SENATE—*Thursday, April 17, 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:

Almighty God, without whom we could not take a breath or think a thought, we are accountable to You for the way we live the precious days of our lives. Often we hear people who have escaped from some accident or some life-threatening illness say, "God must have some reason for saving my life. I want to find out what it is and get on with it." May all of us be no less grateful for life or no less intentional in living out the special purpose You have for us.

Suddenly, we feel differently about the relationships and responsibilities of the day ahead. You have plans for us and we don't want to miss them. There are things You have appointed us to do and if we don't do them, they will not be done. Help us not to procrastinate by putting off to the day after tomorrow what needs to be done today.

Lord, fill us with Your spirit and give us an enthusiastic, positive attitude for today. Help us to express delight in the people of our lives. They have enough burdens to carry; may we not be one of them. We can choose whether we will drag our feet today or walk with a spring in our step because You are the unseen, but loyal Friend who holds our hands. Through our Lord and Saviour.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized, Mr. BENNETT.

SCHEDULE

Mr. BENNETT. Mr. President, today the Senate will be in a period of morning business until the hour of 2 p.m. to accommodate a number of Senators who have requested time to speak. It is my hope an agreement will be reached this morning to begin consideration of S. 495 regarding the unlawful use or transfer of chemical weapons. If an agreement is reached, Senators can expect a couple of hours of debate beginning probably around 2 p.m. on the bill, with a vote later this afternoon.

Therefore, Senators can expect rollcall votes during today's session of the Senate. As always, of course, the majority leader will notify Senators as agreements are reached.

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

The PRESIDING OFFICER (Mr. SMITH of Oregon). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.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

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2 p.m. with each Senator permitted to speak therein for up to 5 minutes.

The Senator from Utah is recognized to speak for up to 1 hour.

Mr. BENNETT. I thank the Chair.

THE BUDGET

Mr. BENNETT. Mr. President, this time of year is budget time. Since it is budget time, it is a time when the Senate Chamber has been filled with speeches about budgets, debt, the economy, taxes, and all the rest of the subjects that have to do with our joint effort—joint, meaning Members of both parties, Members of both Houses, Members of both branches, the executive as well as the legislative—to achieve a balanced budget by the year 2002. That is a very laudable goal, one that has been put off for too long. I am delighted to be here representing the State of Utah as the Congress launches itself in this effort.

However, as I have listened to these speeches on both sides of the aisle, it has occurred to me that there is more political sloganeering than analytical analysis that leads toward a better understanding of the problems we face. Therefore, I take the floor today in an effort to lay out what I think is a clear understanding of where we are and what we are looking at with respect to the budget, our deficit, and our future.

One of Washington's most thoughtful and capable political reporters, David Broder, did a column on this subject in which he addressed the issue of whether or not we should have tax cuts in the middle of the debate over balancing the budget. He coined a magnificently succinct phrase. He lauded those who said we must put off tax cuts until the budget is balanced, stating it this way: "In other words, eat your spinach before you get the dessert."

It is a great phrase and worthy of Mr. Broder's skill as a journalist. It also happens to be wrong.

It implies that tax cuts are without nourishment and have no contribution to the meal. They are a reward for doing your job rather than an integral part of doing your job. Much as I respect Mr. Broder and those who have echoed this sentiment in this Chamber, I think that they are in error. We must examine the whole circumstance of where we are in order to understand the role that proper tax policy can play.

Now, in this Chamber, one very familiar image has been with us during this debate which, like David Broder's phrase, is very compelling and very easy to understand. The image is drawn by people on both sides of the aisle, of a family, sitting around the table in their kitchen, going over the family budget. The father says to the members of the family, "We cannot balance our family budget. Our income is not sufficient to cover the expenses." Then the father says to the mother, and solemnly to the gathered children, "We have only two choices. We can either somehow convince the boss down at the factory to give us a raise or we can cut our expenditures. Since the boss is not inclined to give us a raise, we will have to tighten our belts, do the right thing, and cut back on our expenditures."

After we conger that image to mind, those in this Chamber are told the Government is the same way. We must tighten our belts, stop the spending, cut down on the expenditures just like that family. Again, it is a powerful image. It is easily remembered. It surrounded by a great deal of emotion, and it is wholly wrong, just like the spinach and the dessert.

In the process of hearing about the families, we always see this chart. It is displayed by people on both sides of the aisle. This is the chart showing what is happening to the national debt. The national debt is so low it did not show up on the chart in the years prior to 1941, and then gradually it starts creeping up and stays about level and then suddenly it explodes and people point to this chart and remember the family, and say a family that is going into debt this rapidly is headed for absolute disaster.

I want to ask you to consider a different image, a different table, and a different group sitting around the table, that will help us understand, in my view, what is really going on in the economy. Instead of a family sitting around the table talking about their finances, let us consider a group of business people sitting around a boardroom table of a company. The chief executive officer of the company, we will

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

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give him the title of chairman of the board, the chairman of the board calls his people together and says to them, "We have a deficit in this company of about $1 million a month. If we cannot solve that deficit problem we will go bankrupt. What can we do to deal with a deficit of $1 million a month?"

His first expert steps up and says, "Mr. Chairman, I have examined this issue very carefully and I can tell you what it is we need to do. Without question, we can solve our problem if we simply raise our prices. We are selling $50 million a month worth of our products. So if we raise our prices 2½ percent, we will make enough money to cover our $1 million a month deficit." Case closed. All you need to do is raise your prices.

The next expert stands up and says, "Mr. Chairman, I have been considering this. Raising prices is absolutely the worst thing you could do. As a matter of fact, I know the answer to our problem. We must cut prices. Yes, our problem is that our competition is cutting into our market share. We are losing sales right and left because our prices are too high. If we simply cut our prices by 5 percent across the board, the increased volume will do two things for us. No. 1, our total sales will go up; and No. 2, our cost of sales will come down as we get economies to spread over a larger number of units. So I disagree absolutely with the first expert. He says raise prices, and I say cut prices."

Then the third expert stands up and addresses the chairman in our boardroom and he says, "No, they are both wrong. The price structure is just fine. What we must do is spend more money on plant and equipment. Our factory is outmoded, our costs are enormously high in the factory. If we spend another $50 million on the factory and retooling and new equipment, we would cut our overall cost of manufacturing by more than $1 million a month, and we would get out of the deficit circumstance."

When he sits down, the fourth expert stands up and she says to the chairman of the board, "Mr. Chairman, they are all wrong. We do not need to raise prices or cut prices. We certainly do not need to increase spending. All we need to do is cut spending, cut the overhead. Our overhead is running about $11 million a month, and if we cut it 10 percent that would give us the $1 million a month we need to come to a break-even position."

So there sits the chairman of the board. He has four groups advising him. The four groups are saying to him, "raise prices, cut prices, increase spending, cut spending." He thanks them all for their efforts. They leave. He is there, left alone with his assistant who does not have a great deal of experience in the business, and looks at the chairman of the board and says to him, "OK, you have four options. Which one are you going to take?" Because we are dealing with a wise chairman who has a great deal of experience in the free market system, he smiles at his assistant and says, "All four."

Yes, Mr. President, all four. When you manage a business that is constantly changing from day to day, as every business is, and you realize that you cannot put in a static pattern and then leave it forever, you realize that you have some products that are not price sensitive, and you can raise the price and thereby increase your margins without having any punishment in the marketplace. You have some products that are, perhaps, overpriced or need a lower price in order to increase their hold on the market, so you cut the prices on those products.

Yes, you have some increased spending for plant and equipment, research and development. It is the future of your business that depends on your increased spending in those areas. Of course, there are always areas where you have to cut spending.

In Government terms, what we are saying with this pattern is, if this were the Government sitting around that table instead of a business, there would be some areas where you would cut taxes, some areas where you would raise taxes, some areas where you would cut spending, and some areas where you would raise spending. It is not the simple either/or circumstance of the family sitting around the kitchen table. It is the very challenging management problem of a business sitting around the board table and trying to figure out how to maximize its profits and, at the same time, make the right kind of investments for the future.

With that new image in our minds, let's address what is, I think, the fundamental question here: How do we manage the economy intelligently? Particularly, the challenge is, how do we manage an economy—think of it in business terms—that is doing $7 trillion worth of business every year? Just think of this. If you were the chief executive officer of a business that was doing $7 trillion worth of business every year, how would you manage that challenge? You obviously would have to look at all four of the options I have outlined.

Well, in order to understand how to manage this economy, we start by asking ourselves, where are we? You cannot manage a business without accurate data, without accurate information and reports. In other words, we can't do the business of the country without accurate information.

I submit to you, Mr. President, that while this chart is enormously popular and enormously emotional in the message that it sends, like the vision of the family sitting around the kitchen table, it is not adequate. No, the numbers are not inaccurate; the numbers are correct. But the question is: Debt compared to what?

If I may repeat an example I have given on the Senate floor before to illustrate this point, I will take you back to my own business career. When I was hired as the chief executive officer of the Franklin Institute in Salt Lake City, that company had debt of $75,000. When I left, prior to my run for the U.S. Senate 6½ years later, the company had debt of $7.5 million. If you were to put that on a chart like this, your reaction would be: BENNETT is a really irresponsible executive. When he took over the company, the debt was way down here at $75,000, and when he left, it was way up here at $7.5 million. Aren't we glad to be rid of him? But you have to ask yourself "the debt compared to what?"

When I took over as CEO of the company, it had four employees, it had sales about $250,000 to $300,000 per year. At the $300,000 figure, the debt was 25 percent of sales. And we were not getting a margin of 25 percent of sales on our profit. The debt of $75,000 threatened the very existence of that company. When I left the company and the debt was $7.5 million, the sales were over $80 million. We had more than $7.5 million in cash on the balance sheet. The only reason we didn't pay the debt off is there were prepayment penalties built into some of the mortgages we had signed, and it was financially more beneficial to keep the cash than to pay the prepayment penalties. So the mere size of the debt had nothing to do with the measurement of my stewardship as CEO of that company.

I will say, as an aside, that since I have left the company, the sales have now gone to over $400 million. It is a very clear cause and effect that getting rid of me caused the company to more than triple.

Let us, therefore, in the Government context, take this chart down and put up another one relating to the example I have given from the business world—debt compared to the size of the company, or, in this case, the size of the country. What is the size of the country? Here we have a chart that shows gross domestic product, GDP, or the size of the Nation's economy. Back in the 1940's, the economy was about a trillion dollars in inflation-adjusted dollars, 1992 dollars. You can see the steady growth up, so that now, in 1996, as I say, we are a $7 trillion economy, headed toward $8 trillion by 2002.

Under those circumstances, this chart is suddenly going to look a little different when you compare it to gross domestic product. This is the result that you get on this chart. Federal debt, as a percentage of our gross domestic product, looks a little different than Federal debt in nominal dollars. We reached the highest point of debt in our history during the Second World War, at 130 percent of gross domestic

product. As soon as the war was over, it started coming down and continued to come down until it leveled off at around 30 percent of gross domestic product in the 1970's. It started back up in the mid-1970's and dramatically back up in the mid-1980's.

This is a comforting chart in that it says that the previous chart is not wholly accurate when you compare debt to GDP, and a discomforting chart when you realize that our debt is rising as a percent of our economy for the first time in peacetime in our history. Always before, the debt has been tied to a war. And when the war is over, debt as a percentage of GDP comes down. For the first time in our history, it has started to go up in peacetime; that is a very disturbing trend. I will deal with that in just a moment.

Now, the question is, why? Why is the debt starting to come up? There are those on the other side of the aisle who have a very quick answer, summarized in two words: Ronald Reagan. Ronald Reagan is the one who caused all of this to happen. Look how the debt exploded during the Reagan years; it is all because of the disastrous Reagan tax cuts. It seems to me that we cannot, in this body discuss the tax cut that happened in terms of the marginal rate in the 1980's, without automatically adding in front of the phrase "tax cut," the words "disastrous Ronald Reagan," as the words to describe it—as if it is all one word, a legal term of art.

I want to discuss whether or not the "disastrous Reagan tax cuts" are responsible for this rise in the national debt. Let's take a look at who pays the income taxes in this country and, also, what the history has been of the tax rate. Here is the history of Federal tax receipts and personal tax rates on this chart. The red line on the bottom is Federal tax receipts expressed, again, as a percentage of gross domestic product. This is what we are measuring everything against, this chart showing the lines going up.

Do you notice a clear trend, Mr. President? Virtually from the end of the Second World War until now, Federal tax receipts have remained rock solid, within a narrow band, no lower than 18.5 percent and no higher than 19.5 percent of gross domestic product, averaging around 19 percent year after year. That is where it was, 19 percent, when the top marginal rate under Harry Truman was 91 percent. Then we had a tax cut. The rates went down slightly. John F. Kennedy recommended that it come down to 70 percent, and many people in this body were scandalized, saying we can't afford that heavy a tax cut, we can't afford to lose the revenue. So it came down from 90 percent to 70 percent. What happened to the receipts? They didn't change.

Well, you had this one blip that Lyndon Johnson put through to help pay for the Vietnam war in the tax rate, and it showed up with an upward blip in the tax revenue. But quickly the tax revenue went back to the 19 percent line and the tax rate stayed at 70 percent until the time came to drop it to 50. When the tax rate dropped from 70 percent to 50, what happened to the tax revenues? They stayed solid. As a matter of fact, they went up a little when the drop of 70 percent to 50 percent happened as the marginal rate.

Then Ronald Reagan convinced the Congress to pass the "disastrous Reagan tax cuts." The marginal rate came all the way down to 28 percent. What happened to the revenues? They stayed right solid at 19 percent. Bill Clinton said, "We have to get more revenue to balance the budget," and he forced the marginal rate, with Congress' help, back up to close to 40 percent. Actually, when you add Medicare on top of it, it is more than 40 percent. What happened to the revenue? Nothing. It stayed around 19 percent.

You cannot blame the "disastrous Reagan tax cuts" for the increase in the debt as a percentage of gross domestic product, because they had little or no effect on the tax receipts as a percentage of gross domestic product. Those are the facts.

Now, I said in my example that the businessman will be asked both to raise prices and cut prices. One of the interesting debates we have around here is that Members of the Republican Party stand up and accuse Bill Clinton of pushing through the "largest tax increase in history." Then the Members of the Democratic Party stand up and say, "That's not true, the largest tax increase in history was put through by"—the same two words, Mr. President—"Ronald Reagan."

Who is right? Well, if you take nominal dollars, the Republicans are right. The Clinton tax increase was the largest in history. If you take constant dollars, adjusted for inflation, the Democrats are right. Ronald Reagan's tax increase was the largest in history. Now, he didn't call it a tax increase; he called it "revenue enhancements," which infuriated conservative groups around town that looked upon him as their hero.

Reagan did exactly the thing that the businessman in my example did. He both raised prices on some products and cut prices on others. He raised taxes on gasoline, for example, while cutting tax rates on incomes. And what happened to the economy in the Ronald Reagan years? Let's go back to this chart.

As I say, this chart is the inflation-adjusted gross domestic product. The reason for all the fancy colors is not just to help keep you awake, Mr. President, but to demonstrate the differences in the various administrations. Understand that something that is done in one President's administration doesn't necessarily produce a result in that administration. Many times, the effects are felt years later. Nonetheless, to give us some guidance, here we have the growth of the economy during President Eisenhower's administration. It started up more vigorously in John F. Kennedy's administration. Why is that? That is the period of time we came down from 90 to 70. I don't know whether there is a direct cause-and-effect correlation, but it is certainly a significant enough issue to look at. We dropped the top marginal rate, and the rate of growth in the country goes up through Kennedy and remains through Johnson. Then you get a recession. It is flat in the last year of Johnson's administration and in the first year of Nixon's administration. Incidentally, Mr. President, that is the only year on this chart where we had a balanced budget—1969. It is an interesting correlation. It was flat. Then it starts to go up. But you get a recession that hits you; Nixon-Ford. Here is this recession, and Jimmy Carter becomes President. As we come out of that recession and get the advantage of the recovery out of that recession in his first 2 years, hits the 3d year, and gets another recession, and it becomes flat again. Ronald Reagan was President while we had what the economists called the "double dip." The Carter recession; then they came out of it in 1981, and then the more serious recession that followed, and seriously it came down. But once that recession was over, the rate of growth that came out of those years for the balance of Reagan term in the first 2 years of Bush's term was historically one of the finest we have ever had. Is there any reason for that? Well, that just happens to coincide with "the disastrous Reagan tax cuts." This line that says percentage of GDP, unchanged by the change in tax rates and corresponds with the GDP that is going through the roof. Nineteen percent of this kind of growth produces a whole lot more revenue to the Government than 19 percent of a recession.

We cannot blame the tax policy relating to the top marginal rates for the deficit and our problems. It is very clear that the deficit is not driven by income tax policy.

If I might digress for just a moment, I would like to explain one of the reasons why the change in the income tax marginal rate does not produce a change in the percentage of income that comes in. This next chart demonstrates that because it tells us who pays the income taxes in this country.

The top 1 percent of households produce 13.8 percent of the income in this country. Many people say that is very unfair and they want to do something about it. But that is where we are. The top 1 percent of households produces 13.8 percent of the income. They pay 28.7 percent of the income

taxes, or more than twice the percentage of the income that they receive. If you go to the top 5 percent, they get 27.8 percent of the income and pay 47 percent of the income taxes. In other words, the taxes that are paid on this chart, nearly half of them are paid by people in the top 5 percent of our wage earners. If you go down to the top 10 percent, this goes to 60 percent of the income taxes. What that means is that when you change this rate, the people who earn the most income, over here, have options as to what they will do with their money, and they will change their investment pattern to adapt to the Tax Code, consequently avoiding things that are high tax and moving into areas that are low tax, the result being that the percentage that they pay remains constant as measured in terms of GDP.

So what you want to do, again back to this chart, is make sure that the GDP is going up as rapidly as it was during the Reagan years in order to maximize your income because your income is going to remain a constant percentage of that GDP by virtue of who it is that pays the income tax.

Back to this chart, briefly. The bottom 50 percent pay virtually no income taxes at all. The bottom 50 percent gets roughly 15 percent of the Nation's wealth and they pay less than 5 percent of the Nation's income taxes. They, however, pay payroll taxes. They don't pay income taxes, but their payroll tax burden is inordinately high.

At this point, Mr. President, I would call the Senate's attention to a piece that appeared in the Washington Post on the 15th of April written by our colleague from Nebraska, BOB KERREY, and ask unanimous consent that it appear at the end of my remarks.

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

(See exhibit 1.)

Mr. BENNETT. Senator KERREY has summarized the problem for the people in the bottom half of income earners superbly well, and pointing out that they actually pay a higher effective rate on their income than people who pay income taxes down in this particular area of the chart. They do it in the form of payroll taxes, and that, as I have said on this floor many times before, is just one of the reasons why a complete restructuring of the Tax Code is absolutely necessary. But this is not the time. I don't have the time today to discuss that issue all over again. I am sure I will have a speech on that subject when we get into that later on.

If the deficit is not caused by tax policy, the tax policy is producing roughly the same amount of income regardless of what we do with it, and indeed, if the tax policy causes the gross domestic product to increase rapidly, let's look at the spending side. That is the only other place that the deficit can come from.

There are those in the Chamber who say, "Well, it is all defense spending." Back to Reagan again, "He is the problem because of his runaway spending for defense."

Let's look at defense spending again by our same measure as a percentage of gross domestic product. The defense spending—we left these years out because this is the Second World War and the aftermath of the Second World War. Here is the Korean war. The green bars are Eisenhower, Kennedy, Johnson, and so on all at the way through different colors. Here is what we are spending in the defense budget in the Korean war. When the Korean war was over it dipped off, and then, starting here in the mid-1960's, the Vietnam war. Again there was a peak in 1968, the last year of Lyndon Johnson's Presidency. And then the spending tapered off and went down still further in the Carter years, and then Ronald Reagan did, indeed, call for a cold war buildup in his attack on the Soviet Union, and you got a bulge. But notice at the highest point of spending for the cold war buildup, it was substantially lower than at any time in the Vietnam war and less than half the spending in the highest year of the Korean war.

Now with the result of the cold war buildup having produced the destruction of the Soviet Union, we are reaping the peace dividend that people have been talking about for so many years. And the spending came down during President Bush's administration, and continues to come down during President Clinton's. It is now, as you go across the chart, at the lowest level it has been since 1940 as a percent of gross domestic spending.

Spending on defense even in the years of Ronald Reagan's buildup could not be responsible for the budget gap. It simply wasn't that significant. You put it in historic context and it is below historic levels in the other conflicts we have been examined. So, if it is not defense spending, it must be nondefense spending—nondefense discretionary spending—that has done this. Let's look at that.

Here is nondefense domestic discretionary spending from 1962, to 2002 projected. Notice where it hits its highest point. It hits its highest point during the Carter years. 1976 is the year Jimmy Carter is elected; 1977 his first year, 1978; the highest point in 1978 tapers off a little bit. If we go back in history, we find that this was a time of great domestic spending expansion. Again it started in the Nixon-Ford years, carried over into the Carter years, and then began to come down. It is back up—1992, 1993, 1994, 1995, the Clinton years. While not competing with the Carter years, his spending is coming back up after having gone down. But this is not the picture of disaster. This is a picture of some stability in spending in this area.

So if it is not defense spending, and it is not nondefense spending, what is it?

Now let us put up the chart that deals with entitlements. Here are entitlements as a percentage of GDP. The yellow portion of the chart shows actual entitlements. The pink portion is the baseline projected for the years ahead through the year 2007. You will notice there is a serious increase right here—late 1970's. This again was a period when Congress significantly expanded Social Security SSI and Medicaid. It was at the same time, a period of recession, when you come over to this chart and find that the GDP is shrinking.

So Congress is authorizing more spending while the economy is shrinking, and that produces these spikes. When the economy recovered, it starts to come down. But then you get another recession, and now it becomes even more serious in this recession that shows up in the first part of the Reagan term. Then the Reagan growth takes off, and you get that rapid growth period and you get a period where entitlement spending as a percent of GDP begins to come down.

But when the growth slows down and you get into the recession that hits in the end of the Bush Presidency, beginning of Clinton, what happens? Entitlement spending goes up. Then you realize what is built in, and what is happening to our demographics. And you see the baseline that the Congressional Budget Office says is going to occur from here on in, and you are into historic highs.

This is where the problem lies. It is not in defense spending. It is not in nondefense discretionary spending. It is in entitlements. And here is where it is showing up.

We will put up another chart that shows the contrast between discretionary spending as represented by the red line and entitlement spending as represented by the gray line. In this gray line, we have added another component that has not been in any of these figures up until now, and that is interest on the debt.

It is interesting. Here in the 1960's, John F. Kennedy is President. The amount of mandatory spending is substantially less than half the amount of discretionary spending. No big deal. The lines cross just about the time that we have been talking about in the mid-1970's when the debt started to go up as a percentage of gross domestic product. They stayed pretty much the same. And then with the recession that hit in the early 1980's, the gray line starts to take off, leaving the red line somewhat constant, going up but not all that much. Clearly the problem is in the gray line. Clearly the challenge that is creating the deficit is not on the tax side, not on the spending for normal Government activities represented by the red line, and clearly

the problem of the deficit is the gray line which is mandatory expenditures combined with interest which is in and of itself a mandatory expenditure.

So that is where we are. Our challenge is to get the economy growing as rapidly as it did during the Reagan years, and then on the other hand begin to turn that gray line down so it can become a little bit flat. And that combination can bring us a balanced budget.

How do we do that? Get the gross domestic product growing more rapidly, and get expenditures under control. Those are our twin challenges.

I take you back to the image that we had at the beginning of this presentation, back into the boardroom where the CEO is sitting with his experts and they are telling him what he can do to manage his company more intelligently and solve the company's deficit problem. Remember the first recommendation he had, "Raise prices." At the risk of offending some of the Members of my own party, I think there are places in this Government where we can raise prices. I think there are things we can do—if we want to use the Reagan euphemism, revenue enhancements—where we can charge more for the services we are rendering. That is heresy to people who say never ever raise taxes. I am one who says I won't ever vote for an increase in the marginal tax rate, but there are, all around the Government, things that could be raised, raised prices on those products that are not price sensitive and get a little more revenue into the Government.

Then, the second expert told the CEO, "Cut prices." We are being told, no, if you try that in the Government, that is dessert, not spinach. There is no nourishment to that. I think we have shown clearly that, properly done, cutting tax rates in the right places in the right way can do what we need to do to increase the revenue of the Government by increasing the gross domestic product. Where is the best place to start on that? Clearly, for me it is capital gains.

Oh, says somebody, if you cut the rate on capital gains, you are going to benefit the rich because only the rich have capital gains.

As I have shown you, Mr. President, the rich pay most of the income taxes, period. The issue is not: Are you going to benefit the rich? The issue is how are these people going to allocate their capital in the way that will produce the greatest benefit to the economy as a whole? I say to any Member of this body, go back home, gather the venture capitalists, the real estate investors, people who are involved with moving capital around in your home State, and ask them this question: Are there deals that should be done that would improve the economy in this State that are not being done because of the current capital gains tax rate? If you ask that question, as I have asked it in my State, the answer will be: Every day deals that should be done are not being done because of the capital gains tax rate.

You have capital locked into mature investments which, if the capital gains tax rate were to come down, would immediately flow into entrepreneurial investments, thus creating new jobs. Alan Greenspan, who has been praised by Members of both parties for his deft handling of the monetary policy in this country, has said repeatedly on the record that the best capital gains tax rate for maximum benefit to the economy is zero. I would be happy to see that, but I am not going to put that proposal on the floor because I realize it will not pass. But if we were to do something about the capital gains tax rate, we would see the proper allocation of capital into the economy to produce the kind of growth that we need.

People say, "Oh, no, the stock market is going crazy and a capital gains tax adjustment would simply drive the stock market still farther and still higher and the only people that get rich are the rich." Some portions of the stock market are going up. The Dow is going up. The Dow consists of 30 stocks. The NASDAQ, which consists of substantially more, is not going up nearly as rapidly as the Dow, and the Russell 2000, which consists of 2,000 companies down at the lower level, companies that are not in the Dow, they are not in the Standard & Poor's 500, they are down below that. The companies where the entrepreneurs are investing their money, and where the real new job growth in the future is going to come, is down substantially.

The Russell 2000 index, which hit its peak in January of this year at around 370, is now down to 340. If that drop were on the Dow rather than the Russell 2000, we would have financial analysts jumping out of windows, saying look how much trouble we are in. What that tells us is people are taking their money out of entrepreneurial activity and putting it into the huge stocks that they think can weather the coming storm. If we were to do something about the capital gains tax rate, people would be willing to put their money into the entrepreneurial sector of the economy and we would be building a base for future growth in the gross domestic product that would be enormously beneficial for us in the long run.

So back to my example. The first person said to the CEO, "Raise prices." I say yes, there are places where we can raise revenue in the Government even now. The second person said to the CEO, "Cut prices." I say yes, there are areas where we can cut tax rates and get benefit, where it is not dessert. It has just as much nourishment as spinach and probably tastes a good bit better. Then, of course, you will remember the third expert said to the CEO, "Increase your spending, because you have an aging plant and aging equipment." The fact is, we need to increase spending in the Government in some areas.

Our highways are in trouble; our airport and airway system could use some infrastructure spending. We are taking the money that is in the trust funds for both of those functions and we are spending it for something else. I think we need to take a long look at places where we are being penny-wise and pound-foolish in the long term, as far as some spending initiatives are concerned. I know that to some this sounds like heresy, coming from someone on the Republican side, but it is sound management and for the best of our country.

Finally, we come to the final recommendation that was given to our CEO and that we hear around here a great deal, "You have to cut spending." The answer is clearly, yes, we have to cut spending. Here is a chart that is not the past but the future, that demonstrates the challenge that we face. Like every estimate, it can be wrong, but it is the best estimate that we have. This is dealing with the two largest entitlement programs that we have, Medicare and Social Security. In the first 1996 set of bars, you see that Medicare, the red, is between 2 and 3 percent of gross domestic product; Social Security, the green, between 4 and 5. Ten years later, in 2005, Social Security remains stable, right about the same place. But Medicare, if nothing is done to deal with it, will have grown significantly. Then go out 10 years more. Social Security has now grown fairly significantly and Medicare has caught up with it. In 2025, Social Security has grown again very dramatically, but Medicare has outstripped it. And, in the year 2035, Social Security has grown some more and Medicare is going way past it.

This will not be of any concern to me. I will not be here in 2035. I may be here in 2025—my genes are such that I can expect to live to that year. But these young pages who are here on the floor will be in the height of their earning years in 2035, and they will be facing entitlements, in these two programs alone, which will eat up 15 percent of gross domestic product.

If you remember, what was the line on revenues on the previous chart? It was 19 percent of gross domestic product is all we get with our tax system. If 15 percent of gross domestic product goes to two programs alone, that means there will be nothing left for anything else. And, as the debt goes up as a percent of GDP, interest becomes an increasing problem and you quickly will be at the point in these years, the years when these pages will be looking

for jobs or hoping to support families, when the Government will not have any money for anything other than entitlements. That is the future if we do not do something to get this under control.

My time has almost expired. This was not a speech to lay out detailed solutions. It was an attempt to put the debate in the right context, get it out of the context of the family sitting around the kitchen table. It is to understand that this economy operates more like a business and that it is a major economic entity that has to be managed intelligently. But it is very clear that entitlements have to be managed, along with the tax problem, and the other spending problems. We must get entitlements under control or we cannot solve this puzzle.

I suggest I would be willing to vote for means testing of entitlements; changing the definition of an entitlement, if you will, to this: You are entitled to this money if you need it. Absolutely the Government has it there for you. They are holding it for you, and as soon as you need it, the Government will give it to you. Instead of saying, "You are entitled to Social Security payments, Ross Perot. You are entitled to Medicare, Donald Trump."

I say, "Ross Perot, if you ever fall on evil times, Medicare will be there for you. Donald Trump, if you ever go back into bankruptcy, you can draw your Social Security check, absolutely. You are entitled to it if you need it."

The other issue we have to face, of course, is the question of cost-of-living adjustments. Built into this projection is the assumption that the present cost-of-living adjustment formula is accurate and fair. The Boskin commission has looked at that and said, no, the cost-of-living adjustments are overstated by at least 1.1 percent. We are going to have a debate about that on this floor. There are many people on both sides of the aisle who say, politically it would be crazy to try to do something about the way cost-of-living adjustments are calculated, let us just leave it as it is. I say to you the numbers say we cannot leave it as it is. We have to deal with reality.

Social Security is a wonderful program. It was put in place in the 1930's. Medicare is a wonderful program. It was put in place in the 1960's. We now live in the 1990's in an entirely different economy facing an entirely different kind of future. I suggest that ultimately what we want to do, as we deal with the challenge of our budget and our Nation's fiscal sanity in the future, is take a clean sheet of paper and say, "The tax system that was designed 60 years ago no longer meets our needs. Let us write a new one. The retirement program that we put in place for our senior citizens 60 years ago no longer meets our needs. Let us write an entirely new one. The health care plan we put in place for our senior citizens 30 years ago no longer meets our needs. Let us write an entirely new one." And see if we cannot, as good managers, devise a system that will take care of the poor, take care of the elderly, deal with the challenges of the flow of capital in our country, and at the same time see to it that we get back to the rate of growth that we enjoyed during the Reagan years while holding the spending down.

All we need to do is see that the economy grows more rapidly than the Government does. That is all we need to do. That has to be our lodestar. We do not have to freeze the Government. We do not have to dismantle the Government. All we need to do is say we will follow policies that show that the economy will grow more rapidly than the Government will grow. When that happens—let's go back to the chart on debt as a percentage of GDP—we can see the bars start going in the right direction again. Once we get the discipline where the economy grows more rapidly than the Government, this trend will turn into this trend. The debt will start to come down as a percent of GDP in peacetime as it historically has, and our children can have confidence that we will have discharged our governmental stewardship intelligently.

Mr. President, I recognize that this has been lengthy. I do not apologize for the length because of the importance of the subject. I felt that all of this information which is counter to much that has been said on this floor on both sides of the aisle is important to put into this debate. I hope my colleagues who disagree with me will come to the floor and respond. But I hope the responses will be in terms of intellectual analysis and fact rather than political sloganeering on both sides. The issue is too important to be left to sloganeering. The issue is too important to be left to posturing for the 1998 elections, in which I have a rather strong personal interest myself. The issue has to do with generations yet to come of our children and our grandchildren. We owe it to them to do more than shout political slogans to each other but to see to it that we address this issue on the basis of the reality of where we are and where it is that we can go.

With that, Mr. President, I thank you for your time and attention and yield the floor.

EXHIBIT 1

[From the Washington Post, Apr. 15, 1997]

THE FORGOTTEN TAX

(By Bob Kerrey)

Today the income tax comes due for its annual flogging. April 15 is the day we reserve for outpourings of frustration about taxes. But the fact is that for average American families, the biggest tax burden is felt not on this day but on every single pay day, when 12.4 percent of their wages are taken to provide retirement income for senior citizens and operating revenue for government. This tax, known as FICA (the Federal Insurance Contributions Act), funds the most popular and successful government program in America today: Social Security.

FICA is forgotten when tax-cutting time arrives. But because of the way the income and the Social Security payroll taxes are structured FICA is often the biggest tax burden. A household is likely to pay 15 percent income tax, with large chunks of earnings shielded from it, but the 12.4 percent payroll tax applies flatly to all wages up to $65,400.

Consider: In 1995, the median U.S. household earned $34,076, placing it in the 15 percent tax bracket. Because standard exemptions and deductions shielded more than half its earnings, a family of four earning that amount paid just over $2,600 in income tax.

But because the payroll tax—6.2 percent paid by the employee and 6.2 percent more by the employer—was assessed against the family's entire income, it paid more than $4,200 in FICA. This disparity holds true for a family of four making as much as $56,600 or an individual making $30,000. I include the employer's share in those figures because that 6.2 percent represents lost potential earnings and bears at least partial responsibility for stagnating wages. But for a large number of Americans—particularly the self-employed—the payroll tax is larger even without an employer match.

The payroll tax to be sure, is collected for good purpose. By providing income for current retirees, Social Security has drastically reduced the rate of poverty among the elderly. It deserves its distinction at the most popular and successful government program in America.

But as tax policy, FICA also imposes serious burdens on working families. It is not just regressive, it's super-regressive. Because income above $65,400 is exempt, individuals earning more than that amount actually pay less as a percentage of income than those making less. It has economic flaws as well: All of FICA's proceeds go to consumption, either by current retirees or the government. None of the money is invested; to the contrary, the fact that these wages are being taxed means they are unavailable for families to invest for their own retirement and reap the benefits of the soaring value of capital in a global economy.

Most important, without reforms, the social contract on which Social Security rests—that each generation allows its wages to be taxed to provide retirement income, in return for a promise that it will receive retirement income from the next generation's taxes—is threatened by the program's looming insolvency.

There is a way to address each of these problems—Social Security's insolvency and the tax burden on working families—while strengthening the basic income-transfer premise of the program. I have proposed reform under which families would invest two percentage points of what they now pay into Social Security—2 percent of their total income—in Personal Investment Plans under their own control. These plans would provide a vehicle for building retirement wealth. By adjusting the age of eligibility for full benefits, correcting the consumer price index and other reforms, my proposal would shore up Social Security's solvency to ensure it continues to provide retirement income as well.

Because my proposal diverts income currently being paid in taxes to individual accounts owned by the taxpayer, it constitutes a tax cut that totals $300 billion over five

years—50 percent bigger than even the most lavish ambitions of the Republican leadership of Congress.

Under this proposal, the hypothetical four member family described above would see its payroll tax burden reduced from $4,200 to just over $3,500, with the difference invested for the family's retirement. At 8 percent return—which is less than the historical long-term performance of the stock market—over the course of a 45-year working life, the family would build more than $300,000 in wealth.

And it would build a stake in America's success in a global economy. It is often lamented that the principal beneficiary of the globalizing economy has been corporate wealth, which is more readily shared with shareholders than employees. Employees with advanced skills prosper, those who lack skills are left behind, and the gap between the two is growing.

Just as troubling—more bothersome is some ways—is the gap in wealth. Skilled workers prosper in a global economy. So do owners of capital. The millions of middle-class Americans who own mutual funds and whose wealth is growing as corporate America thrives know this.

But the gap between those who own capital—and therefore a stake in America's success in the world—and those who do not is fast becoming a chasm. to take just one measure, a recent survey found that among households earning $35,000 or less—51 percent of all households and those most likely to pay more in payroll tax than income tax—only 18 percent own mutual funds. This is compared with 41 percent of households earning $35,000 to $49,000, 58 percent of those making $50,000 to $74,000 and 73 percent of households earning $75,000 or more.

Thus some households not only lack a stake in America's global success; they are often the ones most threatened by it. These are the families that see their wages stagnate and their jobs downsized while corporate profits—and the wealth of those who own a stake—rise on each report of their misery. Part of the solution is ensuring they have the skills to climb the income ladder; another is ensuring laws are written so workers are treated fairly. The other part of the solution—just as vital—is ensuring those workers own a stake in America's success.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nevada.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that privileges of the floor be extended to Maj. Gregg Kern, a congressional intern from the U.S. Air Force, during the pendency of the chemical weapons matter.

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

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. 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. REID. Mr. President, I yield myself such time as I may consume of the time under the control of the minority leader.

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

RATIFICATION OF THE CHEMICAL WEAPONS CONVENTION

Mr. REID. Mr. President, I rise today to address this body on a most important issue, an issue which may affect our country and, of course, the citizens of our country. The Chemical Weapons Convention, when ratified by this body, will mark the beginning of a new arms control era.

I first stood before the Senate December 11, 1995, and urged that we bring the Chemical Weapons Convention to the floor for debate. I urged that this be done expeditiously and without partisanship. After many unsuccessful attempts, we are now in a position to debate the treaty on the Senate floor.

This treaty was negotiated and signed during the administration of President George Bush. The Clinton administration, after making its own assessment of the treaty, submitted it for the Senate's advice and consent pursuant to our Constitution in November of 1993. The Chemical Weapons Convention is truly a bipartisan effort and is now enjoying support from both sides of the aisle. The Chemical Weapons Convention has been signed by 161 countries and ratified by 68 of these countries and many more will ratify the convention once the United States does.

The Chemical Weapons Convention is not about eliminating our chemical weapons. The United States is already committed to eliminating our chemical weapons. We have done that unilaterally and have been doing that since 1985 because in 1985 we passed legislation requiring the unilateral destruction of all of our chemical weapons inventory. The only question since then has been how and where we do the destruction of the chemical weapons.

The convention will hold other nations to the same standards which we hold ourselves. How can this be viewed as anything but beneficial to the citizens of this country. The Chemical Weapons Convention requires signatory nations to destroy their chemical weapons inventory. The security of this Nation and our allies will be improved when the Chemical Weapons Convention enters into force on April 29 of this year.

Secretary Madeleine Albright, our Secretary of State, has said, among other things:

> The convention will make it less likely that our Armed Forces will ever again encounter chemical weapons on the battlefield, less likely that rogue states will have access to the material needed to build chemical arms, and less likely that such arms will fall into the hands of terrorists.

That is what our Secretary of State said, and I agree with her.

This treaty reduces the possibility that our Armed Forces will encounter chemical weapons on the battlefield by preventing signatory nations from producing and, also importantly, possessing chemical weapons.

Ratification does not prevent our military from preparing for chemical attacks, nor does the ratification diminish the ability of our military leaders to defend against a chemical attack. In fact, as I speak, our national laboratories are working on programs to test how we can defeat terrorist activities using chemical weapons. We need to have a program where we determine how we can eliminate rogue states that have these materials in their possession and terrorists obtain them. A lot of this will be going on at the Nevada test site in the deserts of Nevada.

Ratification does not prevent our military, as I have indicated, from preparing for chemical attacks. The Department of Defense is committed to maintaining a robust chemical defense capability. The defense capability will be supported by aggressive intelligence collection efforts and also the research and testing that I have indicated that will likely take place at the Nevada test site. The Department of Defense will continue to prepare for the eventual possibility of chemical attacks, and they will continue to train on systems which can be used to defend against such an attack.

The Chemical Weapons Convention requires other countries to destroy their weapons, I repeat, weapons that may someday threaten American citizens.

Gen. Norman Schwarzkopf, who became an American folk hero because of his activities during the Gulf war, has said:

> I'm very, very much in favor of ratification of the Chemical Weapons Convention. We don't need chemical weapons to fight our future wars. And frankly, by not ratifying that treaty, we align ourselves with nations like Libya and North Korea.

The 1925 Geneva Protocol does not—I repeat, does not—restrict possession and production of chemical weapons. The Chemical Weapons Convention fills that void by further rolling back the threat of chemical weapons.

The Chemical Weapons Convention prohibits the development, production, acquisition, stockpiling, retention, transfer and use of these weapons. It enforces these basic prohibitions through the use of a multinational economic and political sanction network.

