Hyndman's problems may not be completely solved, Mayor Tom Cunningham's life work has helped make Hyndman what it is today, a wonderful place to live. In the words of Walter Lippmann, a noted journalist, "The final test of a leader is that he leaves behind him in other men the conviction and the will to carry on." I know for a fact that Tom has accomplished this task. I am one of the "other men" who will work hard to continue Tom's fight.

Even though he is retiring, I know we have not heard the last from Tom Cunningham. As his history has proven, I am sure Tom will remain active in the community of Hyndman. Mr. Speaker, I am sure you will join me in celebration of Mayor Tom Cunningham's magnificent career. He is truly a great man, a great leader, a great American, and I wish him well in his private life.

HONORING THE NORTH MIAMI FOUNDATION FOR SENIOR CITIZENS' SERVICES, INC.

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mrs. MEEK of Florida. Mr. Speaker, the North Miami Foundation for Senior Citizens' Services, Inc., will celebrate 22 years of community service on May 14, 1997, at their 19th annual Volunteer Recognition Luncheon. Held in conjunction with Older Americans Month, the foundation will thank those volunteers who offer services to the elderly in the North Dade community.

In 1996, volunteers with the foundation gave freely of 25,835 chore service hours, 34,533 hours of friendly companionship visits, and 59,773 telephone reassurance calls. In addition, 9,700 hours of special projects were conducted by local organizations and schools. To underscore the importance that such volunteer efforts play with the foundation, these hours total the equivalent of 47 full-time staff positions.

The foundation inspires the devotion of hundreds of people on a yearly basis. Certainly, all who work there find their efforts a labor of love. Without these caring and dedicated individuals the services provided by the foundation would not be possible. My thanks to each of you and congratulations for a job well done.

H.R. 1045

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mrs. MINK of Hawaii. Mr. Speaker, I have introduced H.R. 1045 to require that any unpaid work required of welfare recipients as a condition of receiving benefits be credited with wages for the purposes of calculating the Earned Income Tax Credit [EITC] and the Dependent Care Tax Credit.

Under H.R. 1045, the hours worked without direct compensation will be credited as though minimum wage were paid.

It is extremely unfair to require work and then not pay any wages and credit nothing toward Social Security, unemployment compensation, and other wage-based benefits programs. And this is exactly what is allowed under the new welfare reform law. States will be able to enact workfare programs in which welfare recipients are forced to work off their welfare benefit, rather than receiving real wages.

Under H.R. 1045, unpaid work required to remain eligible for cash assistance will be translated into real wages for the purpose of claiming earned income tax credits.

If work is a virtue, then all work should be treated the same.

I urge my colleagues to support my bill, H.R. 1045.

PERSONAL EXPLANATION

HON. JOHN COOKSEY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. COOKSEY. Mr. Speaker, on rollcall No. 30, I was necessarily absent. Had I been present, I would have voted "aye."

THE UNITED STATES SHOULD NOT PARTICIPATE IN ARAFAT CONFERENCE

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. McCOLLUM. Mr. Speaker, I am deeply concerned that the State Department has agreed to participate in an international conference convened by the Palestinian leader Yasser Arafat. This is part of a strategy of confrontation with Israel and would be a serious mistake. It is my hope the State Department reconsiders this decision.

It appears that the Palestinian Government is attempting to drive a wedge between the United States and Israel. Distancing the United States from Israel encourages the tendency for Palestinians to negotiate with the United States instead of negotiating directly with Israel. Disregarding the existing negotiation process is counterproductive to the peace process.

Without question, the administration's record of support for the United States-Israel relationship has been commendable. Participation in this conference, However, would only tarnish that record. The United States simply does not belong in any type or organization—formal or informal—that is established to isolate and pressure Israel.

TRIBUTE TO FRANK VALENTINO, POET OF THE JERSEY SHORE

HON. FRANK PALLONE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. PALLONE. Mr. Speaker, I am very proud to represent a section of the Jersey Shore which has great historic significance as a summer home of seven Presidents and an inspiration for, and birthplace of, many great writers, poets, artists, and musical talents.

One contemporary local poet is Frank Valentino and his fine poetry about the Jersey Shore has inspired me to tell my colleagues a little about him and about my seashore district.

For many years, my hometown of Long Branch was the choice of Presidents and Vice Presidents as a retreat for relaxation and contemplation, and occasionally, I must admit, for a little gambling.

Starting in 1869 with Ulysses S. Grant and for the next 40 years it was the summer capital for Presidents. Rutherford B. Hayes, Benjamin Harrison, and William McKinley were frequent visitors. After being critically-wounded, President James Garfield demanded to be taken to Long Branch, where he died in 1881. In spite of his short term in office, Chester Arthur found the time for visits to Long Branch. And Woodrow Wilson made a West Long Branch estate, which is now Monmouth University, a gathering place for leaders and intellectuals of his time.

Nearby Asbury Park, which is this week celebrating its 100th birthday, has its own illustrious history. This seashore town boasts author Stephen Crane as a son and has the more recent distinction as the source of inspiration for musician Bruce Springsteen. Many other entertainment greats frequented Asbury Park in the old days, including Frank Sinatra and Count Basie who performed for the thousands of summer visitors who flocked there.

While the Jersey Shore has changed over the years, it is still inspiring talents who are, in turn, rekindling pride and a great sense of history in the area.

Poet Frank Valentino grew up in Long Branch and still lives in Monmouth County. He is the author of three books of poetry and is the founder of Food for Thought Benefit Poetry Reading, an annual event which results in huge donations of food to local food banks. He also conducts many voluntary readings and poetry workshops in schools, clubs, and libraries to impart a love of poetry and local lore to our young people.

It is to applaud his good work, and to share a little of luster of the Jersey Shore, that I include two of his poems for my colleagues and others to appreciate:

THE SANDS OF LONG BRANCH

Time drifts like a sea gull in the breeze
Years fall like waves upon the beach,
The old stone statute of one of the seven
Looks out to the east.
Walking along the coast at dawn I gaze
Out upon the horizon,
Feet in the sand of Long Branch and the voices
Of Seven Presidents echoes in the warm Summer wind.
Seven Presidents have walked along the sand of this
Old city by the sea,
They stood along the shore and gazed at the incoming tides
And sifted sand from the beach through their hands.
Long Branch at dawn and the sun rises behind the clouds
Thoughts of then and now hang in the pink blue mist,
Sand castles are swept away and the old stone statue of
One of the seven looks out to the east.

ASBURY PARK 1971

Neon lights flash like lightning
The smell of the ocean hangs heavy,
The sand coated streets shine in the mist
Of a hot Jersey Shore summer night.
The dancers sweat in the dark as they carve
Their dreams on the wood of the boardwalk
Tonight,
The guitar player's name is Springsteen
And the music and words sound like thunder.
Another cold beer and the poets mark their
Lines in the sand as the Gypsy lady pulls
The curtain closed.

HEART DISEASE

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Ms. KAPTUR. Mr. Speaker, several months ago I was pleased to cosponsor a congressional briefing addressing the important health issue of heart disease. Those who attended this event had the privilege to listen to four distinguished specialists in the area of heart disease discuss the important benefits of psychological intervention in the care of patients with heart disease.

The speakers were: Dorothy W. Cantor, Psy.D., president, the American Psychological Association; Ernest H. Johnson, Ph.D., director, behavioral medicine research, Morehouse School of Medicine; Wayne M. Sotile, Ph.D., director, psychological services, cardiac rehabilitation program, Wake Forest University; and Redford B. Williams, M.D., director, Behavioral Medicine Research Center, Duke University.

Each day in America, 4,000 people suffer a heart attack—one in five before age 60. Five million Americans have coronary heart disease [CHD], and approximately 400,000 of these individuals each year suffer heart failure. Some 70 percent of the victims of an initial heart attack and 50 percent of individuals who suffer a recurrent heart attack survive. As medical treatment for heart patients improves, a growing number of heart attack survivors are younger than age 65. Nearly 2.5 million Americans have some degree of vocational disability or limitation caused by heart illness. CHD is the leading problem for which patients receive premature disability benefits.

Between 50 and 60 percent of all caridac patients who enter the hospital experience elevated levels of depression, anxiety, and fear. Depression is one of the factors which predicts mortality from heart illness and recurrence of a heart attack. Over 50 percent of spouses and children of caridac patients experience elevated stress, anxiety, and somatic preoccupation for up to 10 years following a loved one's heart illness. Family tensions and social isolation have been shown to be significant risk factors for recovering heart patients.

Research shows that psychological intervention leads to shorter hospital stays, reduced rehospitalization, and reduced rates of recurring heart attacks and death. In fact, as little as 30 minutes of psychological counseling per day for 5–6 days has been shown to lead to discharge from the hospital 2.5 days sooner and from the intensive care unit 1 day sooner, as well as lessening morbidity.

The Clinical Practice Guideline for Caridac Rehabilitation recently published by the U.S. Department of Health and Human Services emphasized that education alone is not effective in helping heart patients cope. Effective intervention combines education, counseling—providing advice, support and consultation—and behavioral interventions—systematic instruction in techniques to modify health related behavior.

Unfortunately only 12 percent of formal cardiac care programs utilize consultation from a psychologist.

Summary information on the briefing follows:

INFORMATION SHEET

Each day in America, 4,000 people suffer a heart attack—one in five before age 60. Five million Americans have coronary heart disease (CHD). Of these, approximately 400,000 suffer heart failure each year in the United States. Seventy percent of victims of an initial heart attack and 50 percent of individuals who suffer a recurrent heart attack survive. As medical treatment for heart patients improves, a growing number of heart attack survivors are younger than age 65. But nearly 2.5 million Americans have some degree of vocational disability or limitation caused by heart illness and in the United States, CHD is the leading problem for which patients receive premature disability benefits.

WHY IS PSYCHOLOGICAL CARE IMPORTANT FOR HEART PATIENTS?

Immediately following heart surgery there is a window of opportunity in which to educate recovering heart patients about adaptive coping skills. The Information patients are given in this time period shapes their thinking about life after heart surgery for up to five years. For instance, if patients believe they cannot have sexual relations, or cannot exercise, and are not told differently, they may hamper their recovery.

Incorporating psychological intervention into the care of recovering heart patients is important because:

Between 50 and 60 percent of all cardiac patients who enter the hospital experience elevated levels of depression, anxiety or fear.

Over 50 percent of spouses and children of cardiac patients elevate on measures of stress, anxiety and somatic preoccupation for up to ten years following a loved one's heart illness.

A significant percentage of recovering cardiopulmonary patients and their families experience frustration about feeling ill-prepared for the long-range course of rehabilitation.

Family tensions and social isolation have been shown to be significant risk factors for recovering heart patients.

Depresssion, social isolation and hostility predict mortality from heart illness and recurrence of a heart attack.

PSYCHOLOGICAL INTERVENTIONS MAKE A PROVEN DIFFERENCE

Reserach shows that:

As little as 30 minutes of psychological counseling per day for 5-6 days has been shown to lead to discharge from the hospital 2.5 days sooner and from the Intensive Care Unit one day sooner, as well as lessening morbidity.

Group therapy with recovering heart attack patients has consistently been found to improve measures of psychological well-being and lessen indicators of morbidity throughout the first three years of recovery.

Two hours of psychological counseling per week for seven weeks has been shown to reduce incidence of re-hospitalization for recovering heart attack patients by 60 percent.

Treatment of depression has been shown to reduce rates of re-occurring heart attacks and death over three years of follow-up.

A single supportive interview delivered on the evening before surgery has shown to lessen post-operative psychosis.

Brief psychological counseling prior to medical or surgical intervention has been found to produce shorter stays in the Critical Care Unit, less emotional distress, fewer arrhythmias and shorter hospital stays when compared to routine CCU care.

Three sessions of psychological counseling in two days prior to catheterization can significantly improve patient management of the stress of the procedure.

Relaxation training diminishes post-surgical incidence of delirium, medical complications and lengths of hospital stay.

EDUCATION IS NOT ENOUGH!

The Clinical Practice Guideline for Cardiac Rehabilitation recently published by the U.S. Department of Health and Human Services emphasizes that education alone is not effective in helping heart patients cope. Effective intervention combines education, counseling (providing advice, support and consultation), and behavioral interventions (systematic instruction in techniques to modify health related behaviors). Such combination treatments have been shown to: Reduce symptoms of angina in recovering CHD populations; promote stress management and overall psychological well-being in recovering cardiac populations; increase the rate of smoking cessation in recovering cardiac patients by approximately 18 percent compared to rates of spontaneous smoking cessation; significantly enhance modification of diet to lower lipids and lower body weight; lower blood pressure, when added to a comprehensive rehabilitation program.

Research has shown that education, counseling and behavioral intervention designed to encourage heart patients to adhere to therapies have been associated with: Reduction in recurrent coronary event rates; regression of atherosclerosis; reduction in cardiac and overall mortality rates.

WHAT DO PSYCHOLOGISTS DO TO HELP HEART PATIENTS?

Enhance self-management skills and self-efficacy.

Reduce psychophysiological arousal with relaxation training and biofeedback.

Alter specific behavior patterns through stress management.

Enhance social support.

Identify patients who are at high risk.

Diminish resistance to healthy lifestyles.

Develop effective conflict resolution strategies.

WHAT IS CURRENTLY BEING DONE TO HELP HEART PATIENTS COPE?

Unfortunately only 12 percent of formal cardiac care programs utilize consultation from a psychologist.

TRIBUTE TO DR. TEE S. GREER, JR.—EDUCATOR AND COMMUNITY HERO

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mrs. MEEK of Florida. Mr. Speaker, it is a distinct honor and privilege to pay tribute to one of Miami's truly great heroes, Dr. Tee S. Greer, Jr. His untimely demise from cancer last Thursday, March 13, 1997, leaves a deep void in our community.

Dr. Greer, 60, represented the best and the noblest of our community. Coming from a deeply rooted and respected family of educators, his forbears helped build the railroad that came to Miami in the late 1890's. He was married to schoolteacher Billie Greer, the great-niece of William Brewer who succeeded the renowned Carter G. Woodson, editor of the Journal of Negro History. Graduating from Miami-Overtown's historic Booker T. Washington High School in 1954, he served as its irrepressible student-body president. His classmates looked up to him as a natural-born leader, a gentleman, and a motivator par excellence.

A prominent member of Dade County's United Way, he also belonged to Omega Psi Phi and Sigma Pi Phi, the oldest black fraternity in the Nation. He also exercised a steady hand over Miami's King of Clubs, the Nation's premiere black civic organization, by helping the youth achieve through academic excellence and scholarships. This role has indeed turned him into a role model for generations of our Dade County youth.