I stress, the Chemical Weapons Convention makes it less likely that our Armed Forces will face these horrible instruments of power on the battlefield by prohibiting the production and the stockpiling of these chemical weapons. The convention also protects Americans at home from deadly terrorist attacks such as those that occurred at

the Tokyo subway. It does not eliminate them but it adds to the protection that we in America have.

The Chemical Weapons Convention not only prohibits development of chemical weapons, it also, importantly, limits access to chemical weapons precursors. I do not know for sure, and I guess no one can determine for certain, if this convention would have prevented the deadly attack in the Tokyo subway. It certainly would have made it less likely. But we do know that almost immediately after the attack in the Tokyo subway, where people were killed and injured for life, Japan ratified the Chemical Weapons Convention.

Terrorism is a real threat to this country. We only need look at what happened at the World Trade Center, Olympic Park, and, of course, Oklahoma City. Chemical weapons provide an avenue for terrorists to further their cause. The Chemical Weapons Convention, while not perfect, will minimize the opportunity for these groups to use chemical weapons. The convention enters into force this month on the 29th day. Refusal to ratify the treaty will not stop the treaty. It will only prevent our country from participating on the governing council of this convention.

The United States is the premier world leader today. That is without dispute. We provide leadership and direction in economic, military and political issues whether we want to or not. Delaying ratification of this treaty is counterproductive to our world leadership role and counterproductive to this Nation's security. Failure to ratify this treaty by the 29th of this month not only aligns us with nations like Iran, Iraq, and North Korea, it also prevents the United States from obtaining a seat on the executive council and the international inspection team. This executive council will decide how the treaty will be implemented. If we are to continue as world leaders in nonproliferation, which we are now, it is vital for us to be a part of the executive council and international inspection team. We not only, in my opinion, have the desire to do that but the expertise to do that.

The Department of Commerce estimated last year that only about 2,500 U.S. firms will be required to submit a data declaration form. Most of these firms will only be required to complete a two-page form. It is important to note that chemical companies support this convention. Leading U.S. chemical trade associations such as the Synthetic Organic Chemical Manufacturers and the Chemical Manufacturers Association participated in the negotiation of this treaty and strongly endorse this treaty.

The chemical industry of the United States uses and produces chemicals from medicinal and industrial applications. The Chemical Weapons Convention does not restrict the use of chemicals for these purposes. The Chemical Weapons Convention is designed to ensure that commercial facilities do not convert sensitive precursor chemicals into weapons agents.

The Chemical Weapons Convention, I suggest, does not end the chemical weapons threat. It is only a tool that we can use to reach that as an objective. That objective is eventual elimination of a very dangerous class of weapons. The convention establishes a global norm by which state behavior can be judged. Some would say it levels the playing field in games of weapons proliferation.

Make no mistake. The Chemical Weapons Convention is not without a flaw. However, for all its imperfections, it is in essence a fine treaty, one that will serve this Nation and this world well and will assist in stabilizing this all too volatile world. This convention is clearly in the best interests of our national security. It will assist in the leadership of our country. It will assist in the worldwide destruction of chemical weapons. Let us not imperil our global leadership position. It is time to ratify this convention.

Mr. President, I also want to extend a personal word of congratulations to the two leaders who enabled us to get to the point where we can have a say in whether or not this treaty will be approved. The Democratic leader, Senator DASCHLE, has worked personally, spending hours, days, and weeks to allow us to get to this position. And I have to say I think this shows the leadership qualities of the Republican leader in allowing us to have this treaty before the Senate. If it did not come before the Senate, I think it would show a lack of leadership. At this stage I hope I am not going to be disappointed. I hope it will come before this body in a fashion that will allow us to fully debate and ratify this convention.

The PRESIDING OFFICER (Mr. ALLARD). The Chair recognizes the Senator from Missouri.

Mr. ASHCROFT. I thank the Chair.

CONFLICTING VALUES

Mr. ASHCROFT. I appreciate the opportunity to spend a few moments speaking about two of America's values. They are values that are embraced by people across our Nation from sea to shining sea, but sometimes those values come into conflict. When they come into conflict, how we resolve that particular conflict will depend on how well we succeed in the next century, how capable we are of carrying on at the high level of performance that America has always expected and that the world has always admired.

I speak about two values, and I do not think there are two values that are more highly or intensely admired in America than these. The first one is the value we place on our families. We understand that more than anything else the family is an institution where important things are learned, not just knowledge imparted but wisdom is obtained and understood in a family which teaches us not just how to do something but teaches us how to live.

A second value which is a strong value in America and reflects our heritage is the value of work. Americans admire and respect work. We are a culture that says if you work well, you should be paid well. If you have merit, you should be rewarded. If you take risks and succeed, that is the engine that drives America forward.

When you have this value of family and the value of work both motivating a society, it is good news for the culture and I think America has a bright future. But sometimes these values collide. When the demands of work somehow get so intense that they impair our ability to do with our families what we ought to do, then we feel tension because we have these two important components of the American character that are bumping into each other.

Most of us as Americans know that we are working hard enough now that there are many times when we simply feel we are not spending the time we ought to with our families. If you will look at the data that has been assembled by the pollsters and everyone else who takes the temperature of the American public regularly, you will find out that most Americans would like to be able to spend more time with their families, and that most Americans are spending far less time with their families than they used to, and that most Americans are spending more time on the job than they used to. The number of hours we are devoting to our enterprises and our work is going up, and we feel a tension with the way in which we value our families. Sometimes we feel like we have been sacrificing our families.

So one of the things that faces us as a culture, as a community, as a country is, how are we going to resolve these tensions? I think that is one of the jobs, that we have to try and make sure we build a framework where people can resolve those tensions and where Government somehow does not have rules or interference that keeps people from resolving those tensions.

For example, there are a lot of times when an individual would say on Friday afternoon to his boss or her boss, "My daughter is getting an award at the high school assembly today. Can I have an extended lunch hour, maybe just 1 hour so that I can see my daughter get the award? I would like to reinforce, I would like to give her an 'atta girl,' I would like to hug her and say, 'You did a great job, this is the way

you ought to work and conduct yourself, it is going to mean a lot to yourself and our family and our country if you keep it up.'"

Right now, it is illegal for the boss to say, "I will let you take an hour on Friday and you can make it up on Monday," because it is in a different 40-hour week. You cannot trade 1 hour for 1 hour from one week to the next. That will make one week a 41-hour week and will go into overtime calculation. Since most bosses do not want to be involved in overtime, it just does not happen.

What we have is a situation where parents are in a bind. They want to deal with their family, they want to deal with them effectively. Lots of employers would like to help the parent do that, but here is the Government standing and saying, "That's illegal."

One of the reasons the Government says that is illegal is because we crafted our labor laws about what can be done and what cannot be done back in the 1930's. A lot of us cannot even remember the 1930's, but they were tough times. We did not have the commitment to flexibility in the 1930's that we have now. We thought the 40-hour week was something that had to be rigid. Only one out of six mothers of school-age children was in the work force in the 1930's—one out of six. That is about 18 percent. Now we have between 70 and 80 percent of the mothers of school-age children in the work force.

As a result, we live in a different culture. We live in an entirely different world, and these individuals, mothers and fathers, are feeling the stress of not being able to have an ability to accommodate the needs of the family and also pursue the value of work, which we valued so highly and reflected in this body last year when we had welfare reform. We said, "You don't get welfare if you are not willing to go to work," and we want to value work. But we want to have a way so when we have work as being a primary focus of this culture, it also allows us the flexibility to do well with our families because we understand that it is in families that people build the habits of success, that will ultimately carry ourself and our communities.

This tension between the workplace and the home place, juxtaposed or set in a framework of laws created in the 1930's that does not allow us flexibility, is a problem. For example, you might be asked to do overtime over and over and over again, and you do overtime, and then you are paid time and a half for your overtime. But at some point, most Americans come to the conclusion, my goodness, no matter how much pay I get, I still need some time, and I would like to take some time off, instead of getting time and a half in pay. I think it might be a good idea to say, if you want time and a half off some week in the future so you can spend time with your kids and make up for lost time, or go on a vacation or go to a parent-teacher conference, you might be able to say to your employer, "Instead of paying me time and a half in wages, you ought to let me take time and a half off sometime." If the employer agreed to it voluntarily—both parties—we ought to let that happen. It is against the law. The law passed in the 1930's, when we were more rigid and had different conditions in this country, says if you work overtime, you must be paid time and a half; you cannot take comp time or compensatory time off.

Some employers even want to go so far as to help their families by saying instead of doing 1 week for 40 hours, we would be willing, if you wanted to and on a voluntary basis, let the worker average 40 hours over a 2-week period regularly, so you would only work 9 days in the 2 weeks, but you would work 45 hours the first week and 35 hours the second week and have every other Friday off so you could take the kids to the dentist or drop by the department of motor vehicles and get the car licensed or visit the governmental offices that are not open on Saturday. It is against the law to do that now.

What I have described are three problems: One, the comp time problem that you can only get comp time in money not in time; two, flextime; sometimes you need to trade 1 hour one week for another hour the next week; and three, to schedule flexibly so you might be on a regular schedule that allowed you to take time off with regularity.

All three of these things are available in the Federal Government and for governmental entities. Since 1978, the Federal Government has said it is OK to swap comp time off instead of overtime pay. The Federal Government said it is OK to have a flextime bank so if you need to take time off you can take some time off if you put some extra hours in the bank. It is also said if you want to have some flexible scheduling so that every other Friday or every other Monday is off, that is something we can work with you on.

It is totally voluntary—voluntary for the worker, it is voluntary for the Federal Government employer or administrator. Neither can force the other because we do not want to force people to work overtime or take comp time, but we want to allow Americans to make choices which will help them resolve the tensions between the home place and the workplace, these two values that are in competition.

I tell you, it has worked so well in the Federal Government that it is almost unbelievable. When the General Accounting Office did one of its surveys, and the only survey really that has been done on the subject, 76 percent of the workers said they liked it. Only 7 percent said they did not like it. That is better than a 10-to-1 ratio. Frankly, you cannot interview people in Washington and get that much agreement on the fact that today is Thursday. That is an overwhelming endorsement, and I think it is high time that we gave to the American public generally what governmental workers have had for almost 20 years now, 19½ years. Since 1978, Federal workers have had this ability to say on a voluntary basis, "I would like to take some time off instead of getting the overtime pay," and the time off would come at time and a half. Or, "I would like to work an extra hour this week so I can take an hour off next week and put it in a flextime bank." Or, if the worker and employer could agree, "I sure would like to schedule it so I work 9 hours a day for 5 days this week and only work 35 hours next week so I can take off all of Friday, every other Friday."

These potentials, which exist for Federal workers, it occurs to me, ought to be able to be available to workers in the private sector as well, were we not to be locked into the hard and fast rules of the 1930's. That was a time when Henry Ford said, "You can have your Ford any color you want so long as it is black." Things were not quite as flexible then as they are now, and families did not need the flexibility then as they do now. With 70 to 80 percent of all mothers of school-age children now working and two parents working in all those settings, and the tension between work and home, I think we ought to have more flexibility at the option of both the employer and the worker, only when it is agreed to.

That is really the subject of the Family Friendly Workplace Act which I proposed this year and I believe we will be working on and actually voting on in the next 30 days. It is a way of saying we need to allow families to work out the conflict that exists between these important values that are crucial and so fundamental to the success of this culture in the next century, not just fundamental to the success of our culture, but fundamental to the success of our own families.

We were aware when we put this bill together that we did not want to allow any employer to be overbearing or coercive, either directly or indirectly, in this respect, so we put in tough penalties. We doubled the penalties that would attend any violation of overtime rules. Not only that, if a worker says, "I think I would like to have time off at time-and-a-half rates instead of being paid time and a half," and then the worker changes his or her mind, of course, before taking the time off, the worker would have the right to cash the time in at any time. The law provides that if at the end of the year the worker has not taken the time off, the employer has to pay time and a half anyhow. It is designed to make sure there is no coercion and voluntary for

both workers and employers, but it is designed as well to be flexible.

Some people thought having family and medical leave would be the answer. There is a law that says you can take time off to meet your family's needs, but you have to take it off without pay. I think that really is a tough situation, because the workers are put in a circumstance where, in order to relieve the family tension, he or she has to increase the financial tension. Well, the financial tension is what has driven people into the workplace in the first instance.

I believe we should not have to take a pay cut in order to be a good mom or dad in America. If we would allow for flexible working arrangements, a worker could have a bank of time they have earned in advance that they could use as flextime or they could take some of the time in your bank that you put in at time and a half for comp time and you could meet your family needs that way without taking a pay cut. Simply, the Family and Medical Leave Act says you can leave without pay. I think we ought to have the Family Friendly Workplace Act which says you do not have to take a pay cut in order to be a good mom or dad in America.

Well, this is the situation. I believe if you ask people, they will tell you they need this. President Clinton commissioned a study by the Labor Department. The report was entitled "Working Women Count," and that report, headed by the Clinton Labor Department, said the No. 1 thing we want is more ability to harmonize, to accommodate the needs of our families and workers. The President himself has recognized this. There was a small portion of Federal Government workers that have not been covered since 1978, and when he took office in the early nineties, he said, "I'll cover them," and he issued an Executive order which extended the benefits to these workers.

I think it is time for America to prepare for the next century, and perhaps it may be a little scary for some people to just loosen their grip a little bit on the 1930's, but we do not live that way anymore. The truth of the matter is, we need flexibility. As long as we have a framework of protections and we guard against abuse and we make it voluntary for both employers and employees, I think it is time we said to the American people generally, you can have the same benefits that the Federal Government employees have had since 1978, you can work to accommodate these competing needs that tug and pull you, the need to have a good work situation and the need to meet the needs of your family.

When we address these issues on the floor of the Senate, I hope we will have an overwhelming vote that sends the American work force into the next century with a sense of optimism and a sense of being able to accommodate these competing values, values of their families and home place and values of industry and the workplace.

Mr. President, I thank you very much.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, first let me compliment the Senator from Missouri. I have supported his efforts and continue to do so because of the important contribution that his legislation would make for flexibility for working families in this country. It is an important effort that I hope we can succeed in adopting before too long in the Senate of the United States. Again, I compliment him.

CHEMICAL WEAPONS CONVENTION

Mr. KYL. Mr. President, we are working toward developing a unanimous-consent agreement which I hope will permit us to vote yet today on an important piece of legislation that complements the efforts of the administration to proceed with the consideration of the Chemical Weapons Convention next week.

For those who support the Chemical Weapons Convention, it is a way of reiterating that support. For those who oppose the Chemical Weapons Convention, it is a way of declaring support for a wide range of very realistic and practical and constructive steps that the United States can take to help reduce the proliferation of weapons of mass destruction and, in particular, chemical and biological weapons here in the United States.

It is my hope that we will be able to call that bill up. It is a bill which I have sponsored with cosponsorships, including I believe all of the Members of the leadership of the Senate Republicans, including the distinguished majority leader, Senator LOTT; Senator NICKLES; Senator MACK; Senator COVERDELL; Senator HELMS; Senator SHELBY; Senator HUTCHISON; Senator ALLARD; Senator HUTCHINSON; Senator INHOFE; Senator SMITH; and myself.

It is a bill which would have, under the unanimous consent agreement being proposed, only 2 hours of debate before the vote. There would be a very limited amount of time to describe it, and, therefore, I would like to briefly describe the legislation at this time.

I think it should be noncontroversial, though the Chemical Weapons Convention itself is very controversial; and reasonable people can fall on either side of that debate. I think the legislation before us today should be supported by all Members of the United States Senate.

The title of the bill—or let me actually read the description of the title of the bill to begin this description:

To provide criminal and civil penalties for the unlawful acquisition, transfer, or use of any chemical weapon or biological weapon, and to reduce the threat of acts of terrorism or armed aggression involving the use of any such weapon against the United States, its citizens, or Armed Forces, or those of any allied country . . .

Mr. President, this legislation came about because of the focus on the Chemical Weapons Convention and the determination that there were a lot of things that the United States could and should do whether or not that convention is ratified.

For example, we found that while it is illegal in the United States to possess or manufacture biological weapons, there is no criminal prohibition upon the manufacture or possession of chemical weapons. Therefore, we combine the two sections of the statute which relate to chemical and biological weapons and provide that it is a criminal offense to manufacture them, to use them, to threaten to use them, to possess them. All of these things are criminalized with substantial penalties being provided for them.

We provide for the revocation of export privileges for those companies in the United States that might violate that law and, incidentally, for the forfeiture of assets to help pay victims of such crime. In effect, say, this was an attack such as in the Tokyo subway about a year ago. We would, under certain circumstances, be able to seize the assets of the criminals responsible for that for the purpose of compensating the victims of that terror.

This legislation provides for sanctions against the use of chemical and biological weapons. Under existing law there are sanctions, but we would provide more flexibility for the President. Under the existing law, the President has a limited range of 10 sanctions that he has to impose in two particular tiers if he makes a finding that there has been a violation of law. These are sanctions against another country.

What we would do is provide the President the flexibility to provide any combination of those sanctions. He is still required to impose five of them, as he is under current law, but this provides him some additional flexibility depending upon the circumstances of how he would impose sanctions against any particular country that has used or possesses or manufactures chemical or biological weapons.

There is also a continuation of the waiver for the President. Although that is strengthened somewhat, he would still be able to waive these provisions in the supreme national interest of the United States.

But importantly, also, this act would call the President to block transactions of any property that is owned by a country found to use chemical or biological weapons. So their property here in the United States should be seized, here again, for paying the victims of such crime.

Another thing this bill does is to call upon the President and the Secretary

of State to use their best efforts to maintain the Australia Group in force. That is the group of countries of the world that have agreed among ourselves not to trade in chemicals with countries we do not think should have those chemicals because they might be used to manufacture chemical or biological weapons.

We need to maintain the Australia Group. This provides the sense of the Senate and the policy of the United States to continue that Australia Group in force.

There are currently conditions on assisting Russia in the destruction of and the dismantling of their chemical and biological weapons. They have far and away the largest stocks of chemical and biological weapons in the world. What we have done is to provide assistance to them under what are called Nunn-Lugar funds. This continues the same kind of restrictions that existed in the past with respect to a certification by the President that Russia is in compliance with these requirements.

The four conditions in this legislation closely parallel those in the 1996 Defense Authorization Act in which both Houses of Congress agreed to fence the so-called Nunn-Lugar funds pending a certification by the President that either Russia was making progress toward achieving these goals or that the President could not so certify.

Mr. President, I ask unanimous consent just to speak for a couple more minutes to conclude my remarks.

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

Mr. KYL. Thank you.

I note the distinguished Senator from Texas is here. I will, therefore, try to stay within this limitation of time.

In any event, this is basically a continuation of previous policy, Mr. President, not something new, but we think it is important to continue.

Our legislation calls for a report on an annual basis on the state of chemical and biological weapons proliferation. It calls for the Secretary of State to work with other nations of the world to try to find ways to put teeth in the 1925 Geneva Protocol. That is the treaty we all signed that bans the use of chemical weapons and, by the way, includes such countries as Iran and Iraq and other countries that really ought to comply with the provisions of that treaty.

We restrict the use of funds until the United States is actually a member of the Organization for the Prohibition of Chemical Weapons.

Next to last, we make it the policy of the United States to continue to enhance our defense capabilities. The GAO came out with a report last year that frankly said our military was going the wrong way in providing defensive capability to our troops, that we need to spend more money and that we need to do a better job in equipping our troops to defend against the use of chemical weapons.

Because of that GAO report, we have included in this legislation instructions to the Secretary of Defense to get on with that job and, very specifically, by the way, to require that the primary facility which engages in this conduct to defend our troops is under the jurisdiction of a general officer of the United States.

We provide a sense of the Senate that the President reevaluate the current policy on negative assurances. And, finally, we provide that the policy begun in the Ford administration on the use of riot control agents be continued in force. This is a policy that says, for example, that notwithstanding any chemical weapons convention, if we have a downed pilot, for example, and there are civilians in the area, we can use riot control agents, tear gas, if you will, so we do not have to fire real bullets to extricate that pilot from that situation.

The bottom line is this act that will be introduced, and we hope voted on today, is an act that continues some very important policies and institutes some new, positive changes in the law, including filling some important gaps in the law relating to the manufacture and use of chemical weapons here in the United States. It ought to be supported by all Senators in this Chamber whether or not they intend to support the Chemical Weapons Convention. This bill is an important bill to support, and we will be calling on them later today for that support.

Thank you, Mr. President.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, are there any time limits on the amount of time that a Senator can speak at this time?

The PRESIDING OFFICER. Five minutes per Senator.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that I be able to speak for up to 15 minutes.

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

Mrs. HUTCHISON. Thank you, Mr. President.

First, I want to commend the distinguished junior Senator from Arizona for all of the efforts that he has made to educate Members of the Senate and members of the American public on the chemical weapons treaty that will be before the Senate at some point in the next week. He has shown so many of the problems with this treaty and some of the consequences that might occur if the treaty is put forward in the form that it is in.

I think his bill would correct some of the real problems, such as the concern over the ability to use tear gas. To unilaterally say we would not use tear gas is unimaginable when we know what an important tool it is to safely extricate a pilot that is down or to safely be able to control a group of prisoners, which was done with Iraqi prisoners of war in Desert Storm. The last thing you want to do is have to shoot with real bullets when you have other options that are not permanently harmful.

So, I thank the Senator from Arizona, and I am proud to be a cosponsor of his bill that I think would correct some of the problems in this treaty so that we would all be able to ratify it very happily and knowing that we have carried our responsibility to do what is right for our country.

THE 50TH ANNIVERSARY OF THE WORST INDUSTRIAL DISASTER IN THE HISTORY OF AMERICA

Mrs. HUTCHISON. Mr. President, I want to say that I had quite an experience yesterday. I went back to my home territory near Texas City, TX, and helped commemorate the 50th anniversary of the worst industrial disaster in the history of America. That was the explosions in Texas City on April 16, 1947.

I remember the incident personally because I was there as a 4-year-old. I remember the tremendous jolt that occurred at that time. I put a statement in the RECORD yesterday that talks about the incredible impact this had on the people of the area of Texas City.

Just to put it in perspective, this was a town of 17,000 that lost 600 of its citizens in one 24-hour period. It lost the entire fire department that was on duty at the time. It lost people who were trying to help victims. It was an incredible impact. But the impact that I witnessed yesterday on the faces of the residents of Texas City highlighted for me the rejuvenation of this city, now of 50,000 people.

Thanks to the leadership of its mayor, Chuck Doyle, there is a 3-day commemoration of this event, and it is having a strong, positive impact on the city. It is a city that has put itself back together and made itself stronger from the adversity.

I am very proud of Texas City, TX, and the sister city of La Marque where I grew up for healing this devastating event in its history and for emerging stronger than ever. The area is today one of the petrochemical centers of the world and a place that I am proud to have grown up in and to have known the wonderful people who live there and who have made this city what it is.

So I commend Mayor Doyle, the survivors of the Texas City explosion, the residents of Texas City, and the many other people who worked to make the commemoration of that disaster such a positive event for Texas City and for this Nation.

THE FAMILY FRIENDLY WORKPLACE ACT OF 1997

Mrs. HUTCHISON. Mr. President, I rise today to speak on the Family Friendly Workplace Act of 1997.

Mr. President, Senator JOHN ASHCROFT of Missouri is the key sponsor of this legislation. It is the Ashcroft-Hutchison legislation that I think is so important for the working people of our country. Senator ASHCROFT talked about it earlier this morning.

I am pleased to be able to talk about this incredible opportunity we have to bring hourly workers under the same laws that salaried, or exempt workers now have, and that all Federal employees now have.

Mr. President, every hourly Federal employee today is given the benefit of flexible work scheduling—a benefit which is unavailable to their private sector counterparts. Federal hourly employees can today go to their manager and say, "I would like to work 2 extra hours this week and get off at 3 o'clock next Friday to go to my child's soccer game," or to take off early on a camping trip, or for whatever reason they choose.

Right now the hourly workers of America are not able to do this because of the inflexibility of the Fair Labor Standards Act. This is unfortunate, because hourly workers, those who punch a time clock, are the most stressed of all American workers. They, more than any other sector of our workforce, would benefit from flexible work schedules. So the Family Friendly Workplace Act of 1997 is meant to give our hourly blue-collar workers the same opportunities that salaried workers and all Federal employees now have.

So what we are trying to do, Mr. President, is to end the inequity in labor laws in this country that artificially place barriers around hourly employees and deny them the freedom to sit down with their employers and work out a flexible schedule that best meets their personal, family, and community needs, in order to relieve some of the stress in their lives caused by time pressures.

Here is what the bill does. Where an employer requires an employee to work overtime, the bill would give that employee the option of choosing paid time and a half off in lieu of time-and-a-half pay. Now, if the employee says "No, I want the time-and-a-half pay," they are absolutely entitled to the time-and-a-half pay. But if they know that they are going to want some time off in the future, they would be able to say, "No, I would like an hour and a half of overtime that I can put in a bank to use when I need it to take my child to the doctor." So this is going to give them the option to earn paid time off for their overtime work.

The second thing the bill does is provide an additional option for those employees who do not typically work overtime, which includes over 90 percent of the hourly wage women who work in this country. These employees would be allowed to voluntarily work more than 40 hours in one week in order to take the same amount of paid time off later on. This will give hourly workers, including working mothers and fathers in our country a better chance to plan for the future and to get the option to go to their employer and say, "You know, I am working 40-hour weeks here but what I really need is flextime. What I need is the ability to start putting hours aside that would allow me to take time off later for a child's school event or some other purpose." For example, the employee could work 9-hour days and take every other Friday off, with pay, as many Federal employees now do. This is called flextime.

Finally, the bill will give employees and employers the option of establishing regular 2-week schedules to allow an employee to work additional hours in week one in order to work fewer hours in week two. Again, this time is paid, and could be taken for any reason the employee wishes.

Mr. President, according to the Bureau of Labor Statistics, both the mother and father work out of the home in two-thirds of the homes in our country. So, Mr. President, we know that mothers and fathers are stressed in two-thirds of the families in our country where both the mother and the father work outside the home.

This has come about because many women would like to work outside the home. That is their choice. It has come about because many women need to work outside the home in order to help pay the bills. In many instances the mother is working just to pay taxes. Now, we are trying to do something about that. We are trying to lower the tax burden on the American family because we think working people should keep more of what they work so hard to earn. Until we are able to do that, to give mothers the choices they want—whether it is to work outside the home or not—we want to give the working mothers of this country every possibility to spend the time with their children that they need.

A key element of our approach is that the time off employees would receive is paid time off. This is in contrast to other proposals, including an expansion of the Family and Medical Leave Act that the President and some others have advocated. They want to give American workers time off, but unpaid time off. Comptime and flextime are paid, because they have been earned by the workers themselves, not handed down from Washington as another unfunded mandate on employers and employees. We want people to be able to have flexible work schedules, without busting their budget.

So, Mr. President, we are trying to expand the options of the hourly workers in our country. That is the key point of this bill. We are not trying to let employers in any way tell an employee or pressure an employee to take comptime instead of comp pay. In fact, there are very stiff penalties if the employer tries to do this. We want the employee to have the option, in cooperation with the employer. We want the employee to be able to say, "It is the stress in my life that I need relief from, without busting my budget." That is what we want the employee to be able to say to the employer—"I am stressed. I want to be able to take 2 hours or 20 hours off next week, in exchange for working a little later this week, so that I can spend more time with my children."

All the polls show, Mr. President, if an employee feels comfortable that he or she has the time with his or her children, that employee is a happier, more productive employee, and it is a win-win situation for both employer and employee. In fact, upward of 75 percent of Federal employees say that they like comptime and flextime, and that it has improved their morale and performance as employees.

Mr. President, Congress cannot make more hours in the day. There are just 24, and there will always be just 24. But we can make those hours more productive and we can make lives less stressful if we give the hourly employees in our country the same opportunities that salaried workers have, that Federal employees have, that they say means a lot to them.

So we want these options to be available to the hourly workers as well. This is our goal. The Family Friendly Workplace Act that is sponsored by Senator ASHCROFT and myself is for the families of our country, it is for the blue-collar workers, the hourly employees that are working so hard, that need the stress relief more than any of us, that do not now have it, and we think they should. That is what we are working for.

I hope we will be able to take this bill to the floor very quickly. It has passed through the committee. It is a good bill. I think we can work together in a bipartisan way if the other side will work with us.

Until we in Congress can get around to giving American families the tax and regulatory relief they deserve, the least we can do is allow them a little more flexibility in their workweek. America's hourly workers want and deserve to choose the hours they work so they can take their children to the doctor, to the soccer game, to the Little League baseball game, or to the camping trip, or whatever they would like to do with their own time. We think it should be their choice.

Thank you, and I urge my colleagues to join Senator ASHCROFT and myself

in supporting this most important legislation.

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

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered. The Senator from North Dakota is recognized.

(The remarks of Mr. CONRAD pertaining to the introduction of S. 605 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CONRAD. I thank the Chair and yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SPECTER. Mr. President, I ask unanimous consent that I may proceed in morning business for a period up to 7 minutes.

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

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 603 and S. 604 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE DRUG-FREE COMMUNITIES ACT OF 1997

Mr. DASCHLE. Mr. President, last week I introduced the Drug-Free Communities Act of 1997. This bill, which is strongly supported by Members from both sides of the aisle, rechannels existing Federal drug control resources into community, antidrug efforts that are already reducing teenage drug abuse in our towns.

We must act now on this issue, because teenage drug abuse is one of the worst problems in America today. Drug abuse encourages crime and gang violence, as well as higher rates of teenage pregnancy, and other social problems. Many of our schools are under siege from the onslaught of drugs.

What's more, teenage drug abuse is getting worse. After more than a decade of substantial progress in combating the problem, the trends have reversed since 1991. Marijuana use alone has tripled among 8th graders and more than doubled among 10th and 12th graders. Daily use has increased so dramatically during this period that one in 20 of today's high school seniors uses marijuana daily. And, the marijuana of today—because of the chemical THC content—can be 15 times stronger than the marijuana of the 1970's. Cocaine, crack cocaine, amphetamine stimulants, barbiturates, and heroin are increasingly popular among teenagers. The use of LSD has never been higher.

These nationwide statistics are extremely troubling. But, the problems of teenage drug abuse are experienced most vividly in each of our towns and communities. Our sons and daughters face this threat every day in school and on the playground. We need to target our drug reduction efforts to help these teenagers in their own communities. That is why we are introducing the Drug-Free Communities Act of 1997.

With little or no Federal funds, many local anti-drug coalitions are already helping some teenagers in their communities. This legislation targets assistance to these coalitions, so that they can reach out to and help more teenagers. In order to receive Federal support, a community must first demonstrate a comprehensive, long-term commitment to addressing teenage drug abuse. This commitment must include a focused mission, the implementation of strategies to reduce drug abuse, and the involvement of all parts of the community—including parents, youth, businesses, media, schools, law enforcement, religious leaders, and others. Moreover, a community must demonstrate that its antidrug effort is an on-going concern that has local support and is self-sustaining.

I also support the Drug-Free Communities Act because it is fiscally responsible. It does not increase Federal spending or the deficit. Instead, it simply rechannels existing funds from the $16 billion Federal drug control budget. Even more importantly, the bill requires a financial commitment from the communities involved. Under the bill, the Federal Government will not simply grant money to local communities that meet the criteria that I just mentioned. The qualifying communities must match the Government's funds with resources of their own—up to a cap of $100,000. These matching grants will force the communities to demonstrate an even greater commitment to fighting drug abuse before receiving Federal funds.

Finally, the legislation creates an Advisory Commission to oversee the antidrug program. This commission will consist of local community leaders and national and State experts on substance abuse. This composition ensures that the program draws upon national expertise in fighting drug abuse, while remaining responsive to local needs.

The Drug-Free Communities Act has attracted the support of more than 150 State and local law enforcement groups, churches, and other organizations. On the national level, it has been endorsed by groups as diverse as Mothers Against Drunk Drivers and William Bennett's Empower America. This bill represents a wonderful opportunity to provide meaningful help to community coalitions in South Dakota and nationwide, without expending additional Federal funds.

I strongly encourage my colleagues to support this important legislation.

NO CASH TO CONVICTS ACT

Mr. ABRAHAM. Mr. President, I rise today to cosponsor Senate bill 438, a bill that will help close a costly loophole in the current administration of Social Security benefits. I commend my colleague, Senator GRASSLEY, for introducing this important bill, the No Cash to Convicts Act. The bill will help the Federal Government identify incarcerated prisoners who are receiving Social Security disability benefits to which they are not entitled, and will provide that prisoners who are incarcerated for even short periods of time are not eligible for those cash benefits when they are in prison.

In the landmark welfare reform legislation enacted last Congress, Congress set up a voluntary program between local law enforcement and the Federal Government to assist in the identification of prisoners who are receiving supplemental security income or SSI benefits. While earlier versions of that legislation covered prisoners' receipt of Social Security disability benefits as well, the Social Security provisions had to be dropped from the final conference report because of Senate rules preventing changes to Social Security benefits in a reconciliation bill. We should finish the job this Congress and ensure that prisoners do not get those cash disability benefits, which would be better spent on our law-abiding elderly and disabled.

By precluding any defendant who is convicted of a criminal offense and who is incarcerated from receiving Social Security disability benefits, this bill removes an arbitrary and illogical requirement under current law that a defendant have been sentenced to at least a year in prison to be ineligible for benefits. There is no reason that an incarcerated prisoner should receive benefit checks intended to provide for necessities like food, shelter, and clothing when the prisoner is already receiving those at the expense of the Government.

The bill also creates financial incentives for State and local law enforcement authorities to provide timely information concerning prisoners to the Social Security Administration. This will permit the Federal Government to check the benefit rolls to see whether prisoners are receiving benefits. If the Federal Government identifies any instances in which inmates are illegally receiving Social Security disability checks, the local authority that provided the information will receive a cash payment.

I am glad that this provision is structured to provide an incentive system rather than an unfunded mandate, and am pleased to join my distinguished colleague from Iowa in sponsoring this much-needed bill.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, April 16, 1997, the Federal debt stood at $5,386,017,997,799.85. (Five trillion, three hundred eighty-six billion, seventeen million, nine hundred ninety-seven thousand, seven hundred ninety-nine dollars and eighty-five cents)

One year ago, April 16, 1996, the Federal debt stood at $5,142,251,000,000. (Five trillion, one hundred forty-two billion, two hundred fifty-one million)

Five years ago, April 16, 1992, the Federal debt stood at $3,882,706,000,000. (Three trillion, eight hundred eighty-two billion, seven hundred six million)

Ten years ago, April 16, 1987, the Federal debt stood at $2,269,312,000,000. (Two trillion, two hundred sixty-nine billion, three hundred twelve million)

Fifteen years ago, April 16, 1982, the Federal debt stood at $1,064,889,000,000 (One trillion, sixty-four billion, eight hundred eighty-nine million) which reflects a debt increase of more than $4 trillion—$4,321,128,997,799.85 (Four trillion, three hundred twenty-one billion, one hundred twenty-eight million, nine hundred ninety-seven thousand, seven hundred ninety-nine dollars and eighty-five cents) during the past 15 years.

LEADING THE WAY AGAINST CHEMICAL AND BIOLOGICAL WEAPONS

Mr. KYL. Mr. President, today the Senate will vote on the Chemical and Biological Weapons Threat Reduction Act which will, for the first time in U.S. history, provide criminal and civil penalties against those who produce, stockpile, or transfer chemical weapons in the United States. It will also legislate other practical and realistic reforms to reduce the spread of both chemical and biological weapons and improve the American military's defenses against them.

The impetus for this legislation was the realization that the Chemical Weapons Convention being promoted by the administration, though noble in aim, would have little practical effect, especially in the United States; and that there were important steps we could take to fill gaps in existing law regardless of what happens with the CWC.

That is why Senate Republicans have introduced the Chemical and Biological Weapons Threat Reduction Act, setting forth a comprehensive package of domestic and international steps to address chemical and biological threats. Importantly, the legislation reiterates our firm commitment to destroying the entire U.S. chemical weapons stockpile whether or not the CWC is ratified—a pledge no other chemical weapons state has matched.

Some may be skeptical of this bill because they see it is as an alternative to the CWC. To the contrary, S. 495 provides a sensible and effective action plan that CWC critics and proponents alike should support. By enacting the Chemical and Biological Weapons Threat Reduction Act, the United States will lead by example, and will underscore its commitment to bringing together like-minded friends and allies to make unthinkable the resort to chemical or biological weapons. This is not going it alone, this is leadership.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Georgia is recognized.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COVERDELL. 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. COVERDELL. Mr. President, it is my understanding that the next hour, 1 o'clock to 2, is under my control either for my own purposes or those that I might designate?

The PRESIDING OFFICER. The Senator is correct.

ABUSE OF EXECUTIVE ORDERS AND REGULATIONS

Mr. COVERDELL. Mr. President, a news flash to President Clinton: In America, you do not get to rule by Presidential decree.

President Clinton is prepared to provide the ultimate payoff to labor bosses, an Executive order that essentially mandates that Government contractors toe the union line. Too bad about the millions of American workers who choose not to belong to a union. Now they are to be second-class citizens.

The policy substance of the President's gambit is sufficiently bad, but we suggest there is an even larger issue, one that goes to the very heart of our constitutional form of government.

One of the great strengths of our Republic is a Constitution that reflects, and nicely balances, the tension between democratic representation in the legislative branch and the executive power of the President. The Founders established Congress in article I as the source of all legitimate authority, all legislative powers; that is, the authority granted by the people. The executive branch, at least in terms of domestic policy, is constrained by the requirement that the President take care that the laws be faithfully executed.

Fairly elementary stuff. But in reality, of course, there has been a continuous struggle among the branches over where the legislative power begins and ends. Normally, these tensions erupt at times of great crisis: Lincoln during the Civil War, Truman and the steel mills. Typically they are bound up in questions of war and peace and the President's foreign policy role.

What we face during the twilight of the Clinton era is something very different and much more worrisome. What we see now is a calculated strategy by the White House to ignore the unhappy reality that the President was reelected with less than a majority vote while the Republicans were reelected to a majority in Congress. Now, it appears his goal is to encourage gridlock in the Congress while issuing Executive orders and regulations that exceed his legal power to act.

There is perhaps no area of Federal policy more contentious than labor issues. This has been true in fact for most of this century. It is also clear that labor bosses and leaders faced continued loss of power and declining membership. They have been stymied time and again in their efforts to expand their powers over unwilling American workers.

So what has the President done here? He is issuing an Executive order that deprives nonunion employees of their right to choose whom they support in the political process. He attempted to bar, through an Executive order, any company that exercises its right to hire replacement workers during a strike, though the courts properly struck this down. He is now about to issue an Executive order that would allow agencies to bar—prohibit—Federal contractors if they do not use unionized labor.

Most recently, he is playing with a change in procurement regulations that would bar companies from Federal contracts unless they had satisfactory labor relations. Determined by whom? The President. Unions could have a field day with that. All they would have to do is initiate a lawsuit under the National Labor Relations Act and, presto, you have a company that has unsatisfactory labor relations. This would be laughable if the impact were not so grave. Hundreds of billions of dollars and hundreds of thousands of jobs are at stake.

In short, President Clinton's actions twist beyond recognition the role of the Presidency in the legislative process. The Framers were careful to ensure that the President's voice was a negative one by granting him the veto. They did not grant him the equal and opposite power—he did not get the

power of decree. A negative power like a veto is more easily used to avert harm. The decree smacks of autocracy.

But give the White House their due. The White House has carefully established precedents based on issues that are difficult to confront. Ironically, some of the most contentious issues are going to be the most difficult for the Congress to resolve. In some cases, perhaps a majority of Congress would agree, in others they will not. But we believe those are precisely the types of issues that are intended for legislative consideration and a majority vote. This is known as representative democracy. It might be messy. It might take longer than the pundits like. The results may not please everybody. But it is a process that is founded on the consent of our citizenry.

This is a time when there are many questions on whether various individuals in the White House have been engaged in unlawful activity. Only time will tell how that plays out. What we do know right now is that even more than all these financial and campaign issues, the President's abuse of Executive orders and regulations is a direct threat to the rule of law in America.

Mr. President, I now yield to my good colleague from New Hampshire 5 minutes of my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I thank the Senator from Georgia for his excellent statement, which sets the premise for this hour of discussion that has been reserved relative to the proposal by the administration and the President and the Vice President to unilaterally take control over what is clearly a legislative prerogative and determine, unilaterally, that 89 percent—89 percent—of the work force in this country which would participate in Federal jobs will no longer be able to participate in those jobs. That is the practical effect of this proposal which is being put forward by the President and which was announced by the Vice President, was announced by the Vice President at a convention of a building trades union.

One could be cynical and say, "Well, the building trades unions in the last campaigns spent $35 million reported"—we suspect maybe it may be closer to twice that unreported—"spent $35 million reported for the purposes of electing this President and that therefore this decision by the President to exceed his authority, as announced by the Vice President, is a return of that favor." One could be cynical and one would be accurate, I suspect, in making that statement.

But as the Senator from Georgia has pointed out, this goes well beyond the cynicism of this administration, which has already been displayed in a most significant way in a variety of other instances relative to campaign financing and fundraising and what will be done by this administration to benefit people who contribute to them. It goes well beyond that cynical approach and abuse of power which has become almost a hallmark of this administration. It goes to the essence of the separation of powers on which our Government is structured.

This Congress is the Congress of the people. It is the Congress which is elected by the people. You may agree with it. You may disagree with it. But the fact is that the membership of this Congress is sent here for the purpose of writing the laws which govern the people whom we represent.

As the Senator from Georgia has so adequately pointed out, the President's power in the legislative process is that of a negative, not of a creator of that law. In fact, ironically, the President does not even participate as a negative on some of the most significant laws that affect this country.

For example, the budget of the United States is not signed or vetoed or subject to signature or veto by the President of the United States. It is purely a law driven by the body of the people of this country, which is the Congress. When a decision is going to be made to disenfranchise 89 percent of the people who presently participate in working for the Federal Government as contractors, that cannot be unilaterally done by the executive branch. That is a decision of such weight and of such importance that it is reserved clearly to the House of the people and to the Senate of the United States. And yet, this President has decided to do that and to, by fiat, by an arbitrary decision, put together who knows what.

It certainly was not put together through the process of a legislative hearing. It was not put together through a process of a legislative debate. It was not put together through a process of a legislative vote in a committee, and a legislative vote on the floor of the Senate, and a legislative vote in the House, and a legislative conference, creating a bill which is sent to the President.

No, it was put together by somebody sitting in a back row, writing an idea which was given to the Vice President of the United States, who went to a labor union annual meeting and announced, "This will be the new law of the land." That is not the way we govern in a democracy.

For that reason, I strongly support the initiative today put forward by our leader in the Senate, Senator LOTT, which, said as I understand, the nomination of the Secretary of Labor shall not be brought before the body until this matter is cleared up, because that is our prerogative. That is our legal right as a representative of the people to advise and consent on the nominees for Cabinet positions. That is a legal and constitutional right. We have the legal and constitutional right to limit our advice and consent, and to not approve a member of this Cabinet, or to approve a member of the Cabinet.

In this instance, we certainly have a right to hold up that nomination until this arbitrary act of excess on the part of the executive branch, done for whatever reason, is clarified and withdrawn. And, in fact, it would be my view that we should hold up probably just about every nomination which the administration wants to proceed with, because if they are not going to proceed in good faith in governing, if they are going to proceed in a manner which clearly exceeds the bounds of authority of the executive branch, then it is incumbent upon us as the legislative branch, as the branch elected by the people, to govern and to legislate, to make it clear to the President that that type of action will not be tolerated and cannot be tolerated if we are to maintain a constitutional democracy, a democracy built on the concept of checks and balances, a democracy which was designed by Madison and has survived so well for so many years.

The issue has been laid out. The fight has been joined. I believe this Congress must assert its prerogative to retain its right as a legislative body of the people of this country.

I yield back the balance of my time.

Mr. COVERDELL. Mr. President, I thank the Senator from New Hampshire for his comments with regard to this very crucial and, in fact, constitutional issue.

We have been joined by my good colleague from Arkansas. I yield such time as the Senator from Arkansas desires to address this issue.

S. 606, THE OPEN COMPETITION ACT OF 1997

Mr. HUTCHINSON. Mr. President, I am pleased to introduce today an important piece of legislation which will guarantee to all Americans an equal opportunity to compete for the nearly $60 billion of Government contracts.

The Open Competition Act of 1997 ensures that no single special interest group will have an exclusive claim on Federal contracts, and would accomplish this by amending the National Labor Relations Act to simply prohibit discrimination in bidding for contracts funded by the Federal Government.

The Clinton administration, specifically the Vice President, recently announced their intent to issue an Executive order which would, in practice, create a union-only mandate for all Federal projects.

Upon closer examination, a disturbing connection exists between contributions made by big labor interests, the announcement of the proposed Executive order, and the individuals who actually drafted the language of this order.

For the American people to fully understand what prompted these actions

by the Clinton administration, it is essential to understand exactly what big labor did for them during the 1996 election.

As widely reported after the November election cycle, labor unions spent between $300-400 million on the 1996 elections—Wall Street Journal, April 11, 1997.

This amount is even more astonishing when you consider that it was financed in large part by dues-paying union members who were never asked by the union leadership if this was how they wanted their hard-earned wages spent.

I firmly believe in the constitutional right to donate money to the political candidate of your choice. However, the problem here is what is asked for in return for this money, and even worse, what is given.

The question must be asked—What did the labor unions get in return for the incredible amount of money they spent in the 1996 election?

On February 18 of this year, at the AFL-CIO convention in Los Angeles, the Vice President pledged the administration's support for organized labor and announced several initiatives the administration would be launching in coming months.

"How you treat your employees and how you treat unions counts with us," said the Vice President—White House Press Release, February 18, 1997. He told the executive council of the AFL-CIO that the administration would issue an Executive order which would require Federal agencies to consider using project labor agreements on all Federal contracts—Bureau of National Affairs, February 19, 1997.

These project labor agreements require all contracts for a particular job to be awarded only to contractors who agree to recognize designated unions as the representatives of their employees on that job.

In addition, these agreements would require all contractors to use only union hiring halls to obtain workers, pay union wages and benefits, and obey the union restrictive rules, job classifications and arbitration procedures. The Open Competition Act would do away with this requirement and restore fairness to the bidding process.

Just 3 days ago, on April 14, the Vice President announced that the administration was prepared to offer an Executive order encouraging Federal agencies to use project labor agreements—again, which generally require union representation—on Federal construction projects.

His announcement was greeted by thunderous applause by almost 3,000 AFL-CIO trade union officials in Washington, DC.

This Executive order becomes very interesting when you consider the parties who had a hand in drafting the language. The language in the draft was jointly developed by the AFL-CIO, the Clinton administration, and the Builders and Construction Trades Department.

I believe this is a clear indication that the money spent by big labor during the 1996 elections not only provided the catalyst for this Executive order, but also gave them a seat at the table when it was written.

Is this the way to build trust with the American worker?

The Clinton administration would have us believe their actions benefit the majority of the American work force. But when you consider the percentage of Americans who belong to labor unions, this is clearly not the case.

Of the total work force in America, only 14.5 percent belong to unions. When you consider just those workers in the construction industry, only 18.5 percent of those are union members.

The facts clearly show that if this Executive order is implemented, only a minority of American workers will benefit. The 81.5 percent of workers who do not belong to a labor union will be placed at a clear disadvantage to the 18.5 percent who do.

Essentially, this means 4 out of every 5 workers would face discrimination. This is clearly not the way to help the American worker.

I want to make it very clear to the American people the detrimental effect this action by the administration will have on the American work force.

The Open Competition Act which I am introducing today, will assure the vast majority of American workers that their government will not discriminate against them.

This proposed Executive order will have the effect of creating a union-only mandate for all Federal construction projects. In addition, it would directly attack the principle of open competition in Federal contracting by excluding from the bidding process four out of every five workers who have chosen not to be represented by unions.

The Federal Government should not be ordering discrimination against open shop companies which bid for federally-funded construction contracts. Rather, it should be encouraging competition for these contracts and promoting participation in the process by all companies who wish to bid.

The Open Competition Act of 1997 would make sure this occurs.

It would simply be unconscionable to institute a federal policy which would allow a special interest group to have an exclusive claim on Federal contracts based on their enormous political contributions to the current occupants of the White House.

This distinguished body has the obligation to insure that Federal contracts are awarded through full, open, and competitive procedures. The Open Competition Act which I am introducing today along with Senators LOTT, NICKLES, MACK, COVERDELL, CRAIG, THURMOND, JEFFORDS, COATS, GREGG, FRIST, ENZI, COLLINS, WARNER, MCCONNELL, ALLARD, BROWNBACK, HAGEL, KYL, and ROBERTS, guarantees that our constitutional prerogatives will not be infringed upon.

I ask my colleagues to join me in supporting this legislation and guarantee to the American worker that their own Government will not discriminate against them.

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. 606

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 "Open Competition Act of 1997".

SEC. 2. PROHIBITION REGARDING CONSIDERATION OF CERTAIN LABOR RELATIONS POLICIES OF OFFERORS ON FEDERALLY FUNDED CONTRACTS.

Section 8(e) of the National Labor Relations Act (29 U.S.C. 158(e)) is amended by adding at the end the following: "Notwithstanding any other provision of this Act, no person may be discriminated against when bidding on a prime contract, funded in whole or in part with funds provided by the Federal Government, where such discrimination is based in whole or in part on a requirement that such person enter into or adhere to a collective bargaining agreement or any similar agreement as a condition of performing work under the contract.".

SEC. 3. CONSTRUCTION.

The amendment made by section 2 shall not be construed—

(1) to apply to subcontractors, or

(2)(A) to prohibit a contractor from voluntarily entering into a lawful agreement with a labor organization; or

(B) to discourage contractors who have entered into such an agreement from bidding on Federal contracts.

SEC. 4. APPLICATION.

The amendment made by section 2 shall apply to contracts made directly with any agency of the Federal Government and to contracts made with any entity that is managing or operating a facility owned or controlled by the Federal Government on behalf of the Federal Government.

Mr. COVERDELL. Mr. President, I thank the Senator from Arkansas not only for his statement and understanding of the issue but for taking the initiative affirmatively to correct it. I only wish it had not been the case that the legislative branch has engaged in legislation to protect its constitutional rights.

If I might, I will take just a moment to describe by precedent the sequence of events that are occurring here. In the 1992 campaign for President, President Clinton took a position on striker replacement which had been in labor law since the mid-1930's, which, under certain circumstances, would allow a

company meeting certain criteria to replace strikers who were striking not over economic matters. This has been a contentious issue. The President said he would support legislation that would prohibit that, even though it has been in labor law for over three decades.

He was thwarted in that. Even though he controlled the Congress—he controlled the White House and he had a majority in the Senate and the House—and he could not secure consensus on that pledge that he had made. So the beginning of this new concept began to unfold, even in the early days of this administration. The President issued an Executive order on striker replacement because, as I said, he had promised this in his campaign, could not get the Congress to agree.

After wooing labor during the election with promises of a ban, President Clinton made good on his pledge on March 8, 1995, when he issued Executive Order 12954, titled, "Ensuring the Economical and Efficient Administration and Completion of Federal Government Contracts." The order authorized the Secretary of Labor to debar a contractor after finding that the contractor has permanently replaced lawfully striking employees, thus, making the contractor ineligible to receive Government contracts.

As I said, Congress had rejected this legislatively. So the President ignored the will of the people, ignored the Congress, and imposed it through an Executive order. Now, what happened? Well, back to the ingeniousness of the forefathers. There is an executive, legislative, and judicial branch. Quite properly—I repeat, properly—a Federal appeals court unanimously declared that the Executive order exceeded the President's authority. He had overreached. He was governing by decree. This is not a part of the American republic.

Now, here we come again, another Presidential campaign is carried out, commitments are made, but the President is finding a people's branch, the legislative branch, that will not accept an egregious command that excludes 80 percent of the work force. So according to the Bureau of National Affairs publication, it says, "The proposed Executive order would encourage Federal agencies to consider requiring the use of a project labor agreement for federally funded construction projects." This is interesting language in the draft: "The Executive order was jointly developed by the Building and Construction Trades Department, the AFL–CIO, and the Clinton administration," according to Robert A. Geogine, BCTD President, the President of that union.

Here we have this new Senate Chamber, opened in 1859, and the House on the other side, the House and the Senate and the legislative process; but one trade union drew this law that would be imposed on all the American people and that would exclude 80 percent of the work force from having an opportunity to engage in these contracts.

Mr. President, to add to this sequence of events, making it a little clearer—this is a new form of making laws in the American Republic, far from these hallowed Halls. This is a memo to the national and international union presidents from John J. Sweeney, president of the AFL–CIO. It says: "Support for a proworker Federal procurement reform * * *" dated March 25, 1997. What it doesn't say is it's support for 20 percent of the workers, in a very select category, and to the exclusion of the others. And it says: "As you may recall, the Clinton administration recently announced its intention to undertake several initiatives that will," in his words, "protect workers' rights and workplace standards * * *"—he is talking about the workers that belong to his union, not the rest of the workers—"* * * while improving Federal Government procurement and contracting practices * * *"—which means that the practices are designed to benefit his interest but not the other 80 percent. It says: "If properly implemented, these initiatives will affect the expenditure of * * *"—his words—"hundreds of billions of dollars every year." In any given year, Federal contracts total as much as $200 billion, and Federal contractors and subcontractors employ approximately one-fifth of the labor force.

He goes on in the memorandum to say, "The Government will be issuing proposed regulations that will accomplish three reforms. First, the Government will evaluate whether a bidder for a Government contract has a satisfactory record of labor relations."

Well, who makes that decision? I guess it would be made in the same room in which these procurement regulations were written, and that they would become the arbitrators of what is a satisfactory performance, just like they are the authors of this law that is being placed on the people of America, without any lawmaker ever voting on it.

He goes on to say: "Second, the Government will not reimburse Federal contractors for the costs they incur in unsuccessfully defending against an unfair labor practice suit."

This has been an argument in the Labor Relations Board for over 30 years, as I said.

"Third, the Government will not reimburse contractors for the money they spent to fight unionization." Perhaps, but this is where we make these decisions, not wherever this room was. This goes on to say—and this is a very pertinent paragraph in this memo of March 25: "President Clinton will also issue an Executive order directing all Federal departments to consider using a project labor agreement when they undertake Government-funded construction projects. This order is not subject to notice and comment, or other administrative steps." I repeat, "This order is not subject to notice and comment, or other administrative steps." In other words, fiat, decree, governance by decree. And then it goes on and meticulously points out how the recipients of this memorandum should begin building cases. Lawyers should provide citations to the National Labor Relations Board and copies of all decisions, settlement agreements, et cetera. Organizers should provide information about campaigns and work sites. And lobbyists should review their files where local unions and other internal bodies have requested intervention, et cetera, et cetera, et cetera.

Decree—written in some room between the Building Construction Trade Department, the AFL–CIO, and the President. It is a new way of writing law, Mr. President.

I yield up to 10 minutes to my good colleague from Idaho, Senator CRAIG.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, let me thank the Senator from Georgia for the time he has taken today to bring this critical issue to the floor and for an open discussion among Senators and, hopefully, the American people on a proposed Executive order that our President is at least talking about at this moment, and that the Vice President has pledged that the administration will act upon, which would significantly change the dynamics of Federal contracting.

Without doubt, open competition in a free enterprise environment is the only way the Government of this country and the taxpayers can expect fair treatment of the tax dollar when it comes to buying the goods of Government or the projects of Government for the citizens of this country. We spend hundreds of billions of dollars a year in this business of contracting.

As Government provides services and, of course, provides capital expenditures for construction of roads, bridges, and buildings, that are a part of what we think is necessary, for the President to suggest a whole new dynamics as to how that contracting ought to come about, significantly skewing it toward organized labor is, at best, not being responsible to the taxpayers and, at worst, if I can simply say it, paying off for the great service provided in the last election by organized labor to the Democrat party.

Is that a blunt and cold statement? Well, it is. But it falls on the heels of hundreds of millions of dollars worth of expenditures, targeted specifically at members of the Republican Party. And now I must say that it appears that union bosses were literally sitting inside the offices of this administration

to help craft what we believed would be a significant change in the way the bidding process of a fair and competitive market would work on Government contracts. "Require Federal departments and agencies to evaluate whether a bidder for a Government contract has a satisfactory record of labor relations and other employment practices, in determining whether or not the bidder is a responsible contractor, eligible to receive a particular Government contract."

This regulation, if it were to become regulation under Executive order, would require the companies bidding for Federal contracts to have a spotless record of compliance throughout the Federal regulatory spectrum, including collective bargaining, wages, benefits, equal opportunity, health, and safety.

In an era of regulatory overkill, when OSHA can issue a $13,200 fine to a roofing company for having a broken shovel in the back of a truck, my guess is there is hardly a potential contractor out there today that can meet all of this criteria. And now we have added dramatically to it a second possibility, "to prohibit Government reimbursement of Federal contracts for the costs they incur in unsuccessfully defending against or settling unfair labor practice complaints brought against them by the NLRB." "Prohibit Government reimbursement of contractors for money they spend to fight unionization of their employees," and so on and so forth.

Why is it significant that we talk about this today? The Executive order that we are concerned about has not yet been issued. Well, here is the reason why we talk about it and think it is extremely important. It wasn't very long ago that the Vice President went before organized labor and suggested to them that there would be an Executive order sent forward on worker replacement, and it was. It took a Federal court action to strike down this particular action on the part of the administration as simply being outside the law in relation to the National Labor Relations Board and its ability to make decisions. And, therefore, it was an illegal act, or certainly an act outside the law, and the decision was struck down.

Now, it is interesting that our Vice President would follow the same process. I think that we can suggest to the courts that this kind of an Executive order would fall under very similar kinds of guidelines that the one of a year ago did, because it probably falls under the Supreme Court's decision of 1986 of Wisconsin Department of Industries.

I think what concerns all of us is the use of Executive order and rule and regulation on the part of this administration, instead of coming to the Congress of the United States and saying this is good policy. Do you mean this policy can't be debated on the floor of the Senate and voted on as a part of the law for contracting of Government programs? It should be, if that is how we are going to make public policy instead of by Executive order of the kind and the nature that is being talked about in this potential Executive order. Union-only subject agreements clearly have an exclusive and an anticompetitive nature to them. It is not for me to give an anti-union speech. Clearly, companies that are unionized ought to have every right to bid. But other companies that meet reasonable standards can compete over good bids, and do it in a fair and responsible way and provide the service to the Government as expected. They ought to have a right in that same market. That is exactly what George Bush said when he said it very clearly in 1992 in an Executive order requiring all Federal agencies to use an open competitive process for all Federal contracts. President Clinton's executive order would revoke this basically. That was revoked in 1983, and this would go even further to narrow it and define who could bid. It just so happens that only a limited few could bid. Last year, if this Executive order, as we understand it, were in place—I guess it is a contract for fiscal year 1993—it would have been well over 13 percent more of them at about $182 billion.

In addition to contracts with major corporations, a study identified with contracts with Duke University, with Loyola University, and others, would fall subject to them and could well shut them off from their kind of contracts for research and development in the area of AIDS research in one and biomedical research in another.

Mr. President, what our President proposes and what the Vice President has openly talked about to be expected this next week is in itself, in my opinion, a travesty of the way Government works and the way the executive and the legislative branch come together to build good public policy. This is special interest group legislating in the worst form. It is very bold, and it is very open. But, then again, hundreds of millions of dollars worth of campaign contributions later, I guess they can figure they can be that bold and that open because, certainly, in the shadow of what has occurred in the last election, this appears to be a response to those kinds of levels of participation.

I thank my colleague and the Senator from Georgia for bringing this issue to the floor. It must be talked about. It must be understood openly by the American people. And, as I say, what the American people want for their tax dollar, its expenditure for and purchase of Government services and the need for capital expenditure within the Government is a fair and open bidding process and a good product in the end. Certainly, the President at this moment may well be accused of attempting to skew that into less competitive and most assuredly a less open process.

I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I thank the Senator from Idaho for his usual contribution. He has contributed substantively to this discussion.

PRIVILEGE OF THE FLOOR—S. 495

Mr. President, I ask unanimous consent that Jeanine Esperna, staff member, and David Stephens, fellow for Senator KYL, be granted privileges of the floor this afternoon during consideration of S. 495.

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

Mr. COVERDELL. Mr. President, I want to first make it clear—and I think Senator CRAIG alluded to this—that this is a constitutional confrontation. There is a growing propensity on the part of the administration, faced with a Congress that the people elected that are of a majority of the other party, to try to obviate the legislative branch through two courses: By Executive order or decree—and we have certainly seen the abuses of that throughout the world, which is why the Republic is so carefully constructed; and by regulation, which is something that has become unique in our own development in this country, where more and more regulators are lawmakers. You can't blame this administration alone for that kind of activity, but it has certainly accelerated.

I want to point out that I have already pointed out that the U.S. appellate court struck down the President's last attempt at this kind of reconstruction of the Republic. But there are other judicial precedents.

Mr. President, I am going to yield the remainder of my time in just a moment. I see my good friend from Alabama. They are dealing with the logistics of time here in terms of trying to deal with the Chemical Weapons Convention.

I will close by simply saying there is a growing outrage in the Congress with regard to these attempts to reconstruct lawmaking. Lawmaking in America cannot be done in an isolated room with just special interests. Obviously, all interests have a rising ability to contribute their thoughts so long as they are debated and aired ultimately in the people's body and not bypassed. This is a clear attempt to bypass the legislature, and I do not believe it will be successful. Perhaps the administration needs to take counsel with itself with regard to the suggestions they have put forward—that major labor law would be written somewhere other than the Congress of the United States.

Mr. President, I yield back all remaining time to the Senator from Alabama.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

CHEMICAL AND BIOLOGICAL WEAPONS THREAT REDUCTION ACT

Mr. SHELBY. Mr. President, I rise in support of the Chemical and Biological Weapons Threat Reduction Act.

With the end of the cold war, we live in a much safer, but still unstable, world. Without the bi-polar domination of two superpowers, we now face a world comprised of many nations that have gained power on the world stage by producing a relatively inexpensive means of war.

Among the most deplorable methods of war-making known to the world, chemical and biological weapons are horrific tools of mass destruction.

Long ago, the United States discontinued and dismantled its biological weapons program and is currently unilaterally destroying its stockpile of poison gas. We would hope that other nations would follow suit, and destroy these weapons as well.

However, there are rogue States that are pursuing dangerous weapons programs contrary to international norms against the use and stockpiling of biological and chemical weapons.

Some countries are even suspected of pledging to ratify international agreements, while secretly continuing to develop and stockpile these lethal weapons.

One significant problem in the fight against chemical and biological weapons is the stunning lack of enforcement of existing international protocols.

International agreements, such as the 1925 Geneva Protocol and the 1972 Biological and Toxin Weapons Convention, ban the use of poison gas in war and prohibit the acquisition, development, production, and stockpiling of biological weapons. However, they have not been used as an effective deterrent.

For example, as the world watched with horror and disbelief when Iraq used poison gas against its own nationals, the community of nations failed to punish the perpetrators of this act.

In addition, there is currently no U.S. law which provides criminal or civil penalties relating to the use of these weapons in the United States.

Therefore, with the hope of reinforcing U.S. international leadership on chemical and biological weapons, I am proud to be a cosponsor of the Chemical and Biological Weapons Threat Reduction Act.

This legislation demonstrates our firm commitment to destroy U.S. chemical weapons, setting a strong example for other countries to follow.

Further, this initiative reinvigorates U.S. efforts to enforce existing international prohibitions against chemical weapons, provides strong deterrence, and sends a clear message to nations around the world that the United States will not tolerate the use of these weapons.

Specifically, the Chemical and Biological Weapons Threat Reduction Act sets out civil and criminal penalties for the acquisition, possession, transfer, and use of chemical and biological weapons.

This legislation mandates the death penalty where the use of these weapons leads to the loss of life and provides for a $100,000 penalty for civil violations.

The Chemical and Biological Weapons Threat Reduction Act requires enhancements to U.S. chemical and biological defenses to protect our military men and women. Further, it would require U.S. sanctions, termination of foreign assistance, and suspension of diplomatic relations against any country that uses chemical and biological weapons against another country or its own people.

The Chemical and Biological Weapons Threat Reduction Act provides concrete and achievable measures to reduce the threat of these abhorrent weapons. It is the best thing we can do to protect our country, our allies, and our world from any future atrocities caused by the use of chemical and biological weapons.

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. 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.

Mr. LOTT. Mr. President, first I want to go ahead and speak on the legislation, S. 495, the Chemical and Biological Weapons Threat Reduction Act of 1997, in the interest of time. I think this is very important legislation, and I wanted to comment on it. But while we are in the final efforts to get an agreement on the unanimous consent agreement on how to consider the completion of this legislation, then when and how to take up the Chemical Weapons Convention next week, and how issues that are still in disagreement would be handled and how the motions to strike would be ordered—all of that is in the final phases of negotiation at this time.

I would like to thank, at the beginning, Senator KYL for the work he has put into this legislation and for his effort to come up with a fair and reasonable unanimous consent agreement as to how we would proceed. I thank Senator HELMS for his cooperation and the highly respectable and respectful manner in which he has dealt with this issue in the very important hearings he had.

Also, Senator DASCHLE has been persistent, but he has been reasonable in allowing us to have time to work through all the details. I think with an agreement of this importance and with as many parts to it as there is, you never could get it worked out to where it would just be 100 percent what everybody wants. But I think we have gotten it now to where it is fair, and I hope we can go ahead and close the loop, complete consideration of the legislation and then be prepared next week to move to the treaty itself.

I see the Democratic leader is on the floor.

Mr. President, before I begin my remarks on the bill, in anticipation of entering into a unanimous-consent agreement, I will first observe the absence of a quorum.

I withhold. Does the Senator from Texas wish to proceed at this time?

Mrs. HUTCHISON. Mr. President, I was going to proceed if there was no business in the Chamber, subject to the Senator from Arizona saying I would not encroach on his time.

Apparently that is the case.

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

The PRESIDING OFFICER. The Senator from Texas will need to extend morning business for the time she wishes to speak.

Mrs. HUTCHISON. I thank the Chair.

I thank the Senator from Arizona because, in fact, I do want to talk about the bill that will be in the Chamber very shortly. The bill is sponsored by the junior Senator from Arizona, the Chemical and Biological Weapons Threat Reduction Act. I am an original cosponsor of this bill. I think it is very important that we pass this bill. This bill provides the most strength that we will ever be able to get to deal with the real chemical and biological weapons issues.

I like this bill because it has real teeth. It permits the U.S. military to use tear gas, for instance, when it is necessary to rescue a downed pilot or for the control of prisoners, which has been done, because tear gas is basically harmless. I would much prefer that we be able to use tear gas rather than shoot people. It would make more sense.

That is one of the problems, Mr. President, I have with the chemical weapons treaty. This bill deals with my concerns in a positive way by assuring that we are not going to unilaterally disarm ourselves from a weapon such as tear gas. So this solves one of the problems that I have with the Chemical Weapons Convention that we will have in the Chamber a few days from now.

This bill also preserves the Australia Group. The Australia Group is an effective international export control organization that really has done the most, the very most, to restrict the transfer

of biological and chemical materials and technology. It is the one thing that is working and would be vitiated by the chemical weapons treaty.

So I am very pleased that this preserves the Australia Group because this is the one thing we have that works. This will strengthen U.S. biological and chemical defense programs. It does require Russian cooperation and, of course, it is very important that we work together with Russia in the dismantling of their chemical and biological weapons. S. 495 has a requirement that we cooperate with Russia. So I think it is a very important, positive step that we must take. Frankly, if we can pass this bill, it will take away many of the fears that many of us have about the chemical weapons treaty.

What this bill does not do is require the sharing of chemical defense capabilities with countries like Iran. That is one of the concerns many people have with the Chemical Weapons Convention, the treaty we will be taking up toward the end of next week. S. 495 does not require such sharing. So we would not have to sit down with a country like Iran—knowing that they will not abide by the treaty as we do—and share our chemical weapons capabilities or secrets with them. We do not produce chemical weapons, but we certainly have the technologies to do so in this country. In that case, of course, we should know what is going on with chemical weapons in other countries.

This bill does not require the expansion of trade in chemicals. This is another concern that we have with the chemical weapons treaty that S. 495 addresses. We are not going to expand the trade.

We are not going to circumvent the United States Constitution with this bill. S. 495 will not take away the fourth amendment right against unreasonable searches and seizures, which many of us believe is inherent in the chemical weapons treaty. It certainly does not permit an intrusive inspection of U.S. businesses by international inspection teams, which is another concern that we have with the chemical weapons treaty. Small businesses that are making chemical-related products should not suddenly be faced with a surprise inspection by an international team of experts. And who knows for what kind of intelligence those groups would be looking? Who knows who would even be in the groups? What kind of protection would a small company making fertilizer or cleaning products have against unwarranted intrusion by an international group that might include someone from the Government of Iran or the Government of China? Who could really tell exactly who would be in those groups?

I think the Senator from Arizona has fashioned a very good bill. It is a positive bill. It does alleviate many of the concerns that others have expressed about the reliability, the verifiability and the negative impact of the chemical weapons treaty, but it also makes this country stronger in its ability to enforce restrictions against the actual export of products that could be used in producing chemical weapons. The Australia Group is the best avenue that we have, and S. 495 would preserve it.

So I commend the Senator from Arizona. I am very pleased to be an original cosponsor of this bill. I am pleased that he is gaining cosponsors by the minute. I think people are beginning to see that we do have an alternative to stiffen the penalties, to stiffen our resolve against chemical and biological weapons and at the same time, make sure that we have laws with real teeth that would disallow the export of products that could be used to produce chemical weapons from our country or other countries in the Australia Group. This is the kind of legislation that I think will help make America stronger and will help protect this great country even more from the future use of chemical or biological weapons.

I thank the Chair. I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona.

Mr. KYL. I thank the Senator from Texas for a brilliant statement. I really appreciate that very much.

I ask unanimous consent that Senator ASHCROFT be added as a cosponsor of S. 495.

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

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, on behalf of the Democratic leader and I, we just want to announce again that what we are about to do within the next 10 minutes or so is offer a unanimous-consent agreement on the Chemical Weapons Convention. We are still working to make sure we have a mutual understanding of exactly what is in it, and we want all Senators to be aware that we are preparing to do that.

I would be glad to yield at this point to the Senator.

Mr. DASCHLE. I appreciate the majority leader's yielding.

I heard him thank a number of people, and I want to express my gratitude as well to the majority leader and so many others who have brought us to this point. We have hot-lined this unanimous-consent request.

Let me just urge all of my Democratic colleagues to respond as favorably and as quickly as they possibly can. I have very closely examined once more this request, and I must say I think it is fair to all sides. It is not everything we would like, but it is not everything that the Republicans would like either. It is important for purposes of completing our work on time that we get this agreement today, this afternoon.

So I urge my Democratic colleagues to support the request and to allow us to enter into an agreement no later than 2:15 this afternoon. So again I thank the majority leader, all of those on our side of the aisle for their great work in bringing us to this point.

I yield the floor.

Mr. LOTT. I thank the Senator.

EXTENSION OF MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that morning business time be extended for an additional 15 minutes.

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

CHEMICAL AND BIOLOGICAL WEAPONS THREAT REDUCTION ACT

Mr. LOTT. Mr. President, I am pleased to speak in support of this legislation that has been drafted by Senator KYL and joined in with cosponsorship from Senators HELMS, NICKLES, MACK, COVERDELL, SHELBY, HUTCHISON, and myself, as well as others. We introduced this legislation on March 21. This is important legislation. I know there are a lot of people who are trying to assess will this legislation favorably or unfavorably affect the final vote on the Chemical Weapons Convention. I do not think you can really judge that. Senators that will vote on both sides of the issue on this bill and that bill will view it in different ways depending on their own personal perspective. The most important thing is this is a bill we should have passed. We should already have passed it irrespective of what might happen on the Chemical Weapons Convention.

As I have gotten into this issue and studied this bill, I am amazed that we do not already have laws on the books dealing with sanctions against any country that uses chemical and biological weapons against another country or its own nationals, that we do not allow a range of chemical and biological weapons within the United States. I cannot believe we have not already done it.

This is very good legislation. I hope action on this legislation will put one myth to rest once and for all: No one supports chemical weapons in the United States. Everyone is opposed to them. We all know they are terrible things. Whether they are used in a military situation or civilian situation like we have seen in recent instances in other parts of the world, they are a horrendous thing and they should be eliminated from the face of the Earth in any way we can do it.

As a matter of U.S law, our chemical weapons stockpile will be destroyed by 2004. No matter what happens on the chemical weapons treaty, we already made a commitment and in fact are in the process of destroying our own stockpiles by 2004. Whether or not we pass this bill or whether or not we ratify the Chemical Weapons Convention, the weapons in the United States are being destroyed.

Next week, when we get this UC agreement worked out, the Senate will debate and vote on the Chemical Weapons Convention. I have a number of key concerns about the convention which have not yet been resolved, but to the credit of the proponents and the administration, they have been working with us, I believe, in good faith. We have had a number of minor and some major improvements. We are still working on that language at this very moment. But fundamental issues exist, some of which have not been resolved.

I do think that requiring search warrants for involuntary searches is essential. Protecting United States intelligence information is vital; ensuring United States chemical defensive technology and equipment, making sure it is not shared with Iran or other countries that could possibly under this convention get access to United States information or information from other parts of the world in terms of how chemical technology can be utilized for chemical weapons or also how that technology or equipment could be used in defense capability. We do not want that kind of information spread throughout the globe to those rogue countries that in fact have already been using chemical weapons, have that capability and have indicated they either will be in the convention or may not.

But serious concerns remain. Whether the convention is verifiable enough, whether Russia is taking steps to perhaps violate the treaty and, most importantly, whether provisions in the convention actually increase the likelihood of chemical weapons proliferation, those are all very important questions and we will vote on those issues next week in one form or another through a motion to strike or on final passage. I know all Senators are weighing the information very seriously. To the credit of our committee, the Foreign Relations Committee, in the hearings they have been having, we have been hearing testimony from very distinguished Americans on both sides of the issue.

It is being analyzed and critiqued in articles and editorials. I believe the Senate now is focusing on this issue, and that is as it should be. This bill will help to do that.

Today, though, the Senate will have an opportunity to take real enforceable and effective action to address the threat of chemical weapons. The Chemical and Biological Weapons Threat Reduction Act includes comprehensive domestic and international steps to act against these horrible weapons.

Domestically, this bill provides for civil and criminal penalties for the acquisition, possession, transfer or use of chemical or biological weapons. Again, it is amazing we do not already have this on the books.

It designates the FBI as the lead domestic agency to address chemical weapons threats.

Our bill provides for a Federal death penalty in cases when the use of weapons results in the loss of life. Swift and certain punishment can help ensure that terrorists do not use chemical weapons against America, and ending bureaucratic struggles can help ensure any terrorists get caught quickly.

Internationally, this legislation directs the administration to add enforcement provisions to existing international bans on the use of chemical weapons. Use of chemical weapons has been banned since 1925 in the Geneva Protocol, but the world knows this ban has not been effective. In fact, in the 1980's, after clear evidence—clear evidence—of Iraq's use of chemical weapons against its own people, the international community did nothing—did nothing. It is time to add enforcement mechanisms to that Geneva Protocol.

S. 495 includes a number of provisions to stem chemical and biological weapons proliferation around the world. It requires mandatory sanctions on countries which use these weapons.

It mandates enhancements to our chemical and biological defenses.

It requires the administration to name names in an annual report to identify the people and the countries which are aiming for and aiding the chemical weapons programs of rogue states.

I believe these provisions make good common sense. I believe the American people would want us to upgrade our chemical defenses and to impose sanctions on countries that use weapons of mass destruction.

Much has been said about another provision of the legislation requiring certain minimum criteria be met before United States taxpayers send dollars to Russia. Our legislation calls on Russia to implement and comply with the bilateral destruction agreement it signed 5 years ago to present accurate information about its chemical weapons program and to comply with the Biological Weapons Convention signed more than 20 years ago.

I cannot understand why anyone would oppose this provision. U.S. aid is not an entitlement to be given no matter how recipients behave. If Russia complies with its agreements, Russia should get assistance as it moves toward more free enterprise and more toward democracy. If they do not comply, why in the world should they get aid? But there have been concerns about the impact this legislation might have on the so-called Nunn-Lugar legislation.

Senator KYL from Arizona has heard those concerns, and, as I understand it, he has a modification that has addressed that problem.

We have heard much over the past few weeks about what the Senate should do to prevent the spread of chemical weapons and related technologies and equipment. Many people say the Chemical Weapons Convention will do that. I have my doubts. I am not sure that the day after that vote—if, in fact, it should pass—that we will have fewer chemical weapons in the world. I fear that without further action, we could have more. That is a basic, fundamental part of the concerns that I have and that I have enumerated over the past few days and weeks to the proponents of the legislation.

Today, though, the Senate can vote for the Kyl bill and take serious steps for enforcement of effective and achievable chemical weapons arms control.

Once we enter into this unanimous consent request and, hopefully, its agreement, we will begin the actual debate under a time arrangement that we have worked out, I believe, and go to completion of this bill, hopefully, by a relatively early hour this afternoon. Hopefully, we can get it done between 4 and 5 o'clock. We will be prepared to make that request shortly.

Mr. President, we have another 5 minutes, I believe, remaining in morning business.

The PRESIDING OFFICER. That is correct.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. 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. KYL. Mr. President, we are still in the process of trying to work out the details of a unanimous-consent agreement. Part of the question is whether we can get to a vote on this matter by 3:45, or thereabouts, this afternoon. We are trying to leap to that conclusion, and in order to allow people to continue to talk about that and perhaps reach that point, I am going to begin discussing this bill now as if it were before us, so I will not have to speak later and, therefore, we will not have to use more time, hoping to be helpful in that regard.

What we are talking about doing here this afternoon is having a couple hours of debate on a bill called the Chemical and Biological Weapons Threat Reduction Act. The bill is S. 495. This legislation is before us because in the process

of leading up to the debate on the Chemical Weapons Convention itself—which, if there is a unanimous-consent agreement, will be taken up next week—we discovered there were several things actually we could do right now, very practical, realistic steps we could take to help ameliorate the threat. Senator HUTCHISON from Texas has already spoken to it. Let me detail what those things are.

It, basically, involves closing some loopholes in existing law and ensuring that the administration and the Congress work together in those ways that we can, right here at home, irrespective of whether the Chemical Weapons Convention passes or does not pass, to actually reduce this threat. One example of the kind of thing we are talking about is the fact that existing U.S. law does not make it a crime to manufacture or possess chemical weapons in the United States. If we are going to have this big debate about the chemical weapons treaty, the first thing you want to do is make sure that kind of activity is outlawed here at home. It is a provision of the law we add as a result of S. 495.

There are several things like that in this bill, and I will go through them briefly. I want to assure my colleagues, whether you are for the Chemical Weapons Convention or opposed to the Chemical Weapons Convention, this legislation is legislation you can support. If you are against the convention, you can see this as an alternative. If you are for it, you can see it as a supplement. I am not trying to sell it as either one. I am saying these are good, practical steps we can take right now, and we should do it.

Let me quickly go through the specifics of the provisions of the legislation. I think my colleagues will see it is exactly as we have said that it is.

For the first time in history, we would be criminalizing the entire range of chemical weapons activities. The current law only prohibits the use or attempt or conspiracy to use chemical weapons. It does outlaw, with respect to biological weapons, the possession or manufacture. We combine the two and say that it is against the law to manufacture, to possess, to use or to conspire to use either chemical or biological weapons. So, for the first time, we contain all of those things in our criminal code, and that is against the law in the United States. That is the first thing this bill would do.

The second thing it would do is to revoke certain export privileges of companies that violate the law. That is a commonsense proposition, and it has the additional benefit, by the way, of helping us to prevent American companies from assisting countries who we believe should not have chemicals, the precursors to making their biological or chemical weapons.

The third section deals with sanctions against the use of chemical or biological weapons. Mr. President, today under existing law, the President of the United States is obligated to impose sanctions against countries that use chemical or biological weapons, and he is given a list of 10 sanctions that he is to impose. They are in two different tiers—five in one tier and five in another tier. He also has a waiver authority.

What we do in this legislation is to grant him more flexibility, to keep the same sanctions, but not to have the one tier and two tier. So he can actually decide, based upon the circumstances at the time, exactly how he wants to proceed. The price for that flexibility is that we reduce somewhat his flexibility on the waiver, but he still has the ability, under the supreme-national-interest-waiver clause to waive the imposition of those sanctions should he deem it appropriate.

Obviously, that waiver would not likely be used by a President if a country actually used chemical or biological weapons. He would, under the law today, under the law as we have it written today, want to impose sanctions. As I said, we provide more flexibility in those sanctions.

In addition, in this section, we call on the President to block transactions of any property that is owned by a country found to have used chemical or biological weapons. In other words, just to use a hypothetical, country A uses biological or chemical weapons, and they have assets in banks in the United States. The President could block any transaction of that property, basically freeze those assets as a way of preparing to indemnify victims of the use of that chemical weapon. This is a way we can provide real, meaningful relief. This is new in law. This does not exist today. We would have a way, therefore, at least of providing a fund should we be able to indemnify victims of such a horrible, horrible crime.

Another thing we do is have a section on continuation and enhancement of multilateral control regimes, which is really a fancy way of saying that we are expressing the sense of the Senate and establishing United States policy that the President continue to maintain our role in the Australia group, that group of countries that has agreed among itself not to trade chemicals to countries we believe might want to use them to create a biological or chemical weapon with them.

We establish the policy that the President will attempt to block any attempt to substantially weaken the controls established by the Australia group. I believe that as a general proposition—this is the administration's policy anyway—I do not think that this is particularly new, but it puts into statute our policy expressing this strong position. It should, therefore, assist the President in the advocacy of that position in the Australia group meetings.