A meticulous father and a firm believer in the centrality of God in his family, he mandated strict attendance at Sunday dinners for his four children, now adults—Anita Greer-Dixon, Tee Greer III, Florence, and Frederick Greer. He was wont to tell his boyhood story of how he constructed a go-cart for the annual Boy Scout race, out of the bike he used on his daily paper route. He won the race against the more expensive store-bought go-carts. The day after the race he dismantled his "chariot" and merrily went on his paper route.

His daughter Florence, who earned two master's degrees, remembered that ". . . our dad taught us that we may have limited resources, but we should use what God gave us to get the job done." He was a math major from Atlanta's Morehouse College and entertained dreams of becoming a mechanical engineer. He turned to teaching, however, when he found out that upon graduation from college the only job he could find in the South in the 1950's was that of a truck driver.

All in Dade County can vividly recall that in the early 1980's, he spearheaded a team from the Dade County public schools to go to Washington, DC to secure funding to help the county government deal with the influx of thousands of refugees who came to Miami from Cuba's port of Mariel.

Dr. Greer, Junior, fully lived up to his stewardship as a genuine educator. His standards for learning and achievement, both low-key and laid-back but at the same time stern and consistent, won him the accolades of the academic community, particularly the National Alliance of Black School Educators. The Alliance saw fit to create a scholarship in his name for local high-achieving students who plan to be math and science majors.

His countless successes in educating many a wayward inner city youth have become legendary. He gained the confidence of countless parents who saw in him as the no-nonsense educator, entrusting him with the future of their children and confident that they too would learn from him the tenets of scholarship and the pursuit of academic excellence under a rigorous discipline. His approach to educating the inner city youth emphasized utmost personal responsibility. In times of crises crowding the school system's agenda, his forthright guidance and counsel was one that verged on his faith in God and faith in one's ability to survive the vicissitudes of life.

Our community was deeply touched and comforted by his undaunted leadership, kindly compassion, and personal warmth. As a deacon at historic Mt. Zion Baptist Church in Miami's Overtown community, he preached and lived by the adage that, with God's help, the quest for personal integrity, academic excellence, and professional achievement is not beyond the reach of those who are willing to dare the impossible.

Having earned a doctorate in education, he ascended up the ranks and was appointed a two-time interim superintendent. He was passed over a couple of times in being named permanently to the helm of the Dade County public schools, the Nation's fourth largest school system. Still in all, Dr. Greer maintained his equanimity and dignity throughout this ordeal, rededicating himself to the educational well-being of the thousands of young boys and girls in the school system. In so doing he rightfully earned the deepest respect and admiration of his colleagues and the leadership of Dade County.

This is the great legacy Dr. Tee S. Greer, Jr., has bequeathed to our community. I am greatly privileged to have earned his friendship and to have been given the opportunity to live by his noble credo.

H.R. 1025, CAMPAIGN FINANCE REFORM

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mrs. MINK of Hawaii. Mr. Speaker, I have introduced H.R. 1025 which places the same limits on the contributions made to the Democratic National Committee and the Republican National Committee as is currently in effect for contributions made to all candidates for Federal office.

The out-of-control taking and soliciting of contributions by the political parties is an abuse that can be easily corrected.

The public confidence in Congress is shattered because we have allowed the mockery of political auction to buy into our favor.

We absolutely cannot sit this one out. There are no excuses left. Congress will be spending upwards of $10 million to investigate past actions and to quibble that it wasn't illegal.

The point is we all know what the problem is * * * unlimited giving—$100,000, $200,000, $600,000 or $1 million, going, going, gone to the highest bidder.

That is not what politics should be like. Philanthropy is one thing, but buying access is quite another. It must stop.

Until we put in place limits as we have learned to live by in our own campaigns, we can expect the situation to get worse.

Now is the time to say, enough is enough. Let's everybody live by the same rules.

In other countries we would call it bribes. What's the difference—we call it soft money.

PERSONAL EXPLANATION

HON. JOHN COOKSEY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. COOKSEY. Mr. Speaker, on rollcall No. 29, I was necessarily absent. Had I been present, I would have voted "aye."

TRIBUTE TO THE SOUTH JERSEY ELEMENTARY FESTIVAL CHORAL CONCERT

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. ANDREWS. Mr. Speaker, I rise today in order to commend and acknowledge the children who participated in the 14th Annual South Jersey Elementary Festival Choral Concert. The chorus which performed on March 15 was comprised of fourth, fifth, and sixth graders from South Jersey elementary schools. The children are from Burlington, Cape May, Cumberland, Atlantic, Camden, Gloucester, and Ocean counties. After being selected through an audition, they rehearse for a full day, then perform for parents and the community in a different venue each year. The sopranos this year were: Carissa Ambrose, Melisa Appenzeller, Niamah Ashong, Lauren Badessa, Erika Bair, Taylor Bandy, Robyn Barbera, Jillian Bauman, James Bishop, Ciarra Black, Jenna Buechler, Darla Bunting, Yesenia Camero, Joshua Carlleer, Monica Carney, Charisle Chrisopher, Casey Cipriani, Allison Coremin, Claire Cossaboon, Adam Crane, Jenna Crimaldi, Cherelle Crook, Jessica Curtin, Krystal Deegan, Mykalann Depack, Danielle DiAmore, Suzanne DiBenedetto, Katherine Dippalico, Kyanna Ellerbe, Vanessa Flaharty, Brittany Floyd, Casia Frake, Leayne Freeman, Kiara Froding, Monique Gale, Christy Gallagher, Liz Getman, Maria Gullo, Kelly Gunning, Rebecca Hill, Aaron Homan, Julie Horner, Michael Mowell, Rion Hunter, Paige Hyman, Jessica Jardel, Alicia Jenkins, Becky Johnson, Ashley Jones, Justine Kanla, William Kraemer, Jennifer Krystek, Jared Lacovara, Jillian Lewis, Sabria Lindsey, Kirsten Louis, Allison Lakacsy, Jessica Mills, Cassie Milone, Andrew Morris, Monica Morris, Lisamarie Musumeci, Autumn Neube, Michael Nurthen, Laura Palimeno, Rebecca Polito, Zebbria Price, Kristen Prost, Jamila Ramsey, Lidia Ramos, Nikita Riggler, Jessica Rishel, Lachelle Robinson, Heather Roeske, Allison Rossl, Halleym Sackedis, Laura Sayer, Jonathan Sharpless, Diana Shreiner, Stephanie Simpkins, Caitlin Smith, Tiffany Spingler, Matthew Spittal, Jamela Staten, Jenna Stump, Lakeisha Sydnor, Quiana Thompson, Kathleen Tibbels, Janet Torres, Christina Turner, Molly Watson, Kimberly Weidman, Elizabeth Wintersteon, Ashley Wuzzardo, and Gillian Young. The altos who performed were: Erin Alden, Julie Annise, Katelyn Archer, Rachel Barlow, Melissa Barna, Sarah Bearry, Rebecca Black, Amanda Botto, Amber Boyer, Derek Burgin, Courtney Calloway, Gene Carey, Jennifer Carroll, Kelly Clark, George Colli, Chelsea Conner, Jeffrey Corgan, Letasha DeJesus, Kevin Diduch, Elizabeth Donahue, Sara Donovan, Amy Dunn, Richard Evans, Meagan Fagotti, Ashley Falconi, Michele Fitzgerald, Ferin Ford, Jennifer Frattom Loian Glovanetti, Tiffany Gligor, Amber Gonzalea, Gina Gorneski, Natacla Graves, David Gwinn, R.J. Heil, Marissa Hines, Joshua Hoagland, Patrick James, Cynthia Jenkins, Joy Keeton, Terrence Kelley, Jonnae Knospe, Sara Konkol, Kristen Lakjer, Brian Lapann, Alan Laroco, Robert Larrabee, Gabrielle Lawson, Phillip Love, Brittany Lynch, Jennifer MacMillan, Joshua Main, Lilian Matos, Douglas McGeroge, Nicholas Michaluk, Sara Morris, Sean Moyer, Cassie Muhlbaier, Katelyn Mullen, Matthew Murphy, Denise Myles, Shawn Newberry, Andrew Nugent, Jennifer Parks, Peter Permito, Roxanne Povernick, Tyler Reed, Kristin Reynolds, Amanda Richman, Nicole Ritchie, Michael Russell, Rachel Samuels, Sara Schreiner, Steven Sharpe, Tatiana Shockley, Heather Sipps, Christine Spicer, Courtney Stetson, Rachel Teyssier, Cheryl Tirtak, Jeff Totten, Julie Truxton, Adrienne Valentino, Corey Victor, Megan Waldow, Katherine Walsh, Hayley Wells, Ashley Withers, Brianna Wyatt, and Audrey Zikell.

THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. McCOLLUM. Mr. Speaker, today I am introducing legislation with my colleague Mr. BERMAN of California to make a technical correction to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 [IIRIRA]. Allow me to explain the history behind this legislation.

Section 102 of Public Law 103—416, the Immigration and Nationality Technical Corrections Act [INTCA] granted Americans abroad the possibility of being able to expeditiously naturalize their children abroad who had not acquired U.S. citizenship at birth. This section allowed certificates of citizenship to be granted to a child of a U.S. citizen, either born or adopted abroad, provided that the child is under 18 and that either an American parent or the U.S. parent's parent—i.e., the American grandparent—has spent 5 years in the United States. Two of those 5 years must be after age 14. The child and his or her American parent apply from their residences abroad and come to the United States for the INS interview and final swearing in at which time the certificate of citizenship is awarded.

However, a change to this was made in IIRIRA. The change places a special restriction on children born before November 14, 1986. For these children to be eligible for certificates of citizenship, the American parent or grandparent is required to have been physically present in the United States for a total of 10 years, five of which were after age 14.

Mr. Speaker, this change is contrary to what was established in 1994. I have made inquiries as to why this change was made and I have found nobody actually making an argument on its behalf. The confusion created by this change has made an administrative nightmare for many applicants. The INS has not had an easy time with implementing the original language and this change cannot help things.

It is my hope that we will be able to give favorable consideration to this correction to IIRIRA. It is critical if we are to remain consistent in our treatment of Americans born or adopted abroad. I urge my colleagues to support it.

TRIBUTE TO COL. RICHARD DIXON

HON. EVA M. CLAYTON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mrs. CLAYTON. Mrs. Speaker, I rise today to bring to your attention the outstanding public service on one of the country's top military men, Col. Richard D.S. Dixon III, the Chief Judge of the U.S. Air Force Court of Military Appeals. On April 1, 1997, Colonel Dixon will be retiring after 30 years of especially distinguished service.

Colonel Dixon, who is a native of Waltonsburg, NC, received his undergraduate degree from Duke University and his law decree from the University of North Carolina. He enlisted in the U.S. Air Force in May 1966. After completing a year of enlisted service, he was designated a judge advocate in April 1967, and commissioned as a first lieutenant. After tours of duty at Niagara Falls International Airport in New York and Torrejon Air Base in Spain, he was selected to attend the University of Michigan as a graduate student, where he was awarded a master of laws in international law in 1974. The Air Force took advantage of his expertise by assigning him to the international law division in Washington, during which he was selected to attend the public international law course at the Hague Academy of International Law in the Netherlands.

His subsequent tours of duty were as staff judge advocate at Charleston AFB, SC; as a member of the legal staff for the Commander-in-Chief, Pacific Command, at Camp Smith, Hawaii; and as staff judge advocate at Langley AFB, VA.

In 1985, recognizing Colonel Dixon's diverse areas of expertise, the Air Force assigned him

once again to Washington, DC, where he served in four divisions. As Chief, Military Justice Division, he was a member of the Department of Defense Joint Services Committee on Military Justice, during which he proposed and drafted legislative changes to the Uniform Code of Military Justice and the Manual for Courts-Martial. He also served as the liaison between the Judge Advocate General and the Criminal Justice Section of the American Bar Association. Next, he was again assigned to the international law division—this time as the Chief—from 1987 until 1989. Colonel Dixon next served as Chief of Defense Services Division, managing the approximately 150 Air Force defense attorneys worldwide, and a dozen appellate defense counsel. Because of his vast experience in military justice and his impeccable judicial temperament, he was selected in 1991 to serve as the Chief Judge of the nine-member Air Force Court of Criminal Appeals. He was sworn in as Chief Judge on March 2, 1992.

Colonel Dixon's military decorations include the Defense Meritorious Service Medal and the Air Force Meritorious Service Medal with three oak leaf clusters.

Mr. Speaker, I ask that you join me, our colleagues, and Colonel Dixon's many friends, in saluting this distinguished officer's many years of selfless service to the United States of America. I know our Nation, his wife Fran, his son Richard and daughter Karen, are extremely proud of his accomplishments. It is fitting that we pay tribute to him today.

A TRIBUTE TO EDGAR HAGOPIAN

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. KNOLLENBERG. Mr. Speaker, I rise today to honor a loyal and dedication citizen in my district, Edgar Hagopian. Edgar will be honored this week by the Oak Park Business and Education Alliance [OPBEA].

Hagopian is being recognized for his many contributions to the Oak Park community, especially the students of Oak Park's schools.

President of Hagopian and Sons, Inc., Edgar has been very active in the Oak Park schools and its programs. He has been a strong supporter of the district's student of the month and the middle school job shadowing programs.

A member of the Oak Park Chamber of Commerce, Hagopian has been a supporter and leading member of OPBEA since its inception in 1993.

Known for his presence in Michigan, Hagopian is also known internationally for his leadership in the worldwide Armenian community. He founded the Armenian Business Council and has served as its president. In recognition of his many generous contributions to Armenian causes, he was named the 1995 Person of the Year by Canada's Armenian Business Council.

All funds raised from the event honoring Edgar will be used by OPBEA for the Edgar Hagopian Scholarship Fund, which will provide scholarships to Oak Park graduates that have excelled in the group's Contract for Success program.

HONORING NANCY MANNERS FOR 13 YEARS OF DISTINGUISHED SERVICE TO THE RESIDENTS OF WEST COVINA

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. TORRES. Mr. Speaker, I rise today to recognize a good friend, Hon. Nancy Manners, councilmember of the city of West Covina, CA. Nancy is retiring from the West Covina City Council after 13 years of distinguished service and will be honored at a special ceremony on Wednesday, March 19, 1997.

Nancy begun her public service in 1973, when she was elected to the Covina-Valley Unified School Board. During her tenure she served as president of the San Gabriel Valley Regional Occupational Program Board. In 1984, she was elected to the West Covina City Council. Nancy was the first woman to serve on the city council and, in 1988, she became the city's first woman mayor.

While maintaining an active role on the city council, Nancy also has been a member of numerous organizations, often taking leadership roles advocating on behalf of local governments. She has been president of the Independent Cities Association, ICA Risk Management Authority, San Gabriel Valley Planning Commission, Mid-Valley Mental Health Council, and chairperson of the Los Angeles County Solid Waste Committee. Also, Nancy has served on policy and steering committees of the National League of Cities and the California League of Cities, and other groups working on issues of local government.