There is another section dealing with assistance to Russia. A year ago, in the 1996 Defense Authorization Act, the Congress actually fenced, meaning it set aside the expenditure of funds under the so-called Nunn-Lugar provision for chemical- and biological-related activities. We did this because we felt there was some question about whether Russia was actually proceeding in good faith to dismantle their chemical and biological capability. As a result of the compromise that was struck by Senators Nunn and LUGAR, there was actually a provision for four conditions in that legislation that had to be certified by the President prior to the release of part of these funds.

What we have done in this legislation is to reinstate—essentially the same language that was in that 1996 defense authorization bill—and to reestablish those four conditions for certification by the President. Those conditions, as I said, are essentially the same conditions that existed before and would be certified by the President or, as was done in that defense authorization bill, the President could also release the funds if he formally certifies that he is unable to make the certification.

So the President has total flexibility here, but at least it focuses attention on the degree of cooperation by the Russians with respect to the dismantlement of their CW and BW programs.

The next section calls for reports on the state of chemical and biological weapons proliferation. It asks the administration to provide us an annual classified report that will enable us to better understand the threat that is out there.

The next section would strengthen the 1925 Geneva Protocol. It is a sense of the Senate, but what it does do is urge and direct the Secretary of State to work to convene an international negotiating forum for the purpose of putting some teeth into this 1925 Geneva Protocol, which is the agreement that actually prevents or prohibits the use of chemical weapons, not just the manufacture or possession of them. We provide $5 million for the State Department to begin this process.

We think this would be useful because countries of greatest concern to us, like Iran and Iraq, North Korea, Russia, China, Syria, and Libya, are all signatories to the 1925 Geneva Protocol. If we could make an international agreement that puts some teeth into that, it would be clearly useful. As I say, it is a sense of the Senate, but we believe it is useful nonetheless.

Next it says, until the United States has developed its resolution of ratification of the Chemical Weapons Convention—if it does—we would not be providing funding for that organization.

The next section is that it is the sense of the Senate that we actually do

some things to beef up our military defenses against the use of chemical or biological weapons.

The General Accounting Office, in 1996, issued a report that was very distressing in that it reported that U.S. forces are inadequately equipped, organized, trained and exercised for operations in battlefields in which chemical and biological weapons are being used.

So this bill recommends three specific corrective steps to deal with that and, as a result, we think, will help to actually improve and enhance our defensive capability should our forces ever be confronted with the use of these weapons.

The last two sections, Mr. President.

The first is relating to negative security assurances. It is a sense of the Senate that calls on the President to reevaluate the current policy of the United States on negative assurances and its impact on deterrent strategy.

In effect, what this is all about is the following. In return for a nation's decision to join the nuclear nonproliferation treaty as a nonnuclear weapons state, the United States pledges never to threaten or use nuclear weapons against that state unless it was allied with a nuclear weapons state in aggression against the United States.

So today, when chemical and biological threats seem like the larger concern, this negative security assurance could undermine our effective deterrence against such an attack. Would Saddam Hussein, for example, feel free to use chemical weapons if he did not think we would possibly retaliate with nuclear weapons? As a result, that is in here.

Finally, we have the riot control agent provision which has been much spoken of. We think it is important for the rescue of downed pilots or in a situation where civilians are present that riot control agents be used. And our act provides for that.

These are all, I would say, very helpful, very specific, very realistic provisions that constructively deal with the proliferation of this threat. As a result, we think this legislation is important. Again, as I say, whether you are pro or con on the treaty, this legislation enhances the security of the United States. I certainly request my colleagues to consider it and to support the vote, assuming we have the vote here before long.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, again, I want to thank the Senator from Arizona, Senator KYL, for his work on this legislation.

We do have a unanimous-consent request ready to offer now.

UNANIMOUS-CONSENT AGREEMENT—S. 495 AND THE CHEMICAL WEAPONS CONVENTION

Mr. LOTT. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 495, entitled the Chemical and Biological Weapons Threat Reduction Act of 1997 on Thursday, April 17, and the Senate proceed to its immediate consideration on Thursday, April 17, at a time to be determined by the majority leader after notification of the Democratic leader under the following agreement: 30 minutes under the control of Senator KYL, 30 minutes under the control of Senator LEAHY, and 15 minutes each for Senators LEVIN and BIDEN, or their designees, on the bill and no amendments or motions be in order, other than a modification of the bill to be offered by Senator KYL and submitted for the RECORD at the time of this agreement.

I further ask unanimous consent that following the use or yielding back of the time, the Senate proceed to third reading and final passage of the bill, all without further action or debate.

I further ask unanimous consent as if in executive session that on Wednesday, April 23, the Foreign Relations Committee be immediately discharged from further consideration of treaty document No. 103–21 and the document be placed on the Executive Calendar.

I further ask unanimous consent that the Senate proceed to executive session to consider treaty document No. 103–21 at 10 a.m. on Wednesday, April 23, and the treaty be advanced through its various parliamentary stages, up to and including the presentation of the resolution of ratification, and the Senate Foreign Relations Committee be discharged of Executive Resolution 75—that is the text of the Helms negotiations—and that it be immediately substituted for the resolution of ratification.

I further ask unanimous consent the resolution be considered under the following time restraints: 10 hours of debate on the resolution of ratification, to be equally divided between the chairman and ranking minority member or their designees.

Mr. DASCHLE. Would the majority leader yield at that point?

Mr. LOTT. Yes.

Mr. DASCHLE. At that point I would add 1 hour under the control of Senator LEAHY.

Mr. LOTT. Mr. President, I further ask unanimous consent that Senator LEAHY be recognized then for up to 1 hour on Wednesday, April 23. I ask that additional request be placed at this point in the unanimous-consent request.

I ask unanimous consent that the first 28 conditions, declarations, statements, and understandings shall be identified as being agreed to between the chairman and ranking minority member, that these 28 conditions, declarations, statements, or understandings not be subject to further amendments or motions, and it be in order for the Senate to vote on the agreed-upon items, and if agreed to, the motion to reconsider be laid upon the table.

I further ask unanimous consent that the final 5 of the 33 conditions, declarations, statements, or understandings shall be identified as not being agreed to between the chairman and ranking minority member, that it be in order for the Democratic leader or his designee to offer one motion to strike each of the conditions, declarations, statements, or understandings, as listed below, and the motion be limited to 1 hour to be equally divided.

The conditions, declarations, statements, or understandings subject to motions to strike are as follows:

First, Russian elimination of chemical weapons;

Second, chemical weapons in countries other than Russia;

Third, designation of inspectors and inspection assistants;

Fourth, stemming the proliferation of chemical weapons; and

Fifth, essential verifiability.

The full text by title is appended hereto. I send it to the desk and ask unanimous consent that it be printed in the RECORD.

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

(29) RUSSIAN ELIMINATION OF CHEMICAL WEAPONS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Congress that—

(A) Russia is making reasonable progress in the implementation of the Agreement between the United States of America and the Union of Soviet Socialist Republics on Destruction and Nonproduction of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons, signed on June 1, 1990 (in this resolution referred to as the "1990 Bilateral Destruction Agreement");

(B) the United States and Russia have resolved, to the satisfaction of the United States, outstanding compliance issues under the Memorandum of Understanding Between the Government of the United States of America and the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989, also known as the "1989 Wyoming Memorandum of Understanding", and the 1990 Bilateral Destruction Agreement;

(C) Russia has deposited the Russian instrument of ratification for the Convention and is in compliance with its obligations under the Convention; and

(D) Russia is committed to forgoing any chemical weapons capability, chemical weapons modernization program, production mobilization capability, or any other activity contrary to the object and purpose of the Convention.

(30) CHEMICAL WEAPONS IN OTHER STATES.—

(A) CERTIFICATION REQUIREMENT.—Prior to the deposit of the United States instrument

of ratification the President, in consultation with the Director of Central Intelligence, shall certify to the Congress that countries which have been determined to have offensive chemical weapons programs, including Iran, Iraq, Syria, Libya, the Democratic People's Republic of Korea, China, and all other countries determined to be state sponsors of international terrorism, have ratified or otherwise acceded to the Convention.

(31) EXERCISE OF RIGHT TO BAR CERTAIN INSPECTORS.—

(i) IN GENERAL.—The President shall exercise United States rights under paragraphs 2 and 4 of Part II of the Verification Annex to indicate United States non-acceptance of all inspectors and inspection assistants who are nationals of countries designated by the Secretary of State as supporters of international terrorism under section 40(d) of the Arms Export Control Act, or nationals of countries that have been determined by the President, in the last five years, to have violated United States nonproliferation law, including—

(I) chapters 7, 8, and 10 of the Arms Export Control Act;

(II) sections 821 and 824 of the Nuclear Proliferation Prevention Act of 1994;

(III) sections 11b and 11c of the Export Administration Act of 1979;

(IV) the Export-Import Bank Act of 1945; and

(V) sections 1604 and 1605 of the Iran-Iraq Nonproliferation Act of 1992.

(ii) OTHER GROUNDS OF EXCLUSION.—The President shall also bar such nationals from entering United States territory for the purpose of conducting any activity associated with the Convention, notwithstanding paragraph 7 of Part II of the Verification Annex.

(32) STEMMING THE PROLIFERATION OF CHEMICAL WEAPONS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that—

(A) the State Parties have concluded an agreement amending the Convention—

(i) by striking Article X; and

(ii) by amending Article XI to strike any provision that states or implies disapproval of trade restrictions in the field of chemical activities, including paragraphs 2(b), 2(c), 2(d), and 2(e); and

(B) no provision has been added to the Convention or to any of its annexes, and no statement, written or oral, has been issued by the Organization, stating or implying the right or obligation of States Parties to share or facilitate the exchange among themselves of chemical weapons defense technology, chemicals, equipment, or scientific and technical information.

(33) EFFECTIVE VERIFICATION.—

(A) CERTIFICATION.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that compliance with the Convention is effectively verifiable.

(B) DEFINITIONS.—In this paragraph:

(i) EFFECTIVELY VERIFIABLE.—The term "effectively verifiable" means that the Director of Central Intelligence has certified to the President that the United States intelligence community (as defined in section 3(4) of the National Security Act of 1947) has a high degree of confidence in its ability to detect militarily significant violations of the Convention, including the production, possession, or storage of militarily significant quantities of lethal chemicals, in a timely fashion, and to detect patterns of marginal violation over time.

(ii) MILITARILY SIGNIFICANT.—The term "militarily significant" means one metric ton or more of chemical weapons agent.

(iii) TIMELY FASHION.—The term "timely fashion" means detection within one year of the violation having occurred.

Mr. LOTT. Mr. President, I further ask unanimous consent no substitute or second-degree amendments be in order and no other reservations, conditions, declarations, statements, or understandings be in order to the resolution of ratification.

I further ask unanimous consent that it be in order for the majority leader, after notification of the Democratic leader, to call for a closed session of the Senate, to be held in the Old Senate Chamber, to hear confidential debate regarding the Chemical Weapons Convention, not to exceed 2 hours, to be equally divided, again, between the two leaders or their designees, and 48 hours before moving to the closed session all classified material to be used during the debate by any Senator be given to both leaders.

Further, I ask unanimous consent that following the disposition of the above-listed amendments, closed session, and the use or yielding back of time, the Senate proceed to vote on adoption of the resolution of ratification, as amended, all without further action or debate, and following the vote the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action or, if the resolution is defeated, the resolution to return to the President be deemed agreed to and the Senate resume legislative session.

Further, I ask unanimous consent, Mr. President, that prior to the Memorial Day recess the majority leader, after notification of the Democratic leader, shall turn to the consideration of the implementing legislation, and it be considered under a time agreement of 2 hours to be equally divided, again, between the chairman and the ranking minority member, and there be only one amendment in order to be offered by the majority leader or his designee, and one amendment only to be offered by the Democratic leader or his designee, and limited to 1 hour each, to be equally divided in the usual form, and each amendment must be relevant to the implementing legislation.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Reserving the right to object, I just want to clarify that the amendments we will offer to strike will be in order Thursday regardless of whether the 10 hours of debate has been completed and that the vote on the agreed-on reservations will occur prior to consideration of the reservations in this agreement.

Mr. LOTT. Mr. President, let me ask you to state that again—that the motions to strike would be in order on Thursday, the 24th, whether or not the 10 hours has been completed?

Reserving the right to object, Mr. President, if I could address this question to the Democratic leader.

I do not see any reason why we should not have completed at that time, but you are just saying if the time is not agreed to, you want to delay the actions on the motions to strike.

Mr. President, that would be my intent. I think that is what the agreement indicates. That is what we will do. I believe we will be able to get our time in on Wednesday or we will have an agreement to take part of the time Thursday morning and move immediately to a motion to strike, because we want to make sure that that time and those motions to strike are in order. And the time is required. There is about 6 hours or so. We will make sure that time is there.

Mr. DASCHLE. Reserving the right to object, I just only clarify this because that is the understanding. I appreciate very much the distinguished majority leader's assurances in that regard.

Mr. President, as I said a moment ago, this is the product of several days' worth of work. I thank the majority leader for his leadership and the cooperation he has shown in bringing us to this point.

I also thank Senators BIDEN, LEAHY, LEVIN, KERRY, BINGAMAN, and many others who had so much to do on our side with this effort. I think it's a very good agreement and appreciate the cooperation from all of our colleagues.

I have no objection.

Mr. KYL. Mr. President, reserving the right to object, may I inquire? This agreement would provide for a separate vote on the so-called 28 items in agreement; is that correct? If that is correct, I will have to object because that was never my understanding of the agreement.

Mr. LOTT. Mr. President, let me put in a quorum call at this point so we can make sure we understand the question to make sure we go over the history of why that language would be in there.

I must say this is the longest and the most complicated unanimous-consent agreement that I have worked on since I have been majority leader. I know that the Senator from West Virginia has probably entered in some much longer, more complicated than this. But as I was reading through it, I even hesitated, to go back and reread at least one section there, to make sure it was accurate. I understood exactly what it meant. But we do need to clarify this particular point.

I would like to suggest the absence of a quorum so I can get a proper explanation.

Mr. BYRD addressed the Chair.

Mr. LOTT. Mr. President, I will be glad to withhold that and yield to the Senator.

Mr. BYRD. Will the distinguished majority leader yield for a question or perhaps a brief statement before he asks for a quorum?

Mr. LOTT. Yes.

Mr. BYRD. Mr. President, I have been informed that our offices were notified 20 minutes ago, roughly, about this agreement. I assume that it was thought that if there were no objections registered within 15, 20 minutes, whatever it was, there were none and therefore we would go ahead with the agreement.

It seems to me that at times certainly that is not in the best interest of the Senate. I am not complaining. Here is a very lengthy unanimous-consent agreement. I have not seen it. I am not one of the principal players in this situation. I probably am going to vote for the treaty.

But the approval of resolutions of ratification of treaties is one of the unique reasons for the Senate's raison d'etre. Consequently, to just, at first blush, come up here to the floor and hear this long agreement read and then go along without objecting, at least for a little while until I can read it, it seems to me I am not doing my duty to the Senate, my duty under the Constitution, my duty to my people.

Twenty minutes. If a hotline goes to the office on a lengthy agreement like this and I am out doing other things—and we do have other important duties that are part of the people's business—nobody in the office is in a position to approve or to object.

Mr. DASCHLE. Mr. President, would the distinguished—I do not know who has the floor.

Mr. LOTT. I would be happy to yield.

Mr. DASCHLE. I would like to respond, if I could, to the distinguished Senator from West Virginia.

There were four notifications, I would explain to my dear colleague, the senior Senator from West Virginia.

First, we had sent out the substance of this agreement about 48 hours ago. So staffs have had this now for the better part of 2 days.

Second, we discussed it in the caucus on Tuesday.

Third, we had the opportunity to talk to all relevant committee staff and then, of course, to those who had a particular interest in it over the last 24 hours.

Then, finally, of course, we have explained it again in a policy committee just about 2½ hours ago.

So I really think that in this case there ought not be any surprises for any of our colleagues if they had an interest.

We have really made the effort as this has evolved to bring people along with the understanding of where we are. This is simply a confirmation of what I have been explaining to our caucus now for the better part of a week.

Mr. LOTT. If I could say to the distinguished Senator from West Virginia, we have been working on both sides of the aisle to make sure that this was a very carefully and fairly drawn unanimous-consent agreement. There has been give-and-take on both sides. I am sure the way it is set up would not be the first choice for some of our colleagues that are proponents of the treaty. Let me assure you there are some things in here that the distinguished chairman of the Foreign Relations Committee, Senator HELMS, had to swallow hard to agree to. But we have been talking to Senator BIDEN, Senator HELMS, Senator KYL, Senator MCCAIN, and I am sure that Senator LUGAR and Senator LEAHY have been following closely. In fact, let me assure everyone they have been following closely, because Senator LEAHY got another bite of the apple at the end.

I believe we have set it up in a way that is fair. We set it up in a way, sir, where Senators like yourself will actually take the time to read the statements and conditionalities, will have time today and over the weekend and Monday and Tuesday, and even during the debate. We set it up carefully so there is adequate time for full debate. With a motion to strike, and hours of debate, we will have, I believe, and I certainly hope, the time to fully discharge our responsibilities.

This is a very, very difficult issue for me. I have people I respect dearly, ultimately, on both sides of this treaty. It is a very important treaty dealing with a very important issue. I certainly have wanted to be careful about how we set it up, to have the time, have the hearings that are necessary so we hear from some of the opponents that we have not heard from, and give the proponents opportunities.

I think the leadership always at the end tries to pull it together before one more cork pops loose, and we try to push it at the conclusion, at the end. If we missed a Senator or two, it certainly has just not been our intention, and we will work with you in every way we can to make sure you have the time to consider it, sir.

Mr. BYRD. The only thing I am accusing my leaders of is that they always act with the very best of intentions and they are very sincere.

I was at the caucus on Tuesday. I never heard this agreement discussed. Am I wrong?

Mr. DASCHLE. I do not know if you were there. If the distinguished Senator will yield again, I do not know that he was there when this segment of it was discussed, but we brought it up at the end of the caucus. I think the Senator may have already left the caucus.

Mr. BYRD. I am talking about the details of this agreement.

Mr. DASCHLE. That is right. We talked about the timeframe—which is what this agreement addresses—within which all of the legislation affecting the agreement will be considered. I spoke at some length in describing what the scenario would be, and again repeated it, as I said, at the policy committee this afternoon.

Mr. BYRD. I was not at the policy committee this afternoon. That is not the leader's fault. I have had some other things that demand my attention, one of them being the election challenge to MARY LANDRIEU, which took some time, at least before noon.

Mr. DASCHLE. Again, I reiterate, we also had the text of this agreement. The substantive portions of this agreement have all been transmitted to every Democratic office now for some time. It should be in the office of every Senator. Every Democratic Senator and staff should have been well aware of it. We then faxed the specific agreement about an hour ago.

Mr. BYRD. I have not seen that. That is not the leader's fault. That may have been my office. It has not been called to my attention. I will discuss that with my staff. The leader knows we are very short in our staffs—shorthanded. I will go back and take a look at that.

There is one thing I thought I had clearly understood, and that was when we have an agreement and we go to third reading and part of the agreement is to the effect that we go immediately after third reading without further action or debate to final passage, I objected to that last year, but I see that the agreements that are being proposed now go back to that same kind of phraseology. I am a little troubled by that.

Mr. DASCHLE. If I could say, the distinguished Senator from West Virginia has made himself very clear on this point. I agree with him.

I think that we ought to use the language that will allow for consideration of final passage after reaching the third reading, which is what the Senator has suggested.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. 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.

Mr. LOTT. Mr. President, I renew my previous unanimous-consent request, which I read into the RECORD in its entirety, with two changes. On the second page, I would make this change:

That the first 28 conditions, declarations, statements, and understandings shall be identified as being agreed to between the chairman and the ranking minority member, that these 28 conditions, declarations, statements, or understandings not be subject to further amendments or motions, and a vote occur on adoption of Executive Resolution 75 to be followed by a vote on the agreed-upon 28 items, and, if agreed to, the motion or motions to reconsider be laid upon the table.

Basically what that is saying is that there would be a voice vote on the underlying resolution and on the 28 conditions and declarations.

Also, at the end of the unanimous-consent request, I would make this request:

I further ask that Senator LEAHY be recognized for up to 1 hour on Wednesday, April 23, and that prior to the adoption of the resolution or ratification there be an additional 10 minutes equally divided between the two leaders at that time.

Mr. DASCHLE. Mr. President, reserving the right to object, let me just say that I think this has again addressed all of the concerns raised. And I appreciate very much everyone's cooperation here. The clock is ticking. We are losing time. We need to get on with consideration of the Kyl bill. And I hope now that we can enter into this unanimous-consent agreement.

I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. Is there objection?

No objection is heard.

Mr. KYL. Mr. President, reserving the right to object, I want to clarify that this will be a voice vote on both of the two matters indicated in the unanimous-consent request.

Mr. LOTT. Mr. President, I absolutely confirm that that is the case.

Mr. LEAHY. Reserving the right to object, I shall not object, the voice vote on the which?

Mr. LOTT. On the underlying resolution of the committee and on the 28 conditions that have been agreed to.

The PRESIDING OFFICER. No objection is heard.

Without objection, it is so ordered.

CHEMICAL AND BIOLOGICAL WEAPONS THREAT REDUCTION ACT OF 1997

Mr. LOTT. I ask unanimous consent that the Senate now proceed to the consideration of S. 495, under the previous order.

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

The clerk will report the bill.

The bill clerk read as follows:

A bill (S. 495) to provide criminal and civil penalties for the unlawful acquisition, transfer, or use of any chemical weapon or biological weapon, and to reduce the threat of acts of terrorism or armed aggression involving the use of any such weapon against the United States, its citizens, or Armed Forces, or those of any allied country, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, first of all, I understand that the amendment which was referred to in the unanimous-consent agreement as the modified bill is at the desk.

The PRESIDING OFFICER. The modification is at the desk.

The modification follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Chemical and Biological Weapons Threat Reduction Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Policy.
Sec. 4. Definitions.
TITLE I—PENALTIES FOR UNLAWFUL ACTIVITIES SUBJECT TO THE JURISDICTION OF THE UNITED STATES
Subtitle A—Criminal and Civil Penalties
Sec. 101. Criminal and civil provisions.
Subtitle B—Revocations of Export Privileges
Sec. 111. Revocations of export privileges.
TITLE II—FOREIGN RELATIONS AND DEFENSE-RELATED PROVISIONS
Sec. 201. Sanctions for use of chemical or biological weapons.
Sec. 202. Continuation and enhancement of multilateral control regimes.
Sec. 203. Criteria for United States assistance to Russia relating to the elimination of chemical and biological weapons.
Sec. 204. Report on the state of chemical and biological weapons proliferation.
Sec. 205. International conference to strengthen the 1925 Geneva Protocol.
Sec. 206. Restriction on use of funds for the Organization for the Prohibition of Chemical Weapons.
Sec. 207. Enhancements to robust chemical and biological defenses.
Sec. 208. Negative security assurances.
Sec. 209. Riot control agents.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the United States eliminated its stockpile of biological weapons pursuant to the 1972 Biological Weapons Convention and has pledged to destroy its entire inventory of chemical weapons by 2004, independent of the Chemical Weapons Convention entering into force;

(2) the use of chemical or biological weapons in contravention of international law is abhorrent and should trigger immediate and effective sanctions;

(3) United Nations Security Council Resolution 620, adopted on August 26, 1988, states the intention of the Security Council to consider immediately "appropriate and effective" sanctions against any nation using chemical and biological weapons in violation of international law;

(4) the General Agreement on Tariffs and Trade recognizes that national security concerns may serve as legitimate grounds for limiting trade; title XXI of the General Agreement on Tariffs and Trade states that "nothing in this Agreement shall be construed . . . to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests. . .";

(5) on September 30, 1993, the President declared by Executive Order No. 12868 a national emergency to deal with "the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States" posed by the proliferation of nuclear, biological and chemical weapons, and of the means for delivering such weapons;

(6) Russia has not implemented the 1990 United States-Russian Bilateral Agreement on Destruction and Non-Production of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons, known as the "BDA", nor has the United States and Russia resolved, to the satisfaction of the United States, the outstanding compliance issues under the Memorandum of Understanding Between the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related To Prohibition on Chemical Weapons, known as the "1989 Wyoming MOU";

(7) the Intelligence Community has stated that a number of countries, among them China, Egypt, Iran, Iraq, Libya, North Korea, Syria, and Russia, possess chemical and biological weapons and the means to deliver them;

(8) four countries in the Middle East—Iran, Iraq, Libya, and Syria—have, as a national policy, supported international terrorism;

(9) chemical and biological weapons have been used by states in the past for intimidation and military aggression, most recently during the Iran-Iraq war and by Iraq against its Kurdish minority;

(10) the grave new threat of chemical and biological terrorism has been demonstrated by the 1995 nerve gas attack on the Tokyo subway by the Japanese cult Aum Shinrikyo;

(11) the urgent need to improve domestic preparedness to protect against chemical and biological threats was underscored by enactment of the 1997 Defense Against Weapons of Mass Destruction Act;

(12) the Department of Defense, in light of growing chemical and biological threats in regions of key concern, including Northeast Asia, and the Middle East, has stated that United States forces must be properly trained and equipped for all missions, including those in which opponents might threaten use of chemical or biological weapons; and

(13) Australia Group controls on the exports of chemical and biological agents, and related equipment, and the Missile Technology Control Regime, together provide an indispensable foundation for international and national efforts to curb the spread of chemical and biological weapons, and their delivery means.

SEC. 3. POLICY.

It should be the policy of the United States to take all appropriate measures to—

(1) prevent and deter the threat or use of chemical and biological weapons against the citizens, Armed Forces, and territory of the United States and its allies, and to protect against, and manage the consequences of, such use should it occur;

(2) discourage the proliferation of chemical and biological weapons, their means of delivery, and related equipment, material, and technology;

(3) prohibit within the United States the development, production, acquisition, stockpiling, possession, and transfer to third parties of chemical or biological weapons, their precursors and related technology; and

(4) impose unilateral sanctions, and seek immediately international sanctions, against any nation using chemical and biological weapons in violation of international law.

SEC. 4. DEFINITIONS.

In this Act:

(1) AUSTRALIA GROUP.—The term "Australia Group" refers to the informal forum of countries, formed in 1984 and chaired by Australia, whose goal is to discourage and impede chemical and biological weapons proliferation by harmonizing national export controls on precursor chemicals for chemical weapons, biological weapons pathogens, and dual-use equipment, sharing information on target countries, and seeking other ways to curb the use of chemical weapons and biological weapons.

(2) BIOLOGICAL WEAPON.—The term "biological weapon" means the following, together or separately:

(A) Any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

(i) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(ii) deterioration of food, water, equipment, supplies, or materials of any kind; or

(iii) deleterious alteration of the environment.

(B) Any munition or device specifically designed to cause death or other harm through the release, dissemination, or impact of the toxic or poisonous properties of those biological weapons specified in subparagraph (A).

(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B).

(D) Any living organism specifically designed to carry a biological weapon specified in subparagraph (A) to a host.

(3) CHEMICAL WEAPON.—The term "chemical weapon" means the following, together or separately:

(A) Any of the following chemical agents: tabun, Sarin, Soman, GF, VX, sulfur mustard, nitrogen mustard, phosgene oxime, lewisite, phenyldichloroarsine, ethyldichloroarsine, methyldichloroarsine, phosgene, diphosgene, hydrogen cyanide, cyanogen chloride, and arsine.

(B) Any of the 54 chemicals other than a riot control agent that is controlled by the Australia Group as of the date of the enactment of this Act.

(C) Any other chemical agent that may be developed if the use of the agent would be intended to produce an effect consistent with that of a chemical agent or other chemical described in subparagraph (A) or (B).

(D) Any munition or device specifically designed to cause death or other harm through the release, dissemination, or impact of the toxic or poisonous properties of a chemical weapon specified in subparagraph (A), (B), or (C).

(E) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (D).

(4) KNOWINGLY.—The term "knowingly" is used within the meaning of "knowing" as that term is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2).

(5) NATIONAL OF THE UNITED STATES.—The term "national of the United States" has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(6) PERSON.—The term "person" means any individual, corporation, partnership, firm, association, or other legal entity.

(7) RIOT CONTROL AGENT.—The term "riot control agent" means any substance, including diphenylchloroarsine, diphenylcyanoarsine, adamsite, chloroacetophenone, chloropicrin, bromobenzyl cyanide, 0-chlorobenzylidene malononitrile, or 3-Quinuclidinyl benzilate, that is designed or used to produce rapidly in humans any nonlethal sensory irritation or disabling physical effect that disappears within a short time following termination of exposure.

(8) UNITED STATES.—The term "United States" means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

(A) any of the places within the provisions of paragraph (41) of section 40102 of title 49, United States Code;

(B) any civil aircraft or public aircraft of the United States, as such terms are defined in paragraphs (18) and (36) of section 40102 of title 49, United States Code; and

(C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C., App. sec. 1903(b)).

TITLE I—PENALTIES FOR UNLAWFUL ACTIVITIES SUBJECT TO THE JURISDICTION OF THE UNITED STATES

Subtitle A—Criminal and Civil Penalties

SEC. 101. CRIMINAL AND CIVIL PROVISIONS.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 11A the following new chapter:

"CHAPTER 11B—CHEMICAL AND BIOLOGICAL WEAPONS

"Sec.
"229. Prohibited activities.
"229A. Penalties.
"229B. Criminal forfeitures; destruction of weapons.
"229C. Other prohibitions.
"229D. Injunctions.
"229E. Requests for military assistance to enforce prohibition in certain emergencies.
"229F. Definitions.

"§ 229. Prohibited activities.

"(a) UNLAWFUL CONDUCT.—Except as provided in subsections (b) and (c), it shall be unlawful for any person knowingly—

"(1) to develop, produce, otherwise acquire, transfer, directly or indirectly, receive, stockpile, retain, own, possess, or use, or threaten to use, any chemical weapon or any biological weapon; or

"(2) to assist or induce, in any way, any person to violate paragraph (1), or to attempt or conspire to violate paragraph (1).

"(b) EXEMPTED CONDUCT.—Subsection (a) does not apply to conduct that satisfies the following requirements of both paragraphs (1) and (2):

"(1) LAWFUL PURPOSE.—The chemical weapon or biological weapon is intended for any of the following purposes:

"(A) PEACEFUL PURPOSES.—Any peaceful purpose related to an industrial, agricultural, research, medical, or pharmaceutical activity or other activity.

"(B) PROTECTIVE PURPOSES.—Any purpose directly related to protection against a chemical or biological weapon.

"(C) UNRELATED MILITARY PURPOSES.—Any military purpose of the United States that is not connected with the use of a chemical weapon or biological weapon or that is not dependent on the use of the toxic or poisonous properties of the chemical weapon or biological weapon to cause death or other harm.

"(D) LAW ENFORCEMENT PURPOSES.—Any law enforcement purpose, including any domestic riot control purpose.

"(E) INDIVIDUAL SELF-DEFENSE PURPOSES.—Any individual self-defense purpose involving a pepper spray or chemical mace.

"(2) LIMITATION ON TYPE AND QUANTITY.—

"(A) IN GENERAL.—The type and quantity of the chemical weapon or biological weapon is strictly limited to the type and quantity that can be justified for the purpose intended under paragraph (1).

"(B) EXCESSIVE QUANTITIES PER PERSON.—The requirement of this paragraph is not satisfied if the quantity per person at any given time is, under the circumstances, inconsistent with the purpose intended under paragraph (1).

"(c) EXEMPTED AGENCIES AND PERSONS.—

"(1) IN GENERAL.—Subsection (a) does not apply to the retention, ownership, possession, transfer, or receipt of a chemical weapon or a biological weapon by a department, agency, or other entity of the United States, or by a person described in paragraph (2), pending destruction of the weapon.

"(2) EXEMPTED PERSONS.—A person referred to in paragraph (1) is—

"(A) a member of the Armed Forces of the United States or any other person that is authorized by law or by an appropriate officer of the United States to retain, own, possess, transfer, or receive the chemical or biological weapon; or

"(B) in an emergency situation, any other person if the person is attempting to destroy or seize the weapon or if the person is a victim of the use of the weapon.

"(d) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if the prohibited conduct—

"(1) takes place in the United States;

"(2) takes place outside of the United States and is committed by a national of the United States;

"(3) is committed against a national of the United States while the national is outside the United States; or

"(4) is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States.

"§ 229A. Penalties

"(a) CRIMINAL PENALTIES.—

"(1) IN GENERAL.—Any person who violates section 229 of this title shall be fined under this title, or imprisoned for any term of years, or both.

"(2) DEATH PENALTY.—Any person who violates section 229 of this title and by whose action the death of another person is the result shall be punished by death or imprisoned for life.

"(b) CIVIL PENALTIES.—

"(1) IN GENERAL.—The Attorney General may bring a civil action in the appropriate United States district court against any person who violates section 229 of this title and, upon proof of such violation by a preponderance of the evidence, such person shall be subject to pay a civil penalty in an amount not to exceed $100,000 for each such violation.

"(2) RELATION TO OTHER PROCEEDINGS.—The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

"(c) REIMBURSEMENT OF COSTS.—The court shall order any person convicted of an offense under subsection (a) to reimburse the

United States for any expenses incurred by the United States incident to the seizure, storage, handling, transportation, and destruction or other disposition of any property that was seized in connection with an investigation of the commission of the offense by that person. A person ordered to reimburse the United States for expenses under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered under this subsection to reimburse the United States for the same expenses.

"§ 229B. Criminal forfeitures; destruction of weapons

"(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—Any person convicted under section 229A(a) shall forfeit to the United States irrespective of any provision of State law—

"(1) any property, real or personal, involved in the offense, including any chemical weapon or biological weapon;

"(2) any property constituting, or derived from, and proceeds the person obtained, directly or indirectly, as the result of such violation; and

"(3) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to section 229A(a), that the person forfeit to the United States all property described in this subsection. In lieu of a fine otherwise authorized by section 229A(a), a defendant who derived profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

"(b) PROCEDURES.—Property subject to forfeiture under this section, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by subsections (b) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), except that any reference under those subsections to—

"(1) 'this subchapter or subchapter II' shall be deemed to be a reference to section 229A(a); and

"(2) 'subsection (a)' shall be deemed to be a reference to subsection (a) of this section.

"(c) DESTRUCTION OR OTHER DISPOSITION.—The Attorney General shall provide for the destruction or other appropriate disposition of any chemical or biological weapon seized and forfeited pursuant to this section.

"(d) ASSISTANCE.—The Attorney General may request the head of any agency of the United States to assist in the handling, storage, transportation, or destruction of property seized under this section.

"§ 229C. Other prohibitions

"(a) IN GENERAL.—Whoever knowingly uses riot control agents as an act of terrorism, or knowingly assists any person to do so, shall be fined under this title or imprisoned for a term of not more than 10 years, or both.

"(b) JURISDICTION.—Conduct prohibited by this section is within the jurisdiction of the United States if the prohibited conduct—

"(1) takes place in the United States;

"(2) takes place outside of the United States and is committed by a national of the United States;

"(3) is committed against a national of the United States while the national is outside the United States; or

"(4) is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States.

"§ 229D. Injunctions

"The United States may obtain in a civil action an injunction against—

"(1) the conduct prohibited under section 229 or 229C of this title; or

"(2) the preparation or solicitation to engage in conduct prohibited under section 229 or 229C of this title.

"§ 229E. Requests for military assistance to enforce prohibition in certain emergencies

"The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 229 of this title in an emergency situation involving a biological weapon or chemical weapon. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.

"§ 229F. Definitions

"In this chapter:

"(1) AUSTRALIA GROUP.—The term 'Australia Group' refers to the informal forum of countries, formed in 1984 and chaired by Australia, whose goal is to discourage and impede chemical and biological weapons proliferation by harmonizing national export controls on precursor chemicals for chemical weapons, biological weapons pathogens, and dual-use equipment, sharing information on target countries, and seeking other ways to curb the use of chemical and biological weapons.

"(2) BIOLOGICAL WEAPON.—The term 'biological weapon' means the following, together or separately:

"(A) Any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

"(i) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

"(ii) deterioration of food, water, equipment, supplies, or materials of any kind; or

"(iii) deleterious alteration of the environment.

"(B) Any munition or device specifically designed to cause death or other harm through the release, dissemination, or impact of the toxic or poisonous properties of those biological weapons specified in subparagraph (A).

"(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B).

"(D) Any living organism specifically designed to carry a biological weapon specified in subparagraph (A) to a host.

"(3) CHEMICAL WEAPON.—The term 'chemical weapon' means the following, together or separately:

"(A) Any of the following chemical agents: tabun, Sarin, Soman, GF, VX, sulfur mustard, nitrogen mustard, phosgene oxime, lewisite, phenyldichloroarsine, ethyldichloroarsine, methyldichloroarsine, phosgene, diphosgene, hydrogen cyanide, cyanogen chloride, and arsine.

"(B) Any of the 54 chemicals, other than a riot control agent, controlled by the Australia Group as of the date of the enactment of this Act.

"(C) Any other chemical agent that may be developed if the use of the agent would be intended to produce an effect consistent with that of a chemical agent or other chemical described in subparagraph (A) or (B).

"(D) Any munition or device specifically designed to cause death or other harm through the release, dissemination, or impact of the toxic or poisonous properties of a chemical weapon specified in subparagraph (A), (B), or (C).

"(E) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (D).

"(4) KNOWINGLY.—The term 'knowingly' is used within the meaning of 'knowing' as that term is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2).

"(5) NATIONAL OF THE UNITED STATES.—The term 'national of the United States' has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"(6) PERSON.—The term 'person' means any individual, corporation, partnership, firm, association, or other legal entity.

"(7) RIOT CONTROL AGENT.—The term 'riot control agent' means any substance, including diphenylchloroarsine, diphenylcyanoarsine, adamsite, chloroacetophenone, chloropicrin, bromobenzyl cyanide, 0-chlorobenzylidene malononitrile, or 3-Quinuclidinyl benzilate that is designed or used to produce rapidly in humans any nonlethal sensory irritation or disabling physical effect that disappears within a short time following termination of exposure.

"(8) TERRORISM.—The term 'terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; and

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping.

"(9) UNITED STATES.—The term 'United States' means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

"(A) any of the places within the provisions of section 40102(41) of title 49, United States Code;

"(B) any civil aircraft or public aircraft of the United States, as such terms are defined in paragraphs (16) and (37), respectively, of section 40102 of title 49, United States Code; and

"(C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(b)).".

(b) CONFORMING AMENDMENTS.—

(1) WEAPONS OF MASS DESTRUCTION.—Section 2332a of title 18, United States Code, is amended—

(A) by striking "**§ 2332a. Use of weapons of mass destruction**" and inserting "**§ 2332a. Use of certain weapons of mass destruction**";

(B) in subsection (a), by striking ", including any biological agent, toxin, or vector (as those terms are defined in section 178)" and inserting "other than a chemical weapon or biological weapon (as those terms are defined in section 229F)"; and

(C) in subsection (b), by inserting "(other than a chemical weapon or biological weapon (as those terms are defined in section 229F))" after "weapon of mass destruction".

(2) TABLE OF CHAPTERS.—The table of chapters for part I of title 18, United States Code, is amended—

(A) by striking the item relating to chapter 10; and

(B) by inserting after the item for chapter 11A the following new item:

"11B. Chemical and Biological Weapons ..... 229".

(c) REPEALS.—The following provisions of law are repealed:

(1) Chapter 10 of title 18, United States Code, relating to biological weapons.

(2) Section 2332c of title 18, United States Code, relating to chemical weapons.

(3) In the table of sections for chapter 113B of title 18, United States Code, the item relating to section 2332c.

Subtitle B—Revocations of Export Privileges

SEC. 111. REVOCATIONS OF EXPORT PRIVILEGES.

If the President determines, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, that any person within the United States, or any national of the United States located outside the United States, has committed any violation of section 229 of title 18, United States Code, the President may issue an order for the suspension or revocation of the authority of the person to export from the United States any goods or technology (as such terms are defined in section 16 of the Export Administration Act of 1979 (50 U.S.C. App. 2415)).

TITLE II—FOREIGN RELATIONS AND DEFENSE-RELATED PROVISIONS

SEC. 201. SANCTIONS FOR USE OF CHEMICAL OR BIOLOGICAL WEAPONS.

Title III of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III of Public Law 102-182) is amended—

(1) by redesignating section 309 as section 312; and

(2) by striking sections 306 through 308 and inserting the following new sections:

"SEC. 306. PURPOSE.

"The purpose of sections 306 through 311 is—

"(1) to provide for the imposition of sanctions against any foreign government—

"(A) that has used chemical or biological weapons in violation of international law; or

"(B) that has used chemical or biological weapons against its own nationals; and

"(2) to ensure that the victims of the use of chemical or biological weapons shall be compensated and awarded punitive damages, as may be determined.

"SEC. 307. PRESIDENTIAL DETERMINATION.

"(a) BILATERAL SANCTIONS.—Except as provided in subsections (c) and (d), the President shall, after the consultation with Congress, impose the sanctions described in subsections (a) and (b) of section 308 if the President determines that any foreign government—

"(1) has used a chemical weapon or biological weapon in violation of international law; or

"(2) has used a chemical weapon or biological weapon against its own nationals.

"(b) MULTILATERAL SANCTIONS.—The sanctions imposed pursuant to subsection (a) are in addition to any multilateral sanction or measure that may be otherwise agreed.

"(c) PRESIDENTIAL WAIVER.—The President may waive the application of any of the sanctions imposed pursuant to subsection (a) if the President determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that implementing such measures would have a substantial negative impact upon the supreme national interests of the United States.

"(d) SANCTIONS NOT APPLIED TO CERTAIN EXISTING CONTRACTS.—A sanction described in section 308 shall not apply to any activity pursuant to a contract or international agreement entered into before the date of the Presidential determination under subsection (a) if the President determines that performance of the activity would reduce the potential for the use of a chemical weapon or biological weapon by the sanctioned country.

"SEC. 308. MANDATORY SANCTIONS.

"(a) MINIMUM NUMBER OF SANCTIONS.—After consultation with Congress and making a determination under section 307 with respect to the actions of a foreign government, the President shall impose not less than 5 of the following sanctions against that government for a period of three years:

"(1) FOREIGN ASSISTANCE.—The United States Government shall terminate assistance under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance and food or other agricultural commodities or products.

"(2) ARMS SALES.—The United States Government shall not sell any item on the United States Munitions List and shall terminate sales to that country under this Act of any defense articles, defense services, or design and construction services. Licenses shall not be issued for the export to the sanctioned country of any item on the United States Munitions List, or for commercial satellites.

"(3) ARMS SALE FINANCING.—The United States Government shall terminate all foreign military financing under this Act.

"(4) DENIAL OF UNITED STATES GOVERNMENT CREDIT OR OTHER FINANCIAL ASSISTANCE.—The United States Government shall deny any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States.

"(5) EXPORT CONTROLS.—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit the export of any goods or technology on that part of the control list established under section 5(c)(1) of that Act, and all other goods and technology under this Act (excluding food and other agricultural commodities and products) as the President may determine to be appropriate.

"(6) MULTILATERAL BANK ASSISTANCE.—The United States shall oppose, in accordance with section 701 of the International Financial Institutions Act, the extension of any loan or financial or technical assistance by international financial institutions.

"(7) BANK LOANS.—The United States Government shall prohibit any United States bank from making any loan or providing any credit, including to any agency or instrumentality of the government, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products.

"(8) AVIATION RIGHTS.—

"(A) IN GENERAL.—

"(i) NOTIFICATION.—The President is authorized to notify the government of a country with respect to which the President has made a determination pursuant to section 307(a) of his intention to suspend the authority of foreign air carriers owned or controlled by the government of that country to engage in foreign air transportation to or from the United States.

"(ii) SUSPENSION OF AVIATION RIGHTS.—Within 10 days after the date of notification of a government under subclause (I), the Secretary of Transportation shall take all steps necessary to suspend at the earliest possible date the authority of any foreign air carrier owned or controlled, directly or indirectly, by that government to engage in foreign air transportation to or from the United States, notwithstanding any agreement relating to air services.

"(B) TERMINATION OF AIR SERVICE AGREEMENTS.—

"(i) IN GENERAL.—The President may direct the Secretary of State to terminate any air service agreement between the United States and a country with respect to which the President has made a determination pursuant to section 307(a), in accordance with the provisions of that agreement.

"(ii) TERMINATION OF AVIATION RIGHTS.—Upon termination of an agreement under this clause, the Secretary of Transportation shall take such steps as may be necessary to revoke at the earliest possible date the right of any foreign air carrier owned, or controlled, directly or indirectly, by the government of that country to engage in foreign air transportation to or from the United States.

"(C) EXCEPTION.—The Secretary of Transportation may provide for such exceptions from the sanction contained in subparagraph (A) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

"(D) DEFINITIONS.—For purposes of this paragraph, the terms 'aircraft', 'air transportation', and 'foreign air carrier' have the meanings given those terms in section 40102 of title 49, United States Code.

"(9) DIPLOMATIC RELATIONS.—The President shall use his constitutional authorities to downgrade or suspend diplomatic privileges between the United States and that country.

"(b) BLOCKING OF ASSETS.—Upon making a determination under section 307, the President shall take all steps necessary to block any transactions in any property subject to the jurisdiction of the United States in which the foreign country or any national thereof has any interest whatsoever, for the purpose of compensating the victims of the chemical or biological weapons use and for punitive damages as may be assessed.

"(c) STATUTORY CONSTRUCTION.—Nothing in this section limits the authority of the President to impose a sanction that is not specified in this section.

"SEC. 309. REMOVAL OF SANCTIONS.

"(a) CERTIFICATION REQUIREMENT.—The President shall remove the sanctions imposed with respect to a foreign government pursuant to this section if the President determines and so certifies to the Congress, after the end of the three-year period beginning on the date on which sanctions were initially imposed on that country pursuant to section 307, that—

"(1) the government of that country has provided reliable assurances that it will not use any chemical weapon or biological weapon in violation of international law and will not use any chemical weapon or biological weapon against its own nationals;

"(2) the government of the country is willing to accept onsite inspections or other reliable measures to verify that the government is not making preparations to use any chemical weapon or biological weapon in violation

of international law or to use any chemical weapon or biological weapon against its own nationals; and

"(3) the government of the country is making restitution to those affected by any use of any chemical weapon or biological weapon in violation of international law or against its own nationals.

"(b) REASONS FOR DETERMINATION.—The certification made under this subsection shall set forth the reasons supporting such determination in each particular case.

"(c) EFFECTIVE DATE.—The certification made under this subsection shall take effect on the date on which the certification is received by the Congress.

"SEC. 310. NOTIFICATIONS AND REPORTS OF CHEMICAL OR BIOLOGICAL WEAPONS USE AND APPLICATION OF SANCTIONS.

"(a) NOTIFICATION.—Not later than 30 days after persuasive information becomes available to the executive branch of Government indicating the substantial possibility of the use of chemical or biological weapons by any person or government, the President shall so notify Congress in writing.

"(b) REPORT.—Not later than 60 days after making a notification under subsection (a), the President shall submit a report to Congress that contains—

"(1) an assessment by the President in both classified and unclassified form of the circumstances of the suspected use of chemical or biological weapons, including any determination by the President made under section 307 with respect to a foreign government; and

"(2) a description of the actions the President intends to take pursuant to the assessment, including the imposition of any sanctions or other measures pursuant to section 307.

"(c) PROGRESS REPORT.—Not later than 60 days after submission of a report under subsection (b), the President shall submit a progress report to Congress describing actions undertaken by the President under sections 306 through 311, including the imposition of unilateral and multilateral sanctions and other punitive measures, in response to the use of any chemical weapon or biological weapon described in the report.

"(d) RECIPIENTS OF NOTIFICATIONS AND REPORTS.—Any notification or report required by this section shall be submitted to the following:

"(1) The Majority Leader of the Senate and the Speaker of the House of Representatives.

"(2) The Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.

"(3) The Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives.

"SEC. 311. DEFINITIONS.

"In sections 306 through 310:

"(1) BIOLOGICAL WEAPON.—The term 'biological weapon' means the following, together or separately:

"(A) Any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

"(i) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

"(ii) deterioration of food, water, equipment, supplies, or materials of any kind; or

"(iii) deleterious alteration of the environment.

"(B) Any munition or device specifically designed to cause death or other harm through the release, dissemination, or impact of the toxic or poisonous properties of those biological weapons specified in subparagraph (A).

"(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B).

"(D) Any living organism specifically designed to carry a biological weapon specified in subparagraph (A) to a host.

"(2) CHEMICAL WEAPON.—The term 'chemical weapon' means the following, together or separately:

"(A) Any of the following chemical agents: tabun, Sarin, Soman, GF, VX, sulfur mustard, nitrogen mustard, phosgene oxime, lewisite, phenyldichloroarsine, ethyldichloroarsine, methyldichloroarsine, phosgene, diphosgene, hydrogen cyanide, cyanogen chloride, and arsine.

"(B) Any of the 54 chemicals, other than a riot control agent, controlled by the Australia Group as of the date of the enactment of this Act.

"(C) Any other chemical agent that may be developed if the use of the agent would be intended to produce an effect consistent with that of a chemical agent or other chemical described in subparagraph (A) or (B).

"(D) Any munition or device specifically designed to cause death or other harm through the release, dissemination, or impact of the toxic or poisonous properties of a chemical weapon specified in subparagraph (A), (B), or (C).

"(E) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (D).

"(3) PERSON.—The term 'person' means any individual, corporation, partnership, firm, association, or other legal entity.".

SEC. 202. CONTINUATION AND ENHANCEMENT OF MULTILATERAL CONTROL REGIMES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that any collapse of the informal forum of states known as the "Australia Group", either through changes in membership or lack of compliance with common export controls, or any substantial weakening of common Australia Group export controls and nonproliferation measures in force as of the date of enactment of this Act, would seriously undermine international and national efforts to curb the spread of chemical and biological weapons and related equipment.

(b) POLICY.—It shall be the policy of the United States—

(1) to continue close cooperation with other countries in the Australia Group in support of its current efforts and in devising additional means to monitor and control the supply of chemicals and biological agents applicable to weapons production;

(2) to maintain an equivalent or more comprehensive level of control over the export of toxic chemicals and their precursors, dual-use processing equipment, human, animal and plant pathogens and toxins with potential biological weapons application, and dual-use biological equipment, as that afforded by the Australia Group as of the date of enactment of this Act;

(3) to block any effort by any Australia Group member to achieve Australia Group consensus on any action that would substantially weaken existing common Australia Group export controls and nonproliferation measures or otherwise undermine the effectiveness of the Australia Group; and

(4) to work closely with other countries also capable of supplying equipment, materials, and technology with particular applicability to the production of chemical or biological weapons in order to devise and harmonize the most effective national controls possible on the transfer of such materials, equipment, and technology.

(c) CERTIFICATION.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall determine and certify to Congress whether—

(1) the Australia Group continues to maintain an equivalent or more comprehensive level of control over the export of toxic chemicals and their precursors, dual-use processing equipment, human, animal, and plant pathogens and toxins with potential biological weapons application, and dual-use biological equipment, as that afforded by the Australia Group as of the date of the last certification under this subsection, or, in the case of the first certification, the level of control maintained as of the date of enactment of this Act; and

(2) the Australia Group remains a viable mechanism for curtailing the spread of chemical and biological weapons-related materials and technology, and whether the effectiveness of the Australia Group has been undermined by changes in membership, lack of compliance with common export controls, or any weakening of common controls and measures that are in effect as of the date of enactment of this Act.

(d) CONSULTATIONS.—

(1) IN GENERAL.—The President shall consult periodically, but not less frequently than twice a year, with the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives, on Australia Group export controls and nonproliferation measures.

(2) RESULTING FROM PRESIDENTIAL CERTIFICATION.—If the President certifies that either of the conditions in subsection (c) are not met, the President shall consult within 60 days of such certification with the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on steps the United States should take to maintain effective international controls on chemical and biological weapons-related materials and technology.

SEC. 203. CRITERIA FOR UNITED STATES ASSISTANCE TO RUSSIA RELATING TO THE ELIMINATION OF CHEMICAL AND BIOLOGICAL WEAPONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, United States assistance described in subsection (d) may not be obligated or expended unless a certification by the President is in effect under subsection (b) or subsection (c).

(b) CERTIFICATION WITH RESPECT TO RUSSIAN CHEMICAL AND BIOLOGICAL PROGRAM.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall certify that—

(1) Russia is making reasonable progress toward the implementation of the Bilateral Destruction Agreement;

(2) the United States and Russia have made substantial progress toward resolution, to the satisfaction of the United States, of outstanding compliance issues under the Wyoming Memorandum of Understanding and the Bilateral Destruction Agreement;

(3) Russia has fully and accurately declared all information regarding its unitary and binary chemical weapons, chemical

weapons production facilities, and other facilities associated with the development of chemical weapons; and

(4) Russia is in compliance with its obligations under the Biological Weapons Convention.

(c) ALTERNATIVE CERTIFICATION.—A certification under this subsection is a certification by the President that the President is unable to make a certification under subsection (b).

(d) PERIOD OF EFFECTIVENESS OF CERTIFICATIONS.—Each certification made under this section shall not be effective for a period of more than one year.

(e) UNITED STATES ASSISTANCE COVERED.—United States assistance described in this subsection is United States assistance out of funds made available for fiscal year 1998 or any fiscal year thereafter that is provided with respect to Russia only for the purposes of—

(1) facilitating the transport, storage, safeguarding, and elimination of any chemical weapon or biological weapon or its delivery vehicle;

(2) planning, designing, or construction of any destruction facility for a chemical weapon or biological weapon; or

(3) supporting any international science and technology center.

(f) DEFINITIONS.—

(1) BILATERAL DESTRUCTION AGREEMENT.—The term "Bilateral Destruction Agreement" means Agreement Between the United States of America and the Union of Soviet Socialist Republics on Destruction and Nonproduction of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons, signed on June 1, 1990.

(2) BIOLOGICAL WEAPONS CONVENTION.—The term "Biological Weapons Convention" means the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done at Washington, London, and Moscow on April 10, 1972.

(3) WYOMING MEMORANDUM OF UNDERSTANDING.—The term "Wyoming Memorandum of Understanding" means the Memorandum of Understanding Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989.

(4) UNITED STATES ASSISTANCE.—The term "United States assistance" has the meaning given the term in section 481(e)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(4)).

SEC. 204. REPORT ON THE STATE OF CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION.

Not later than 180 days after the date of enactment of this Act, and every year thereafter, the President shall submit to the Speaker of the House of Representatives and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate a report containing the following:

(1) PROLIFERATION BY FOREIGN COUNTRIES.—A description of any efforts by China, Egypt, India, Iran, Iraq, Libya, North Korea, Pakistan, Russia, and Syria, and any country that has, during the five years prior to submission of the report, used any chemical weapon or biological weapon or attempted to acquire the material and technology to produce and deliver chemical or biological agents, together with an assessment of the present and future capability of the country to produce and deliver such agents.

(2) FOREIGN PERSONS ASSISTING IN PROLIFERATION.—An identification of—

(A) those persons that in the past have assisted the government of any country described in paragraph (1) in that effort; and

(B) those persons that continue to assist the government of the country described in paragraph (1) in that effort as of the date of the report.

(3) THIRD COUNTRY ASSISTANCE IN PROLIFERATION.—An assessment of whether and to what degree other countries have assisted any government or country described in paragraph (1) in its effort to acquire the material and technology described in that paragraph.

(4) INTELLIGENCE INFORMATION ON THIRD COUNTRY ASSISTANCE.—A description of any confirmed or credible intelligence or other information that any country has assisted the government of any country described in paragraph (1) in that effort, either directly or by facilitating the activities of the persons identified in subparagraph (A) or (B) of paragraph (3) or had knowledge of the activities of the persons identified in subparagraph (A) or (B) of paragraph (3), but took no action to halt or discourage such activities.

(5) INTELLIGENCE INFORMATION ON SUBNATIONAL GROUPS.—A description of any confirmed or credible intelligence or other information of the development, production, stockpiling, or use, of any chemical weapon or biological weapon by subnational groups, including any terrorist or paramilitary organization.

(6) FUNDING PRIORITIES FOR DETECTION AND MONITORING CAPABILITIES.—An identification of the priorities of the executive branch of Government for the development of new resources relating to detection and monitoring capabilities with respect to chemical weapons and biological weapons.

SEC. 205. INTERNATIONAL CONFERENCE TO STRENGTHEN THE 1925 GENEVA PROTOCOL.

(a) DEFINITION.—In this section, the term "1925 Geneva Protocol" means the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, done at Geneva June 17, 1925 (26 UST 71; TIAS 8061).

(b) POLICY.—It shall be the policy of the United States—

(1) to work to obtain multilateral agreement to effective, international enforcement mechanisms to existing international agreements that prohibit the use of chemical and biological weapons, to which the United States is a state party; and

(2) pursuant to paragraph (1), to work to obtain multilateral agreement regarding the collective imposition of sanctions and other measures described in title III of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, as amended by this Act.

(c) RESPONSIBILITY.—The Secretary of State shall, as a priority matter, take steps necessary to achieve United States objectives, as set forth in this section.

(d) SENSE OF THE SENATE.—The Senate urges and directs the Secretary of State to work to convene an international negotiating forum for the purpose of concluding an international agreement on enforcement of the 1925 Geneva Protocol.

(e) ALLOCATION OF FUNDS.—Of the amount authorized to be appropriated to the Department of State for fiscal year 1998 under the appropriations account entitled "International Conferences and Contingencies", $5,000,000 shall be available only for payment of salaries and expenses in connection with efforts of the Secretary of State to conclude an international agreement described in subsection (d).

SEC. 206. RESTRICTION ON USE OF FUNDS FOR THE ORGANIZATION FOR THE PROHIBITION OF CHEMICAL WEAPONS.

(a) PROHIBITION.—None of the funds appropriated pursuant to any provision of law, including previously appropriated funds, may be available to make any voluntary or assessed contribution to the Organization for the Prohibition of Chemical Weapons, or to reimburse any account for the transfer of in-kind items to the Organization, unless or until the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature at Paris January 13, 1993, enters into force for the United States.

(b) STATUTORY CONSTRUCTION.—Nothing in subsection (a) may be construed to apply to the Preliminary Commission for the establishment of the Organization for the Prohibition of Chemical Weapons.

SEC. 207. ENHANCEMENTS TO ROBUST CHEMICAL AND BIOLOGICAL DEFENSES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the threats posed by chemical and biological weapons to United States Armed Forces deployed in regions of concern will continue to grow and will undermine United States strategies for the projection of United States military power and the forward deployment of United States Armed Forces;

(2) the use of chemical or biological weapons will be a likely condition of future conflicts in regions of concern;

(3) it is essential for the United States and key regional allies of the United States to preserve and further develop robust chemical and biological defenses;

(4) the United States Armed Forces, both active and nonactive duty, are inadequately equipped, organized, trained, and exercised for operations in chemically and biologically contaminated environments;

(5) the lack of readiness stems from a deemphasis by the executive branch of Government and the United States Armed Forces on chemical and biological defense;

(6) the armed forces of key regional allies and likely coalition partners, as well as civilians necessary to support United States military operations, are inadequately prepared and equipped to carry out essential missions in chemically and biologically contaminated environments;

(7) congressional direction contained in the 1997 Defense Against Weapons of Mass Destruction Act is intended to lead to enhanced domestic preparedness to protect against the use of chemical and biological weapons; and

(8) the United States Armed Forces should place increased emphasis on potential threats to deployed United States Armed Forces and, in particular, should make countering the use of chemical and biological weapons an organizing principle for United States defense strategy and for the development of force structure, doctrine, planning, training, and exercising policies of the United States Armed Forces.

(b) DEFENSE READINESS TRAINING.—The Secretary of Defense shall take those actions that are necessary to ensure that the United States Armed Forces are capable of carrying out required military missions in United States regional contingency plans despite the threat or use of chemical or biological weapons. In particular, the Secretary of Defense shall ensure that the United States

Armed Forces are effectively equipped, organized, trained, and exercised (including at the large unit and theater level) to conduct operations in chemically and biologically contaminated environments that are critical to the success of United States military plans in regional conflicts, including—

(1) deployment, logistics, and reinforcement operations at key ports and airfields;

(2) sustained combat aircraft sortie generation at critical regional airbases; and

(3) ground force maneuvers of large units and divisions.

(c) DISCUSSIONS WITH ALLIED COUNTRIES ON READINESS.—

(1) HIGH-PRIORITY JOINT RESPONSIBILITY OF SECRETARIES OF DEFENSE AND STATE.—The Secretary of Defense and the Secretary of State shall give a high priority to discussions with key regional allies and likely regional coalition partners, including those countries where the United States currently deploys forces, where United States forces would likely operate during regional conflicts, or which would provide civilians necessary to support United States military operations, to determine what steps are necessary to ensure that allied and coalition forces and other critical civilians are adequately equipped and prepared to operate in chemically and biologically contaminated environments.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense and the Secretary of State shall jointly submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate and to the Speaker of the House of Representatives a report describing—

(A) the results of the discussions held under paragraph (1) and plans for future discussions;

(B) the measures agreed to improve the preparedness of foreign armed forces and civilians; and

(C) any proposals for increased military assistance, including assistance provided through—

(i) the sale of defense articles and defense services under the Arms Export Control Act;

(ii) the Foreign Military Financing program under section 23 of that Act; and

(iii) chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training).

(d) UNITED STATES ARMY CHEMICAL SCHOOL.—

(1) COMMAND OF SCHOOL.—The Secretary of Defense shall take those actions that are necessary to ensure that the United States Army Chemical School remains under the oversight of a general officer of the United States Army.

(2) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) the transfer, consolidation, and reorganization of the United States Army Chemical School should not disrupt or diminish the training and readiness of the United States Armed Forces to fight in a chemical-biological warfare environment; and

(B) the Army should continue to operate the Chemical Defense Training Facility at Fort McClellan until such time as the replacement facility at Fort Leonard Wood is functional.

(e) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and on January 1 every year thereafter, the President shall submit a report to the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate and the Committee on International Relations, the Committee on National Security, and the Committee on Appropriations of the House of Representatives, and the Speaker of the House of Representatives on previous, current, and planned chemical and biological weapons defense activities of the United States Armed Forces.

(2) CONTENT OF REPORT.—Each report required by paragraph (1) shall include the following information for the previous fiscal year and for the next three fiscal years:

(A) ENHANCEMENT OF DEFENSE AND READINESS.—Proposed solutions to each of the deficiencies in chemical and biological warfare defenses identified in the March 1996 General Accounting Office Report, titled "Chemical and Biological Defense: Emphasis Remains Insufficient to Resolve Continuing Problems", and steps being taken pursuant to subsection (b) to ensure that the United States Armed Forces are capable of conducting required military operations to ensure the success of United States regional contingency plans despite the threat or use of chemical or biological weapons.

(B) PRIORITIES.—An identification of priorities of the executive branch of Government in the development of both active and passive defenses against the use of chemical and biological weapons.

(C) RDT&E AND PROCUREMENT OF DEFENSES.—A detailed summary of all budget activities associated with the research, development, testing, and evaluation, and procurement of chemical and biological defenses, set forth by fiscal year, program, department, and agency.

(D) VACCINE PRODUCTION AND STOCKS.—A detailed assessment of current and projected vaccine production capabilities and vaccine stocks, including progress in researching and developing a multivalent vaccine.

(E) DECONTAMINATION OF INFRASTRUCTURE AND INSTALLATIONS.—A detailed assessment of procedures and capabilities necessary to protect and decontaminate infrastructure and installations that support the ability of the United States to project power through the use of its Armed Forces, including progress in developing a nonaqueous chemical decontamination capability.

(F) PROTECTIVE GEAR.—A description of the progress made in procuring lightweight personal protective gear and steps being taken to ensure that programmed procurement quantities are sufficient to replace expiring battledress overgarments and chemical protective overgarments to maintain required wartime inventory levels.

(G) DETECTION AND IDENTIFICATION CAPABILITIES.—A description of the progress made in developing long-range standoff detection and identification capabilities and other battlefield surveillance capabilities for biological and chemical weapons, including progress on developing a multichemical agent detector, unmanned aerial vehicles, and unmanned ground sensors.

(H) THEATER MISSILE DEFENSES.—A description of the progress made in developing and deploying layered theater missile defenses for deployed United States Armed Forces which will provide greater geographic coverage against current and expected ballistic missile threats and will assist the mitigation of chemical and biological contamination through higher altitude intercepts and boost-phase intercepts.

(I) TRAINING AND READINESS.—An assessment of the training and readiness of the United States Armed Forces to operate in chemically and biologically contaminated environments and actions taken to sustain training and readiness, including at national combat training centers.

(J) MILITARY EXERCISES.—A description of the progress made in incorporating consideration about the threat or use of chemical and biological weapons into service and joint exercises as well as simulations, models, and wargames, together with the conclusions drawn from these efforts about the United States capability to carry out required missions, including with coalition partners, in military contingencies.

(K) MILITARY DOCTRINE.—A description of the progress made in developing and implementing service and joint doctrine for combat and noncombat operations involving adversaries armed with chemical or biological weapons, including efforts to update the range of service and joint doctrine to better address the wide range of military activities, including deployment, reinforcement, and logistics operations in support of combat operations, and for the conduct of such operations in concert with coalition forces.

(L) DEFENSE OF CIVILIAN POPULATION.—A description of the progress made in resolving issues relating to the protection of United States population centers from chemical and biological attack and from the consequences of such an attack, including plans for inoculation of populations, consequence management, and progress made in developing and deploying effective cruise missile defenses and a national ballistic missile defense.

SEC. 208. NEGATIVE SECURITY ASSURANCES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that in order to achieve an effective deterrence against attacks of the United States and United States Armed Forces by chemical weapons, the President should reevaluate the extension of negative security assurances by the United States to nonnuclear-weapon states in the context of the Treaty on the Non-Proliferation of Nuclear Weapons.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives a report, both in classified and unclassified forms, setting forth—

(1) the findings of a detailed review of United States policy on negative security assurances as a deterrence strategy; and

(2) a determination by the President of the appropriate range of nuclear and conventional responses to the use of chemical or biological weapons against the United States Armed Forces, United States citizens, allies, and third parties.

(c) DEFINITIONS.—In this section:

(1) NEGATIVE SECURITY ASSURANCES.—The term "negative security assurances" means the assurances provided by the United States to nonnuclear-weapon states in the context of the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483) that the United States will forswear the use of certain weapons unless the United States is attacked by that nonnuclear-weapon state in alliance with a nuclear-weapon state.

(2) NONNUCLEAR-WEAPON STATES.—The term "nonnuclear-weapon states" means states that are not nuclear-weapon states, as defined in Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968 (21 UST 483).

SEC. 209. RIOT CONTROL AGENTS.

(a) PROHIBITION.—The President shall not issue any order or directive that diminishes,

abridges, or alters the right of the United States to use riot control agents—

(1) in any circumstance not involving international armed conflict; or

(2) in a defensive military mode to save lives in an international armed conflict, as provided for in Executive Order No. 11850 of April 9, 1975.

(b) CIRCUMSTANCES NOT INVOLVING INTERNATIONAL ARMED CONFLICT.—The use of riot control agents under subsection (a)(1) includes the use of such agents in—

(1) peacekeeping or peace support operations;

(2) humanitarian or disaster relief operations;

(3) noncombatant evacuation operations;

(4) counterterrorist operations and the rescue of hostages; and

(5) law enforcement operations and other internal conflicts.

(c) DEFENSIVE MILITARY MODE.—The use of riot control agents under subsection (a)(2) may include the use of such agents—

(1) in areas under direct and distinct United States military control, including the use of such agents for the purposes of controlling rioting or escaping enemy prisoners of war;

(2) to protect personnel or material from civil disturbances, terrorists, and paramilitary organizations;

(3) to minimize casualties during rescue missions of downed air crews and passengers, prisoners of war, or hostages;

(4) in situations where combatants and noncombatants are intermingled; and

(5) in support of base defense, rear area operations, noncombatant evacuation operations, and operations to protect or recover nuclear weapons.

(d) SENSE OF CONGRESS.—It is the sense of Congress that international law permits the United States to use herbicides, under regulations applicable to their domestic use, for control of vegetation within United States bases and installations or around their immediate defensive perimeters.

(e) AUTHORITY OF THE PRESIDENT.—The President shall take all necessary measures, and prescribe such rules and regulations as may be necessary, to ensure that the policy contained in this section is observed by the Armed Forces of the United States.

Mr. KYL. Mr. President, I ask unanimous consent that Senator ABRAHAM be added as cosponsor to S. 495.

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

Mr. KYL. Mr. President, let me say for the benefit of my colleagues, to whom we had indicated that we would try to ensure that we would have a vote on this matter at about 3:45, that even though, under the unanimous-consent agreement, we have a half-hour to discuss this legislation in order to try to accommodate my colleagues, to set an example for those on the other side who may wish not to take their full compliment of time, that at this time I am going to express a willingness to discuss this bill no further but just take a couple of minutes to close and to relinquish the floor to those who may be in opposition, again with the plea to them that since we had earlier advised colleagues that a vote would occur on this matter at about 3:45 that anyone who can possibly do so truncate their remarks in order to accommodate our colleagues.

Mr. BYRD. Mr. President, reserving the right to object, has the unanimous-consent agreement not yet been agreed to?

The PRESIDING OFFICER. Yes. The unanimous-consent agreement has been reached.

Mr. BYRD. Mr. President, I was in my office. I still have not had an opportunity—I am not blaming anyone for that—to read this agreement. But in listening to what was said, I thought I heard that a part of the agreement was to the effect that certain votes would occur by voice. Am I correct?

Mr. DASCHLE. Mr. President, if the distinguished Senator will yield, the agreement calls for a vote on the Helms amendments, and on the 28 amendments in agreement. It was stated by at least one of our colleagues that it was his hope that these votes would be voice votes, and the majority leader indicated that it was his desire to have a voice vote. But no one is precluded, of course, from calling for a rollcall as is his constitutional right.

So the distinguished Senator from West Virginia makes a good point. A Senator is not precluded. It is my hope, working with the majority leader, that we can have voice votes on these matters and that we can move ahead as the agreement anticipates. But certainly it is anyone's right to call for a rollcall on this or any other vote.

Mr. BYRD. Mr. President, my concerns have been allayed, and I thank the distinguished leader.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I understand the concern of the Senator from Arizona and others in wanting to move forward with S. 495.

Frankly, Mr. President, we may be seeking a greater good here on the chemical weapons treaty. Those who are opposed to it will feel that it isn't important that they have a chance to vote against it; but those who are for it, as am I, will feel it is important to have a chance to vote for it.

But S. 495 in my mind does not have such urgency.

In an effort to cooperate with the Democratic leader, and with the Republican leader, who is seeking to fulfill, I think, a responsible commitment to the President of the United States to have this bill up here, or to have the treaty up here, I did not object to S. 495, the Kyl bill, coming up. But, Mr. President, I would point out that this is a bill that was introduced—the first version of it was introduced and referred to the Senate Judiciary Committee a day or two before our last recess. There has never been a hearing on it. There has not been 21 seconds of debate on it in the Senate Judiciary Committee, and today we have before us a 70-page and a 70-page substitute for it. We are going to be asked sometime in the next few minutes to vote on a substitute for S. 495. We are going to be asked to vote on a bill that has had no hearings, no debate in committee, no markups, no votes, no report, and no discussion.

I am willing to wager that there will not be more than five Senators who can walk off the floor and tell people honestly, looking them straight in the eye, and say they read it and understood what is in it.

In fact, I would make this challenge to the press. I would make this challenge to the press of every one of the 50 States. I would ask, if the press really wants to do their job, to do this: Call each of the Senators. All it requires is for the press in each State to call up only two people immediately after the vote on S. 495, and say, "Did you read this bill that you just voted on? Did you understand what was in this bill you just voted on? Could you explain this bill to me that you just voted on?" And if somebody says they voted for a major issue like this, then I think it is reasonable to ask, "Did you read it? Did you understand it? Do you know what is in it?"

There may be some very good things in the bill. I have heard that it borrows much from the administration's proposals for implementation legislation. I understand that there are some aspects of it that are very similar to legislation that I introduced. And that may very well be so. There may well be some parts of this bill that I would eagerly support and vote for. But the fact of the matter is I do not know and am not being given an opportunity to find out, let alone have hearings or an opportunity to seek to improve the bill.

We have not had an opportunity or the benefit of discussion. We have not had the opportunity or the benefit of debate—and we will not have debate on it today.

The sole reason it is up here under this expedited procedure is to give some kind of cover one way or the other to bring up the chemical weapons treaty. What we have is the majority insisting that we consider, without review, a revised substitute version of a bill that was not made available to us until this afternoon.

Nobody has said in the Senate Judiciary Committee this could not have a prompt hearing. Certainly I would support the chairman of the Senate Judiciary Committee, Senator HATCH, if he wanted to have a prompt hearing on it.

The principal sponsor of the bill, the distinguished Senator from Arizona, would certainly pursue it strongly through the committee, and I have no doubts that he would be able to explain it very, very well in the committee and answer any questions that might come up. He is a diligent and hard-working Senator who would be able to do that. But under this procedure, we will never know. This committee has a majority

of Republicans, as all Senate committees do, but yet the committee will never vote on it.

The majority leader, who is my good friend, has always described himself as one who seeks regular order. I think the Washington Post had a front-page story on December 3, 1996, in which they quote the Senator describing himself as an "order" kind of guy.

I recall when our distinguished majority leader came to the floor and said:

> There is a way to do things around here. You bring up a bill reported by a committee, have debate, offer amendments, you vote, and win or lose, and you move on, and then it goes to conference.

Well, we are not bringing up a bill reported by a committee. We are really not going to have debate. We are not going to offer amendments. We will vote. And that is about the only reflection of order.

If we were considering a resolution to commend the cherry blossom princess or to say we will open the doors of the Senate 5 minutes early or something like that, I could understand. Instead, we are talking about a 70-page bill which is to provide criminal and civil penalties for acquisition, transfer, or use of any chemical weapon or biological weapon, to reduce the threats of acts of terrorism, armed aggression, and so on. This bill refers to patent law, to chemical and biological weapons, to aircraft, and to continuation and enhancements of multilateral control regimes. It refers to the Australia group—I would like to have five Senators stand up and tell me what the Australia group is, to the Wyoming Memorandum of Understanding and the 1990 Bilateral Destruction Agreement. These are major things. Vaccine production and stocks, decontamination of infrastructure are also serious matters and we have not had any hearing, any debate, any discussion of it. The bill refers to owner or possessor liability and warrantless seizures and seizures on warrants and reimbursement of costs, saying how people will have to pay the United States certain amounts of money under certain circumstances and all. This may be heady stuff, Mr. President, very heady stuff.

Now, we have had the Chemical Weapons Convention before us since November 1993. It has been bottled up in committee. We have the April 28, 1997, deadline approaching after which our lack of ratification risks economic sanctions against our chemical industry. This could cost U.S. chemical companies hundreds of millions of dollars. We are talking about thousands of jobs and hundreds of millions of dollars on something that has been stalled, stalled for years.

Now but all of a sudden, whoop-de-do, we have a bill and a substitute bill and the Senate is to take 12 minutes and go ahead with it.

I am afraid that without proper review of the domestic law changes in criminal laws against chemical and biological weapons, we may inadvertently weaken protections already in the law. I know my friend from Arizona does not intend to weaken our laws, but that could be the effect of this bill.

There is no need for this irregular procedure. We ought to be able to take a look at S. 495. I would have no objection to its coming up in regular order after hearings, but it is not a substitute for the Chemical Weapons Convention. It is not a substitute or alternative to implementing legislation.

After we delayed something that President Reagan had negotiated, something that President Bush had negotiated, something that President Clinton had negotiated, the Chemical Weapons Convention, after we delayed it for year after year after year, now we are going to take up in less than 3 hours and pass this 70-page bill that nobody has read. We delay something that has been debated, argued, considered, we delay that for years, but then we take a major piece of legislation that nobody has seen and do not even debate it and it is out the door. Something has gone wrong here.

On April 15, every American had to file their taxes or the IRS comes after them. That is the law. We also have a law that says that the House and the Senate shall pass a budget by April 15. With all due respect to my friends on the Republican side, they control the Speaker of the House, they control the majority in the House, they control the majority leader and a majority in the Senate, but we have not had one second of debate on a budget resolution even though the law requires them to pass it by April 15.

April 15 comes and goes. Can you imagine, Mr. President, if you took that same attitude in filing your taxes and said well, you know, I am busy, I cannot do it. You would hear the doorbell ring and there would be the IRS after you. But nobody comes after us for doing the same thing.

We have nearly 100 vacancies on the Federal bench, and we cannot get a quorum in the Judiciary Committee to report them out.

Yet this 70-page major piece of legislation suddenly comes zipping forth. There are a lot of problems in it. As I said, there may be some things I like. But it says, for example, the bill would prohibit the production of 16 specific chemicals and 54 more already controlled by the Australia group. Do we know what chemicals are in this bill that would be criminalized? I doubt that any one of us could even pronounce the chemicals. We do not know what we are voting to ban?

The bill prohibits any other chemical that may be developed that produces the same effect as the other listed chemicals. I take it this means chemicals developed in the future. But what about other terrible weapons that now exist? Would chemical weapons that exist now but not listed in the bill be OK? What deadly chemicals that are prohibited under current law, which has a far broader definition of chemical weapons, would be freed from criminal penalties?

We have had no answer. This bill repeals the two major chapters of the Federal Criminal Code dealing with biological weapons and with chemical weapons. The ink is barely dry on the chemical weapons law that this legislation would repeal. The chemical weapons statute became law as part of the Antiterrorism and Effective Death Penalty Act of 1996. It was enacted April 14, 1996. It is barely 1 year old and we are going to repeal it without a single hearing, single expert comment about what might be wrong with a bill that we passed a year ago. Do we replace it with a stronger law? No.

First, the definition of chemical weapons that will be banned under this bill is far more limited than the chemical weapons banned under current law.

The bill has a number of exemptions to the overall prohibitions on chemical and biological weapons that are far broader in scope than what are in current law. For example, current law bars chemical weapons for anything but lawful authority. This bill replaces that limited, circumscribed rule with five extensive exemptions including for any peaceful purpose related to any activity.

What does that mean? Is that an exemption any enterprising terrorist or criminal caught with a chemical weapon could use to great advantage? Someone could make a strong argument that way.

While there are parts of the bill I may well like, there are a lot of other parts that raise unanswered questions. Again, any Senator who votes for this, I would challenge the press in his or her State to ask: You voted for it, do you know what was in it? Did you read the bill? Did you understand the bill? Were all your questions answered? Did you feel you repealed any criminal laws we now have that we should have kept?

Mr. President, we spent far, far, far more time this week in quorum calls when we did nothing than we have on hearings on this bill. We spent more time voting on a 100-to-0 resolution on assisted suicide to make us all feel good. We spent far more time on that than we have hearings on this bill. Mr. President, we spent more time with the Chaplain's prayer this morning than we spent on hearings on this 70-page bill. We spent more time saying good morning to each other this morning than we have had in hearings on this 70-page bill. It takes more time for the elevator to go from the second floor to the first than we have had in hearings on this 70-page bill.

I do not fault the Senator from Arizona for this. The leadership is willing to bring it forward, and if it is his legislation, then he is obviously going to go for it.

But before the Senate becomes irrelevant, if we do not have time and will not even follow the law, which requires us to have a budget by April 15, if we only had time to confirm two Federal judges in 4 months and we have a 100-judge vacancy, if we do not have time to have 18 seconds of debate on the budget, if we can bottle up the chemical weapons treaty for years, following the support of President Reagan, President Bush and President Clinton, why in Heaven's name do we suddenly have to come rushing forth with something we do not need now and we do not have to have now?

If we are going to have an expedited process, I think the emergency should be the leadership bringing forward the budget that the law requires. If we have urgency for something, fill some of those judgeships. After all, the Chief Justice has said that is a judicial crisis. If we have urgency for something, let us take something that has actually had a hearing.

So with all due respect to the sponsors of this bill and knowing there are parts of the bill as I have read them that I like, there are a lot of other parts that raise far more questions than are answered in my mind. I will oppose it. I would find extremely interesting the explanations of those who vote for it.

I see the distinguished sponsor of the bill, and I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I just want to respond to a couple of things my distinguished colleague has raised. He is certainly correct to point out the fact that in my view there has been inadequate attention paid to this entire subject. I wish we could spend a lot more time debating the Chemical Weapons Convention, as a matter of fact, but in an effort to meet the deadline imposed or that the administration has indicated it needs to meet, we have had to accordion a great deal of debate and consideration of items into a very small period of time.

I desperately wanted to spend more time on the Chemical Weapons Convention, but in order to agree to get that done on time, we have all made some compromise agreements of how much time to take on things. That is why there is not much time taken on this legislation. The one thing I did want to assure my colleague of, and that is the portions where he sees sections having been repealed, those sections were picked up in a new title under title I, section 101, chapter 11(B) and the following.

Essentially what was done, I assure my colleague, is the chemical and biological provisions of the code were combined and the same activities that are illegal as to one are now illegal as to both with the same penalties. So nothing was dropped from the law; it was merely consolidated in a different place. The definition of chemicals, incidentally, is the same definition that is contemplated by the Chemical Weapons Convention.

I might also note, the subject matter here has been debated and was the subject of hearings really for the last 3 years in the Senate Foreign Relations Committee, by and large, and the exact language of this legislation has been aided by the FBI and others in the administration as well.

My colleague is correct, it would be better to have more time to spend not only on this bill but on the Chemical Weapons Convention itself. In an effort to try to get all of this done under the timeframe the administration is working under, we have all made compromises. I would like a lot more time to brag about what is in this bill, but I agreed to keep my remarks to a couple minutes.