She has been a resident and servant of the city of West Covina for 38 years. In addition to the many hours that she has committed to serving local residents, she has dedicated herself to numerous community and civic organizations. Currently, Nancy is serving her second term as president of the queen of the Valley Hospital's 2100 club, the board of the West Covina Rotary, and vice president of the West Covina Historical Society. She also has served as the president of the San Gabriel Valley League of Women Voters, Covina Coordinating Council, Altrusa, regional chairperson of the San Gabriel Valley Lung Association, and in 1980, she was selected to serve on the Los Angeles County Grand Jury.

Prior to serving as an elected official, Nancy was employed by the city of Covina for 16 years. In 1963, she became the first woman in southern California, and one of only a few nationwide, to achieve the post of assistant to the city manager. Because of her outstanding dedication to the community, Nancy was named 1976 Covina Citizen of the Year and 1983 West Covina Citizen of the Year.

During her children's youth, Nancy was active in their Scouting activities. She served as den mother to her son's Cub Scout, Weblos, and Boy Scout troops, and was troop leader of her daughter's Brownie and Girl Scout Troops. She taught second grade Sunday School and was a room mother and an active member of her children's Parent-Teachers Association.

Nancy received her bachelor of arts degree from the University of La Verne in 1977, and completed certificate courses in public administration from the University of Southern California in 1972. She was married to the late George Manners and has three children, Joan, Nancy, and Gene. She is also blessed with five grandchildren and three great-grandchildren.

Mr. Speaker, I ask my colleagues here assembled to recognize my friend, Nancy Manners, a trail blazer and role model for all to emulate, on the occasion of her retirement from the West Covina City Council.

COMMEMORATION OF SANTA BARBARA COUNTY CHILDHOOD CANCER AWARENESS WEEK

HON. WALTER H. CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. CAPPS. Mr. Speaker, I rise today to commemorate the designation of March 17 through 23 as "Childhood Cancer Awareness Week" by the Santa Barbara County Board of Supervisors. I would also ask that you join me in honoring the American Cancer Fund for Children for its tireless efforts to ease the suffering of children afflicted with this disease.

Each year more than 10,000 cases of childhood cancer are diagnosed, and it is the leading cause of death by disease among children in our country. Far too often the medical costs necessary for caring for these children leave families devastated financially, as well as emotionally. The American Cancer Fund for Children works in partnership with hospitals and local governments to ease the burdens of this horrible disease. Through the partnerships it forges with local communities, the organization provides an outstanding example of how governments and nonprofit organizations can work together to help the people who need help the most.

The efforts of the American Cancer Fund for Children have lifted the spirits of children nationwide. Mr. Speaker, I ask that you join me and our colleagues in recognizing the accomplishments of this fine organization, and the county of Santa Barbara, in raising childhood cancer awareness with the establishment of a Childhood Cancer Awareness Week.

SALUTE TO CHURCH WOMEN UNITED

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. TOWNS. Mr. Speaker, there is no nobler calling than service to the Lord. In Brooklyn I am fortunate to have an organization, Church Women United, which has dedicated itself to spiritual and community service.

Church Women United is part of a national organization of Christian women who come together to create a viable community and serve

as witnesses to their abiding faith. This year marks the 14th celebration of holding their annual Good Friday service, which includes "The Seven Last Words of Christ." The last words are delivered by seven messengers, all female. This is a unique event in which the Borough of Brooklyn takes great pride.

The group is led by Ophelia Perry who provides spiritual guidance. Church Women United provides a host of good deeds which include hospital visitation, prison ministry, summer camp scholarship, working in a women's shelter, and providing services to HIV parents. Ms. Perry is the 19th president of this organization which has over 600 members. I am proud to highlight the immense contributions of this wonderful organization.

RALPH SANTIAGO ABASCAL: A LAWYER'S LAWYER'S LAWYER

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. MILLER of California. Mr. Speaker, I rise to report sadly to the House of the passing yesterday of Ralph Santiago Abascal, one of the giants of the American legal profession, and a man I have been honored to call a close personal friend for three decades.

Both in California and throughout the Nation, among those who advocate for the poor and within the Hispanic community, among environmentalists and farm workers, welfare recipients and the malnourished, Ralph Absacal will be remembered as a man of consummate legal skill, boundless optimism and formidable intellect.

In a lifetime of advocacy for the financially destitute, the politically marginal, and the socially outcast, Ralph nevertheless displayed an expert's knowledge of the intricacies of the political world. I knew him first in Sacramento, when I was a staff person in the California State Senate and he was an activist attorney fighting for farm workers, the disabled and children. Our close relationship continued when I came to Congress in 1975 and we fought many of the same battles at the Federal level.

Ralph was a valued and creative advisor. Our efforts to enforce reclamation law and end unjustified water subsidies in California's Central Valley laid the groundwork for massive reforms like the Central Valley Project Improvement Act and the Bay-Delta process that, at long last, are rearranging California's water priorities and restore our State's decimated environment.

Ralph was the early leader in the fight against unsafe pesticides that endangered consumers and farm workers, too. His pioneering legal work paved the way for the prohibition of DDT and the protection of groundwater from chemical contamination. His work on behalf of children guaranteed nutrition assistance, educational opportunities and equal access without regard to disability or ethnicity.

For some, I suspect, Ralph Absacal's career was about chasing rainbows. But Ralph caught a fair number of those rainbows, and ours is a far safer, far more just, and far cleaner world because of his tireless efforts.

He stands as a giant in terms of his fight for the poor and the disenfranchised people of America. It is perhaps his greatest legacy that millions of those whose lives will be forever improved by his life's labors never even heard his name, never knew that he spent decades arguing on their behalf in the courtrooms, in the legislative chambers and in the streets.

Mr. Speaker, I ask that all Members of the House of Representatives join me in mourning the loss of one of America's great advocates and attorneys, and extend to his widow, Beatrice Moulton, and their daughter Pilar.

RECOGNITION OF R.E. THOMASON GENERAL HOSPITAL

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. REYES. Mr. Speaker, I am pleased to commend R.E. Thomason General Hospital, El Paso's only not-for-profit hospital, for being recognized for the second year in a row as one of America's top performing hospitals, according to the 1996 "100 Top Hospitals—Benchmarks for Success" study. I would like to congratulate R.E. Thomason General Hospital for their dedication to the community and outstanding performance.

The "100 Top Hospitals—Benchmarks for Success" study is conducted annually by HCIA, the industry's most comprehensive source of health care information, and the Health Care Provider Consulting practice [HCPC] of William M. Mercer, a leading international management consulting firm. HCIA and Mercer HCPC annually develop a model for high performance among general acute care hospitals in the United States. The model is then used to identify 100 of the top performing hospitals on key measures related to clinical practices, operations, and financial management. Mercer HCPC and HCIA undertake this study each year to establish industry benchmarks in the context of a rapidly and constantly changing health care industry and to recognize those hospitals that demonstrate superior performance.

To qualify, hospitals had to rank above their peers on a combination of eight measures that indicate high value through high-quality outcomes, effective use of resources, and efficient provision of care—a balance R.E. Thomason General Hospital has achieved.

I would like to thank R.E. Thomason for their vision and dedication to the community and commend the staff for their devotion to caring for the people of El Paso.

TRIBUTE IN MEMORY OF VIRGIL TRESENWRITER

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. RAHALL. Mr. Speaker, I rise today to pay tribute to Virgil Tresenwriter. Virgil was a native of Beckley, WV, my hometown. In 1995, at the annual dinner of the Beckley/Raleigh County Black Business Association, Virgil's solo performance with the New Gospel Singaleers captured my spirit, leaving me in a state of awe, almost too speechless to deliver my keynote address. It was a profoundly moving experience. And no wonder.

Virgil was ordained by God from the very beginning of his life to sing praises to the Lord. It was a sweet sound and a joy divine—just as the gospel hymn says—to hear the deep baritone voice of Virgil "Pee-Wee" Tresenwriter ring out the heavenly melodies. What a blessing it was to be stirred and moved in your spirit from the sounds that came from the very depths of his heart.

If you were burdened down and sinking, to rise no more, you were lifted up when Pee-Wee sang "His Eyes Are On The Sparrow and I know He Watches Me." Then Virgil would remind you that he loves to praise His name, because He is a rock, a sword, and a shield—He's just a jewel in the middle of a wheel. Virgil's life was a blessing in so many ways to those who knew him, an inspiration to children who imitated him as he performed with the New Gospel Singaleers, with colorful attire reminiscent of the more famous singing groups of older times.

With his God-given talents, it was nothing for Virgil to challenge groups such as the Mighty Clouds of Joy, or the Canton Spirituals, when performing on the same program.

It is with the same pride that I take this opportunity to honor a man who gave the very best of himself, using his God-given talents to inspire, encourage, and lift the hearts of those who knew him. Virgil will be missed immensely, now that he has joined the heavenly choir to sing with the angels of God.

His songs, and the spirit in which he sang them, will sing out in our hearts forever.

TRIBUTE TO HISPANAS ORGANIZED FOR POLITICAL EQUITY (HOPE)

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Ms. ROYBAL-ALLARD, Mr. Speaker, on Friday, March 14, 1997, Hispanas Organized for Political Equity [HOPE] Education and Leadership Fund's Sixth Annual Symposium is taking place in California's 33d Congressional District during Women's History Month. In honor of this important event on the floor of Congress, I am proclaiming March 14, 1997, as Latina History Day.

The HOPE Education and Leadership Fund is committed to improving the social, political, and economic status of Latinas in their workplace, homes, schools, and community. Historically, HOPE has educated women and the community about domestic violence, the depiction of Latinos in the media, and the need to break the glass ceiling in employment. This year's symposium will address education and the superhighway, violence in our schools, and women's health concerns.

The proclamation of Latina History Day during Women's History Month memorializes the

important role Latinas play in American society. It recognizes the work and sacrifices of prior generations, celebrates the growing accomplishments of contemporary Latinas, and lays the foundation for future generations. Organizations like HOPE are critical cornerstones to the educational and leadership training programs we need to meet the challenges of today and the future.

I commend the HOPE Education and Leadership Fund for their commitment to Latinas and our children and, in their honor, proclaim March 14, 1997, as Latina History Day.

INTRODUCTION OF THE SAN TIMOTEO CREEK ASSESSMENT ELIMINATION AND ENVIRONMENTAL RESTORATION ACT OF 1997

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. LEWIS of California. Mr. Speaker, today I am pleased to join my friend and colleague, Congressman GEORGE BROWN in introducing the San Timoteo Creek Assessment Elimination and Environmental Restoration Act of 1997.

This important legislation will allow the San Timoteo Creek flood control project to move forward while eliminating proposed local assessments. This act will also provide the added flexibility for the local sponsor—County of San Bernardino, to make the project more environmentally sensitive.

Let me briefly explain what this straightforward legislation will accomplish. This bill will allow the local sponsor of the San Timoteo Creek Project to repay its 25 percent cost share to the Federal Government over a 30 year period instead of the traditional payment when construction begins. The generic authority to repay the local sponsor cost share over a 30 year period is specified in the Water Resources Development Act [WRDA] of 1986. This legislation applies that statute to the San Timoteo Creek Project.

The San Timoteo Creek feature of the Santa Ana Mainstem project will cost roughly $60 million. The local cost share is $15 million. However, a portion of the local cost share has already been provided through the construction of Reach 1 and Reach 2 of the project. Construction on Reach 2 of the project is currently underway. The Corps of Engineers and the local sponsor are currently discussing the idea of modifying Reach 3 in order to keep the project's construction moving forward while the corps, the local sponsor and environmental groups develop an environmentally sensitive and cost effective design modification further upstream.

The threat of flooding along the San Timoteo Creek is very real. The San Timoteo Creek portion is one of the smaller features of the Santa Ana Mainstem project which also includes the Seven Oaks Dam in Mentone. This project is extremely vital in order to provide flood protection for Redlands, Loma Linda, and San Bernardino. Furthermore, protection from a 100 year flood event will also lower the flood insurance rates of homeowners and small businesses which are currently in the flood plain. The overall Santa Ana River Mainstem project will protect millions of people and property in San Bernardino, Riverside and Orange Counties valued in the billions of dollars when it is completed.

Congressman BROWN and I recently discussed the concept of this legislation with San Bernardino County Supervisor Dennis Hansberger, Loma Linda Mayor Floyd Petersen, and other elected officials, and representatives from local environmental groups, including the local chapter of the Sierra Club.

I am pleased that these discussions have helped to develop this legislation which, if enacted, will go a long way toward addressing the concerns of those individuals, families and businesses which live within the proposed assessment district, locally elected officials, environmental groups, and the American taxpayer.

DISAPPROVAL OF DETERMINATION OF PRESIDENT REGARDING MEXICO

SPEECH OF

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 13, 1997

Mr. POMEROY. Mr. Speaker, I rise today in support of the resolution to overturn the President's decision to certify Mexico as a country that is fully cooperating in the fight against drug smuggling.

This resolution was reported out of the International Relations Committee on an overwhelmingly bipartisan vote. The committee resolution would decertify Mexico as a fully cooperative partner in the war on drugs. The resolution would send a clear signal to Mexico that their drug fighting efforts are inadequate, and that they must improve their interdiction, prosecution and anti-corruption activities to be considered a fully cooperating ally in the drug war.

Unfortunately, rather than allowing the House to vote on the bipartisan committee resolution, the majority leadership has crafted a substitute proposal that, if adopted, will preclude consideration of the committee resolution. Regrettably, the leadership amendment, offered by the gentleman from Illinois, Mr. HASTERT, undermines the bipartisan committee product by injecting purely partisan language into the text of the resolution. Rather than focusing on the question of certification, the Hastert amendment seeks to gain partisan advantage by taking rhetorical pot-shots at what it views as the administration's shortcomings in its conduct of the war on drugs.

As a result, the leadership has managed to take an issue where there is widespread bipartisan agreement—that Mexico is not a fully cooperating partner in the war on drugs—and make it partisan. I support the committee resolution, but I will oppose the leadership amendment. I remain hopeful that the Senate will craft a bipartisan measure that I will be able to support when this issue is resolved in conference.

I urge my colleague to oppose the Hastert amendment and support House Resolution 58.

IN SUPPORT OF H.R. 582: THE MEDICARE HOSPITAL OUTPATIENT REFORM ACT OF 1997

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. STARK. Mr. Speaker, on February 4, Representive COYNE and myself introduced a bill to provide for an immediate correction of a serious Medicare beneficiary problem: the overcharging of seniors and the disabled by Hospital Outpatient Departments [HOPD].

The President's budget also calls for a correction of this problem, but phases in the correction over a 10-year period.

In Medicare, the program generally pays 80 percent of Part B bills and the patient pays 20 percent. But because of the way the HOPD benefit was drafted, currently beneficiaries are paying about 45 percent and Medicare 55 percent. Simply put, the problem arises because Medicare pays the hospital on the basis of reasonable cost, while the beneficiary is stuck with 20 percent of charges—and charges can be anything the hospital wants to say they are.

Last the American Association of Retired Persons asked its members for examples of problems they had had with HOPD billings. They received an overwhelming response, and over the coming weeks, I would like to enter some of these letters in the RECORD.

These examples are the proof of why we need to fix this problem ASAP.

The first is from Mr. Warren Risser of Santa Barbara, who had an HOPD cataract operation and was charged $4,102.15. His 20 percent share of that change was $820.43. But he found out that Medicare determined the reasonable cost was less than half of that and Medicare paid $1,025.54. Mr. Risser paid 44% of the total payment—a far cry from Medicare's promise of an 80–20 split.

Next is a letter from Mr. Keith Roberts of Garden Valley, CA. As his letter so well explains, he paid 54 percent of a test due to charges that defy all rhyme or reason.

Both letters are a testament to the need to pass H.R. 582.

AARP Outpatient Stories,
Washington, DC.

DEAR SIRS: Your article "Medicare Outpatient Debacle" by Don McLeod was excellent.

On March 7, 1995, I had cataract surgery on my right eye. I was in the hospital approximately 6 hours incurring a hospital bill of $4,102.15. I was billed 20 percent ($820.43). The Medicare Statement from Blue Cross shows Medicare paid the balance of $3,281.72 which was incorrect. They paid only $1,025.54 after writing off an adjustment of $2,256.18.

I wrote Blue Cross stating I paid my 20 percent and they paid 25 percent and requested an explanation. Enclosed is their response. They had lowered their portion by 55 percent of the bill.

Gosh, I wish I could run a business this way.

Keep up your good work.

Sincerely,

WARREN H. RISSER
Santa Barbara, CA.

KEITH L. ROBERTS,
Garden Valley, CA, November 27, 1996.
AARP Outpatient Stories Dept.,
Washington, DC.

DEAR SIRS: Some time back I sent you a large packet of documents and correspondence about Part B Outpatient overcharges. I just received another example of Part B outpatient abuse which I am forwarding to you.

In this case, the total hospital charge is $1199.00. I have requested an itemized account of the charges so that I can know whether they are legitimate or not. The Medicare statement lists two items. They are: PHARMACY . . . 211.90, OTHER . . . 988.00. The hospital statement lists: BALANCE FORWARD . . . 1199.00, A CODE (99100) . . . (203.80-, ANOTHER CODE (97010) . . . 755.37-. The balance due to patient is 239.80 (or 20% of the total 1199.00).

I have obtained a detail listing of the hospital charges I referred to above. I have edited the list of charges by assigning an item number and true patient charge for each item. Both lists are included herewith.

In items 10 and 11 are two drugs, DEMEROL and MIDAZOLAM. If the hospital charges are extended out to a kilogram, the drug dealers preferred lot size, you find that a kilo of MIDAZOLAM goes for 9.2 million dollars ($9,000,000.00) while the DEMEROL goes for a mere $550,000.00.

I made a special effort to find out about the most expensive item on the list, item 15, entitled SPECIAL PROCEDURE 3. It sounded like a "miscellaneous" item to me. I have been told in the past never accept a miscellaneous charge. I was told that it was probably "the room charge". I inquired "why not call it a room charge". On my oath I swear that I was told "maybe Medicare pays more for special procedures." The record should show that the only "room" she was in was the outpatient preparation and recovery ward of about 10 or 12 beds.

So the bottom line is that Medicare considers the rooms, nurses, equipment and supplies to be worth something a little more than $203.80. Based on that amount, I find it hard to believe that 1199.00 is realistic. As you and I both know that there is no limit to the amount that the hospital can charge. They could have legally charged $599.00 or $1999.00 or more. It appears that in this case they charged an amount that they thought would pass the stink test.

Of the money that the hospital stands to receive, I will pay 54% and Medicare will only pay 45%. We need to convert to a payment system more nearly like non-hospital Medicare part B payments.

WHEN MEDICARE IS REFORMED, THE OUTPATIENT SCHEDULE MUST BE INCLUDED!

Sincerely,

KEITH L. ROBERTS.

PERSONAL EXPLANATION

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. NETHERCUTT. Mr. Speaker, on Thursday, March 13, I missed House recorded No. 50, on final passage of H.R. 852, the electronic filing of Federal forms bill. I request that the RECORD reflect that had I been here, I would have voted "aye."

TRIBUTE TO BRIAN HAUCK, VETERANS OF FOREIGN WARS VOICE OF DEMOCRACY AWARD WINNER

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. SAXTON. Mr. Speaker, it gives me great pleasure to recognize the accomplishments of an exceptional American youth, Mr. Brian Hauck. Mr. Hauck is the 1996–97 Department of Europe winner of the Voice of Democracy broadcasting scriptwriting contest "Democracy-Above and Beyond" sponsored by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary.

The value of monetary scholarships, bonds, and awards this program awarded was over $2.7 million this past year. Brian plans to use his scholarship money to attend Washington University in St. Louis this fall where he hopes to pursue a curriculum that will assist him in becoming an astronaut. Brian is currently the president of both the Student Council and the Future Business Leaders of America at the Patch American High School.

The son of Colonel and Mrs. John D. Hauck, Jr., Brian resides in Germany where his father is currently assigned to Headquarters United States European Command. I am sure that his parents are extremely proud of the achievement of their fine son. I wish to have Brian's award winning essay entered in the CONGRESSIONAL RECORD for all Americans to read.

Freedom to succeed. Democracy is a government of the brave. As Americans, we are keepers of an institution that allows its people both success and failure. The strength of America is in the willingness of its citizens to take risks. From the earliest explorers to the modern businessman, the pioneering spirit has been the most important factor in the development of democracy and the key to America's position as a world leader.

Discovered by a man who had invested his entire fortune on a voyage to prove the world was round, America has always been a land of hope where dreams are fulfilled. She was first colonized by people seeking freedom from religious oppression in Europe. These settlers abandoned everything in the hope of finding a better life in a land halfway around the world. A century later, their ancestors faced tyranny from the rule of the British Monarchy. True to their blood, they declared independence and fought for freedom. Their reward was the opportunity to create the United States of America. It is no wonder that the government created by these brave men granted freedom from oppressive government and control over their own lives.

This same spirit of democracy and risk was still evident sixty years later as thousands of wagon trains headed west. Across the Great Plains and through the Rocky Mountains, pioneers battled disease, cold, and hunger to find a new life in the West. These people desired to migrate. They were not forced out by any tyrant, and they were not looking for an easy living. Even while knowing those hardships they would encounter, they trekked onwards, craving the opportunity to succeed or fail as fate willed.

As America raced against the Soviet Union to put a man on the moon, the true nature of our democracy of risk became apparent. Unlike our Communist competitors, every astronaut involved in the Apollo program had volunteered. They desired the glory of setting foot upon the moon first, but such an opportunity would never have been surfaced within the structure of democracy. This spirit of exploration lives on as we continue our research in space and our expeditions to all corners of the globe. As a country, we must never forget our pioneering history.

220 years since the birth of this great nation, our society continues to respect the right of the individual to take risks. Ideas are only as valuable as the actions taken to bring them to life. When an American starts a company, he understands that it may fail, and that he may lose his entire fortune, or he may become the next multimillionaire. Whatever the outcome, he can take pride that he has the opportunity to try. Millions of people live under governments opposed to innovation. The willingness of the average American to take a chance is what has made the United States a prosperous and powerful country, and the freedom of the individual to succeed or fail helps to make American democracy the best form of government in the world.

IN RECOGNITION OF A HIGH ACHIEVING JOHN MARSHALL HIGH SCHOOL AMERICAN HISTORY CLASS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. KUCINICH. Mr. Speaker, I rise to recognize and honor the high intellectual achievement of a John Marshall High School American History class. This class of high school juniors and seniors has demonstrated a superlative command of the facts and a critical understanding of the meaning of American History. They are first among their peers, having won that distinction when they took first place in the State of Ohio finals of the "We the People" competition.

The "We the People" competition does not involve mere rote learning and short answers, but requires detailed research and study on specific areas of the Constitution and Bill of Rights. Students testify before a panel of judges, most of whom are judges and lawyers, as if they were testifying at a congressional hearing. The class is divided into six groups and each group is required to give a 4 minute prepared answer to one of three extremely complex questions. Each group must then answer extemporaneously 6 minutes of follow up questions posed by the judges. Through this trying ordeal, the students must demonstrate their understanding and ability to articulate in depth analysis of complex constitutional issues. All students must respond, not just the stars of the class.

The entire class, then, has earned a coveted honor as the State representative at the national competition. Under the tutelage of their teacher, George Klepacz, the following students are commended by Congress for their work and achievement: Brigitte Beale, Alicia Bebee, Raenala Brown, David Bucchioni, Tyessa Howard, Kasey King,

Deanna Lamb, James Lazarus, Kim Noeum, Ryann O'Bryant, Brad Schaefer, Tiwanna Scott, Matt Stevens, and Kim Chau Vo.

TRIBUTE TO JOAN GILBERT

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mrs. LOWEY. Mr. Speaker, while there are those in Westchester who may not know Joan Gilbert personally, her work has touched the lives of countless people in our community. As manager of Community Affairs in the Public Relations Department of Texaco Inc., Joan has worked tirelessly on behalf of the citizens of Westchester.

In addition to her responsibilities at Texaco, Joan has been personally involved in many community-based organizations. Currently, she serves as chairman of the board of the Street Theater and is a member of the boards of the American Red Cross, Westchester Philharmonic, the Private Industry Council, and the Youth Counseling League.

Joan has received numerous awards for her outstanding civic activities. Organizations bestowing Joan with awards include: The American Heart Association, the Harrison School District, Westchester Putnam Affirmative Action Program, Rotary International, the Urban League of Westchester, and the Girl Scouts of Westchester.

Joan's corporate and personal support helped to sustain and expand nonprofit organizations throughout our region. She has contributed in enumerable ways to the quality of life in Westchester.

In spite of her retirement, Joan's influence will continue to be felt throughout our community. I know that Joan will begin this next chapter of her life with the same vitality that she has displayed while at Texaco.

THE INTRODUCTION OF THE PARENTAL LEAVE EQUITY ACT OF 1997

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Ms. NORTON. Mr. Speaker, today I introduce the Parental Equity Leave Act of 1997, a bill which will ensure that employees who choose to care for a foster child or adopt a child will benefit from the same leave policy as their coworkers who are birth parents. This bill does not mandate that employers provide leave benefits beyond existing law, but rather that if they choose to provide such benefits, they do so for all parents equitably. The bill does no more than remove discrimination against foster and adoptive parents at a time when Congress and the President are urging Americans to come forward in far greater numbers as foster and adoptive parents. Because the employers who offer leave benefits beyond existing law are generally larger businesses and the number of children is very small, the bill will not burden employers and the costs will barely register.

The Family Medical Leave Act of 1993 [FMLA] provides that employers must grant up to 12 weeks of unpaid, job-protected leave for adoptive, birth, and foster parents to care for a new child. Although some employers go beyond the mandate of the act and provide additional parental benefits, such as paid leave or the use of sick leave by employees with a newborn, they often extend such benefits only to birth parents and not to foster parents or parents who adopt. My bill merely tracks the FMLA, correcting this inequity by providing that if an employer allows additional leave benefits for the birth of a child, the employer must not discriminate against the parents of a foster child or an adopted child, but must provide the same leave. Thus, my bill does not require employers to provide leave policies beyond the requirements of the FMLA, but provides only for equal treatment for adoptive and foster parents, in keeping with the intent of the original legislation.

The reasons for granting parental leave to both foster and adoptive parents overlap and merge, but both need the same leave benefits as birth parents, perhaps more so. There is an acute foster care crisis in the United States, with many more children in need of such care than there are foster or adoptive parents. Foster children are generally older children who have been removed from their own homes. Often they are children with specific needs. Increasingly, they have been abused or have parents with debilitating problems such as drug abuse and are hard to place. Thus, a foster parent will normally have a greater challenge of adjustment than a birth parent. A foster parent must acclimate to a child who already has set habits and personality traits. The foster child is sometimes intimidated by being thrust into her new surroundings. She may have come from dangerous or even life-threatening circumstances. In addition, foster care systems, especially those in large cities often are in great disrepair. A recent GAO study reported disgraceful circumstances for the care of many of these youngsters, a situation that is pervasive throughout the United States. The wreckage left behind by failed foster care systems is often reflected in the lives of foster children. They clearly need their parents in their new home as much, and probably more than the newborns who are the major recipients of the FMLA.

Adopted children are generally not as old as foster care children and may not generally come to their new families from troubled circumstances. However, because most adoptive parents are caring for an infant or young child, their situation is similar to the parents of newborns. There is no reason, therefore, to treat them differently than birth parents.

There are few foster or adoptive parents in any single workplace, guaranteeing that the effects on the employer would be small, in keeping with the policy of the FMLA. I urge my colleagues to support this bill to help ensure that foster parents and adoptive parents receive the same opportunity as birth parents to bond with a new child and to acclimate that child to her new family and surroundings.

TRIBUTE TO CAPT. NICK BARISKI

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Ms. WOOLSEY. Mr. Speaker, I rise today to pay tribute to Capt. Nick Bariski, a man who lived a remarkable life, and who made many contributions to his community before recently passing away.

Captain Bariski served his country for many years in the United States Army, rising to the rank of Captain. After settling in Marin County, Captain Bariski continued his dedication to the Armed Services by serving as local chapter President of the Retired Officers Association for an unprecedented three separate terms.

As the President of this esteemed organization, Captain Bariski continually lobbied for the rights and interests of both retired and current members of the Armed Services. He represented his local chapter at various regional and State meetings, served as a member of the executive committee, and was present to provide valued counsel to other retirees.

Mr. Speaker, it is my great pleasure to pay tribute to the life of Captain Nick Bariski, a man whose generous contributions to his country and his friends will always be remembered, not only in the hearts of those he touched personally, but in the lives of those who have benefited from his tireless work on behalf of all military retirees.

THE PARTNERSHIP TO REBUILD AMERICA'S SCHOOLS ACT OF 1997

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. NEAL. Mr. Speaker, today, I join Congresswoman LOWEY in cosponsoring legislation that furthers the education initiatives that President Clinton has promoted. The Partnership to Rebuild America's Schools Act of 1997 would provide much needed funding for the rehabilitation and construction of schools in this Nation.