I will not take more time at this point. I appreciate the spirit in which the comments of the Senator from Vermont were made.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Vermont controls 10 minutes 35 seconds. The Senator from Arizona controls 25 minutes 33 seconds.

Mr. LEAHY. Mr. President, the opposition will soon be led by the ranking member of the Foreign Relations Committee. I guess I will yield my time to him. I will speak 1 more minute until he arrives, and then I will yield the floor.

I understand what my friend from Arizona says about wanting to vote for it now, but we do not need S. 495 now. The clock is ticking on the chemical weapons treaty. It was ticking on it last year, the year before, and the year before that. It ticks right up until midnight April 28. If there is anything we have to vote on and should vote on as responsible Senators, either vote up or down, it is the chemical weapons treaty. S. 495 can wait for the normal hearing route.

When you have the merger of current chemical and biological weapons chapters in the criminal code but with different definitions and different exemptions for lawful conduct, this is a matter we ought to at least debate.

Again, I urge everybody to ask and whether members can look their constituents in the eye and say in this 70-page major piece of legislation on chemical weapons, can they say they read it, they understood it, and they are prepared to vote on it?

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KYL. 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. KYL. 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. KYL. Mr. President, I have time remaining, and I am perfectly happy to yield back almost all of that time in an effort to get this matter to a vote. I urge my colleagues on the other side, if they have opposition, to please make their arguments in opposition so we can bring this to a vote and our colleagues can try to catch their airplanes, which I know they are trying to do.

Until someone is here to speak, I will reiterate the basic point of the legislation. I do urge my colleagues who may be in opposition to please come to the floor to make their arguments to try to accommodate our colleagues.

This legislation, again, Mr. President, is simply designed to complement the provisions of existing law and is also complementary to the Chemical Weapons Convention. It does not create a great deal that is new, but rather plugs loopholes in existing law. We noted, for example, that while it is illegal for one to manufacture and possess and use biological weapons in the United States, we have overlooked passing a law that makes it illegal to manufacture or possess chemical weapons. If we are going to be serious about the chemical weapons business and trying to prevent proliferation, obviously we need to make that conduct illegal as well. We do that in this legislation.

It is not anything Members should have concern about. In fact, they should want that. Who would be against providing the President a little more flexibility and imposing sanctions on countries that violate international law by using chemical or biological weapons?

Who could be against asking the President of the United States to do his best to keep the Australia group together, working as a group of countries in the world that do not sell chemicals, precursor chemicals, to nations that might make chemical weapons of them? It is the policy of the United States, and a sense of the Senate, that the President should ensure that the Australia group restrictions are not weakened in any way. That is consistent totally with the Chemical Weapons Convention. Again, I cannot imagine anyone objecting to that.

We continue the conditions that were imposed in the 1996 defense authorization bill on aid to Russia, which is designed to help them dismantle their

chemical weapons. We say they have to demonstrate reasonable progress toward that dismantlement. We pick the same language that was the subject of the Nunn-Lugar compromise in the 1996 defense authorization bill. What we have done is simply to continue that same requirement of Presidential certification of compliance by Russia, or, if all else fails, the President can certify that he cannot certify, and we still send the money to them. So it is not a condition I can imagine anyone would object to. If anything, we would want to make it stronger.

Our legislation calls for an annual report on the state of proliferation of chemical and biological weapons, something that the Congress needs in order to work with the President in doing everything we can to stop the proliferation of these weapons.

We ask the President to convene a group of nations to try to put some teeth into the Geneva protocol, which is the treaty that currently bans the use of chemical weapons. Like the Chemical Weapons Convention, it does not have strong teeth in it. So we are urging the President to try to get a group of nations together to try to do that. Again, I cannot imagine any opposition to that.

We provide our military be better protected against chemical warfare. The GAO issued a report last year that found grave deficiencies in the way that our troops were being equipped and trained to deal with chemical warfare and biological warfare. That needs to be remedied, and we have three specific things in here that we think will help the Defense Department in ensuring that our troops are adequately protected.

One of the things that we recommend, for example, is that the U.S. Army Chemical School remain under the oversight of a general officer, just to make our point that we think this is an important matter, and certainly at least a one-star general ought to be in charge of that facility and that operation.

We provide for a fixed riot-control agent problem, Mr. President. This is the problem that has arisen because this administration has signaled an intention to change the understanding that has been in existence since President Ford's days when the opportunity to use riot-control agents, or tear gas, was said to be permitted in certain instances where it would help to save lives. For example, where we have a downed pilot that is being held by a group of hostile civilians, we can rescue that downed pilot, not by shooting civilians but by the use of tear gas. Where you have a group of civilians protecting someone that you want to get out, or you want to control a group of hostile prisoners of war, that kind of thing, you do not want to shoot anybody, you can do it with riot-control agents, tear gas. We want to assure that is possible under the law.

These are the things that are the key elements of S. 495, Mr. President, and there should not be anything controversial here. It should be provisions that all of us can support. We simply identified each of these items in the course of all of the hearings and all of the debate about the Chemical Weapons Convention and found there were a lot of practical things we could do in legislation.

Bear in mind, this legislation has to go over to the House, it has to pass the House, it has to go to the President. Therefore, there are plenty of scrubs on it, even though the Senate has not had a great deal of opportunity to debate it.

I hope that our colleagues, if there is anyone else in opposition, will say so and we can get on with a vote on this matter pursuant to the unanimous-consent agreement.

Mr. President, I ask unanimous consent that if there are any more quorum calls, that the time be subtracted equally from both sides.

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

Mr. DASCHLE. Mr. President, I would like to begin my comments on S. 495 with two observations. First, if the United States desires to be an original member of the Chemical Weapons Convention, this body must act to ratify this treaty within the next 7 days. Second, the whole world is watching what we say and do on the CWC—a treaty that I believe is one of the most important arms control agreements this body will consider for many years to come.

Having made these observations, one would think the Senate would be moving to immediate consideration of the Chemical Weapons Convention. Instead, the Senate unfortunately finds itself debating S. 495—a bill that its most ardent supporters have characterized in recent days as the conservatives' substitute to the Chemical Weapons Convention.

I must tell the Senate that despite these claims, S. 495 is not the Chemical Weapons Convention. In fact, I think it's safe to say S. 495 is not even a distant relative of the Chemical Weapons Convention. And, as former Democratic leader George Mitchell was fond of reminding many of his colleagues at moments like this, saying something repeatedly does not make it so.

Mr. President, the Chemical Weapons Convention offers this Nation an oasis of security in an increasingly threatening world. S. 495 offers us a mirage—a mirage, that if pursued, would jeopardize our national security and our economy.

First, Mr. President, S. 495 only requires the United States to do what it is already doing under an existing law signed by President Reagan in 1986—destroy our stockpile of chemical weapons. S. 495 does absolutely nothing to force other nations to eliminate their stocks of these deadly materials.

Second, the supporters of S. 495 act as if the CWC does not exist at all. S. 495 directs the Secretary of State to negotiate a whole new agreement. The purpose of this new agreement would be to enhance enforcement of an old agreement—the 1925 Geneva protocol. The Geneva protocol merely prohibits the use of chemical weapons. If you care about getting tough on chemical weapons, CWC is the only real answer. CWC bans the development, production, and stockpiling of chemical weapons as well as their use.

Third, S. 495 does nothing to address the trade sanctions that would hit the American chemical industry if we fail to ratify the CWC. Everyone needs to understand that this treaty will take effect with or without us on April 29. Without U.S. ratification of the CWC, U.S. firms will immediately have to secure end-user certificates for the export of chemicals. The implications for U.S. business will be as swift as they are costly.

Finally, I must note with a bit of irony that, according to legal experts who have examined this bill, S. 495, the so-called Chemical and Biological Weapons Threat Reduction Act of 1997, may actually weaken existing law in the very same areas it seeks to toughen them up. As a result of exemption clauses in this bill, passage of S. 495 could undercut the very purpose of the bill itself.

In closing, Mr. President, I ask the Senate not to pursue this mirage. S. 495 is not a real substitute for the Chemical Weapons Convention. I ask that the Senate reject this false vision and that we then get on with the real debate—consideration of the Chemical Weapons Convention.

Mr. CRAIG. Mr. President, the Chemical Weapons Convention has such far-reaching domestic and national security implications that it deserves the most thorough and thoughtful examination by the Senate. I have given this matter a careful review and now rise to discuss some of the conclusions I have reached.

If I thought supporting this treaty would make chemical weapons disappear, and give us all greater security from these heinous weapons, I would not hesitate in giving my support. Unfortunately, the facts do not demonstrate this; indeed, implementing this treaty may actually create opportunities for security breaches.

The Convention has been signed by 160 nations and ratified by only 70—less than 50 percent. Five countries who are thought to have chemical weapons are not even signatories of the Convention: Egypt, Iraq, Libya, North Korea, and Syria. Another six nations have signed,

but not ratified the Convention: China, India, Iran, Pakistan, Israel, and Russia. In short, this Convention is not global in scale.

Mr. President, even if it were true that this treaty had been signed and ratified by 160 nations, serious problems would remain. Compliance with the Chemical Weapons Convention is not verifiable. I think it is timely and appropriate to remember the principle President Reagan insisted upon when negotiating an arms control treaty—trust, but verify. Unlike nuclear weapons which require a large, specialized industrial base, chemical weapons can be manufactured almost anywhere. Moreover, many lethal chemicals are common and have peaceful uses. Chemicals help us to manufacture products such as pesticides, pharmaceuticals, plastics, and paints. With such a broad spectrum of uses, it would be difficult to discern the legitimate from the illicit.

Even if verification of compliance were not a concern, this treaty would be difficult to enforce. In a sound arms control treaty, the United States must be able to punish other countries caught in violation of the agreement. The Chemical Weapons Convention provides only vague, unspecified sanctions to be imposed on a country found in breach of the Convention. Ultimately, the Chemical Weapons Convention leaves the U.N. Security Council to impose penalties severe enough to change behavior out an outlaw nation. Since any one of the five members of the Security Council can veto any enforcement resolution lodged against them or their friends, China and Russia, for example, could simply veto resolutions imposing sanctions if they disagreed with other Security Council members. In sum, Mr. President, it does not appear that this agreement is verifiable or enforceable.

Appropriate questions have also been raised about the treaty's compatibility with our Constitution. The Convention creates an international monitoring regime called the Organization for the Prohibition of Chemical Weapons, or OPCW. The OPCW will be granted the most extensive and intrusive monitoring power of any arms control treaty ever because it extends coverage to governmental and civilian facilities.

The intrusive nature of this treaty brings up important issues in regards to our citizens' constitutional protection against unreasonable search and seizure of private property. Mr. John Yoo, an acting professor of law at the University of California at Berkeley wrote yesterday in a Wall Street Journal op-ed that "Under the CWC, a drug dealer running a crack house will have more constitutional rights than the law-abiding operator of a chemical plant." Proponents of the Chemical Weapons Convention have suggested that there are a wide variety of solutions to the constitutional problem. However, the Chemical Weapons Convention states that it is "unlawful to disrupt, delay, impede an inspection or refuse entry of an inspection team." It appears as though this treaty is incompatible with our Constitution.

Furthermore, Mr. President, I do not want to look for ways to get around the so-called constitutional problem. If the treaty flies in the face of rights protected under the fourth and fifth amendments, we cannot and should not ratify.

The authority of the international monitoring regime also raises concern about foreign nationals having such broad authority to obtain access to property held by private U.S. citizens. The U.S. chemical industry is known to be one of the top industries targeted for espionage by foreign companies and governments. There is legitimate worry that international inspections could jeopardize confidential business information, trade secrets, and other proprietary data. Since the United States will be expected to pay 25 percent, or approximately $50 million, of the OPCW's operating costs, American tax dollars could be subsidizing increased risk for U.S. business interests. And even though we would pay the lion's share of the OPCW's budget, the United States would have no special status over other signatory nations, no veto power, and no assurance of being a member of the executive council.

Despite my objections to ratification of the Chemical Weapons Convention, I believe Senator KYL's Chemical and Biological Threat Reduction Act will help protect our citizens and troops from the threat of chemical and biological weapons. This bill would establish workable national policies for confronting the chemical and biological weapons threats, while not jeopardizing our national security like the CWC.

Currently, there exists no U.S. law providing comprehensive criminal, civil, and other penalties for the acquisition, possession, transfer, or use of chemical or biological weapons. Senator KYL's bill would impose stiff criminal and civil penalties for illegal possession of chemical weapons. The death penalty could be a punishment for an individual who causes the death of another through this bill.

The Chemical and Biological Threat Reduction Act also imposes mandatory sanctions against nations that use biological and chemical weapons against other countries or their own citizens. Unlike the Chemical Weapons Convention that only vaguely defines sanctions which could be thwarted by the U.N. Security Council, this bill would automatically terminate foreign assistance, suspend arms sales, impose import and export restrictions, and end financial assistance from multilateral banks. This act also would improve the readiness of U.S. military forces against chemical weapons attacks by improving troop preparedness.

In view of some of the contacts I've had from Idahoans concerning Senator KYL's bill, I think it's important to point out that this bill does not ratify the flawed Chemical Weapons Convention. It would enhance our own methods to deal with chemical terrorism without making us vulnerable to the defects of the Chemical Weapons Convention.

Mr. President, making the production and possession of chemical weapons illegal according to international law will not make them disappear. Use of such weapons has been prohibited since 1907, yet we have seen the results of their use. We all know about the tens of thousands of deaths from poison gas in World War I, and no one could forget the tragic photographs of the Iranian children killed during the 1980's by the Iraqi Government. Illegal? Yes, but still in use, nonetheless.

Mr. President, I stand today with all Americans expressing a grave concern over the increasing proliferation of chemical and biological weapons. The real question here seems to be whether ratification of the Chemical Weapons Convention will increase our own national security. Unfortunately, the answer is no. There is little value in implementing international laws which do little to decrease illegal research, development, and proliferation of chemical weapons worldwide.

I support the goal of making the world safe from the threat of chemical weapons. I applaud the honorable statement the CWC makes against these heinous weapons. However, I believe the best way to protect ourselves from this threat is by rejecting this treaty. The Convention does nothing to better our security, but may even open the door to increasing risks against our vital security interests and infringing on the rights of innocent citizens. For these reason, I am compelled to vote against the ratification of the Chemical Weapons Convention.

Mr. ALLARD. Mr. President, today I rise as a cosponsor and supporter of S. 495, The Chemical and Biological Weapons Threat Reduction Act of 1997. This bill will truly provide the United States the tools it needs and deserves from chemical and biological weapons. It is a comprehensive domestic and international plan to reduce the threat of chemical and biological weapons use, setting forth practical, realistic, and achievable nonproliferation measures to combat the very real dangers posed by these weapons.

Because of the horrible nature of these weapons, the United States has dismantled its biological weapons program and is now unilaterally destroying its entire stockpile of chemical weapons. This bill reinforces our commitment to finish the job.

S. 495 contains many provisions that will improve our ability to protect our citizens and military against these deadly weapons. The bill imposes criminal, as well as civil, penalties for the development, production, stockpiling, and transfer of chemical and biological weapons. Penalties range from civil action of up to $100,000 per violation to the death penalty on individuals who use chemical weapons which cause death to another.

Also, the export privileges of violators can be revoked as well. And, it preserves the system of multilateral export controls on biological and chemical materials and technologies, better known as the Australia group.

For our Armed Services, it strengthens U.S. biological and chemical defense programs and it preserves the military's ability to use riot control agents, such as tear gas. It also requires the President to review the policy of negative security assurance to widen U.S. options to respond with nuclear weapons against such an attack by a nonnuclear weapons state.

For foreign countries who use biological or chemical weapons in war or against its own citizens, mandatory 3-year sanctions are imposed as listed in the bill. Plus, it calls an international conference to strengthen the existing 1925 Geneva Protocol. Lastly, it requires Russian cooperation in disarmament of CW/BW weapons in return for continued U.S. assistance for dismantling these weapons of mass destruction. This applies only to CW/BW destruction and not to any other Russian assistance, such as the Nunn-Lugar programs.

I hope all my colleagues support S. 495. It toughens our domestic laws on those who use these weapons. For all the talk about chemical weapons, little has been done domestically to punish users of these horrible weapons. This bill will do just that. Support this bill and let's make it known that we will not tolerate the use of these weapons against American citizens or any other people.

Mr. BOND. Mr. President, I rise today in support of S. 495, the Chemical and Biological Weapons Threat Reduction Act of 1997. In the wake of World War I, nations from all around the world came together to sign the 1925 Geneva Protocol. Having witnessed the horrible effects of poison gas in battle, this agreement banned its use in interstate conflict. However, at the time no provisions were made in U.S. law to establish criminal or civil penalties pertaining to such weapons.

Today, for the first time, legislation has come to the Senate floor that provides criminal and civil penalties for the unlawful acquisition, transfer, or use of any chemical or biological weapon and gives domestic law enforcement authorities the needed legal basis to enforce prohibitions on chemical weapons activities within the United States. Most importantly, in light of recent domestic terrorist attacks and the actual release of Sarin gas in a Tokyo subway, S. 495 allows the death penalty for the use of chemical or biological weapons that leads to the loss of life.

From the international perspective, this legislation conditions continued United States aid to Russia for chemical and biological weapons dismantlement and destruction upon Russia demonstrating that it is abiding by existing agreements in this area. It urges enhancement of multilateral regimes to control trade in chemical and biological weapons-related materials, while requiring that the United States continue strengthening chemical and biological defenses, particularly in terms of equipment and training. Finally, S. 495 establishes, for the world, U.S. policy on the use of riot control agents and permits the use of tear gas for such things as the rescuing of downed pilots.

The Chemical and Biological Weapons Threat Reduction Act of 1997 augments existing international norms and agreements by establishing a framework for U.S. sanctions against nations which use chemical or biological weapons and by directing the Secretary of State to convene an international negotiating forum for the purpose of reaching an agreement on the enforcement of the 1925 Geneva Protocol which bans the use of chemical weapons in war.

I wish to point out that supporting S. 495 is not in conflict with the ratification of the Chemical Weapons Convention. Instead it complements the CWC by reducing the threat of acts of terrorism and armed aggression against the United States involving chemical and biological weapons. Therefore, I urge my colleagues to support this legislation and take a step toward making our country safer with a comprehensive plan that provides realistic and practical measures to combat the dangers of these repugnant weapons.

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

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

Mr. LEAHY. Mr. President, I ask unanimous consent to proceed for not to exceed 1 minute as in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Vermont may proceed.

SENATE TRADITIONS

Mr. LEAHY. Mr. President, I just had reason to go and check the RECORD on something and realized a change had been made in the Office of the Official Reporters of Debates. In the 22 years I have been here, it has been right off the floor, which is the logical place for that office to be.

I guess I am sort of a traditionalist. I believe that traditions that work should take precedence over perks that some may want. Frankly, I have no idea who made this decision to do all these changes. I do not think it is a good one. As a Senator who prefers tradition over perks, I wish things would go back to the way they were. Sometimes we should realize as Senators, we are only here temporarily. The Senate outlasts us.

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

The assistant legislative clerk proceeded to call the roll.

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

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

CHEMICAL AND BIOLOGICAL WEAPONS THREAT REDUCTION ACT OF 1977

The Senate continued with the consideration of the bill.

Mr. THURMOND. Mr. President, I rise in support of S. 495, the Chemical and Biological Threat Reduction Act of 1997, offered by the Senator from Arizona, Senator KYL, and others.

There has been criticism of this legislation by Members of the Senate as well as by the administration. The criticism largely centers around charges that it falls short as an alternative to the Chemical Weapons Convention [CWC].

I do not know what the outcome will be of the Senate vote on advice and consent to ratification of the Chemical Weapons Convention. This legislation could possibly be an alternative in the event two-thirds of the Members present do not vote for the treaty. On the other hand, it may also complement the treaty, if it passes.

I want the RECORD to be clear, whatever the outcome of the vote on the CWC, I support efforts by the Senate to provide comprehensive criminal, civil, and other penalties for the acquisition, possession, transfer, or use of chemical or biological weapons. I also want the RECORD to reflect my continued support for the destruction of the U.S. unitary stockpile.

I urge my colleagues to vote for S. 495.

Mr. HUTCHINSON. Mr. President, I proudly stand here today as a cosponsor of S. 495, Senator JON KYL's Chemical and Biological Weapons Threat Reduction Act of 1997. First and foremost, I want to thank the good Senator from Arizona for his commitment and hard

work regarding chemical and biological weapon threats. This legislation certainly provides a comprehensive domestic and international plan to reduce the threat of chemical and biological weapon use.

It sets forth practical, realistic, and achievable nonproliferation measures to combat the very real dangers posed by these weapons.

Today the U.S. Senate will vote on the Chemical and Biological Weapons Threat Reduction Act. Mr. President, for the first time in U.S. history, we will have legislation that provides the needed criminal and civil penalties against those who produce, stockpile, and transfer chemical weapons in the United States.

Mr. President, as this body begins debate on the chemical weapons issue, I wholeheartedly believe that S. 495 will not only reinforce our strong commitment to eliminating chemical and biological weapons, but more importantly this legislation will provide our domestic law enforcement authorities the needed legal basis to enforce prohibitions on chemical weapons activities within the United States.

I have heard the arguments against S. 495, including that it amounts to the "U.S. go at it alone," approach. However, Mr. President, this bill sets forth a strong moral example for other nations to follow and in doing so underscores our commitment to global nonproliferation efforts.

Furthermore, through the Australia Group, the United States and its principal international partners have worked together to prevent the transfer of dual-use chemicals and chemical weapon-related equipment. The Australia Group must remain a cornerstone of our international nonproliferation effort and Mr. President, the passage of this legislation accomplishes this goal.

Mr. President, let me emphasize the strong points of this bill:

It requires U.S. sanctions against any country that uses chemical and/or biological weapons against another country. In effect a range of sanctions can be imposed: arms sales, trade restrictions, foreign assistance, etc.;

It outlaws the entire range of chemical and biological weapons activities within the United States. This bill mandates a $100,000 penalty for civil violations and provides the death penalty where chemical and/or biological weapons use leads to the loss of life;

It establishes criteria for continued United States aid to Russia for chemical and biological weapons dismantlement and destruction;

Most importantly, the assistance for dismantling Russia's chemical weapons stockpiles is contingent upon Russia's commitment to abide by already existing bilateral and multilateral agreements on chemical and biological weapons; and

This legislation requires calling an international conference to strengthen the 1925 Geneva Protocol, which prohibits the use of biological and chemical weapons. The Geneva Protocol has been violated on numerous occasions with little or no response from the states observing its prohibitions. Section 205 of this legislation would call for the creation of an international body whose purpose would be to ensure that the participating states will penalize any state violating the Geneva Protocol.

Mr. President, we must, to the best of our ability, avoid the horrible events of the 1980's, when the international community witnessed the horrors of Iraq's use of chemical weapons against its own people. However, we took no action despite the clear and compelling evidence that this atrocity had taken place.

To answer this threat, Senator KYL's legislation directs the Secretary of State to convene an international negotiating forum for the purpose of concluding an international agreement on the enforcement of the 1925 Geneva Protocol banning the use of poison gas in war.

Mr. President, one of the most important provisions of S. 495 is that it strengthens U.S. biological and chemical defense programs. The bill recommends three steps to improve the readiness of U.S. military forces in the area of biological and chemical defense. First, it would require the Secretary of Defense to ensure that U.S. military forces are prepared to conduct operations in a contaminated environment, particularly in the areas of operating ports and air fields. Second, it would seek improved allied support for biological and chemical defense to sustain operations in a contaminated environment. Third, it would require that the U.S. Army Chemical School remain under the oversight of a general officer.

Mr. President, as we begin the debate on the Chemical Weapons Convention and whether to ratify or not, I believe that this legislation, S. 495, is significant because it establishes substantive and workable national policies for confronting the chemical weapons threat.

The American people, with justification, will ask their leaders how and where they stand on the issue of chemical weapons.

Mr. President, the passage of S. 495 will send a clear and unmistakable message to the American people that this Congress will do everything in its power to rid our world of all chemical and biological weapons. I urge my colleagues to adopt this measure.

I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan. The Senator has 11 minutes remaining.

Mr. LEVIN. Mr. President, how much time is remaining on the bill itself?

The PRESIDING OFFICER. The Senator from Michigan and the Senator from Delaware have 11 minutes each, the Senator from Arizona has 13, and the Senator from Vermont has 4½.

Mr. LEVIN. Mr. President, the bill before the Senate is an unusual piece of legislation. It comes to the Senate in an expedited fashion rarely witnessed in this body. The so-called Chemical and Biological Weapons Threat Reduction Act has been presented as something of an alternative to or substitute for the Chemical Weapons Convention.

In contrast, though, to the Chemical Weapons Convention, which has taken 3½ years and counting to reach the Senate floor, S. 495 comes to us a mere 3½ weeks following its introduction. The substitute amendment to S. 495 that the Senate is now considering—all 64 pages of bill language—was made available to Senators just a few hours ago. So it is so new, the substitute, that copies of the amendment are just practically warm to the touch.

The CWC has undergone a thorough and rigorous evaluation in the Senate since its submission in November 1993, the subject of 17 hearings, dozens of witnesses, 1,500 pages of testimony, questions and answers, letters, reports, and other documentation.

By contrast, the bill before us, S. 495, arrives fresh and green, never having been reported out of committee, never having been the subject of a single congressional hearing.

This is not the way the Senate should consider important legislation, particularly given the gravity of the subject matter contained in this bill. S. 495 changes existing American law with respect to domestic law enforcement, criminal penalties, international sanctions, and export controls. From what I can determine in these few hours, many of the changes contained in S. 495 would weaken existing law.

Also, S. 495 conditions United States assistance to Russia for the safeguarding and destruction of its vast chemical and biological weapon stockpile of 40,000 tons. These changes and others contained in S. 495 significantly alter American domestic and foreign policy, and as such should be carefully studied by the Judiciary Committee, the Armed Services Committee, and the Foreign Relations Committee at a minimum before the Senate acts on it. But that has not happened.

The timing of this bill as a prelude to considering the Chemical Weapons Convention leaves the unmistakable impression that proponents of S. 495, or some of them, see it as an alternative or substitute to the treaty. It is nothing of the kind.

The Chemical Weapons Convention has been signed by 161 nations and ratified by 72. It is a global treaty that bans an entire class of weapons of mass destruction. It prohibits the production, acquisition, stockpiling, transfer,

and use of chemical weapons. The treaty, negotiated and signed under Republican administrations and strongly supported by our military leaders and battlefield commanders, is the product of American leadership in combating the international proliferation of weapons of mass destruction. The CWC joins the Nuclear Nonproliferation Treaty and the Comprehensive Test Ban Treaty as the triumvirate of multinational nonproliferation treaties that strengthen U.S. national security while at the same time enhancing global stability.

The bill, S. 495, falls well short of what U.S. participation in the Chemical Weapons Convention can deliver. It does not have the depth, the scope and the boldness of the CWC. More importantly, if this bill is passed as an alternative to the CWC, it would undermine our efforts to deprive aggressor nations and terrorist organizations of the use of chemical weapons.

The CWC makes illegal the development, production, or possession of chemical weapons by signatory states. S. 495 applies only to the United States. Furthermore, S. 495 would require sanctions against countries only if they use chemical weapons, punishment already existing in U.S. law. Nations that produce, possess, or transfer chemical weapons would not be affected by S. 495.

The CWC requires that signatory states begin destruction of their chemical weapons within 1 year of the treaty's entry into force and complete that destruction in 10 years, a commitment the United States has already made independently of the CWC. By contrast, S. 495 does not require the destruction of a single chemical bomb or warhead.

The CWC, our Chemical Weapons Convention that will come before us next week, creates a verification regime to provide for on-site inspection of signatory nations to ensure compliance with the prohibitions created in the treaty. S. 495 concerns itself with punishing individuals and/or nations after chemical weapons are used and lives are lost, not with the abolition of the insidious weapons prior to their use.

Countries that are not signatories to the CWC are isolated from the world community and prohibited from buying certain dual-use chemicals from member states that could be fashioned into weapons of mass destruction, in the process hampering the economic potential of their domestic industries, chemical and otherwise. S. 495 does nothing to leverage nonsignatory nations to forswear the production and possession of chemical weapons, thereby leaving open the door for the spread of these destabilizing weapons.

Those are some of the major shortcomings of S. 495 as an alternative to Senate ratification of the Chemical Weapons Convention and its implementation legislation.

S. 495 is not simply an ineffective tool in ridding the world of chemical weapons; it also contains a number of legal ambiguities and policy flaws that weaken existing U.S. law and add weight to why the Senate should reject the bill. Even a quick reading of S. 495 reveals significant problems with the bill from both a legal and national security perspective. I think a more careful analysis by the committees of jurisdiction would undoubtedly reveal more problems.

There are two sections in S. 495, and I ask unanimous consent that the analysis of these two sections of S. 495 be printed in the RECORD.

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

S. 495 is divided into two sections: Title I sets forth penalties for unlawful activities within the United States or by United States nationals abroad. Title II makes changes to the Arms Export Control Act and other portions of existing law regarding the imposition of economic and diplomatic sanctions against any foreign government determined to have used chemical or biological weapons illegally. Other significant changes are contained in Title II, including placing limits on U.S. assistance to Russia for the transportation, safeguarding and destruction of such weapons of mass destruction.

Mr. LEVIN. There are a number of policy flaws in S. 495 which I want to highlight in the few minutes remaining, Mr. President. Specifically, this bill would substantially weaken current criminal provisions in at least five significant areas. This bill weakens existing criminal law in at least five areas, from even a cursory view.

First, new provisions in title I of the bill would expressly authorize ownership, production, sale or use of chemical and biological weapons for a broad array of purposes described as exempted conduct. The FBI has expressed concern about this new exemption in law, stating if this approach is taken, "the legitimate purpose allowed must be specifically defined and narrowly tailored" to avoid rendering the prohibitions toothless.

But, unfortunately, section 229(b) defines the term "exempted conduct" to include:

(A) any peaceful purpose related to an industrial, agricultural, research, medical, pharmaceutical activity,

(B) any protective purpose directly related to protection against the chemical or biological weapon.

The FBI has found significant ambiguities in this definition that can become major loopholes in the statute. For instance, any research purpose could mean a terrorist group or cult conducting research into chemical or biological weapons. Obviously they would assert it was for a peaceful purpose, but under this new provision of law would it fall within the realm of research intended to be prohibited? The Aum Shinrikyo was conducting research and testing. If they were discovered before they released deadly chemical agents into the subway in Tokyo in 1995, they would not have necessarily violated this act, especially since they were recognized at the time as a legitimate religious group and were not viewed at that time as a terrorist organization.

The phrase in this bill "any protective purpose" which is used in exemption (B) is too broad, as well. Although hopefully not intended, this exemption could be asserted in self-defense claims. A case involving an individual in possession of Ricin, a potent toxin, who used it as a form of a booby-trap is illustrative of a potential protective purpose. This could be asserted by survivalist-type groups that may store these types of weapons, as was the case, according to the FBI, in 1985 when a white supremacist organization had a drum of chemical agents at their wooded compound.

Second, section 229(c)(2) of the new provision contains an exclusion permitting any ownership and possession of chemical and biological weapons by any member of the U.S. Armed Forces. This provision is poorly written. It does not appear to require official authorization for the ownership or possession of the weapon. Just if you are in uniform, then you are exempted, whether or not you have authority or not to be in possession of the weapon.

The same paragraph contains broad language authorizing ownership and possession of chemical and biological weapons by any person who is "attempting to seize the weapon." That language could conceivably include a terrorist who is attempting to seize chemical or biological weapons. By contrast, the existing law that it would replace covers any use that is without lawful authority. That is a big difference. Again, this bill weakens current law. Current law says if you have it without lawful authority, you violate the law. This provision substitutes a weaker law, a weaker provision, for what is in current law and exempts people who are attempting to seize a weapon, whether or not they have lawful authority or not. That is a significant weakening of current law.

Third, current law authorizes a life sentence for any person who "knowingly assists a foreign state or any organization" to acquire biological warfare agents—or delivery systems for use with such weapons—or who attempts, threatens, or conspires to do so. This aspect of the law would be repealed by title I of S. 495 with no substitute.

Fourth, section 229C(a) of the new provision would authorize a maximum sentence of 10 years for any person who knowingly uses riot control agents as an act of terrorism, or knowingly assists any person to do so. By contrast, the existing law it would replace subjects any person who uses chemical

weapons, including riot control agents, without lawful authority to a life sentence.

Fifth, section 229C of the new provision would prohibit the unauthorized use of riot control agents only if use is an act of terrorism. Before any penalty could be imposed, law enforcement officials would be required to prove that the chemicals were used to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by assassination or kidnaping. The existing law it would replace contains no similar requirement; requires no proof. Possession is enough.

Turning attention to title II of S. 495, one of the most troublesome and counterproductive provisions of this bill is section 203 entitled "Criteria for United States Assistance to Russia." This section is a conglomeration of several of the conditions that have been proposed to the CWC resolution of ratification, but which the administration cannot accept. Section 203 would require four Presidential certifications concerning Russian compliance with existing chemical/biological agreements before United States assistance under the cooperative Threat Reduction Program—also known as the Nunn-Lugar program—can be provided. As Chairman of the Joint Chiefs General Shalikashvili articulated to the Senate Armed Services Committee earlier this year, the CWC's greatest attraction from a military standpoint is the requirement for all parties to destroy their chemical weapons stockpiles, including the eventual destruction of approximately 40,000 tons of declared Russian chemical agents, the largest stockpile in the world. Limiting cooperative threat reduction funding for this purpose might endanger prospects for Russian ratification of the CWC as well as remove the most effective United States tool for inducing Russia to dismantle its massive chemical weapons stockpile.

Another section of the bill that should concern Senators is section 208, entitled "Negative Security Assurances." This provision calls for classified and unclassified reports to Congress on "the appropriate range of nuclear and conventional responses to the use of chemical or biological weapons against the United States Armed Forces, United States citizens, allies and third parties." The text of this provision is different from the agreed-to condition contained in the CWC Resolution of Ratification and requires the submission of the report to the Senate Committees on Armed Services and Foreign Relations and the Speaker of the House, a peculiar designation to say the least. Furthermore, the Office of the Secretary of Defense has indicated that an unclassified report on this issue is not possible and, more importantly, is concerned that the language in section 208 is designed to lead to a major change in U.S. Government policy in this area.

Mr. President, 1997 marks 80 years since the advent of chemical warfare on the western front during World War I. It was in 1917 that stymied field commanders lifted the lid of Pandora's Box and unleashed on the world a new kind of warfare, horrifying in its effects and insidious in its indiscriminate application on the battlefield. It was 80 years ago that dense, yellowish-green vapors, pushed along by light winds, crept across the desolation of no-mans land and filled the bloodied trenches of a doomed generation of soldiers. Thousands of unprotected men suffocated to death in an excruciatingly painful and protracted fashion, the inner lining of their lungs eaten away by the pervasive gas. The world's abhorrence over the use of gas warfare in the latter years of World War I led to the Geneva protocol of 1925 prohibiting the use of these weapons of mass destruction.

Now, decades later, we are on the verge of the united world community dedicated to the complete abolition of these battlefield poisons. The only question is whether the United States will follow through with the leadership it has shown in the past 15 years by joining the community of civilized nations and ratifying the CWC. The CWC has languished in the Senate for 3½ years and time is short for us to act. We should not be distracted by S. 495, a bill so rushed, so flawed, and so counterproductive to our law enforcement, counterterrorism and national security interests.

Its approval would constitute a step backward from the commitments we made as a nation when President Bush signed the CWC in January, 1993. In its descriptive title, S. 495 claims to be the Chemical and Biological Weapons Threat Reduction Act. But, in fact, it is nothing of the sort. Nothing in this bill will remove chemical or biological weapons from foreign military weapons arsenals. Nothing in this bill will deprive terrorists of the chemical or biological ingredients necessary to threaten and kill innocent men, women and children in a subway or at a shopping mall. S. 495 concerns itself with reacting to the use of these weapons, not preventing their use.

History has shown that the threat of criminal penalties and economic sanctions will do little to deter those with no regard for international law and the sanctity of human life. The best way to prevent a chemical weapons attack is by preventing the attacker from obtaining such a weapon in the first place. This is the philosophical underpinning of the CWC. It seeks to prevent the use of chemical weapons through abolition, while S. 495 relies on the deterrent effect of criminal penalties and economic sanctions, already contained in U.S. and international law, to inhibit their use.

Mr. President, I urge my colleagues to vote against S. 495. Even after a cursory review, the shortcomings of S. 495 are sufficiently numerous and serious enough to warrant its defeat. The real test of this body's resolve to strengthen our national security interests and promote global stability will come when the Senate turns its attention to the consideration of the Chemical Weapons Convention. To endorse S. 495 prior to our vote on ratification would send mixed signals to our allies and the rest of the international community about America's willingness to lead in the fight against chemical weapons. At a time when the world community looks to us for leadership in the effort to counter the proliferation of weapons of mass destruction, we cannot afford to renege on such an important obligation.

Mr. KYL. In the interest of time, since we would like to get on with the vote, I respond by saying that is a misreading of the bill. The exemptions are the same as the implementing legislation submitted by the administration. The same for protective purposes. And he misreads the exemption he spoke to about seizing the weapon. That is related only to the pending destruction of the weapon authorized by law.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I have 15 minutes.

The PRESIDING OFFICER. The Senator from Delaware has 11 minutes.

Mr. BIDEN. I have colleagues who have planes to catch, so I will try to be brief.

Let me be very, very blunt, as the Chair knows I usually am, much to my detriment on occasion. This is not about anything, this vote. This vote is really designed to try to come up with a substitute for the chemical weapons treaty—to give people who want to say they voted against chemical weapons an ability, then, to vote against the Chemical Weapons Convention.

I know we are supposed to be more diplomatic than that, and I know all that, and I am not suggesting that things in the bill are not worthwhile. They are. But this is what happens after we pass the treaty, that is, the implementing legislation. The way treaties work is, if we pass a treaty like the Chemical Weapons Convention, then we will come back here and pass implementing legislation. Just today, Senator LUGAR and I have introduced legislation called the implementing legislation. That is, how do we domestically implement what we have just signed on to internationally.

Now, this bill does some of those things. Some of the things in here, in this bill—and I have great respect for my friend from Arizona, I really do. I

always kid him and say my problem with him is he is too bright. I always prefer people who I am usually in disagreement with philosophically that are not very bright. He is very bright. That is a problem. So he is more effective. But I hope he will not be offended. I think he would be willing to tell you not only does he believe in what is in here, he also hopes it has the political benefit of gathering enough votes to allow people the option to vote against the Chemical Weapons Convention.

So, when I give this short shrift, I am not giving short shrift to the ideas, please understand. But the RECORD should note that this is not the norm; nobody that I am aware of, at least as long as I have been here, is usually willing to allow, without any hearings, a major bill to be brought up that is 64 pages long that most of us have not had a chance to read.

I just want the RECORD to reflect why I am going to truncate this a great deal because this debate is not really about the substance here but about the treaty. I will tell you why we need a treaty and why this legislation, even if I knew all that was in it, and even if I agreed with all that was in it, would not get the job done.

First, the treaty addresses two flaws in the Geneva Protocol which focused on a single wrong. It said we would ban the use of chemical weapons. The Chemical Weapons Treaty says you cannot produce chemical weapons, you cannot own chemical weapons, you cannot stockpile them. This legislation does nothing to affect any other country. Nothing we do in here in any way puts or imposes a prohibition on other countries other than as it relates to how we will deal with them on a bilateral basis.

Second, we need a Chemical Weapons Convention because it will strengthen the ability of nations of the world to cooperate in placing strict global controls on trade and chemicals. We want to be able to trace the precursor chemicals that go from one country to another country, from one country or company to an individual, because that is the thing that will allow us to trace down and see whether the bad guys, whether they be terrorists and or countries at large, are doing bad things. That is, possessing, building, or designing chemical capability. This does nothing on that score.

Third, we need a Chemical Weapons Convention because we have decided to get rid of most of our chemical stockpile, and that decision was jointly made by the Congress and the President in the 1980's. After the gulf war, George Bush announced we would destroy the rest.

The fourth reason is we need a treaty because it greatly enhances our ability to detect and deter a chemical weapons program. This will do nothing to affect anybody else's chemical weapons programs.

In sum, the CWC will be a powerful instrument. This, at best, you could say, would be something along the line of implementing legislation, if we had that treaty passed, which I hope we will.

I might add, I agreed to allow this bill to come up before the treaty, which is a very unusual way to do this because, quite frankly, I had no other way of getting the treaty up. Had I not agreed to this, my colleagues could have filibustered or prevented it from coming out of committee. Even though I have the votes in the committee for the treaty I could have prevented it from coming to the floor. This must be confusing to people listening to this debate today, because why would we vote on this before the international treaty? The answer is that we have no choice. The answer is they've got me by the procedural ears here. If we don't get a chance to vote on the CWC by the 28th, we are not in the deal and we, as a nation, are very much out of sync.