This act gives States and local communities increased flexibility with the financing of school construction. Specifically, the Act provides up to a 50 percent subsidy of interest of financing costs to school districts which will underwrite repairs to existing schools or construction of new schools. The subsidies provided for in this legislation are determined by criteria met by each school district and community, most importantly the need of the community and lack of resources to meet that need.

The act appropriately targets those school districts that categorically are impoverished with the majority of their students living in poverty. The majority of the funds for subsidies apportioned by this act will be awarded to these communities by a formula based on the current "Title I" grant formula. Using this formula, the presently existing practice of providing educational assistance to the disadvantaged will continue.

Education has been made the No. 1 priority of the present administration. Insuring that the

children of this great Nation are afforded the opportunity to learn in an environment that is healthy, safe, well-equipped, and conducive to learning is a goal that we should strive to achieve. This act would assist our local communities in reaching this aim and would also provide local school districts with the capability of accommodating drastically growing levels of student enrollment.

In my district, the city of Springfield has been designated as one of the many school districts in need of rehabilitation and construction. In order to compete in the global community, we must ensure that all children in this Nation have received the best education possible. The first step is to improve the now existing condition of the many schools that are rundown, overcrowded, and technologically ill-equipped and make them into sound structures to provide a strong educational foundation for all children and their futures. I urge my colleagues to cosponsor this legislation and show their support for our schools and the education that they provide.

TRIBUTE TO THE NATIONAL BLACK LAW STUDENTS ASSOCIATION

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. PAYNE. Mr. Speaker, in 1968, a small group of law students came together for the purpose of forming an organization that would be responsive to the needs of Black Law Students. Determined to rock the foundation upon which the legal system rested, those visionaries proclaimed themselves the Black American Law Students Association [BALSA]. The signers of the charter were A.J. Cooper, LeSeur Stewart, Joseph Porter III, Ronald Mitchell, Robert Holmes, and Barry Robinson. The first annual convention was held in the spring of 1969 in Chicago, IL and approximately 30 chapters were represented. BALSA focused its energies on those issues relevant to black people and black law students, and was able to use its influence to improve the positions of both.

In 1983, the word "American" was removed from the organizations name in order to encompass all blacks, including those not of American origin, "National" was added to reflect the extent to which the organization had expanded. The organization is now known as the National Black Law Students Association.

This week, the National Black Law Students Association will hold its 29th annual convention in Las Vegas, NV. Since its inception in 1969, its numbers have grown significantly. Currently, NBLSA is comprised of over 200 chapters, representing nearly 6,500 law school students throughout the United States and Puerto Rico. NBLSA stands alone as the primary symbol and mouthpiece of black law students across the United States. It continues to encourage excellence and success among black law students by providing scholarships and job opportunities.

Capitol Hill has also witnessed the spirit and dedication of the organization. Just last fall, during the Congressional Black Caucus' Legislative Weekend, NBLSA's national chair spoke on a panel I sponsored entitled: "Literacy: The Cornerstone of African-American Achievement." Mr. Speaker, please join me in congratulating the National Black Law Students Association on their 29th annual convention.

REPUBLIC TIGERS AND THE RITZVILLE BRONCOS TRIUMPH ON THE BASKETBALL COURT

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. NETHERCUTT. Today, I want to congratulate the boys basketball team of Republic High School in Ferry County, WA and the girls basketball team of Ritzville High School in Adams County. On Saturday, March 8, 1997, their many hours of practice paid off when they defeated strong teams and won the Washington State B Basketball Tournaments.

Neither team went into the tournament as the favorite. Indeed, the Republic Tigers almost didn't make the tournament at all. But under the leadership of dedicated coaches, these teams defied the odds and stunned the State, proving that to triumph, confidence, and teamwork are as important as athletic skill.

Under the leadership of Coach Rory Rickard, the Republic Tigers boys team came from behind in four games on their road to the final round. In the finals, they defeated the Reardan Indians 38–36. The new State champs had been the fourth seed in district 7.

Chuck Wilson serves as the Tigers' assistant coach. The boys State champions are Chad Dinkins, Dave Hanks, Jason Baldwin, Dan Hanks, Kenny Glidden, Sam Hadden, Mark Rickard, Dan Hargrave, Lonnie Grimm, Kris Kuchenmeister, Dorian Russell, Steve Davenport, and Chris Wilson. Tyrus and Cory Rickard as well as Josh Burnside served as managers, and Rebecca Hutton and Ryan Rickard kept the team's statistics.

Guided by coaches John Foulkes and Howard Manke, the Ritzville Broncos defeated the Wilbur-Creston Wildcats and won the Washington State Girls B Tournament. With a 33–26 victory, the Broncos claimed their second State championship, having last won it in 1979.

The players for the championship team are Tracy Warriner, Jennifer Kramer, Erin Weber, Jennifer Horpedahl, Megan Wellsandt, Katie Kirkendall, Shannon Russell, Megan Yerxa, Jamie Alspach, Jaime Wellsandt, Carlye Zicha, and Jennifer Janzen. Managers are Kristen Kramer and Crystal Zicha, and Leona Akers and Cassie Stegmeier served as the team's statistician. Congratulations to them all.

It is a great honor for eastern Washington that both the boys and girls State basketball champions—as well as the runners-up—come from our region. I hope their success will encourage others to pursue their goals, recognizing that to succeed, players need to practice and learn to work together as a team. They must not let the odds discourage them and remember always to do their best, remaining confident in their abilities.

It was these skills which enabled the Republic Tigers and the Ritzville Broncos to triumph on the basketball court. And it is these skills which will enable students across the country to succeed, whether in an athletic arena or whatever other endeavor they should choose to pursue.

CLARIFICATION OF RECORDED VOTE

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. BRADY. Mr. Speaker, on rollcall vote No. 48 held March 13, 1997—final passage of House Joint Resolution 58 relating to the decertification of Mexico—I inadvertently registered a "no" vote on final passage when a "yes" vote was my intention.

This clarification is necessary to reflect my support for the decertification of Mexico as previously indicated by my recorded support for the measure in the House International Relations Committee, the three rollcall votes previous to final passage and my floor remarks in support of House Joint Resolution 58 as presented during debate on the House floor.

DEMOCRACY—ABOVE AND BEYOND

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. SANDERS. Mr. Speaker, enclosed is a copy of a speech by Micah Genzlinger, a senior at South Burlington High School in Vermont. Micah is the Vermont winner of the VFW's Voice of Democracy broadcast scriptwriting contest. His speech reflects a passion for democracy of which I am proud. I am inserting his speech in the CONGRESSIONAL RECORD as I believe it will benefit my colleagues.

DEMOCRACY—ABOVE AND BEYOND

(By Micah Genzlinger)

If I may, I would like to briefly tell you a little about my life. When I was born, my parents had the freedom to give me any name they wanted. They had the freedom to teach me what they thought was important. They had the freedom to show me what they thought I should see. They had the freedom to choose what kind of school I should attend. The freedom to bring me up in a family where they see the values, shared their belief in God, and taught what they considered right and wrong.

As the decisions became mine, I could choose who I was friends with, what types of music to listen to, what kinds of clothes to wear, what sports to participate in, and many other things. Soon I will be making bigger decisions: who to vote for in the elections, what college to attend, what I should do with the rest of my life, what religion I should study, and more. I am even free to disagree with what my parents taught me.

You may wonder why I told you about my life. Well, I did it for one reason only, to show you how good we have it in a democracy. Some don't believe we are any better

off, but only in a democracy do you have the freedom to say what is on your mind and to express your inner-self without fear of punishment from the government. We have the freedom to choose our jobs and to choose what cities to live in. We also have the freedom to decide how we are going to live; whether that be in an apartment or in a house.

Some say the government is holding us down. I ask those people to look around the world. To look at the countries that decide what its youth will do with their lives without having any say, or look at the countries that kill people for speaking out against the government. Look at countries that limit the number of children a single family can have. Then try to tell me that we are worse off living in a democracy.

I think my generation has become used to the fact that we have so much freedom and does not understand the true value of our democracy. When I watch the news on television I see the scenes from Bosnia or the Middle East, I am reminded that we have a very special freedom. When I look back in history at the walls constructed in Germany, I can't even imagine what it was like living in fear of being jailed for doing nothing wrong, or not even being able to see any of my family members because they were on the other side of the wall. Most of all I can't even imagine what it would be like not being free.

Our country is not perfect. We have poverty, unemployment, crime and many other problems. But we have the most important things: a democratic country that allows us to make our own decisions, to live the way we want to live, to work at the job we want to do, to raise as many children as we feel we should have, and so much more. But most of all we can be free.

TRIBUTE TO THE BUEHLER CHALLENGER AND SCIENCE CENTER IN PARAMUS, NJ

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mrs. ROUKEMA. Mr. Speaker, I rise to congratulate the Buehler Challenger and Science Center in Paramus, NJ, for having served 50,000 visitors in its brief history. This milestone is anticipated to take place in the next few weeks and shows the strong demand for the services of this highly educational facility.

The Buehler Challenger and Science Center was dedicated September 6, 1994. It is a mockup of the space shuttle and its control centers and allows students who dream of the stars to come as close to space flight as they can without leaving the ground. In the process, it teaches a myriad of lessons about science, math, thinking, problem-solving, teamwork, and self-confidence.

The center is named for Emil Buehler, an aviation pioneer whose experience ranged from the biplanes and dogfights of World War I to the beginnings of the shuttle program before his death in 1983.

This center presents the young people of New Jersey with a taste of the many challenges in sciences and technology that await them as we enter the 21st century. The children who visit this center will see advances in science and technology during their lifetimes we cannot begin to imagine. Our children are our future and this center helps ensure their future is a bright one.

Students who have taken the Buehler center's "fantastic voyage" are transported into a whole new world. And, like astronauts returning from space, they bring back with them invaluable knowledge about themselves and the world around them. This knowledge will help them aim for the stars as they pursue new heights in math, science, and technology.

Inspiring children through facilities such as this is essential to initiate and maintain interest in technology among our young people to enable them to meet the demands citizens will face in the next century. This is essential to maintain our position in the global economy of the future.

Unfortunately, but true, many children decide as early as elementary school that they have no interest in science. Too many believe they can't "do" science or that math is "too hard." The result, according to some estimates, is that America will have a shortage of half a million chemists, biologists, physicists, and engineers by the year 2000. The Challenger Center is helping reverse that trend. Fortunately, these same students are fascinated by space subjects, especially astronauts. This unique, hands-on experience can raise students' expectations of success, foster in them a long-term interest in math and science, and motivate them to pursue careers in these fields.

It is only natural that the Challenger Center can be a way to reach students uncertain about science. Since the inception of the space program, NASA and the Nation's education system have traveled parallel paths. They share the same goals—exploration, discovery, the pursuit of new knowledge, and the achievement of those goals is interdependent. NASA depends on the education system to produce a skilled and knowledgeable work force. The education community, in turn, has used the space program to motivate and encourage students to study science, engineering and technology.

If the United States is to remain at the forefront of space science and aerospace technology and research, then we must provide students with the skills they will need in a highly complex and technical workplace. The next generation of science and technology achievements can only be as good as the education and challenges we give our children in those subjects today.

The children who visit this center today could easily turn out to be the scientists of tomorrow. Who knows what discoveries they will make or new technologies they will develop? Their work could be as dramatic as the airplane was to our grandparents or the space shuttle to us.

Even for those who don't enter the world of science, this center offers an insight into the technological world around them. If we think it's vital to be computer literate today, imagine the skills that will be required in another generation.

An important aspect of this challenge to learn is that some believe the United States is no longer challenged. With the demise of the Soviet Union and the end of the cold war, we no longer have the type of outside challenge that pushed us to the Moon. Remember, it was the insult and shock of Sputnik that led President Kennedy to launch the space program.

If we are not to be challenged by another nation, we must challenge ourselves. We must make a commitment to go where no one has gone before, to explore and learn and never be satisfied that there are no challenges left to meet.

Today I'd like to challenge our young people to continue the record of meeting challenges that our Nation has exhibited in the past. The Buehler Center is part of the highway to a future where the American thirst for knowledge will keep our Nation the world's leader in science and technology.

MAKING A CASE FOR DIVERSITY IN THE SCIENCES

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. STOKES. Mr. Speaker, on February 21, 1997, I was honored to have Dr. Walter E. Massey visit my congressional district. Dr. Massey is the president of Morehouse College in Atlanta, GA. Morehouse is one of our Nation's most distinguished institutions of higher learning. Dr. Massey, a Morehouse alumni, is the former Director of the National Science Foundation. He has also held a range of administrative and academic positions, including provost and senior vice president of affairs of the University of California.

When he visited my congressional district, Dr. Massey utilized the occasion to address an issue of critical importance to this Nation and its people. In his remarks at the City Club of Cleveland, he spoke from the topic, "Making a Case for Diversity in the Sciences."

Mr. Speaker, Dr. Massey delivered a speech which was insightful and thorough. I want to take this opportunity to share a copy of Dr. Massey's remarks with my colleagues and others throughout the Nation. It is certainly worthwhile reading.

MAKING A CASE FOR DIVERSITY IN THE SCIENCES

(Walter E. Massey, President, Morehouse College)

I will be speaking with you this morning about diversity, and making a case for diversity in the field about which I am most knowledgeable, the sciences. I will focus on the ends and goals of diversity—a society that is enriched by the contributions of all its members—and on what, for now, I see as one of the best ways of achieving those goals—affirmative action.

Indeed, affirmative action is one of the most highly debated issues in the United States today. The recent vote on Proposition 209 in California, and the decision of the Board of Regents at the University of California to abolish many of its affirmative action programs during a time I was at the University, are among the most visible examples of a retrenchment from the support of affirmative action in the nation. Legal cases challenging affirmative action in Texas and Virginia, and recent Supreme

Court decisions on hiring policies and set-asides, have made this issue one in which the nation has become deeply involved.

It is not my intention this morning to speak in detail about affirmative action, in general, in the United States. What I would like to do, however, is make the case that the ends toward which affirmative action programs have been aimed—that is diversity and inclusion in all aspects of American society—are ends that are worth the struggle, conflicts and controversy that affirmative action programs now generate. By focusing on the long-term benefits that will result from such programs, I would hope that we might somewhat diffuse the emotionalism and confrontation surrounding current programs. Although I have few doubts that those arguments will go away.

I would like to make the case today that, at least in the sciences, the area in which I have spent my life, the end results of having a more diverse representation will more than pay for the nation and the world, and because of that, justifies our having affirmative action programs at present.

If it is not clear, I should go on record by saying I am a supporter of affirmative action. I am convinced that affirmative action—which I define as providing equal *access* to opportunities to all people—is not only a necessary corrective action to address past injustices that have limited the access of minorities and women to opportunities in education, employment, politics, the sciences and other areas, but a necessary positive action for the long-term benefit of our nation.