I will conclude by suggesting that Senator KYL's bill calls for a couple of things that already are in the treaty. The bill does nothing to eliminate other nations' chemical weapons. It requires us to go back and renegotiate the Chemical Weapons Convention, which, as General Brent Scowcroft, not a man known for hyperbole, said the concept of starting over was pure fantasy.

Next, this bill does nothing to strengthen trade controls internationally. It has language about the Australia Group—an organization that is already in place and will stay in place. There is nothing extraordinary about that. The Australia Group exists and will continue to enforce trade controls.

Third, the Kyl bill provides sanctions against nations that use chemical weapons. That's already in law. The bill does strengthen this in minor respects, but it weakens it in others. It doesn't make it illegal to produce or stockpile these weapons.

Fourth, the Kyl bill does nothing to address trade sanctions that will apply against U.S. companies if the Chemical Weapons Convention enters into force with us.

In sum, the Kyl bill is not a substitute for the Chemical Weapons Treaty, although there are things in the Kyl bill that I would vote for.

As I told my friend—and I really do think he is my friend, and we have been completely straight with one another—I am going to vote against this and urge my colleagues to do the same, because I don't know enough to know what is in here. I will never forget that when I first got here, Senator Pastore of Rhode Island, an old fellow, was a very powerful Senator; I asked him about something and he said, "Boy, let me tell you something. If you don't know what's in it, it's always safer to vote no." So I am voting no. Although there might be some merit to this, I can't find it. It is clearly not a substitute for the CWC.

I yield the floor.

Mr. KYL. Mr. President, I am prepared to yield my time back. I hope Senator LEAHY will yield his time. In passing, at another time I will respond to my friend from Delaware. I make the point that there is nothing in this legislation that requires any renegotiation of the treaty. I assure my colleague of that.

Mr. BIDEN. Mr. President, we yield back all of our time.

Mr. KYL. Mr. President, I urge my colleagues to support the legislation.

I yield back all my time.

The PRESIDING OFFICER. All time has been yielded back.

The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. KYL. 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 are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Missouri [Mr. BOND] are necessarily absent.

I further announce that, if present and voting, the Senator from Missouri [Mr. BOND] would vote "yea."

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

The result was announced—yeas 53, nays 44, as follows:

[Rollcall Vote No. 45 Leg.]

YEAS—53

Abraham	Gramm	McConnell
Allard	Grams	Murkowski
Ashcroft	Grassley	Nickles
Bennett	Gregg	Roberts
Brownback	Hagel	Roth
Burns	Hatch	Santorum
Campbell	Helms	Sessions
Chafee	Hutchinson	Shelby
Coats	Hutchison	Smith (NH)
Collins	Inhofe	Smith (OR)
Coverdell	Jeffords	Snowe
Craig	Kempthorne	Specter
D'Amato	Kyl	Stevens
DeWine	Lieberman	Thomas
Domenici	Lott	Thompson
Enzi	Lugar	Thurmond
Frist	Mack	Warner
Gorton	McCain	

NAYS—44

Akaka	Byrd	Feinstein
Baucus	Cleland	Ford
Biden	Conrad	Glenn
Bingaman	Daschle	Graham
Boxer	Dodd	Harkin
Breaux	Dorgan	Hollings
Bryan	Durbin	Inouye
Bumpers	Feingold	Johnson

Kennedy	Levin	Robb
Kerrey	Mikulski	Rockefeller
Kerry	Moseley-Braun	Sarbanes
Kohl	Moynihan	Torricelli
Landrieu	Murray	Wellstone
Lautenberg	Reed	Wyden
Leahy	Reid	

NOT VOTING—3

Bond	Cochran	Faircloth

The bill (S. 495) was passed.

Mr. LOTT. Mr. President, I move to reconsider the vote by which the bill, as modified, was passed.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, I ask unanimous consent that I might proceed as if in morning business for the next 15 minutes.

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

MORNING BUSINESS

Mr. CHAFEE. Mr. President, in addition to the request which I made, which was granted, on behalf of the leader, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each. Mr. President, that 5 minutes each follows my remarks, for which I have been granted permission for 15 minutes.

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

The Senator from Rhode Island is recognized.

Mr. CHAFEE. I thank the Chair.

(The remarks of Mr. CHAFEE and Mr. REED pertaining to the submission of Senate Concurrent Resolution 22 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

OPEN COMPETITION ACT OF 1997

Mr. KENNEDY. Mr. President, I rise in opposition to S. 606, the so-called Open Competition Act of 1997, introduced this afternoon by Senator HUTCHINSON from Arkansas. As I understand the proposal, it would forbid the Federal Government from entering into so-called project labor agreements on any Federal construction project. What prompted the bill is a proposed Executive order under consideration by the administration.

That Executive order would permit Federal agencies to consider requiring contractors on certain large Federal construction projects to comply with labor contracts for the duration of the project. The Executive order would not mandate this procedure for any contract. It would simply direct the agencies to consider such agreements in appropriate circumstances.

These so-called project labor agreements have been used with great success on numerous large-scale construction projects in the past. They were used on large flood control and hydroelectric projects in the 1930's. They were used when Disney World was being built in the 1970's. They were used on the Trans-Alaska Pipeline System in the 1970's and 1980's.

These agreements have also been used on Federal projects for decades. In the late 1940's, the agreements were used regularly for construction at atomic energy facilities.

And the agreements continued to be used today. Across the country, nuclear sites are being decontaminated and decommissioned. The Department of Energy has entered into project labor agreements at the Oak Ridge facility in Tennessee; the Idaho National Engineering Laboratory in Idaho; the Savannah River site in South Carolina; the Fernald facility in Ohio; the Hanford/Richland site in Washington State; and the Lawrence Livermore facility in California—just to name a few.

The agreements are also being used by State governments. In the Boston Harbor cleanup, for example, the State of Massachusetts required contractors to comply with such labor agreements for the duration of the work. That was a very large project, which is taking years to complete. The labor agreement is helping to ensure that the project is carried out efficiently and safely.

According to an October 4, 1996, letter from the manager of industrial relations on that project, the Boston Harbor cleanup was originally projected to cost $6.1 billion. Now, the estimated total cost of the project is $3.4 billion. Accident rates are significantly lower than for projects of similar size and duration. And, during the nearly 7½ years that the project has been underway, "there have been approximately 20 million craft hours worked without lost time due to strike or lockout." Anti-union contractors challenged the requirement in the Boston Harbor case, and in 1993 the U.S. Supreme Court unanimously upheld the State's ability to issue the requirement.

Other States have taken the same approach. In January 1997, Governor Pataki of New York issued an Executive order strikingly similar to that under consideration by the President. Governor Pataki's order directed that "Each state agency shall establish procedures to consider, in its proprietary capacity, the utilization of one or more project labor agreements with respect to individual public construction projects." The Governors of New Jersey and Nevada have recently issued similar orders.

Despite the very clear advantages that such agreements can provide, the proponents of this bill that has been introduced this afternoon, contend that Government agencies should not enter into them because they deny nonunion contractors and workers the opportunity to bid and work on federally funded projects. This is false. Nonunion contractors are completely free to bid on projects subject to project labor agreements—and many do. In the Boston Harbor cleanup, for example, 40 percent of the subcontractors are nonunion firms.

Nor is it true that project labor agreements restrict jobs only to labor union members. No such agreement requires that an individual join the union to be referred for a job. In fact, the National Labor Relations Act forbids unions from discriminating against nonmembers when making job referrals.

Obviously, some of our Republican colleagues disagree strongly with such labor agreements. Many of us support them as sensible Federal contracting policy and needed protection for working families.

At the very least, the Federal Government should not be denied the opportunity to gain the substantial benefits and savings that such agreements can supply, and that is why I hope that legislation introduced to prohibit those agreements will not be favorably considered by the Senate.

RENEWING THE ISRAELI-PALESTINIAN PEACE PROCESS

Mr. BYRD. Mr. President, our indefatigable negotiator with responsibility for mediating the outstanding, difficult issues between the Israeli Government and the Palestinian authorities is back at work in the Middle East. The peace process was derailed by the intemperate action by the government led by Prime Minister Netanyahu, in supporting new Israeli settlements in Jerusalem. There appears little doubt that, regardless of the failings of Mr. Arafat to fully restrain Palestinian reactions to this action, the Israeli leader bears very heavy responsibility to undo the mischief which brought that elaborate tango of negotiations and actions called the peace process crashing down.

Now we read of an unfolding, unprecedented scandal centered around that same Prime Minister. I have no judgment to make on that, but I hope that, as I have said before on this floor, Mr. Netanyahu will rise above the pressures on him, particularly from his right wing, and face history squarely. It is up to him to make the crucial moves that will halt the settlement construction, and take a courageous step. I call upon him, again, to do this, for the sake of the people of Israel and the Palestinians.

It is important that the Clinton administration continue to take the position that the settlement construction

must be halted. Ambassador Ross is reported today to be pressing the Prime Minister to do so. The United States has an important stake in this matter. As the strongest ally and the best friend that Israel ever had, or will have, it is surely not too much to expect some consideration of the U.S. position on this matter on the part of Mr. Netanyahu. He surely cannot expect to continue stonewalling the United States on this critical matter. I, for one, felt he should not have come to the United States to meet extensively with our President with nothing in mind to offer apparently. That is not what a good ally or a good friend does. He certainly cannot expect us to stand by while he gives an American President—our President—no more than a hello and goodbye on such a critical matter, and also then still expects the United States to provide our annual supplement of over $3 billion in American tax dollars to Israel without batting an eye—$3 billion. I wonder if the American people are aware of that, every year.

This is a crucial period for the Likud government. I hope that it will see that support from the American people cannot continue to be in the form of a blank check no matter what that government does to stall or derail the process of making peace with the Palestinians. It does not do the Israeli people any good whatsoever for the message to go to them that whatever happens is essentially fine with the United States Government. We need to be consistent, both in Washington and in New York. The Clinton administration needs to take this into consideration, as well. We cannot take one position, against the settlements construction, here in Washington, and water it down by not endorsing the same policy embodied in Security Counsel resolutions. That is speaking out of both sides of our mouth. That is speaking with a forked tongue. Therefore, I urge my colleagues to speak in one voice with the administration, and I urge the administration to be completely consistent, not inconsistent, because inconsistency creates confusion. It sends the wrong message. Make it clear that we will continue to act in good faith as a mediator and as an ally of Israel, but we expect the Israeli Government to step up to the plate and make the kind of moves that will be necessary to breathe new vigor and new life into the process of peacemaking, which is so critical to the people of Israel, to the Palestinians, to the United States and to our allies.

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

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

FAIRNESS IN FEDERAL CONTRACTING

Mr. JEFFORDS. Mr. President, I rise today to address a very real threat to the economic well being of our Nation. I speak, of course, of the anticipated issuance by President Clinton, of an Executive order that would likely lead to the exclusion of nonunion contractors from Federal construction. I also wish to express my strong support for S. 606, introduced today by Senator HUTCHINSON, which I have cosponsored.

The strength and prosperity of this great Nation are in large part a result of the industrial peace between labor and management, that has been the norm since the passage, in 1935, of the Wagner Act. That act, and its progeny, form the keystone of our national labor relations policy. The bedrock belief supporting this policy has been to recognize that the parties—workers, employers, and unions—are in the best position to resolve their differences and to set and to achieve their goals. To this end, Congress has maintained a basic hands-off policy, preferring to set only the broadest boundaries, beyond which the conduct of the parties must not stray. I have to say that our congressional predecessors legislated wisely, for this policy of Federal Government neutrality has allowed the United States to become the envy of the industrialized world.

This is not to say that there have not been bumps in the road to labor-management harmony. Congress has amended the Federal labor laws, and also has considered, and rejected, amendments to the Federal labor laws. Attempts by Congress to smooth the bumps, however, have been subjected to one overriding process—any changes to the laws that nurture the balance between the parties in the industrial arena will have been forged in the heat of legislative debate and advocacy.

Today, sadly, the Clinton administration considers an action that would displace Federal neutrality, thereby renouncing over 60 years of national labor policy, and ignoring 60 years of fine tuning of that policy by Congress and the courts. Simply put, the Executive order being considered by the Clinton administration would result in most, if not all, Federal construction being performed by union shop contractors. This would give a whole new meaning to the term top down organizing. It would represent union organizing from the very top—the Presidency of the United States.

Further, this Clinton initiative would occur without benefit of the legislative process, the process which in my opinion is mandated by the Constitution of the United States. And I find it even more disheartening that this end run by the administration, of the policy setting role of the Congress, seems less designed to serve the public interest than to advance political interests.

Now, I understand that the administration will probably argue that the proposed order does not mandate the adoption of a project labor agreement, and therefore does not inescapably lead to union-only contractors on Federal construction projects. The administration would go on to argue that since the order requires the Federal agencies to make a finding that use of a project labor agreement would advance the Government's procurement interest, only where that finding is made would union agreements be required. This argument, however, is suspect. The introductory paragraphs of the draft order clearly indicate the President's preferences as to use of a project labor agreement. Since the boss thinks it is such a good idea, it is not likely that persons that the President selected to head the executive branch agencies would think otherwise.

There is one other factor that is very important, and must be noted. Employment in the construction industry, particularly where union agreements are in place, is done through hiring hall referrals. If a nonunion contractor is forced, because of a project labor agreement, to become a party to a union agreement, it is not hard to picture what would happen to that contractor's employees. They would be at the back of the line when it comes to hiring hall referrals. This is despite the fact that the overwhelming majority of construction workers have not chosen to belong to a union.

I, and my Republican colleagues on the Committee on Labor and Human Resources, have written to the President, asking him not to issue this or any similar Executive order. We noted that if the proposed order were adopted, it would undermine the benefits derived from a nondiscriminatory competitive bidding process, likely resulting in substantially higher Federal construction costs to the American taxpayer. We further pointed out that, if adopted, the order would cause harm to the important principle of employee freedom of choice to select or reject representation by a union. Mr. President, I ask unanimous consent that this letter be printed in the RECORD following my remarks.

Finally, I congratulate Senator HUTCHINSON on introducing S. 606, and offer my full support in gaining its passage. The bill would prevent a Federal agency from requiring a bidder on a Federal contract to be a union contractor. Frankly, it is unfortunate that we need to legislate open competition, and outlaw this type of anticompetitive restriction, in the Federal procurement process. The Clinton initiative, however, demonstrates the need for S.

606. I further note, that no matter what one thinks of any specific provision of S. 606, my colleagues, from both sides of the aisle, must be comforted to know, that before any changes are made by S. 606 to Federal labor policy, those proposals will be subjected to the debate, opinion gathering, and fact finding, that is the hallmark of the legislative process. And whatever comes out of that process will be better, for this Nation, because of that process.

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

U.S. SENATE, COMMITTEE ON
LABOR AND HUMAN RESOURCES,
Washington, DC, April 16, 1997.

THE PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: It has been widely reported that the Administration is preparing to issue an Executive Order promoting the use of "project labor agreements" on federal and federally funded construction projects. We have reviewed a published draft of this proposed order and are writing to you to express our grave concerns regarding this initiative.

The proposal would require executive branch agencies, which are preparing to implement or fund a construction project, to determine whether the use of a project labor agreement on that project would "advance the government's procurement interest in economical, efficient, and timely high quality project performance by promoting labor-management stability and project compliance with applicable legal requirements governing safety and health, equal employment opportunity, labor standards and other matters . . ." While these are laudable objectives, we note that federal law already requires that they be met.

Under the proposal after an agency has made the requisite determination, the ensuing construction project could be performed only pursuant to an agreement with a union. We note that any agency would be hard pressed not to answer this determination in the positive, given that in the introduction of the proposal, you extol the use of project labor agreements. The bottom line of this proposal Executive Order is that most, if not all, federal construction would be performed by union shop contractors.

If the proposed order is issued, union status might well trump savings to the taxpayers. Even if a qualified non-union contractor might be able to bid the project at a substantial savings to the American taxpayer, a higher-priced union bidder would be awarded the contract under your proposal. Even though the overwhelming majority of construction workers have not chosen to belong to a union, they would be effectively barred from federal construction work. It comes as no surprise that the head of AFL-CIO Building and Constructions Trades Department is reported to have participated in the drafting of this proposal.

We believe that this proposed order threatens to undermine the benefits derived from a nondiscriminatory competitive bidding process, likely resulting in substantially higher federal construction costs to the American taxpayer. Further, the order would reverse the over sixty years of neutrality in matters of labor-management relations by the federal government. It also would injure an overreaching principle of our nation's labor relations policy, that of employee freedom of choice to select or reject representation by a union.

We urge you in the strongest terms to reconsider this initiative, and not promulgate this or any similar Executive Order giving greater encouragement to project labor agreements for federal and federally assisted construction.

Sincerely,

JAMES M. JEFFORDS,
JUDD GREGG,
MIKE DEWINE,
TIM HUTCHINSON,
JOHN W. WARNER,
DAN COATS,
BILL FRIST,
MICHAEL B. ENZI,
SUSAN M. COLLINS,
MITCH MCCONNELL,
U.S. Senators.

EXPRESSION OF GRATITUDE TO RON LEDLOW, DEPUTY DIRECTOR OF THE SENATE SERVICE DEPARTMENT

Mr. LOTT. Mr. President, I rise today to express the deep gratitude of the Senate to Ron Ledlow, the Deputy Director of the Senate Service Department, who is retiring after nearly 30 years of dedicated service to the Senate.

Ron Ledlow began his career 27 years ago this week as a pressman on the night shift in the Service Department and rose through the journeyman ranks into management, eventually serving as the Director of the Senate Service Department.

Ron has used his skill, creativity, and expertise in shepherding the Senate through nearly 30 years of changes in print, production, and graphics technology on which we as Members, and an institution, rely.

Through all of these changes, Ron has been driven by his high standards for quality control and exceptional customer service. His professionalism and respect for his employees and this institution have been a great example to his coworkers, and to all of us here in the Senate.

His contributions in support of democratic institutions are not limited to the U.S. Senate. In 1990, under the Gift of Democracy Resolution, Ron, along with several other congressional representatives, went to Poland as a technical adviser. His counsel and assistance helped strengthen the emerging democratic institutions of Poland. Ron's assistance was so valuable, that he was asked to return to Poland for another tour of duty.

Outside of his work in the Service Department, Ron has served on several committees for the U.S. Senate Federal Credit Union. Ron was an active member of the Senate Staff Club and served as the club's president in the mideighties. In 1991, Ron was presented with the Roll Call Sid Yudain Congressional Staffer of the Year Award.

Mr. President, our Senate family wishes Ron, his wife Dee, and his children Gerald and Steven the very best. We hope that Ron and Dee enjoy their well-deserved time on the links of South Carolina.

REGISTRATION OF MASS MAILINGS

The filing date for 1997 first quarter mass mailings is April 25, 1997. If a Senator's office did no mass mailings during this period, a form should be submitted that states "none."

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records office will be open from 8 a.m. to 6 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office on (202) 224–0322.

MESSAGES FROM THE HOUSE

At 12:16 p.m. on Wednesday, April 16, 1997, a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R 1001. An act to extend the term of appointment of certain members of the Prospective Payment Assessment Commission and the Physician Payment Review Commission.

H.R. 1225. An act to make a technical correction to title 28, United States Code, relating to jurisdiction for lawsuits against terrorist states.

H.R. 1226. An act to amend the Internal Revenue Code of 1986 to prevent the unauthorized inspection of tax returns or tax return information.

At 11:51 am. on Thursday, April 17, 1997, a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R 111. An act to provide for the conveyance of a parcel of unused agricultural land in Dos Palos, California, to the Dos Palos Ag Boosters for use as a farm school.

H.R. 173 An act to amend the Federal Property and Administrative Services Act of 1949 to authorize donation of Federal law enforcement canines that are no longer needed for official purposes to individuals with experience handling canines in the performance of law enforcement duties.

H.R. 607. An act to amend the Real Estate Settlement Procedures Act of 1974 to require notice of cancellation rights to private mortgage loans and to provide for cancellation of such insurance, and for other purposes.

H.R. 930. An act to require Federal employees to use Federal travel charge cards for all payments of expenses of official Government travel, to amend title 31, United States Code, to establish requirements for prepayments audits of Federal agency transportation expenses, to authorize reimbursement of Federal agency employees for taxes incurred on travel or transportation reimbursements.

and to authorize test programs for the payment of Federal employee travel expenses and relocation expenses.

H.R. 1090. An act to amend title 38, United States Code, to allow revision of veterans benefits decisions based on clear and unmistakable error.

H.R. 1092. An act 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 United States Court of Veterans Appeals and the National Cemetery System, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 61. Concurrent resolution honoring the lifetime achievements of Jackie Robinson.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R 111. An act to provide for the conveyance of a parcel of unused agricultural land in Dos Palos, California, to the Dos Palos Ag Boosters for use as a farm school; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 173. An act to amend the Federal Property and Administrative Services Act of 1949 to authorize donation of Federal law enforcement canines that are no longer needed for official purposes to individuals with experience handling canines in the performance of law enforcement duties; to the Committee on Governmental Affairs.

H.R. 930. An act to Federal employees to use Federal travel charge cards for all payments of expenses of official Government travel, to amend title 31, United States Code, to establish requirements for prepayments audits of Federal agency transportation expenses, to authorize reimbursement of Federal agency employees for taxes incurred on travel or transportation reimbursements, and to authorize test programs for the payment of Federal employee travel expenses and relocation expenses; to the Committee on Governmental Affairs.

H.R. 1090. An act 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.

H.R. 1092. An act 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 United States Court of Veterans Appeals and the National Cemetery System, and for other purposes; to the Committee on Veterans' Affairs.

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 61. Concurrent resolution honoring the lifetime achievements of Jackie Robinson; to the Committee on Commerce, Science, and Transportation.

MEASURE PLACED ON THE CALENDAR

The following measure was read the first and second times by unanimous consent and placed on the calendar:

H.R 1226. An act to amend the Internal Revenue Code of 1986 to prevent the unauthorized inspection of tax returns or tax return information.

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-1583. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 94-10; to the Committee on Appropriations.

EC-1584. A communication from the Assistant Secretary of the Interior for Indian Affairs, transmitting, pursuant to law, a rule (RIN1076-AD66) received on April 10, 1997; to the Committee on Indian Affairs.

EC-1585. A communication from the Chairman of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, the report on the practice of preferencing; to the Committee on Banking, Housing, and Urban Affairs.

EC-1586. A communication from the General Counsel of the Department of the Treasury, transmitting, a draft of proposed legislation to amend the Bretton Woods Agreements Act; to the Committee on Foreign Relations.

EC-1587. A communication from the Director of the Peace Corps, transmitting, a draft of proposed legislation entitled "The Peace Corps Act Amendments of 1997"; to the Committee on Foreign Relations.

EC-1588. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the transmittal of the certification of proposed issuance of an export license; to the Committee on Foreign Relations.

EC-1589. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the transmittal of the certification of proposed issuance of an export license; to the Committee on Foreign Relations.

EC-1590. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the transmittal of the certification of the proposed approval of a manufacturing license agreement; to the Committee on Foreign Relations.

EC-1591. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the transmittal of the certification of the proposed approval of a manufacturing license agreement; to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-46. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Environment and Public Works.

HOUSE CONCURRENT RESOLUTION NO. 11

Whereas, the United States Environmental Protection Agency (EPA) has a responsibility to review periodically the National Ambient Air Quality Standards (NAAQS) for ozone and particulate matter (PM); and

Whereas, the EPA is considering establishing a more stringent ozone standard and a new, more stringent standard for particulate matter at or below 2.5 microns (PM2.5); and

Whereas, Michigan, through its local jurisdictions, businesses, and citizens, has supported health-based National Ambient Air Quality Standards (NAAQS) that are premised on sound science; and

Whereas, Michigan has made significant progress in meeting current NAAQS for both ozone and particulate matter (PM) under the Clean Air Act amendments of 1990, although there are some areas that have not yet come into compliance with the current standard(s); and

Whereas, Michigan, through its local jurisdictions, businesses, consumers, and taxpayers, has borne considerable cost to come into compliance with the current NAAQS for ozone and particulate matter; and

Whereas, the proposed new standards will significantly expand the number of nonattainment areas for both ozone and particulate matter. This may result in additional emission controls in all areas, thus imposing significant economic, administrative, and regulatory burdens on Michigan, its citizens, businesses, and local governments; and

Whereas, EPA's own Clean Air Science Advisory Committee (CASAC) was unable to find any "bright line" that would distinguish any public health benefit among any of the proposed new standards for ozone, including the current standard; and

Whereas, there is very little existing PM2.5 monitoring data; and

Whereas, there are many unanswered questions and scientific uncertainties regarding the health effects of particulate matter, in particular PM2.5, including: Divergent opinions among scientists who have investigated the issue; Exposure misclassification; Measurement errors; Lack of supporting toxicological data; Lack of a plausible toxicological mechanism; Lack of correlation between recorded PM levels and public health effects; Influence of other variables; and The existence of possible alternative explanations; and

Whereas, no scientific proof exists that establishing a more stringent ozone standard or a new, more stringent PM2.5 standard would avoid alleged adverse health, but it would assuredly impose significantly higher costs; and

Whereas, the issue of transported volatile organic compounds is not adequately addressed; Now therefore, be it

Resolved by the House of Representatives (the Senate concurring, That we advise and strongly urge the EPA to reaffirm the existing NAAQS for ozone; and be it further

Resolved, That we advise and strongly urge the EPA to reaffirm the existing NAAQS for PM10; and be it further

Resolved, That we advise and strongly urge the EPA to refrain from establishing a new NAAQS for PM2.5 at this time and to gather the necessary PM2.5 monitoring data and conduct all necessary research needed to address the issue of causality and other critical and important unanswered scientific questions concerning PM2.5; and be it further

Resolved, That we advise and strongly urge the EPA to identify any unfunded mandates or other administrative and economic burdens for state or local governments or agencies that would result from the proposed changes to the NAAQS for ozone and particulate matter; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, the administrator of the United States Environmental Protection Agency, and other appropriate administration officials.

POM-47. A resolution adopted by the Senate of the Legislature of the State of Michigan; to the Committee on Environment and Public Works.

SENATE RESOLUTION NO. 22

Whereas, the United States Environmental Protection Agency (EPA) has a responsibility to review periodically the National Ambient Air Quality Standards (NAAQS) for ozone and particulate matter (PM); and

Whereas, the EPA is considering establishing a more stringent ozone standard and a new, more stringent standard for particulate matter at or below 2.5 microns (PM2.5); and

Whereas, Michigan, through its local jurisdictions, businesses, and citizens, has supported health-based National Ambient Air Quality Standards (NAAQS) that are premised on sound science; and

Whereas, Michigan has made significant progress in meeting current NAAQS for both ozone and particulate matter (PM) under the Clean Air Act amendments of 1990, although there are some areas that have not yet come into compliance with the current standard(s); and

Whereas, Michigan, through its local jurisdictions, businesses, consumers, and taxpayers, has borne considerable cost to come into compliance with the current NAAQS for ozone and particulate matter; and

Whereas, the proposed new standards will significantly expand the number of nonattainment areas for both ozone and particulate matter. This may result in additional emission controls in all areas, thus imposing significant economic, administrative, and regulatory burdens on Michigan, its citizens, businesses, and local governments; and

Whereas, EPA's own Clean Air Science Advisory Committee (CASAC) was unable to find any "bright line" that would distinguish any public health benefit among any of the proposed new standards for ozone, including the current standard; and

Whereas, there is very little existing PM2.5 monitoring data; and

Whereas, there are many unanswered questions and scientific uncertainties regarding the health effects of particulate matter, in particular PM2.5, including: Divergent opinions among scientists who have investigated the issue; Exposure misclassifications; Measurement errors; Lack of supporting toxicological data; Lack of a plausible toxicological mechanism; Lack of correlation between recorded PM levels and public health effects; Influence of other variables; and The existence of possible alternative explanations; and

Whereas, no scientific proof exists that establishing a more stringent ozone standard or a new, more stringent PM2.5 standard would avoid alleged adverse health, but it would assuredly impose significantly higher costs; and

Whereas, the issue of transported volatile organic compounds is not adequately addressed; and

Whereas, the EPA and its Clean Air Science Advisory Committee have raised issues relative to serious health concerns that may be addressed with a new PM2.5 standard; and

Whereas, scientists on the Clean Air Science Advisory Committee (CASAC) panel voted 19–2 that some new standard should be set to regulate PM 2.5; Now, therefore, be it

Resolved by the Senate, That we advise and strongly urge the EPA to reaffirm the existing NAAQS for ozone; and be it further

Resolved, That we advise and strongly urge the EPA to reaffirm the existing NAAQS for PM10; and be it further

Resolved, That we advise and strongly urge the EPA to continue to work to establish a clear consensus among its own Science Advisory Committee for the level of a PM 2.5 standard at a level at which the benefits outweigh the costs and to continue; and be it further

Resolved, That we advise and strongly urge the EPA to identify any unfunded mandates or other administrative and economic burdens for state or local governments or agencies that would result from the proposed changes to the NAAQS for ozone and particulate matter; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, the administrator of the United States Environmental Protection Agency, and other appropriate administration officials.

POM-48. A concurrent resolution adopted by the Legislature of the State of West Virginia; to the Committee on Environment and Public Works.

HOUSE CONCURRENT RESOLUTION NO. 7

Whereas, ambient air quality, regulated under the Federal Clean Air Act, has improved substantially since 1970 in West Virginia, and will continue to improve as the Clean Air Act amendments of 1990 are implemented to further reduce pollutants; and

Whereas, the U.S. Environmental Protection Agency, which periodically reviews the National Ambient Air Quality Standards, proposes revisions to those standards that could increase the number of areas in West Virginia considered to be in nonattainment with federal air quality standards; and

Whereas, nonattainment with federal air quality standards could have a serious economic impact in West Virginia and may result in severe restrictions on economic development, loss of jobs and in a potential loss of federal highways funds; and

Whereas, substantial scientific uncertainties surround the determination of causality for potential adverse health effects that may be associated with exposure to fine particulates; and

Whereas, there is little existing data regarding the monitoring of fine particulate matter; and

Whereas, the Environmental Protection Agency's Clean Air Science Advisory Committee has not determined that there are significant public health benefits associated with revising the standards on ozone and fine particulate matter; and

Whereas, West Virginia, through its Legislature, citizens, businesses and regulatory agencies, worked hard to reduce air pollution and to meet clean air requirements, resulting in all counties in the state currently being in compliance with the present standards for ozone and particulate matter; and

Whereas, the coal, chemical, primary metals, electric utility and other West Virginia industries who already have expended considerable resources and suffered negative impacts resulting from programs designed to meet the existing requirements of the Clean Air Act could be subjected to further negative impacts resulting from the proposed standards; and

Whereas, West Virginia is a major source of electric generation and stands to benefit from proposed electric utility deregulation, a benefit that could be significantly lessened by the resulting increase in the cost of electric service to the citizens and businesses of the state due to the proposed standards; and

Whereas, the development of the economy in this state has historically faced significant obstacles, and recent economic development indicators demonstrate that West Virginia is poised for growth while maintaining present air quality standards; therefore, be it

Resolved by the Legislature of West Virginia: That the Congress of the United States is requested to enact legislation that requires the Administrator of the United States Environmental Protection Agency to maintain the current National Ambient Air Quality Standards for ozone and fine particulate matter until there is a thorough review by the scientific community, as well as a thorough, scientifically valid and comprehensive cost-benefit analysis, where appropriate, of the impact of the proposed changes to the current standards; and, be it further

Resolved, That the Clerk of the House of Delegates shall, immediately upon its adoption, transmit duly authenticated copies of this resolution to the Speaker and the Clerk of the United States House of Representatives, the President Pro Tempore and the Secretary of the United States Senate, the members of the West Virginia congressional delegation and the Administrator of the EPA.

POM-49. A petition from a citizen of the State of California relative to habeas corpus; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 506. A bill to clarify certain copyright provisions, and for other purposes.

S. 568. A bill to make a technical correction to title 28, United States Code, relating to jurisdiction for lawsuits against terrorist states.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Donald M. Middlebrooks, of Florida, to be United States District Judge for the Southern District of Florida.

Jeffrey T. Miller, of California, to be United States District Judge for the Southern District of California.

Robert W. Pratt, of Iowa, to be United States District Judge for the Southern District of Iowa.

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 on Thursday, April 10, 1997:

By Mr. SHELBY:

S. 561. A bill to require States receiving prison construction grants to implement requirements for inmates to perform work and engage in educational activities, to eliminate certain sentencing inequities for drug offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself, Mr. FAIRCLOTH, Mr. BENNETT, Mr. SARBANES, Mr. DODD, Mr. KERRY, Mr. BRYAN, Mrs. BOXER, Ms. MOSELEY-BRAUN, Mr. JOHNSON, and Mr. REED):

S. 562. A bill to amend section 255 of the National Housing Act to prevent the funding of unnecessary or excessive costs for obtaining a home equity conversion mortgage; to the Committee on Banking, Housing, and Urban Affairs.

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated on Thursday, April 17, 1997:

By Ms. SNOWE:

S. 601. A bill to amend title 18, United States Code, to prohibit taking a child hostage in order to evade arrest; to the Committee on the Judiciary.

S. 602. A bill to provide a mandatory minimum sentence for State crimes involving the use of a firearm, impose work requirements for prisoners, and prohibit the provision of luxury items to prisoners; to the Committee on the Judiciary.

By Mr. SPECTER (for himself, Mr. FEINGOLD, and Mr. KOHL):

S. 603. A bill to require the Secretary of Agriculture to collect and disseminate statistically reliable information from milk manufacturing plants on prices received for bulk cheese and to provide the Secretary with the authority to require reporting by such manufacturing plants throughout the U.S. on prices received for cheese, butter, and nonfat dry milk; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SPECTER:

S. 604. A bill to amend the Agricultural Market Transition Act to require the Secretary of Agriculture to use the price of feed grains and other cash expenses as factors that are used to determine the basic formula price for milk and any other milk price regulated by the Secretary; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CONRAD (for himself and Mr. DORGAN):

S. 605. A bill to require the Secretary of Agriculture to provide emergency assistance to producers for cattle losses that are due to damaging weather or related condition occurring during the 1996-97 winter season, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HUTCHINSON (for himself, Mr. LOTT, Mr. NICKLES, Mr. MACK, Mr. COVERDELL, Mr. THURMOND, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. ENZI, Ms. COLLINS, Mr. WARNER, Mr. MCCONNELL, Mr. ALLARD, Mr. BROWNBACK, Mr. SESSIONS, Mr. HAGEL, Mr. KYL, Mr. ROBERTS, and Mr. CRAIG):

S. 606. A bill to prohibit discrimination in contracting on federally funded projects on the basis of certain labor policies of potential contractors; to the Committee on Labor and Human Resources.

By Mr. COATS:

S. 607. A bill to amend the Communications Act of 1934 to provide for the implementation of systems for rating the specific content of specific television programs; to the Committee on Commerce, Science, and Transportation.

By Mr. FEINGOLD:

S. 608. A bill to authorize the enforcement by State and local governments of certain Federal Communications Commission regulations regarding use of citizens band radio equipment; to the Committee on Commerce, Science, and Transportation.

By Mr. KENNEDY (for himself, Ms. MIKULSKI, Mr. DASCHLE, Mr. DODD, Mr. HARKIN, Mr. WELLSTONE, Mrs. MURRAY, Mrs. BOXER, Ms. MOSELEY-BRAUN, Mrs. FEINSTEIN, Mr. FORD, and Mr. INOUYE):

S. 609. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for reconstructive breast surgery if they provide coverage for mastectomies; to the Committee on Labor and Human Resources.

By Mr. LUGAR (for himself and Mr. BIDEN):

S. 610. A bill to implement the obligations of the United States under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, known as "the Chemical Weapons Convention" and opened for signature and signed by the United States on January 13, 1993; to the Committee on the Judiciary.

By Mr. MACK (for himself, Mr. D'AMATO, Mr. SHELBY, Mr. BENNETT, Mr. DOMENICI, Mr. CHAFEE, Mr. ABRAHAM, Mr. HELMS, Mr. BROWNBACK, and Mr. LUGAR):

S. 611. A bill to require the Board of Governors of the Federal Reserve System to focus on price stability in establishing monetary policy to ensure the stable, long-term purchasing power of the currency, to repeal the Full Employment and Balanced Growth Act of 1978, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROTH (for himself and Mr. MOYNIHAN):

S. 612. A bill to amend section 355 of the Internal Revenue Code of 1986 to prevent the avoidance of corporate tax on prearranged sales of corporate stock, and for other purposes; to the Committee on Finance.

By Mr. THOMPSON (for himself and Mr. FRIST):

S. 613. A bill to provide that Kentucky may not tax compensation paid to a resident of Tennessee for certain services performed at Fort Campbell, Kentucky; to the Committee on Finance.

By Mr. BREAUX (for himself and Mr. D'AMATO):

S. 614. A bill to amend the Internal Revenue Code of 1986 to provide flexibility in the use of unused volume cap for tax-exempt bonds, to provide a $20,000,000 limit on small issue bonds, and for other purposes; to the Committee on Finance.

By Mr. CHAFEE (for himself, Mrs. FEINSTEIN, Mr. D'AMATO, Mr. LIEBERMAN, Mr. DEWINE, Mr. MOYNIHAN, and Ms. MIKULSKI):

S. 615. A bill to amend the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide for continued eligibility for supplemental security income and food stamps with regard to certain classifications of aliens; to the Committee on Finance.

By Mr. ALLARD:

S. 616. A bill to amend titles 23 and 49, United States Code, to improve the designation of metropolitan planning organizations, and for other purposes; to the Committee on Environment and Public Works.

By Mr. JOHNSON (for himself, Mr. CRAIG, Mr. DASCHLE, Mr. BURNS, and Mr. BAUCUS):

S. 617. A bill to amend the Federal Meat Inspection Act to require that imported meat, and meat food products containing imported meat, bear a label identifying the country of origin; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SARBANES:

S. 618. A bill to amend the Federal Water Pollution Control Act to assist in the restoration of the Chesapeake Bay, and for other purposes; to the Committee on Environment and Public Works.

S. 619. A bill to establish a Chesapeake Bay Gateways and Watertrails Network, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GREGG (for himself, Mr. ROTH, Mrs. HUTCHISON, Mr. JEFFORDS, Mr. MURKOWSKI, Mr. FAIRCLOTH, Mr. SANTORUM, Mr. BOND, Ms. COLLINS, Mr. DEWINE, Mr. ROBERTS, Mr. CRAIG, Mr. NICKLES, Mr. MCCONNELL, Mr. KYL, Ms. SNOWE, Mr. MACK, Mr. HAGEL, and Mr. GRASSLEY):

S. 620. A bill to amend the Internal Revenue Code of 1986 to provide greater equity in savings opportunities for families with children, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HELMS:

S. Res. 75. An executive resolution to advise and consent to the ratification of the Chemical Weapons Convention, subject to certain conditions; to the Committee on Foreign Relations.

By Mr. CHAFEE (for himself and Mr. REED):

S. Con. Res. 22. A concurrent resolution to provide that the statue of Roger Williams be returned to the United States Capitol Rotunda at the conclusion of the temporary display of the Portrait Monument of Elizabeth Cady Stanton, Susan B. Anthony and Lucretia Mott; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE:

S. 601. A bill to amend title 18, United States Code, to prohibit taking a child hostage in order to evade arrest; to the Committee on the Judiciary.

S. 602. A bill to provide a mandatory minimum sentence for State crimes involving the use of a firearm, impose work requirements for prisoners, and prohibit the provision of luxury items to prisoners; to the Committee on the Judiciary.

CRIME LEGISLATION

Ms. SNOWE. Mr. President, I rise today to introduce two bills intended

to protect innocent Americans from the violent will of criminals and fugitives. One need take only a quick review of recent statistics to realize the chilling scope of our nation's crime problems. For instance, the Bureau of Justice Statistics reports that 11 million Americans were the victims of violent crime in 1994 alone. The Bureau of Justice Statistics also reports that approximately 3.5 million Americans were accosted at gunpoint during that same year. These statistics should galvanize us all into taking concrete steps to protect innocent Americans against senseless victimization and turn the tide against criminals once and for all. My bills will help to do just that.

The first bill I introduce today, the Crime Control Act of 1997, will ensure that an individual convicted of committing a violent crime or engaging in drug trafficking activities while in possession of a gun, will go to jail for 10 years, and not a day less. If an offender fires a gun while committing those crimes, that offender will go to jail for 20 years. And should that criminal make the mistake of using a machinegun or a gun with a silencer to commit those crimes, that criminal will be incarcerated for 30 years. Once imprisoned, the Crime Control Act provides hardened criminals with no option for parole or reduced sentences that would allow them another chance to harm innocent citizens.

Simply put, the passage of my Crime Control Act ensures that if you do the crime, you will most certainly do the time. And under my bill, that time won't be easy. A key initiative of the Crime Control Act is the creation of work programs for all able bodied prisoners by the Attorney General. In addition, my bill prohibits the government from providing any entertainment devices, like televisions, radios, or stereos, for use in individual prisoner cells. Federal prisons are not the place for entertainment. They are not intended to be fun. They are the places where individuals repay their debt to society and in the case of violent criminals, it is a very large debt indeed. My Crime Control Act makes sure that violent criminals pay that debt, and I hope my colleagues will join me in supporting this important and effective crime control measure.