Having said that, I should also say that I do not believe that all affirmative action programs, as they are currently cast and operated today, should be embedded in perpetuity. I see affirmative action as an access tool, not an entitlement benefit. As President Clinton has said, some programs need at this point to be *mended*, not ended. Our goals should be, at some point in the future, to be able to end affirmative action programs.

But, until we live in a much more perfect world than we live in now, a world where the playing field is level for everyone regardless of their race or sex, we will need affirmative action programs, or their equivalent, to obtain goals that are in the best interest of society as a whole.

For, despite some significant gains in the past 30 years, the reality is that in too many places, including our board rooms, court rooms, laboratories, legislatures, and in the hall of higher education, women and other minority groups remain much underrepresented in proportion to their numbers in society, and, more important, with respect to their potential contribution to society.

We must do something to correct these imbalances. Not only is it our moral responsibility as a nation, but, I believe—and this is the crux of my message to you today—providing equal access to opportunity for all people is the key to our ability to prosper and thrive in the global metropolis that our world is fast becoming.

As a supporter of affirmative action, in general, with the particular goals I have elucidated, I am particularly supportive of any programs that will increase the number of previously underrepresented groups in the sciences. I am convinced that, perhaps among all areas of human endeavor, the sciences are likely to produce the kind of broad, enduring, societal benefits that accrue from the involvement of diverse participants.

And affirmative action programs—to the extent they are designed to encourage more diversity by attracting and retaining to the practice of science individuals from varied backgrounds—will ultimately benefit all humankind.

I would also assert that the arguments I will make for diversity in the sciences can be made for business and commerce, higher education in general, the legal and health professions, government occupations, and in fact, all other fields. But let me make the case this morning for the sciences.

It perhaps goes without saying that the era that we now live in is justifiably labeled the era of science and technology. Never before in the history of the civilized world has science and technology so pervaded every aspect of our lives. And, never before has the pace of scientific innovation and discovery been as rapid as it is today. And, it cuts across every field within science (and technology) from physics to biology, materials to astronomy and the applications of science: medicine, microelectronics, energy production, environmental research, and the like.

Science plays a critical role in solving the problems of our world. Some futurists have even suggested that the prosperity of the human race depends on scientists' ability to make sense out of the mysteries that confront and baffle mankind. That may be overstated, somewhat. I would say that scientists, along with philosophers, theologians, and others, are needed to make sense of and solve the mysteries of the universe. Science will not do it alone, but it can not be done without science.

The study and practice of science also can have other associated benefits, not the least significant of which are the kinds of attitudes and abilities that can be gained from studying science.

The world over, nations are realizing more than ever that there most valuable resource is there people—in all their diversity. No nation can now afford to squander its human resources and to not take advantage of all the potential talent it has within its citizenry. "Developed" and "developing nations" alike are also recognizing that their citizens must not only have technical skills, but certain values, character traits, habits of mind, and principles that will allow them to function effectively in this rapidly changing world.

Some of those characteristics and traits are: a confidence in one's ability to learn and to continue learning after formal schooling; adaptability; flexibility; a willingness to tackle hard problems; curiosity; and a healthy sense of skepticism that causes one to examine every situation with "fresh eyes." Studying science enhances these characteristics and traits, and I would also argue that these are just the traits necessary for an "Innovative Society," a society that harnesses science for economic and social development.

Given the scope and importance of science in solving problems, probing the deep mysteries of life, and contributing to economic and social development, I believe that to fail to educate and apply the skills of people of all backgrounds to the field of scientific endeavor is equivalent to operating a high-performance race car on four cylinders rather than eight.

But operating at less than our full capacity is, in effect, what we have been doing—given the fact that minorities and women are still grossly underrepresented in the sciences.

There has been progress, and the makeup of American science has changed considerably over the past few decades. The people who do science in America are no longer mostly white Anglo-Saxon Protestants, and they certainly do not come from an exclusively upper-class stratum, as they were and did in the 19th century.

Thankfully, we have begun to recognize that ideas and insights come to individuals, not groups or communities. Scientists in the United States now include men and women from all ethnic groups: Jews, eastern Europeans, increasingly Asian Americans, Hispanics, and African Americans. In fact, the first three groups, Jews, eastern Europeans and Asians, have perhaps done more than any other ethnic groups to make American science as preeminent in the world as it is today. And African Americans and others have made, and continue to make, important contributions in many scientific fields, including chemistry, physics, biology, mathematics and engineering.

Yet, according to the National Science Foundation, ethnic minorities, who comprise approximately 21 percent of the population, account for less than 5 percent of all scientists in the United States.

Underrepresented groups—groups that have not in the past been exposed, allowed, or encouraged to study science—have to be brought into the mainstream, not only out of a sense of fairness and equity, but out of a sense of national and global need. And that's where affirmative action comes in. As a tool to more effectively tap the talents of women and minorities, affirmative action not only helps right the wrongs of the past, but ensures equal access to opportunity in the future.

The fact that many people see affirmative action as a win-lose proposition is the result of a narrow view of the issue, a focus on the means of affirmative action—the goals, quotas, and set-asides—rather than the ultimate goal of affirmative action—a society that is enriched by the contributions of the talents and energies of all its people.

The job of helping to ensure diversity in the sciences, of attracting people from different backgrounds to the field and preparing them to make meaningful contributions, falls largely to our nation's educational institutions. For it is often in classrooms that students' eyes are first opened to the reality of who they are and to the possibility of who they might become. According to the National Science Foundation, only about 5 to 6 percent of people surveyed each year are "scientifically and technically literate." And these are adults! Somehow, despite our best efforts, our schools are failing us in this important area.

We understand some of the reasons for those embarrassing statistics. Many youngsters (and adults), quite often fear science, or fear being able to understand it. That fear leads to a distrust of things scientific and technical. This is one of the major attitudes that must be addressed early in life, before youngsters develop a lack of confidence and fear. This fear is learned; it is not natural. "All children are born scientists." Youngsters have a healthy curiosity about the world, and a confidence in their ability to understand things around them. This confidence and curiosity is too often allowed to lapse or be destroyed by poor teaching.

We need more diversity in science for the benefit of the nation and the world, and for the benefit of individuals in those groups that have been underrepresented for various reasons.

But this morning, I also want to make another argument for such diversity—that it is good for science, that science itself is enhanced by being practiced in a multiethnic

environment, that the practice of science is enriched and enlivened by the participation of individuals from a broad spectrum of ethnic and cultural backgrounds, and that the presence of minorities in the sciences makes a tremendous, positive impact on the field, and by extension, on the people it serves—all of us.

Science is more than just a utilitarian undertaking or endeavor that contributes to economic development and enhances our standard of living, although it is certainly that, Science is also an intellectual and humanistic endeavor. It is an expression of humanity's curiosity about the universe we live in and an expression of an innate, embedded desire in us to understand and make sense of our surroundings and ourselves. Questions such as what is the origin and fate of the universe? How did the world begin? Why is there life and what is its meaning? These are deep philosophical and religious questions. But at bottom, they are also fundamental questions of science.

Since the beginnings of history, every culture and every ethnic group has puzzled over these and similar questions, and has devised some sort of system to explore answers and construct explanations to these mysteries. The explanations have often been crude and primitive, and have varied by culture and geography. But, they have been aimed basically at the same end—to understand the world and our place in it.

Every society throughout history, no matter what its social or ethnic makeup, has contributed to our understanding of the universe and has helped to build the edifice we now call modern science.

Science and technology are cultural phenomena in the broadest sense. Although the laws of science and rules of technology do not apply differently to different groups, science and technology are enriched by including more individuals from different backgrounds and different perspectives—because they have a different lens through which phenomena are viewed. People from different backgrounds can bring different and unusual insights to the study of science and applications of technology—not necessarily because of their racial or cultural heritage—but because of their complete life experiences among which their racial and cultural heritage is a part.

Making a case for diversity in science and technology, or in any other field for that matter, can be boiled down to mathematical logic: When we are inclusive rather than exclusive, we have more people, more creative power at our disposal. Gerald Holton, a physicist, historican of science, and colleague of mine at Harvard University, put it this way:

"I would conclude that it is not only possible, but almost inevitable, that we might capture novel or unusual insight into the understanding of the universe from people who have different life experiences or come from different cultures—simply because the larger the pool of well-trained and hard-working people, the larger the probability of novel and unusual insights. In this sense, excluding potential scientists is a crime against the ethos of science itself."

The fact of the matter is that brilliance and genius are not confined to particular ethnic and racial groups. Science and technology profits and prospers—and everyone benefits—when the best and brightest are part of its activities.

I submit that a similar argument can be made for almost any field, profession or human endeavor. All will be enriched and enhanced by diversity. The goal of affirmative action—as I see it—is to help us as a nation evolve into a society where we judge people as individuals—regardless of their skin color or ethnic heritage, and where such diversity occurs naturally. Unfortunately, we have not reached that point. We are not yet where Martin Luther King Jr. wanted us to be, where people "will not be judged by the color of their skin, but by the content of their character."

Where are we along this path? Let me close by saying a few words about the sciences in that regard.

Fortunately, progress is being made on several fronts. High school and elementary school reform efforts throughout the country have been started and are addressing, in very fundamental and exciting ways, the problems of improving the quality of science education at the K–12 level. Colleges and universities are also responding to the challenge as well, by improving the quality of undergraduate and graduate science teaching.

Historically black colleges and universities, which grant bachelor's degrees to 30 percent of the African Americans who pursue majors in science and engineering, continue to play a critical role in this regard. Since the 1989–90 academic year, the number of degrees awarded by the member institutions of The College Fund/UNCF have increased 64 percent in biology, 39 percent in mathematics, and 31 percent in physics and chemistry.

At Morehouse College, more than ⅓ of our graduates are in science and engineering. And, last year at Morehouse, we received federal support to establish a Center of Excellence in Science, Mathematics and Engineering Education. The Center's mission is to increase the number of underrepresented groups pursuing careers in science, mathematics and engineering by providing scholarships and recruiting male and female high school students to participate in intensive summer programs, and by providing professional development activities and research experiences for public high school teachers.

I do not single out this program because it is unique, but because it is an example of the kind of initiatives we need more of to ensure diversity in the sciences, and to ensure that our world will not be cheated out of the best we—that is all of us—can offer.

As I indicated earlier, the arguments I have made for diversity in the sciences are equally compelling when applied to business and other fields. In fact, American businesses particularly those that are becoming more and more multi-national and global in their operations, are making these arguments. No major American company has renounced its commitment to diversity. In fact, if anything, these companies are enhancing their commitment.

It is ironic that when it comes to affirmative action, the most potentially retrogressive sector of American society is not the business and commercial world, but higher education—an area we would hope and expect to lead the nation in setting a positive example for inclusion and diversity.

The University of California, a multi-billion dollar operation, is the only major institution in the nation that has formally withdrawn its commitment to such programs. Only one board of directors or regents of any institution in the nation has voluntarily changed its course, and that is a major university. There is a message in this for those of us in higher education.

This development is particularly sobering when we reflect on the fact that the birthplace of the Civil Rights Movement, and in many ways, the birthplace of the feminist movement for equal rights for women, grew out of the protest activities and the scholarly writings and research of individuals in the university and college community.

Indeed how ironic—and how unfortunate—it would be if we allowed higher education institutions, which have paved the way for so much progress in the area of diversity, to be the vanguard leading us back into the past.

I do not think this will happen, for I know the vast majority of my colleagues in higher education are committed to a vision of an inclusive, diverse society. But, it is incumbent on us in higher education, and indeed all of education, to continue to make the case, present the arguments, and marshal the evidence that the struggles and challenges of present-day affirmative action programs will ultimately benefit us all.

PROTECTING PUBLIC LANDS

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. HINCHEY. Mr. Speaker, over the past 20 years, the demands on our public lands and resources have been steadily increasing. Growing interest in the kinds of recreational opportunities offered by our national parks, forests, and other lands has led to overcrowding at many of the most popular parks, and increased visitorship almost everywhere. At the same time, the need for the land management agencies to advance their mission of resource protection has also increased. Growth and development has reduced wildlife habitat, has increased the demand for pure and clean water, and has intensified the environmental stresses on undeveloped land, including many of the lands owned by all the American people and managed for them by the Federal Government.

But while the demands have been increasing, the share of the Federal budget devoted to these resources has been declining. The agencies have been asked more and more to pay their own way—as if the work they do did not benefit all Americans. The Land and Water Conservation Fund, originally intended to provide a secure and steady source of funding to acquire critically important properties for public benefit, has fallen into disuse: Its funds are now used primarily to lend money to the Treasury for other purposes.

If we have not seen the stresses on our parks and forests and refuges with our own eyes, all of us have at least read about them—the constant traffic at parks like Yosemite and Grand Canyon, the sagging roof at Independence Hall, the damage done to Anasazi ruins in the Southwest that the Government can't afford to guard. Our national treasures are decaying. Our citizens who want to visit and enjoy them can't be accommodated. And our natural resources—our pure water, our wildlife—are suffering.

It is time that we reverse direction and start increasing our investment in these resources, and increasing our attention to these problems. I'm pleased to say that over 150 organizations from all around the country—national

groups and local groups, conservation groups and recreation groups, sportspeople and environmentalists, hikers, hunters, fishers, and scientists, have joined together to endorse a specific and detailed proposal for gradually and steadily increasing investment in these resources over the next 5 years. Their proposal would help to alleviate the strain on the land management agencies, help them deal with their backlog of repair and restoration projects, and help them to serve the needs and demands of the American public.

Their proposal is by no means a budget buster. On the contrary, if we do not pay attention to these issues, we will be squandering our capital, the lands, and resources we hold in trust for the American people. We cannot afford to keep deferring these needs any more than we could afford to defer fixing a broken pipe or a leaky roof in our own homes.

We will be hearing more about this proposal in the months ahead, as we consider the budget and appropriations for next year. I am sharing it with all my colleagues in the House today, and I ask everyone to give it serious consideration. Appropriately, the great-grandson of President Theodore Roosevelt provided an introduction for the plan, carrying on his family's distinguished tradition of support for public lands and the protection of irreplaceable resources.

I am urging your full consideration of the attached funding recommendations—supported by 150 environmental, recreation, and conservation groups—for our public lands and wildlife systems.

America's public lands and resources belong to—and benefit—all citizens in numerous ways. They represent a magnificent natural heritage that will be squandered without adequate commitment of funding to support dedicated staff and other resources necessary for proper stewardship. These irreplaceable national assets: Protect wildlife, rare and endangered species, and other living resources; help to keep our air and water clean and pure; supply renewable and non-renewable resources; support vital industries like fishing and resource dependent recreation resulting in billions of dollars of direct and indirect economic benefits for local communities; generate millions of annual recreational visits by enthusiasts engaging in activities like wildlife viewing, photography, camping, family picnics, hunting, and fishing; provide untold hours of enjoyment for millions of American families as well as solace and renewal for those wanting the solitude of a wilderness experience; and satisfy our deeply rooted national ethic to keep wild America alive and thriving.

Given the overwhelming importance of these resources to present and future generations of Americans, the only fiscally responsible course is to invest adequately in their stewardship and management even as we take needed steps to balance the federal budget. Indeed, denying critically needed funding is fiscally irresponsible and shortsighted—the neglect caused by deficient funding will result in destruction and degradation of these valuable assets that is far more costly in the long run than providing the funds to properly care for them today. The attached proposal makes prudent and modest recommendations for necessary funding increases that will help to protect our public assets and ensure that our children and grandchildren will continue to enjoy and benefit from them.

As President Theodore Roosevelt said, "Wild beasts and birds are by right not the property merely of the people who are alive today, but the property of unborn generations whose belongings we have no right to squander." We owe our unborn future generations a fiscal legacy that acknowledges and sustains their natural legacy.

Sincerely yours,

THEODORE ROOSEVELT IV.

PUBLIC LANDS FUNDING INITIATIVE

INTRODUCTION

The public lands of the United States—our National Parks, Forests, Grasslands, and Wildlife Refuges—are held in trust for current and future generations of Americans. Since the election a number of organizations from the environmental, recreation, and conservation community have been meeting to coordinate an initiative to address the funding needs of America's public lands. The public lands community plans to make this a long-term campaign that will help frame the budget debate while focusing on the message that we can balance the federal budget without abandoning America's public lands.

We plan to convince a majority in Congress that this is an area where additional cuts are not justified, and further, that incremental increases in the public lands budget are necessary to protect the nation's forests, parks, refuges, and wildlife. A successful effort will mean that we can maintain accessibility to these lands and improve their ecological health.

This proposal establishes annualized budget goals for several Department of Interior agencies and the U.S. Forest Service. The environmental, conservation, and recreational community will also be working toward eliminating ecologically damaging federal programs and subsidies.

BUDGETARY GROWTH: AN INCREMENTAL APPROACH

The following table depicts needed increases in FY97 spending levels for the 602(b) Interior and Related Agencies Budget Allocation. The table identifies the budgetary increases necessary to accommodate public land management over a six-year period. Under this scenario, much needed funding for currently unmet public land conservation needs can be achieved by FY03 through annual increases in the 602(b) budget allocation.

The FY97 Interior Appropriation, less emergency funds, is $12.4 billion in budget authority. The first line in the table (Resulting Allocation) presents, in real dollars, the recommended annual funding increases relative to FY97 and not the total allocation for Interior and Related Agencies Subcommittee. The second line represents the funding additions to FY97 level for the agencies and programs specified in this document.

INCREASED 602(b) ALLOCATIONS: AN INCREMENTAL APPROACH TO BUDGET GROWTH INCREASES OVER FISCAL YEAR 1997 FUNDING LEVELS

[In billions of dollars]

	Fiscal years—						
	1997	1998	1999	2000	2001	2002	2003
Resulting allocation	$12.4	$12.97	$13.33	$13.68	$14.04	$14.39	$14.68
602(b) Increase	—	0.57	0.93	1.28	1.64	1.99	2.28
Increase from previous FY (%)	—	4.60	2.78	2.63	2.63	2.49	2.02

The proposal speaks to the funding needs and program areas of the agencies and programs identified herein only. It does not account for or anticipate changes in funding levels for other agencies or programs that also receive funding through the Interior and Related Agencies. Appropriations bill. Nor does it anticipate specific cost savings or budget offsets that may be achieved through reductions in other programs areas within the Interior and Related Agencies Appropriations bill. It further does not address funding needs for natural resource and environment programs and agencies which receive funding through appropriation bills other than Interior and Related Agencies.

INCREASED FUNDING NEEDS

In developing our recommendations, we examined budget priorities for the four federal land management agencies: Fish and Wildlife Service, National Park Service, U.S. Forest Service, and the Bureau of Land Management. In addition, we considered Land and Water Conservation Fund needs. Increases outlined for each allocation are to be achieved over a six-year period.

Fish and Wildlife Service: proposed increase of $495 million

Increases are needed for the Fish and Wildlife Service in National Wildlife Refuge System (NWRS) Operations and Maintenance (O&M) and Endangered Species activities.

The National Wildlife Refuge System is the only federal public land system dedicated primarily to the conservation of fish and wildlife. Chronic underfunding of Refuge Operations and Maintenance has led to the degradation of refuge habitat and wildlife populations and put at risk popular wildlife oriented recreation programs. The Fish and Wildlife Service has identified a $440 million maintenance backlog and an annual operations deficit of $150 million.

More than 200 refuges have no staff and 97% of refuges operate at minimum funding levels with substantial maintenance backlogs. Exotic species, inadequate water supplies, and other problems plague many refuges, undermining the ability to meet wildlife objectives. Programs to help recover endangered, threatened, and candidate species, restore habitats, and address resource threats are left unaccomplished on an increasing number of stations. Continued failure to address this severe funding shortfall will jeopardize the integrity of the NWRS.

Funding for the Endangered Species Act has been chronically inadequate and the Agency has experienced an increase in tasks related to endangered and threatened species. For example, the Fish and Wildlife Service has become increasingly responsible for scientific monitoring for the conservation of endangered and threatened species on federal lands in addition to the increased costs related to designing and implementing

Habitat Conservation Plans. The Fish and Wildlife Service has been sharply criticized for failing to complete its duties, yet it has never been given adequate funds to accomplish its goals. The result is implementation that is sometimes scientifically weak or frustratingly slow for permit applicants.

Adequate funding will promote speedier, less costly recovery, and smooth implementation, ultimately minimizing conflict surrounding ESA. In addition, it is important to note that the anticipated reauthorization of the Endangered Species Act could result in new obligations under the law. The funding recommendations herein cover only current obligations and may require adjustment pending the outcome of reauthorization.

Bureau of Management: proposed increase of $150 million

The BLM needs increased funding for Management of Lands and Resources. Because of the scope and diversity of its land base, the BLM faces the opportunities and challenges of managing for over 3,000 species of vertebrates and 25,000 plant species in habitats ranging from the Pacific sea coast to the arctic tundra to the Sonoran Desert. BLM lands offer a variety of recreational opportunities and cultural resources and generate significant associated revenues. Yet, many species in each of these habitats are experiencing degrading habitats and declining populations. Likewise, many public land recreational opportunities are either hampered by degrading resource conditions or are themselves the cause of public land resource damage.

Ecological and cultural resource monitoring, restoration, and protection must be elevated to a top priority for the BLM. To that end, funding for riparian restoration and protection, fish and wildlife management, and wilderness management must be increased, as well as funding for the management of cultural resources and recreational activities including staff support on public lands.

Forest Service: proposed increase of $225 million

Estimates of Forest Service funding needs include Recreation, Ecosystem Research, Fish and Wildlife, and Trails. Funding in these and other critical areas fell short in FY97, and estimates indicate a need for incremental increases in funding for trails, recreation, and ecosystem research. Fish and Wildlife activities are also underfunded including migratory bird management, and Partners in Flight. The condition of the trails, campgrounds, restrooms, and other recreation facilities at our nation's forests is key to the public's experience outdoors. Maintenance and reconstruction funds have not kept up with increased use. For example, the Forest Service estimates that the value of the backlog of trail reconstruction work has climbed to over $267 million.

The Forest Service's trail system is larger than all the other trail systems in the nation with over 124,000 miles of trail. Because of inadequate funds, the Forest Service has been deferring 20 to 30 thousand miles of trail reconstruction every year since the 1980s.

National Park Service: proposed increase of $600 million

The National Park system today faces tremendous threats and challenges, including degradation of cultural, scenic, and natural resources, air and water pollution, internal and external development, and overcrowding. These threats have a direct impact on the quality of the National Park experience and the National Park Service's ability to protect and manage America's Park resources.

The Park Service's ability to adequately address these threats is limited by insufficient funding for monitoring, scientific assessment, research, resource protection and interpretation, and staff support. In constant dollars, the total National Park Service congressional appropriation declined by more than $200 million between 1983 and 1997. At the same time, Congress assigned the Park Service more than 400 additional construction projects than it requested—costing more than $867 million. In addition, Congress designated nine new heritage areas at the end of the 104th Congress without appropriating money to fund them. Finally, the Agency needs sufficient funds to enable it to address ongoing operations and maintenance needs and certain backlogged maintenance needs as well.

Land and Water Conservation Fund: proposed increase of $750 million

Congress has provided for an annual revenue stream of $900 million, funded primarily from OCS receipts, for federal and state land acquisition and recreation projects. Yet the average funding for these purposes over the last seventeen years has been approximately one-fourth of the authorized level.

Full appropriation of the Land and Water Conservation Fund is critical to provide for investment in natural and cultural resources conservation, watershed protection, wildlife habitat, and recreational resources. Unrestrained development and dramatic population increases threaten the quality of existing public lands. The need to purchase and conserve additional available land and water resources is increasingly urgent. This is true at the federal and state level, and the Congress should recommit to statewide assistance by funding the State Grant Program.

USGS Biological Resources Division: proposed increase of $60 million

Increases are needed to supply the science support necessary to understand the biological resources located on federal lands, to assess the environmental changes impacting on these biological resources, and to develop recommendations for management actions necessary to conserve the lands for the future. No integrated monitoring strategy for Federal Lands exists which can inventory critical biological species and communities at the local level and suggest solutions to land managers for conservation of these resources. Additionally, Federal trust resources such as migratory birds and endangered species, common to all Federal lands are coming under additional pressure through degradation of wildlife habitats; more emphasis on science support for adaptive management recommendations for system management in aquatic resources, and integrate biological information with geologic, hydrologic, and demographic databases.

General

Particularly where the BLM and Forest Service are concemed, there are any number of environmentally beneficial cost savings and budget offsets that could be achieved by increasing revenues for extractive uses (mining, grazing) and by eliminating costly subsidies. In addition, the Fee Demonstration Program, commercial user fees, and concession fees are also potential sources of revenue and cost offsets.

While it is clear that substantial savings and budgetary offsets can be achieved through these types of reforms, the purpose here is not to develop a comprehensive package of recommended budget cuts and offsets, but to identify the unfunded and underfunded spending priorities that are being targeted by the public lands community.

ALEXIS HERMAN, SECRETARY OF LABOR NOMINEE

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, today I rise to support a friend, and a confidant in Alexis Herman in her nomination for Secretary of Labor. Alexis Herman is no stranger to hard work. She has always worked hard to find practical solutions to the issues and challenges that American workers face. As Director of the White House Office of Public Liaison, Alexis Herman was known for her handling of delicate relations with diverse groups. President Clinton has given Alexis Herman a chance to put those skills to test again when he nominated her as Labor Secretary against the wishes of key labor constituencies. Mr. Speaker, Alexis Herman understands work and she understands workers.

Mr. Speaker, Alexis Herman has a proven track record. She is not only a longtime advocate for women and minorities but she is a product of a politically active home. Upon her graduation from Xavier University in New Orleans, she returned to her hometown of Mobile, AL, to help desegregate her old high school.

Mr. Speaker, I hope my colleagues here in the House and in the other Chamber look pass Alexis Herman being a woman and a Clinton supporter and realize her potential to be one of the best Secretaries of Labor this country can ever have. In my opinion, Alexis Herman is a wonderful choice for Secretary of Labor. She knows and understands working families' concerns, and I look forward to working closely with her.

I yield back the balance of my time.

THE PARTNERSHIP FOR REBUILDING AMERICA'S SCHOOLS ACT OF 1997

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mrs. LOWEY. Mr. Speaker, I am very pleased to introduce the Partnership for Rebuilding America's Schools Act of 1997.

This is an exciting day for me. I began working on this issue with Senator CAROL MOSELEY-BRAUN nearly 2 years ago. Now, thanks to the leadership of President Clinton, we are finally beginning to tackle this problem.

Today, all over America, our schools are inadequate, overcrowded, and literally falling down. In Miami, students learn to read and write in temporary trailers. Here in our Nation's Capital, schools are closed for violating the fire code. In New York City, students dodge falling plaster and attend class in hallways and bathrooms.

A GAO report released last summer confirmed the worst. Record numbers of school

buildings across America are in disrepair. One-third of all schools—serving 14 million students—need extensive repairs. About 60 percent of schools need to have roofs, walls, or floors fixed.

With school enrollment skyrocketing, this problem will only get worse.

It's time for the Federal Government to act. The bill we are introducing today will provide $5 billion in Federal funding for school construction across the Nation. Funds will be distributed to the 50 States and the 100 largest school districts based on the numbers of school children in poverty.

This bill won't completely solve the problem, but it will make a crucial difference. For the first time the Federal Government will enter into a partnership with our local communities to rebuild our schools.

We know that America is only as good as our schools—and we know that this is a local problem that deserves a national response.

The situation in New York City is dire. A survey conducted by my office revealed 25 percent of New York City public schools hold classes in bathrooms, locker rooms, hallways, cafeterias, and storage areas. Almost half of school buildings have roofs, floors, and walls in need of repair.

A report by the New York City Commission on School Facilities revealed the following: Nearly half of New York City's school children are taught in severely overcrowded classrooms; 270 schools need new roofs; over half of the city's schools are over 55 years old; and approximately one-fourth still have coal-burning boilers.

We simply cannot prepare America's children for the 21st century in 19th century schools. Students cannot learn when the walls of their classrooms are crumbling down around them. We can't teach computer technology next to coal-burning boilers.

I expect that there will be opposition to this bill. We know that not everyone believes the Federal Government should address this problem. I join today with the 41 original cosponsors of the Partnership for Rebuilding America's Schools Act to state that the Federal Government can no longer afford to ignore this ticking timebomb. Government at all levels must work together to solve this national crisis.

PARK OVERGRAZED BY EXCESSIVE NUMBERS OF ANIMALS

HON. RICK HILL

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. HILL. Mr. Speaker, Yellowstone National Park faces an environmental crisis. For the past 30 years, the pseudoscience of natural regulation has guided park management. Scientists recently testified before the Parks Subcommittee that natural regulation is foolish, misguided, and not an appropriate nor a practical management philosophy for wildlife management. Robert Ross, a retired Soil Conservation Service officer for range conservation, has been a close observer of changing range conditions and wildlife use in Yellowstone National Park. His comments urging hands-on, appropriate management of habitat are well made and I commend them to my colleagues. I submit his recent article into the RECORD.

[From the Gazette, Mar. 16, 1997]

CONTROLS ON HABITAT URGED

PARK OVERGRAZED BY EXCESSIVE NUMBERS OF ANIMALS

(By Robert L. Ross)

"A business that had been fascinating to me before suddenly became distasteful. I wanted no more of it. I never wanted to own again an animal I could not feed and shelter."

This remark was made by Granville Stuart, an early day Montana rancher, legislator and statesman. The remark was made in the spring of 1887 following a winter of severe cold and deep snow—a winter much the same as 1996–97.

One wonders if Yellowstone National Park officials have nightmares over the thousands of starving elk and bison in the park. Starving because there are five to six times more elk and bison in the park than the winter forage will support. Actually, park people are probably hoping for more of the critters to starve. That would help solve some of their overpopulation problems. However, it must be a terrible way to die. Shooting is more humane.

The park personnel try to cover their mismanagement by saying elk and bison are "naturally migrating animals." Cattle, horses and sheep are also naturally migratory. However, ranchers curtail their instinct to migrate by building and maintaining fences to keep them in the confines of the pastures and off their neighbor's land.

Ranchers also: (1) control their numbers to the available forage by selling excess animals for slaughter; (2) provide for adequate feed in adverse weather conditions; (3) control disease such as brucellosis, etc.; (4) encourage hunting on their private lands to control wildlife numbers.

In 1963–64 the Soil Conservation Service, at the park's request, conducted a range site and condition inventory of the Northern Winter Range. It was determined the range would safely carry about 350 bison and 5,000 elk plus smaller numbers of deer, moose, antelope and bighorn sheep. At this suggested animal population, the Northern Winter Range could be maintained in good condition.

When the elk and bison population was reduced to the available forage (in the 1950s and 1960s), there was very little migration of animals outside the park. Consequently there was very little threat of them transmitting brucellosis to cattle and horses and undulant fever to humans.

Excess of elk and buffalo in Yellowstone National Park have destroyed woody species such as willow, aspen, cottonwood, alder, serviceberry, etc. along the streams and rivers. This ecological change in vegetation has almost eliminated beaver, deer, moose and many species of waterfowl in the park.

Beaver ponds are critically important to the fishing streams and riparian areas. Beavers, needing cover and forage, are almost nonexistent. Streams no longer meander through lush meadows with woody shrubs providing shade and cover for fish, but are increasingly becoming one wide shallow gravel bar after another. Destruction of the natural woody species has caused the Lamar River, Gardiner River and other streams to erode their banks and create sterile gravel bars. This not only causes soil erosion but creates very poor fishing habitat and is a sorry sight to look at.

The animals rights groups and other so-called environmental organizations such as Sierra Club, Wilderness Society, Greater Yellowstone Coalition, etc. should focus their attention on the land abuse being done to Yellowstone Park resources. However, shouting about bison being shot brings more money into their coffers from people who do not understand the whole problem. If pressure were brought to bear on Yellowstone National Park to take care of its own problem, the situation could be solved.

It is time for Yellowstone Park personnel to accept their responsibility and face up to their problem of too many animals and decimated rangeland resources.

It is time they were honest with themselves and the public. It is time Yellowstone Park becomes a good neighbor to Montana, Wyoming and Idaho and stop jeopardizing the brucellosis-free livestock industry. After many, many years of mismanagement it is time for Yellowstone National Park to start managing its 21 million acres of natural resources with integrity and professionalism.

STATE OCCUPANCY STANDARDS AFFIRMATION ACT OF 1997

HON. BILL McCOLLUM

OF FLORIDA

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. McCOLLUM. Mr. Speaker, today my colleague from Texas, Mr. BENTSEN, and I are introducing a bill, the State Occupancy Standards Affirmation Act of 1997 to assert the rights of States in establishing occupancy standards for housing providers. Currently, there is no Federal law to establish the number of people permitted to live in a housing unit. It is imperative that we ensure that States retain the right to set reasonable occupancy standards; our bill does just this.

There is a national consensus that the appropriate level for most apartment properties is two people per bedroom. Most States have adopted a two-per-bedroom policy, and HUD's own guidelines state that this is an appropriate level to maintain public housing and section 8 housing. Our bill goes one step farther to include infants. The reasonable standard, in the case that States don't have a standard, is two persons plus an infant per bedroom. Beyond this level, the negative effects of overcrowding can be triggered, including decreasing the stock of affordable housing.

However, HUD's Fair Housing Office has initiated legal actions over the past 3 years. And then in July 1995, HUD issued a memorandum, without any consultation, that would pressure housing providers to rent to substantially more than two per bedroom or be potentially subject to lawsuits charging discrimination against families.

All types of housing providers, including managers of seniors housing and public housing, were dismayed with HUD's proposal. If this change were permitted to stand, it would adversely impact all involved in housing, from

tenants who could be crowded into inadequate housing, to housing providers who would have to provide services for more residents than they may be equipped for, and whose property would deteriorate.

In the fiscal year 1996 omnibus appropriations bill, Congress disallowed HUD from implementing its July memorandum. But we need to go one step farther.

The bill we are introducing is a simple clarification of existing law and practice. It says that States, not HUD, will set occupancy standards and that a two-per-bedroom plus an infant standard is reasonable in the absence of a State law. American taxpayers have spent billions of dollars on HUD programs designed to reduce crowding. It is time to ensure that overcrowding will not be a possibility.

INTRODUCTION OF H.R. 1095

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. ARCHER. Mr. Speaker, today I rise on behalf of the Honorable CHARLES B. RANGEL and myself to introduce H.R. 1095, a bill that would correct a technical error originally contained in the Omnibus Budget Reconciliation Act of 1993. Specifically, the bill would correct the definition of the term "Indian reservation" under section 168(j)(6) of the Internal Revenue Code. This definition of the term "Indian reservation" applies for purposes of determining the geographic areas within which businesses are eligible for special accelerated deprecation (sec. 168(j)) and the so-called Indian employment tax credit (sec. 45A) enacted in 1993. As I explain in further detail below, the bill corrects the definition of Indian reservation for purposes of these special tax incentives so that, as Congress originally intended, the incentives are available only to businesses that operate on Indian reservations and similar lands that continue to be held in trust for Indian tribes and their members. It is my intent to incorporate the provisions of this bill into a larger bill, which I plan to introduce later this session, containing technical corrections to other recently enacted tax legislation.

Section 168(j)(6) of the Internal Revenue Code provides that the term "Indian reservation" means a reservation as defined in either (a) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or (b) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)). The cross-reference to section 3(d) of the Indian Financing Act of 1974 includes not only officially designated Indian reservations and public domain Indian allotments, but also all "former Indian reservations in Oklahoma" and all land held by incorporated native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act. Thus, contrary to Congress' intent in enacting the special tax incentives for Indian lands in 1993, the reference to "former Indian reservations in Oklahoma" in the Indian Financing Act of 1974 results in most of the State of Oklahoma being eligible for the special tax incentives, even though parts of such "former Indian reservations" no longer have a significant nexus to any Indian tribe. For instance, it is my understanding that the entire city of Tulsa may be located within a former Indian reservation, such that any business operating in Tulsa qualifies for accelerated depreciation under present-law section 168(j).Providing such a tax benefit to commercial activities with no nexus to a tribal community would frustrate Congress' intent to target special tax incentives to official reservations and similar lands that continue to be held in trust for Indians. Businesses located on official reservations and similar lands held in trust for Indians were provided special business tax incentives in order to counter the disadvantages historically associated with conducting commercial operations in such areas, which were expressly excluded from eligibility as empowerment zones or enterprise communities under the 1993 act legislation (see Internal Revenue Code sec. 1393(a)(4)).

The bill I am introducing today would modify the definition of Indian reservation under section 168(j)(6) of the Internal Revenue Code by deleting the reference to section 3(d) of the Indian Financing Act of 1974. Consequently, the term "Indian reservation" would be defined under section 168(j)(6) solely by reference to section 4(10) of the Indian Child Welfare Act of 1978, which provides that the term "reservation" means "Indian country as defined in section 1151 of title 18 and any lands, not covered under [section 1151], title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by an Indian tribe or individual subject to a restriction by the United States against alienation" (25 U.S.C. 1903(10)). Section 1151 of title 18, in turn, defines the term "Indian country" as meaning "(a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same" (18 U.S.C. 1151).

Accordingly, amending section 168(j)(6) of the Internal Revenue Code to define the term "Indian reservation" solely by reference to the Indian Child Welfare Act of 1978 would carry out Congress' original intent in enacting the special Indian tax incentives in 1993 by eliminating from eligibility those areas in Oklahoma which formerly were reservations but no longer satisfy the definition of a "reservation" under the Indian Child Welfare Act of 1978. It is my understanding that, even after amending section 168(j)(6) in this manner, numerous areas within Oklahoma will remain eligible for the special tax incentives because, even though such areas are not officially designated reservations, such areas nonetheless qualify as Indian country under section 1151 of title 18. Similarly, it is my understanding that lands held by native groups under the provisions of the Alaska Native Claims Settlement Act also would qualify as Indian country under section 1151 of title 18. Thus, if section 168(j)(6) were amended to define Indian reservation solely by reference to the Indian Child Welfare Act of 1978, lands held under the Alaska Native Claims Settlement Act would continue to be eligible for the special Indian tax incentives. In this regard, it is my intent that, if it is brought to the attention of the tax-writing committees that there are any Indian lands that technically do not fall within the definition of Indian reservation under the Indian Child Welfare Act of 1978 but which could be made eligible for the special Indian tax incentives consistent with Congress' intent in 1993, then consideration will be given to further modifying the bill I am introducing today when it is incorporated into a larger technical corrections bill.

The technical correction made by the bill would be effective as if it had been included in the Omnibus Budget Reconciliation Act of 1993, that is, the technical correction would apply to property placed in service and wages paid on or after January 1, 1994. As a general matter, I oppose retroactive changes to the Internal Revenue Code. However, technical corrections to fix drafting errors in previously enacted tax legislation traditionally refer back to the original effective date to prevent taxpayers from receiving an unintended windfall. This bill corrects such a drafting error.

REDEFINING NATIONAL SECURITY

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. FRANK of Massachusetts. Mr. Speaker, on Monday, March 10, in conjunction with our colleague, the gentleman from California, the ranking Democrat on the National Security Committee, along with the senior Senator from Oregon and the senior Senator from Minnesota, I participated in a day long meeting on the implications of allowing the military budget to stay at its current levels while trying to reduce the Federal deficit to zero. The basic point that we and others made is that unless we begin to make substantial reductions in the military budget, we will devastate a number of other important social and economic goals of our society by reducing Federal support for them to an unacceptably low level.

But none of us would be for reducing American military spending if by doing so we were going to put at risk our national security. Therefore, we began the day with a discussion of the genuine needs of national security today, and the highlight of that was a thoughtful, well documented analysis of our national security situation presented by our colleague from California who is the former chairman and current ranking Democrat on the National Security Committee.

The gentleman from California who came to Congress in 1971, after winning an election in which his criticism of the Vietnam War was a central factor, has become one of the undisputed experts in the country on national security policy. As my colleagues know, he combines a strong passion with an extremely powerful analytic intelligence and the result is an eloquent, forceful statement of the case for a more realistic and comprehensive national security policy, one which would allow us to save substantial resources from the military budget.

Mr. Speaker, because the need to reduce the military budget and make funds available for important non-military purposes is the central issue facing this Congress, I take the unusual step of seeking permission to insert into the RECORD the extraordinarily thoughtful and useful remarks of Mr. DELLUMS on that occasion, even though it exceeds the normal length of remarks which are printed here. But with a military budget in hundreds of billions, tens of billions more than it needs to be, I believe that asking for the expenditure of a few hundred dollars here to bring the case for reduction before the American people is indeed a bargain.

STATEMENT ON THE VICTIMS OF ABUSE INSURANCE PROTECTION ACT

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. SANDERS. Mr. Speaker, I rise today to discuss a terribly important topic: Domestic violence, and insurance companies' discrimination against women who are victims of domestic violence.

We do not know exactly how many women are domestic violence victims each year because the numbers are significantly underreported. An estimated 4 million American women are physically abused by their husbands or boyfriends each year, and 42 percent of women murdered in this country are murdered by their boyfriends or husbands.

I think we can all agree that the level of domestic violence in this country is a silent outrage, and it is absolutely unacceptable. That is why we must do everything we can to combat domestic violence. Further, it is why we can and we must prevent profiteering insurance companies from adding insult to injury by economically victimizing women who have already been physically abused. They are reacting to battered women by battering them again.

We know that insurers have used domestic violence as a basis for determining who to cover and how much to charge with respect to health, life, disability, homeowners, and auto insurance. A 1993 informal survey by the House Judiciary Committee found that 8 of the 16 largest insurers in the country use domestic violence as a criterion in determining whether to issue insurance and how much to charge for it. State surveys in Pennsylvania and Kansas both found that 24 percent of responding insurance companies admit to such discrimination, and I know of two cases in Vermont.

Insurance companies give a variety of reasons for denying victims coverage or for charging higher premiums. Some insurers say domestic violence is a lifestyle choice, like skydiving or smoking. That is absurd. We know that domestic violence is not a choice, but a crime. Victims do not choose to live with their batterers, but are often forced to do so for economic and safety reasons. When a victim tries to leave her abuser, her life is often at great risk.

When insurance companies deny, drop, or charge more for coverage of victims of domestic violence, it has very serious consequences. It means that someone who already has reason to fear for her life has one more major reason to fear telling someone, and to avoid getting help.

This insidious insurance practice sends exactly the wrong message. We should be doing all we can to ensure victims of abuse seek help and get away from their batters. Instead, insurance companies are telling women they must not only fear physical retribution from their abuser, but also economic retribution from their insurer.

If a woman tries to get help, she must fear losing access to health care for herself and her family or insurance that provides for her family in case of death or disability. Battered women's shelters must also fear losing their insurance, as we have seen in my State of Vermont.

Insurance companies are effectively tearing down all the work that has been done over the last 20 years in creating safe havens and assistance for victims of domestic violence.

I am pleased to report that we had some success on this issue last year, when an amendment Congresswoman MORELLA, other Members, and I wrote for the Kennedy-Kassebaum health insurance reform bill became law. That amendment will ensure that victims of abuse will not be denied insurance in the group health insurance market. However, we still must prevent insurance companies from overcharging women because they are victims of abuse, and we must work to end this discrimination in all lines of insurance, not just health.

Today, we introduce legislation to protect victims of abuse across this country from being singled out as uninsurable.

Our bill, the Victims of Abuse Insurance Protection Act, prohibits all lines of insurance carriers—including health, life, property, auto, and disability—from using domestic violence in determining whom to cover and how much to charge for coverage. It has been endorsed by the American Bar Association, the American Civil Liberties Union Women's Rights Project, the Center for Patient Advocacy, the NOW Legal Defense and Education Fund, the National Coalition Against Domestic Violence, Women's Action for New Directions [WAND], and the Women's Law Project.