The second bill I introduce today applies directly to actions taken by fugitives who resist arrest. Over the past few years, America has witnessed an unfortunate trend involving standoffs between the U.S. Government and parties who reject its authority to enforce the laws of this land—specifically, the incidents in Waco, TX; Ruby Ridge, ID; and Garfield County, MT. Thankfully, the episode involving the Freemen did not escalate to violence or bloodshed. Regrettably, this does not hold true for Waco or Ruby Ridge, where there was a tragic loss of life to civilians and Government agents alike.

Each of these situations jeopardized children's lives—innocent children who had no choice in the role they played in these standoffs. In Waco, 25 young children under the age of 15 died in the blaze that spread throughout the compound. These deaths occurred despite the repeated efforts by Federal agents to encourage Branch Davidians leaders to allow children to leave the compound.

At Ruby Ridge, a 14-year-old died after being caught in gunfire. And during the Freeman standoff, Americans across the Nation held their breath—praying that violence would not erupt. Once again, the lives of children were placed in jeopardy. But thankfully, this time, the children—and adults—emerged unharmed.

As we have seen, tragedy can occur in these very tense situations. Above all else, we need to ensure that children are kept out of these situations in the future. People who arm themselves after failing to comply with warrants or because they seek to avoid arrest must realize that, whether or not it is intended, children are implicated in these standoffs. We cannot allow this to continue any longer. We cannot allow another child's life to be endangered in this manner.

This bill seeks to protect children from harm in these standoff situations. My bill would make it a crime to detain a child when two conditions are met: if a person is trying to evade arrest or avoid complying with a warrant, and that person uses force, or threatens to use force, against a Federal agent. Any person convicted of violating this act would be imprisoned for 10–25 years. If a child is injured, the penalty would be increased to 20–35 years. If a child is killed, the penalty would be life imprisonment.

No law can ever assure that children will be kept free from harm. But this legislation will help assure that children do not become inadvertent, innocent pawns when violent situations arise. It will provide a deterrent to involving a child in any standoff—and severe penalties for those who ignore the law.

Both of the bills I introduce today are aimed at protecting the innocents in our society, and I urge my colleagues to support them. America needs to be a place where innocent citizens do not have to fear for their life because gun-toting criminals and drug pushers linger on the streets. It needs to be a place where children are not the captives of adults intent upon resisting arrest. Freedom from violence and captivity are basic tenets of our society, which most Americans enjoy and respect. Those among us who don't share our respect for the laws of our society must realize that their actions are criminal, and that in America, criminal actions have repercussions. The passage of these bills will make sure that they do.

By Mr. SPECTER (for himself, Mr. FEINGOLD, and Mr. KOHL):

S. 603. A bill to require the Secretary of Agriculture to collect and disseminate statistically reliable information from milk manufacturing plants on prices received for bulk cheese and to provide the Secretary with the authority to require reporting by such manufacturing plants throughout the United States on prices received for cheese, butter, and nonfat dry milk; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SPECTER:

S. 604. A bill to amend the Agricultural Market Transition Act to require the Secretary of Agriculture to use the price of feed grains and other cash expenses as factors that are used to determine the basic formula price for milk and any other milk price regulated by the Secretary; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL LEGISLATION

Mr. SPECTER. Mr. President, I have sought recognition to introduce two pieces of legislation which will respond to a very serious problem on the falling prices of milk which have occurred in Pennsylvania, especially in northeastern Pennsylvania, and across the country.

In introducing this legislation, I am pleased to have a chance to address this issue in the presence of the distinguished Senator from Kansas, who was the chairman of the House Agriculture Committee, and is making quite an addition to the U.S. Senate. It is not inappropriate to note that Senator ROBERTS is from Kansas, as I am a native of Kansas. I was born in Wichita, grew up in Russell, and worked on a farm as a teenager and have some appreciation of the problems of the farmers.

During my tenure in the U.S. Senate, I have been on the Agriculture Subcommittee of the Appropriations Committee. There are more people living in rural Pennsylvania than live in the rural part of any State in the Union. Mr. President, my colleague from Kansas, we have 2½ million people living in rural Pennsylvania. When I last looked, which is a while ago, there were not 2½ million people living in all of Kansas, let alone 2 million people—slightly reduced—when I moved into Pennsylvania. So I approach this issue with some due regard for the expert presiding over the U.S. Senate. Having discussed this issue with him before, I am not sure he agrees with me on all aspects.

I am of the firm opinion that something needs to be done to help the milk farmers. I say that because the price of milk has fallen precipitously from almost $16 per hundredweight down to $11 per hundredweight. It has gone back up a little, but not a great deal.

In responding to that problem, I asked the distinguished Secretary of

Agriculture, Dan Glickman, also a Kansan, to accompany me to northeastern Pennsylvania, which he did, on February 10. We met a crowd of approximately 500 to 750 angry farmers who complained about the precipitous drop in the price of milk.

During the course of my analysis of this pricing problem, I found that the price of milk depended upon a number of factors, one of which was the price of cheese. For every 10 cents the price of cheese was raised, the price of milk would be raised by $1 per hundredweight. Then I found that the price of cheese was determined by the National Cheese Exchange in Green Bay, WI. At least according to a survey made by the University of Wisconsin, there was an issue as to whether the price of cheese established by the Green Bay exchange was accurate or not. The authors of the report used a term as tough as manipulation. Whether that is so or not, there was a real question as to whether that price was accurate.

Since this controversy has arisen—perhaps it brought the matter to a head, perhaps not; perhaps it would have happened anyway—it has been announced that the Green Bay exchange will close and will be replaced by a new commodity market on May 1. In any event, in my discussions with Secretary Glickman, I found he had the power to raise the price of milk unilaterally by establishing a different price of cheese.

This subject was aired during the course of his testimony when he came before the appropriations subcommittee. It is a very good time to find a more-agreeable-than-usual Cabinet officer when a Cabinet officer comes in for the appropriations process for his Department's budget.

During the course of that hearing, we could not explore fully the issue of the price of milk and the price of cheese, so our distinguished chairman, Senator COCHRAN, agreed to have a special hearing, which we had a couple of weeks later. At that time, Secretary Glickman said that they had ascertained the identity of 118 people or entities who had cheese transactions that could establish a different price of cheese. He told me they had written to the 118 and were having problems getting responses. I suggested it might be faster to telephone those people.

Secretary Glickman provided my staff and me with the list of people, and we telephoned them and found, after reaching approximately half of them, that the price of cheese was, in fact, 16 cents higher by those individuals than otherwise.

I have been pressing Secretary Glickman since. If he has C-SPAN2, or if he knows someone who has C-SPAN2 or if he talks to someone who has C-SPAN2, my staff has been exhorting his staff daily to act on it, and I am going to send him a fax letter before the day is up to try to get a determination on this issue, because I am on my way to northeastern Pennsylvania again next Monday on a routine trip to the Wilkes-Barre/Scranton area. The Presiding Officer knows what that is like. There will be people who want answers to questions, and I shall answer with due diligence, which I think I have. I hope the Secretary of Agriculture will note this different price of cheese and act accordingly to raise the price of milk.

The legislation which I am introducing today goes to two points. One is to amend the Agriculture Market Transition Act to require the Secretary to use the price of feed grains and other cash expenses in the dairy industry as factors that are used to determine the basic formula for the price of milk and other milk prices regulated by the Secretary.

Simply stated, the Government should use what it costs for production to establish the price of milk, so that if the farmers are caught with rising prices of feed and other rising costs of production, they can have those rising costs reflected in the cost of milk.

The second piece of legislation would require the Secretary of Agriculture to collect and disseminate statistically reliable information from milk manufacturing plants on prices received for bulk cheese and provide the Secretary with the authority to require reporting by such manufacturing plants throughout the United States on the prices for cheese, butter, and nonfat dry milk.

Frankly, I am reluctant to impose this obligation anywhere, but I think it is a fair request to make since the Secretary told the Subcommittee on Agriculture of the Appropriations Committee that the Secretary could not get this information on a voluntary basis. People would not comply. My staff found that corroborated when we telephoned the individuals who had these transactions. Burdensome as it is, I think it is fair to give the Secretary the authority to require this reporting.

Mr. President, I am authorized to say that the distinguished Senator from Wisconsin, Senator FEINGOLD, wishes to cosponsor the piece of legislation requiring the information to be collected.

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

Mr. SPECTER. Mr. President, I ask unanimous consent that the full text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 603

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

SECTION 1.

(1) Not later than 30 days after the enactment of this Act, the Secretary shall collect and disseminate, on a weekly basis, statistically reliable information, obtained from cheese manufacturing areas in the United States on prices received and terms of trade involving bulk cheese, including information on the national average price for bulk cheese sold through spot and forward contract transactions. To the extent practicable, the Secretary shall report the prices and terms of trade for spot and forward contract transaction separately.

(2) The Secretary may require dairy product manufacturing plants in the United States to report to the Secretary on a weekly basis the price they receive for cheese, butter and nonfat dry milk sold through spot sales arrangements, forward contracts or other sales arrangements.

(3) All information provided to, or acquired by, the Secretary under subsections (1) and (2) shall be kept confidential by each officer and employee of the Department of Agriculture except that general weekly statements may be issued that are based on the information and that do not identify the information provided by any person.

S. 604

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

SECTION 1. BASIC FORMULA PRICE.

Section 143(a) of the Agricultural Market Transition Act (7 U.S.C. 7253(a)) is amended by adding at the end the following:

"(5) BASIC FORMULA PRICE.—In carrying out this subsection and section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, the Secretary shall use as factors that are used to determine the basic formula price for milk and any other milk price regulated by the Secretary—

"(A) the price of feed gains, including the cost of concentrates, byproducts, liquid whey, hay, silage, pasture, and other forage; and

"(B) other cash expenses, including the cost of hauling, artificial insemination, veterinary services and medicine, bedding and litter, marketing, custom services and supplies, fuel, lubrication, electricity, machinery and building repairs, labor, association fees, and assessments.".

Mr. FEINGOLD. Mr. President, I am pleased today to introduce with the Senator from Pennsylvania, Senator SPECTER, a bill which attempts to address problems in the dairy industry stemming from the lack of adequate price discovery in manufactured dairy product markets.

There has been a great deal of controversy surrounding the National Cheese Exchange [NCE], currently located in Green Bay, WI. The NCE is a small cash market that trades less than 1 percent of all bulk cheese sold nationally, has few traders, short trading periods, and infrequent trading sessions. Those characteristics make this exchange vulnerable to price manipulation. Trading on this exchange would not be a concern if it did not have such tremendous influence over cheese prices nationally. However, because the Cheese Exchange is the only source of cheese price information in the country, it acts as a benchmark or reference price for most off-exchange

cheese sales. There simply is no other reliable source of information, no other source of price discovery, available for buyers and sellers in this industry to use as an indicator of market conditions. Because the price for cheese directly and indirectly affects the price of milk, dairy farmers are justifiably concerned about the lack of adequate cheese price information and the influence of the NCE on prices they receive for milk.

Concern about the Cheese Exchange among dairy farmers, while on-going for many years, heightened late last year when cheese prices at the exchange fell dramatically in just a few weeks, causing record declines in milk prices paid to farmers. While milk prices have recovered slightly, they are expected to fall again next month as a result of further price declines at the National Cheese Exchange.

While the National Cheese Exchange is closing its doors at the end of this month, a new but nearly identical cash market for cheese is opening at the Chicago Mercantile Exchange. It is expected that this new market, which appears to share a number of the flaws of the Cheese Exchange, will serve as the reference price for cheese throughout the country. It is unclear whether this market will be capable of providing adequate price discovery for the dairy industry.

That is why the Senator from Pennsylvania, Senator SPECTER, and I are introducing this bill today. This legislation requires the Secretary to collect and disseminate statistically reliable cheese price information collected from cheese manufacturing plants throughout the country—a provision also included in my bill, S. 258, which I introduced in February. A price series of this type will not only provide more price information, it will provide more reliable information based on transactions throughout the country rather than on one thinly traded cash market.

Secretary of Agriculture Dan Glickman has already begun this process. Last August, I asked the Secretary to use his existing administrative authority to initiate a weekly price survey of cheese plants to improve cheese price discovery and lessen the influence of the small but powerful National Cheese Exchange on milk prices. Secretary Glickman graciously agreed to conduct such a survey, which formally began this January on a monthly basis, and became a weekly survey last month. I have been very pleased with the Secretary's response to the concerns about cheese pricing and effect of the National Cheese Exchange on farm-level milk prices and I appreciate his efforts on this matter.

Since that survey is relatively new, it is still unclear whether it will produce prices which reflect market conditions. That depends upon the voluntary participation of those manufacturers reporting prices as well as on the integrity of the data reported.

On March 13, both Secretary Glickman and I testified before the Senate Agriculture Appropriations Committee about the problem of the Cheese Exchange and the lack of reliable price information in the dairy industry and the potential for this new price series to address that problem. At that time, the Secretary indicated that if participation by cheese manufacturers in his new survey was inadequate, the Department may need to consider requiring participation in that survey. However, under current law, the Secretary has only very limited authority to require cheese price reporting by manufacturing plants.

The bill we are introducing today requires the Secretary to continue his cheese price collection and reporting activities and provides him with broader authority to require participation by cheese manufacturers in that survey. I want to make clear that this bill does not mandate that the Secretary require participation in the cheese price survey, but merely provides him with the authority to do so if it is necessary to ensure the new cheese price survey is statistically reliable. Under the current survey procedures, many cheese manufacturers are already participating voluntarily, so this new Secretarial authority may not be necessary.

Mr. President, it is essential that dairy farmers have some assurances that cheese prices, which have such a dramatic impact on the price of milk, are reflective of market conditions and not vulnerable to manipulation. By improving price discovery, the new USDA cheese price survey implemented by Secretary Glickman may help accomplish that goal. If mandatory price reporting is necessary to produce accurate survey data, our bill provides the Secretary with the authority to require participation. However, I am hopeful that participation in the survey will continue to be high so that mandatory reporting never becomes necessary.

I thank the Senator from Pennsylvania for working with me to devise legislation that might effectively improve price discovery in the dairy industry and I welcome his interest in this important issue. I urge my colleagues to support this legislation.

By Mr. CONRAD (for himself and Mr. DORGAN):

S. 605. A bill to require the Secretary of Agriculture to provide emergency assistance to producers for cattle losses that are due to damaging weather or related condition occurring during the 1996–97 winter season, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL EMERGENCY ASSISTANCE LEGISLATION

Mr. CONRAD. Mr. President, my State has been hit by one of the most remarkable series of events ever in the history of our State.

First we had the greatest snowfall in our State's history, over 100 inches of snow. Then the last of eight major blizzards hit. The eighth and final blizzard was the most powerful winter storm in 50 years. It included almost 2 feet of snow as well as major ice storms, then followed by 70 mile-an-hour winds that were devastating—80,000 people lost their electricity, many of them for a week. The economic devastation is truly remarkable.

Now in the last 12 hours even more disaster is occurring. I am going to read just briefly from the major newspaper in my State, which is in the largest city of our State, Fargo, ND.

The article begins this way:

At 12:15 a.m. today, the flood of 1997 officially became the worst in Fargo-Moorhead's history.

The National Weather Service said a reading taken at that time put the Red River's level at 39.12 feet. That exceeds . . . the river level measured in the flood of 1897—until this morning, the worst ever.

That also means the Red [River] has hit the 500-year flood level.

Speaking on [a local] radio [station] at 1:15 a.m., city Operations Manager Dennis Walaker struck an ominous note.

Walaker said, "We are at river stages that exceed the 1897 level. No one has ever seen this much water in the Fargo area, ever. All we can do is react."

I just talked to the mayor, and I just talked to Mr. Walaker. He tells me they have 15 square miles of water headed for Fargo, ND. This on top of the river which is 20 feet above flood stage. There is just a mass scramble to try to deal with this extraordinary flood threat.

The crest is not expected to be much higher than [about 39.5 feet] but officials will reevaluate the situation this morning. . . .

Iced-over farm fields liquefied. Shelterbelt snowdrifts shrank. Drainage ditches whooshed into coulees and merged with rivers.

In rural Cass County . . . winter turned into water.

By noon, sheets of melted snow rolled toward the Red River. Water that couldn't fit into engorged rivers, particularly the Wild Rice River, took off over land. The overland flows crossed I–29—

The major north-south Federal highway—

near the Horace exit and threatened homes in southwest Fargo.

At midmorning, [the mayor] warned residents of approaching overland flooding. He suggested people leave work and check their property if they live in—

Certain residential areas.

By midafternoon, some students were leaving [schools] because of the flood threat.

The situation was even more urgent next to the Red River. Fargo-Moorhead homeowners who hadn't lost the battle Tuesday asked for more sandbags and sandbaggers. North Dakota State University canceled classes so students could help in the fight.

I will not go further, Mr. President, other than to say this is absolutely an extraordinary time. One of the areas in which we have been hit the hardest is cattle death losses. The number of cattle losses are at least 112,000 head at this point. North Dakota Farm Service Agency reports that nearly 80,000 of them are from the weekend storm of April 4 through 6 alone, a storm that is being called Blizzard Hannah. I fear, Mr. President, that many more calves may die.

This is such an extraordinary set of events. These pictures depict some of the situations and scenes that we are seeing across the State of North Dakota. Here, one cow is nuzzling a calf with a dead cow alongside. What happened in this storm, which was so powerful, is that not only did cattle freeze to death, but many suffocated because the winds were so intense that compacted snow was blown up into their nostrils and they suffocated.

Mr. President, this next picture shows what we are seeing all too often. Here a farmer is coming down the road to inspect the herd. Here is a cow dead in a ditch. All across North Dakota, carcasses are littered after this devastation.

Here is an all-too-often sight. This is a cow frozen in a snow bank. It is not just a snow bank, it is actually ice and snow together. People report that these snow banks are like concrete. There was first this heavy snowfall, then the ice, then these incredible winds. These cattle did not have a chance.

For that reason, today I am introducing legislation that will provide for an indemnification payment. I hope that this legislation will be enacted. I hope that my colleagues will understand the massive economic loss in my State.

Under this legislation, producers who have experienced a 5-percent loss of their cattle herd or calf crop would receive indemnity payments of $200 per head, up to 200 of lost livestock. In some cases, losses will be covered by private insurance. In these instances, producers will be able to receive indemnity payments under my program, but the total payments of private insurance and Government indemnity cannot exceed the expected value of a cow.

I have been working with my colleagues from the Dakotas, Senator DORGAN from North Dakota, and Senator DASCHLE and Senator JOHNSON from South Dakota to implement assistance to livestock producers in North Dakota and South Dakota. We will continue working to provide meaningful, comprehensive relief.

Cattle producers in my State have asked for something simple and something that will help them overcome these overwhelming difficulties. My legislation accomplishes those goals, and I call on my colleagues to offer this assistance to livestock producers.

I understand I have a colleague standing by who would like to have time as well, so I do not want to extend this, other than to send the legislation to the desk and ask it be appropriately referred. I introduce it on behalf of myself and my colleague from North Dakota, Senator DORGAN. I urge my colleagues' close attention to it.

Again, Mr. President, we are faced with what I call a slow-motion disaster, because it is a circumstance in which you do not have the flood come and leave. In this circumstance, the flood has come, and it is staying. In addition to that, we have all of these other severe weather factors to cope with.

I, again, hope that we will move expeditiously with the supplemental disaster legislation so that we can fund the programs necessary to help in the recovery that is so urgently needed, not only in my State but in the States of Minnesota and South Dakota as well.

By Mr. FEINGOLD:

S. 608. A bill to authorize the enforcement by State and local governments of certain Federal Communications Commission regulations regarding use of citizens band radio equipment; to the Committee on Commerce, Science, and Transportation.

CB RADIO FREQUENCY INTERFERENCE LEGISLATION

Mr. FEINGOLD. Mr. President, I rise to introduce legislation designed to provide a practical solution to the all too common problem of interference with residential home electronic equipment caused by unlawful use of citizens band [CB] radios. This problem can be extremely distressing for residents who cannot have a telephone conversation, watch television, or listen to the radio without being interrupted by a neighbor's illegal use of a CB radio. Unfortunately, under the current law, those residents have little recourse. The bill I am introducing today will provide those residents with a practical solution to this problem.

Up until recently, the FCC has enforced its rules outlining what equipment may or may not be used for CB radio transmissions, how long transmissions may be broadcast, what channels may be used, as well as many other technical requirements. FCC also investigated complaints that a CB radio enthusiast's transmissions interfered with a neighbor's use of home electronic and telephone equipment. FCC receives thousands of such complaints annually.

Mr. President, for the past 3 years I have worked with constituents who have been bothered by persistent interference of nearby CB radio transmissions in some cases caused by unlawful use of radio equipment. In each case, the constituents have sought my help in securing an FCC investigation of the complaint. In each case, Mr. President, the FCC indicated that due to a lack of resources, the Commission no longer investigates radio frequency interference complaints. Instead of investigation and enforcement, the FCC is able to provide only self-help information which the consumer may use to limit the interference on their own.

In many cases, residents implement the self-help measures recommended by FCC such as installing filtering devices to prevent the unwanted interference, working with their telephone company, or attempting to work with the neighbor they believe is causing the interference. In many cases these self-help measures are effective.

However, in some cases filters and other technical solutions fail to solve the problem because the interference is caused by unlawful use of CB radio equipment such as unauthorized linear amplifiers.

Municipal residents, after being denied investigative or enforcement assistance from the FCC, frequently contact their city or town government and ask them to police the interference. However, the Communications Act of 1934 provides exclusive authority to the Federal Government for the regulation of radio, preempting municipal ordinances or State laws to regulate radio frequency interference caused by unlawful use of CB radio equipment. This has created an interesting dilemma for municipal governments. They can neither pass their own ordinances to control CB radio interference, nor can they rely on the agency with exclusive jurisdiction over interference to enforce the very Federal law which preempts them.

Let me give an example of the kind of frustrations people have experienced in attempting to deal with these problems. Shannon Ladwig, a resident of Beloit, WI, has been fighting to end CB interference with her home electronic equipment that has been plaguing her family for over a year. Shannon worked within the existing system, asking for an FCC investigation, installing filtering equipment on her telephone, attempting to work with the neighbor causing the interference, and so on. Nothing has been effective. Shannon's answering machine picks up calls for which there is no audible ring, and at times records ghost messages. Often, she cannot get a dial tone when she or her family members wish to place an outgoing call. During telephone conversations, the content of the nearby CB transmission can frequently be heard and on occasion, her phone conversations are inexplicably cut off. Her TV transmits audio from the CB transmission rather than the television program her family is watching. Shannon never knows if the TV program she taped with her VCR will actually

record the intended program or whether it will contain profanity from a nearby CB radio conversation.

Shannon did everything she could to solve the problem and a year later she still feels like a prisoner in her home, unable to escape the broadcasting whims of a CB operator using illegal equipment with impunity. Shannon even went to her city council to demand action. The Beloit City Council responded by passing an ordinance allowing local law enforcement to enforce FCC regulations—an ordinance the council knows is preempted by Federal law. Earlier this year, the Beloit City Council passed a resolution supporting the legislation I am introducing today, which will allow at least part of that ordinance to stand.

The problems experienced by Beloit residents are by no means isolated incidents. I have received very similar complaints from at least 10 other Wisconsin communities in the last several years in which whole neighborhoods are experiencing persistent radio frequency interference. Since I have begun working on this legislation, my staff has also been contacted by a number of other congressional offices who are also looking for a solution to the problem of radio frequency interference in their States or districts caused by unlawful CB use. The city of Grand Rapids, MI, in particular, has contacted me about this legislation because they face a persistent interference problem very similar to that in Beloit. In all, FCC receives more than 30,000 radio frequency interference complaints annually—most of which are caused by CB radios. Unfortunately, FCC no longer has the staff, resources, or the field capability to investigate these complaints and localities are blocked from exercising any jurisdiction to provide relief to their residents.

The legislation I am introducing today attempts to resolve this dilemma by allowing States and localities to enforce existing FCC regulations regarding authorized CB equipment and frequencies while maintaining exclusive Federal jurisdiction over the regulation of radio services. It is a commonsense solution to a very frustrating and real problem which cannot be addressed under existing law. Residents should not be held hostage to a Federal law which purports to protect them but which cannot be enforced.

This legislation is by no means a panacea for the problem of radio frequency interference. My bill is intended only to help localities solve the most egregious and persistent problems of interference—those caused by unauthorized use of CB radio equipment and frequencies. In cases where interference is caused by the legal and licensed operation of any radio service, residents will need to resolve the interference using FCC self-help measures that I mentioned earlier.

In many cases, interference can result from inadequate home electronic equipment immunity from radio frequency interference. Those problems can only be resolved by installing filtering equipment and by improving the manufacturing standards of home telecommunications equipment. The electronic equipment manufacturing industry, represented by the Telecommunications Industry Association and the Electronics Industry Association, working with the Federal Communications Commission, has adopted voluntary standards to improve the immunity of telephones from interference. Those standards were adopted by the American National Standards Institute last year. Manufacturers of electronic equipment should be encouraged to adopt these new ANSI standards. Consumers have a right to expect that the telephones they purchase will operate as expected without excessive levels of interference from legal radio transmissions. Of course, Mr. President, these standards assume legal operation of radio equipment and cannot protect residents from interference from illegal operation of CB equipment.

This bill also does not address interference caused by other radio services, such as commercial stations or amateur stations. Mr. President, last year, I introduced S. 2025, a bill with intent similar to that of the bill I am introducing today. The American Radio Relay League [ARRL], an organization representing amateur radio operators, frequently referred to as "ham" operators, raised a number of concerns about that legislation. ARRL was concerned that while the bill was intended to cover only illegal use of CB equipment, FCC-licensed amateur radio operators might inadvertently be targeted and prosecuted by local law enforcement. ARRL also expressed concern that local law enforcement might not have the technical abilities to distinguish between ham stations and CB stations and might not be able to determine what CB equipment was FCC-authorized and what equipment is illegal.

Over the past several months, I have worked with the ARRL representatives and amateur operators from Wisconsin to address these concerns. As a result of those discussions, the bill I am introducing today incorporates a number of provisions suggested by the league. First, my legislation makes clear that the limited enforcement authority provided to localities in no way diminishes or affects FCC's exclusive jurisdiction over the regulation of radio. Second, the bill clarifies that possession of an FCC license to operate a radio service for the operation at issue, such as an amateur station, is a complete protection against any local law enforcement action authorized by this bill. Amateur radio enthusiasts are not only individually licensed by FCC, unlike CB operators, but they also self-regulate. The ARRL is very involved in resolving interference concerns both among their own members and between ham operators and residents experiencing problems.

Third, my legislation also provides for an FCC appeal process by any radio operator who is adversely affected by a local law enforcement action under this bill. FCC will make determinations as to whether the locality acted properly within the limited jurisdiction this legislation provides. FCC will have the power to reverse the action of the locality if local law enforcement acted improperly. And fourth, my legislation requires FCC to provide States and localities with technical guidance on how to determine whether a CB operator is acting within the law.

Again, Mr. President, my legislation is narrowly targeted to resolve persistent interference with home electronic equipment caused by illegal CB operation. Under my bill, localities cannot establish their own regulations on CB use. They may only enforce existing FCC regulations on authorized CB equipment and frequencies. This bill will not resolve all interference problems and it is not intended to do so. Some interference problems need to continue to be addressed by the FCC, the telecommunications manufacturing industry, and radio service operators. This bill merely provides localities with the tools they need to protect their residents while preserving FCC's exclusive regulatory jurisdiction over the regulation of radio services.

I urge my colleagues to support this legislation.

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. 608

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

SECTION 1. ENFORCEMENT OF REGULATIONS REGARDING CITIZENS BAND RADIO EQUIPMENT.

Section 302 of the Communications Act of 1934 (47 U.S.C. 302) is amended by adding at the end the following:

"(f)(1) Except as provided in paragraph (2), a State or local government may enforce the following regulations of the Commission under this section:

"(A) A regulation that prohibits a use of citizens band radio equipment not authorized by the Commission.

"(B) A regulation that prohibits the unauthorized operation of citizens band radio equipment on a frequency between 24 MHz and 35 MHz.

"(2) Possession of a station license issued by the Commission pursuant to section 301 in any radio service for the operation at issue shall preclude action by a State or local government under this subsection.

"(3) The Commission shall provide technical guidance to State and local governments regarding the detection and determination of violations of the regulations specified in paragraph (1).

"(4)(A) In addition to any other remedy authorized by law, a person affected by the decision of a State or local government enforcing a regulation under paragraph (1) may submit to the Commission an appeal of the decision on the grounds that the State or local government, as the case may be, acted outside the authority provided in this subsection.

"(B) A person shall submit an appeal on a decision of a State or local government to the Commission under this paragraph, if at all, not later than 30 days after the date on which the decision by the State or local government becomes final.

"(C) The Commission shall make a determination on an appeal submitted under subparagraph (B) not later than 180 days after its submittal.

"(D) If the Commission determines under subparagraph (C) that a State or local government has acted outside its authority in enforcing a regulation, the Commission shall reverse the decision enforcing the regulation.

"(5) The enforcement of a regulation by a State or local government under paragraph (1) in a particular case shall not preclude the Commission from enforcing the regulation in that case concurrently.

"(6) Nothing in this subsection shall be construed to diminish or otherwise affect the jurisdiction of the Commission under this section over devices capable of interfering with radio communications.".

By Mr. KENNEDY (for himself, Ms. MIKULSKI, Mr. DASCHLE, Mr. DODD, Mr. HARKIN, Mr. WELLSTONE, Mrs. MURRAY, Mrs. BOXER, Ms. MOSELEY-BRAUN, Mrs. FEINSTEIN, Mr. FORD, and Mr. INOUYE):

S. 609. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for reconstructive breast surgery if they provide coverage for mastectomies; to the Committee on Labor and Human Resources.

RECONSTRUCTIVE BREAST SURGERY BENEFITS ACT OF 1997

Mr. KENNEDY. Mr. President, today I am introducing the Reconstructive Breast Surgery Benefits Act of 1997. An identical bill is being introduced by Representative ANNA ESHOO in the House of Representatives. Our purpose in introducing this legislation is to improve the lives of thousands of women who suffer from breast cancer.

Breast cancer is the most common form of cancer in American women, affecting one woman out of every nine. Nearly three million American women are living with the disease, and 46,000 die from it each year. Over 180,000 more women will be diagnosed with breast cancer this year, and nearly half of the women will suffer the loss of one or both breasts in order to survive.

Reconstructive surgery or use of a prothesis can help women cope with the consequences of this deadly illness. Every woman deserves the opportunity to have these important options available if breast cancer strikes. It is also a distressing fact that some women avoid early detection procedures, for fear that it may result in the loss of a breast if cancer is detected. For these women, breast reconstruction surgery should be available as a part of treatment, since its availability can alleviate fears about the disease and encourage life-saving early detection and treatment.

Many insurers classify this important medical procedure as cosmetic, however, and deny coverage for it. In addition, as many as 25 percent of women who undergo breast cancer treatments are affected by lymphedema, a complication resulting from mastectomy. Many insurers also refuse to cover treatment and management of this condition. This legislation will end these types of discrimination.

Currently, 12 States have laws that require coverage for breast reconstruction following mastectomy. Nine States require coverage for prosthesis. This legislation will extend these protections to all women.

This bill will amend the Public Health Service Act and the Employee Retirement Income Security Act in order to accomplish the following important actions:

It requires insurers and companies that provide coverage for mastectomy to provide coverage for reconstructive breast surgery, prosthesis and other treatments which may be necessary as a result of surgical complications, including lymphedema;

It prohibits monetary payments or rebates that encourage a woman to accept less than the minimum medical protection available; and

Finally, it prohibits insurers using penalties or incentives to encourage providers to furnish levels of care inconsistent with this legislation.

This bill has been endorsed by major national organizations involved in the diagnosis and treatment of breast cancer, including the American Cancer Society, the National Breast Cancer Coalition, the National Women's Health Network, and the national medical and nursing groups concerned with this disease.

Our goal is to end the cruel and arbitrary practice that unfairly discriminates against breast cancer patients and their needs. I look forward to early action by Congress, and I hope that it will receive the overwhelming bipartisan support it deserves.

By Mr. LUGAR (for himself and Mr. BIDEN):

S. 610. A bill to implement the obligations of the United States under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, known as "the Chemical Weapons Convention" and opened for signature and signed by the United States on January 13, 1993; to the Committee on the Judiciary.

THE CHEMICAL WEAPONS CONVENTION IMPLEMENTATION ACT OF 1997

Mr. LUGAR. Mr. President, I introduce, by request, on behalf of Senator BIDEN and myself, the Chemical Weapons Convention Implementation Act.

The Chemical Weapons Convention was signed by the United States on January 13, 1993, and was submitted by President Clinton to the United States Senate on November 23, 1993, for its advice and consent to ratification.

The Chemical Weapons Convention contains a number of provisions that require implementing legislation to give them effect within the United States. These include: international inspections of U.S. facilities; declarations by U.S. chemical and related industry; and establishment of a "National Authority" to serve as the liaison between the United States and the international organization established by the Chemical Weapons Convention and States Parties to the Convention.

Mr. President, I ask unanimous consent that this Implementation Act that we are introducing at the request of the administration be printed in the RECORD together with the transmitted letter to the President of the Senate from ACDA Director John D. Holum.

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

S. 610

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 "Chemical Weapons Convention Implementation Act of 1997."

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Congressional findings.
Sec. 4. Congressional declarations.
Sec. 5. Definitions.
Sec. 6. Severability.

TITLE I—NATIONAL AUTHORITY

Sec. 101. Establishment.

TITLE II—APPLICATION OF CONVENTION PROHIBITIONS TO NATURAL AND LEGAL PERSONS

Sec. 201. Criminal provisions.
Sec. 202. Effective date.
Sec. 203. Restrictions on scheduled chemicals.

TITLE III—REPORTING

Sec. 301. Reporting of information.
Sec. 302. Confidentiality of information.
Sec. 303. Prohibited acts.

TITLE IV—INSPECTIONS

Sec. 401. Inspections pursuant to Article VI of the Chemical Weapons Convention.
Sec. 402. Other inspections pursuant to the Chemical Weapons Convention and lead agency.
Sec. 403. Prohibited acts.
Sec. 404. Penalties.

Sec. 405. Specific enforcement.
Sec. 406. Legal proceedings.
Sec. 407. Authority.
Sec. 408. Saving provision.

SEC. 3. CONGRESSIONAL FINDINGS.

The Congress makes the following findings:

(1) Chemical weapons pose a significant threat to the national security of the United States and are a scourge to humankind.

(2) The Chemical Weapons Convention is the best means of ensuring the nonproliferation of chemical weapons and their eventual destruction and forswearing by all nations.

(3) The verification procedures contained in the Chemical Weapons Convention and the faithful adherence of nations to them, including the United States, are crucial to the success of the Convention.

(4) The declarations and inspections required by the Chemical Weapons Convention are essential for the effectiveness of the verification regime.

SEC. 4. CONGRESSIONAL DECLARATIONS.

The Congress makes the following declarations:

(1) It shall be the policy of the United States to cooperate with other States Parties to the Chemical Weapons Convention and to afford the appropriate form of legal assistance to facilitate the implementation of the prohibitions contained in title II of this Act.

(2) It shall be the policy of the United States, during the implementation of its obligations under the Chemical Weapons Convention, to assign the highest priority to ensuring the safety of people and to protecting the environment, and to cooperate as appropriate with other States Parties to the Convention in this regard.

(3) It shall be the policy of the United States to minimize, to the greatest extent practicable, the administrative burden and intrusiveness of measures to implement the Chemical Weapons Convention placed on commercial and other private entities, and to take into account the possible competitive impact of regulatory measures on industry, consistent with the obligations of the United States under the Convention.

SEC. 5. DEFINITIONS.

(a) IN GENERAL.—Except as otherwise provided in this Act, the definitions of the terms used in this Act shall be those contained in the Chemical Weapons Convention. Nothing in paragraphs 2 or 3 of Article II of the Chemical Weapons Convention shall be construed to limit verification activities pursuant to Parts X or XI of the Annex on Implementation and Verification of the Convention.

(b) OTHER DEFINITIONS.—

(1) The term "Chemical Weapons Convention" means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.

(2) The term "national of the United States" has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(3) The term "United States," when used in a geographical sense, includes all places under the jurisdiction or control of the United States, including (A) any of the places within the provisions of section 101(41) of the Federal Aviation Act of 1958, as amended (49 U.S.C. Sec. 40102(41)), (B) any public aircraft or civil aircraft of the United States, as such terms are defined in sections 101(36) and (18) of the Federal Aviation Act of 1958, as amended (49 U.S.C. Secs. 40102(37) and 40102(17)), and (C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C. App. Sec. 1903(b)).

(4) The term "person," except as used in section 201 of this Act and as set forth below, means (A) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision or any such government or nation, or other entity located in the United States; and (B) any legal successor, representative, agent or agency of the foregoing located in the United States. The phrase "located in the United States" in the term "person" shall not apply to the term "person" as used in the phrases "person located outside the territory" in sections 203(b) and 302(d) of this Act and "person located in the territory" in section 203(b) of this Act.

(5) The term "Technical Secretariat" means the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons established by the Chemical Weapons Convention.

SEC. 6. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

TITLE I—NATIONAL AUTHORITY

SEC. 101. ESTABLISHMENT.

Pursuant to paragraph 4 of Article VII of the Chemical Weapons Convention, the President or the designee of the President shall establish the "United States National Authority" to, inter alia, serve as the national focal point for effective liaison with the Organization for the Prohibition of Chemical Weapons and other States Parties to the Convention.

TITLE II—APPLICATION OF CONVENTION PROHIBITIONS TO NATURAL AND LEGAL PERSONS

SEC. 201. CRIMINAL PROVISIONS.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by—

(1) redesignating chapter 11A relating to child support as chapter 11B; and

(2) inserting after chapter 11 relating to bribery, graft and conflicts of interest the following new chapter:

"CHAPTER 11A—CHEMICAL WEAPONS

"Sec.
"227. Penalties and prohibitions with respect to chemical weapons.
"227A. Seizure, forfeiture, and destruction.
"227B. Injunctions.
"227C. Other prohibitions.
"227D. Definitions.

"SEC. 227. PENALTIES AND PROHIBITIONS WITH RESPECT TO CHEMICAL WEAPONS.

"(a) IN GENERAL.—Except as provided in subsection (b), whoever knowingly develops, produces, otherwise acquires, stockpiles, retains, directly or indirectly transfers, uses, owns or possesses any chemical weapon, or knowingly assists, encourages or induces, in any way, any person to do so, or attempts or conspires to do so, shall be fined under this title or imprisoned for life or any term of years, or both.

"(b) EXCLUSION.—Subsection (a) shall not apply to the retention, ownership or possession of a chemical weapon, that is permitted by the Chemical Weapons Convention pending the weapon's destruction, by any agency or department of the United States. This exclusion shall apply to any person, including members of the Armed Forces of the United States, who is authorized by any agency or department of the United States to retain, own or possess a chemical weapon, unless that person knows or should have known that such retention, ownership or possession is not permitted by the Chemical Weapons Convention.

"(c) JURISDICTION.—There is jurisdiction by the United States over the prohibited activity in subsection (a) if (1) the prohibited activity takes place in the United States or (2) the prohibited activity takes place outside of the United States and is committed by a national of the United States.

"(d) ADDITIONAL PENALTY.—The court shall order that any person convicted of any offense under this section pay to the United States any expenses incurred incident to the seizure, storage, handling, transportation and destruction or other disposition of property seized for the violation of this section.

"SEC. 227A. SEIZURE, FORFEITURE, AND DESTRUCTION.

"(a) SEIZURE.—

"(1) Except as provided in paragraph (2), the Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any chemical weapon defined in section 227D(2)(A) of this title that is of a type or quantity that under the circumstances is inconsistent with the purposes not prohibited under the Chemical Weapons Convention.

"(2) In the exigent circumstances, seizure and destruction of any such chemical weapon described in paragraph (1) may be made by the Attorney General upon probable cause without the necessity for a warrant.

"(b) PROCEDURE FOR FORFEITURE AND DESTRUCTION.—Except as provided in paragraph (2) of subsection (a), property seized pursuant to subsection (a) shall be forfeited to the United States after notice to potential claimants and an opportunity for a hearing. At such a hearing, the Government shall bear the burden of persuasion by a preponderance of the evidence. Except as inconsistent herewith, the provisions of chapter 46 of this title related to civil forfeitures shall extend to a seizure or forfeiture under this section. The Attorney General shall provide for the destruction or other appropriate disposition of any chemical weapon seized and forfeited pursuant to this section.

"(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense against a forfeiture under subsection (b) that—

"(1) such alleged chemical weapon is for a purpose not prohibited under the Chemical Weapons Convention; and

"(2) such alleged chemical weapon is of a type and quantity that under the circumstances is consistent with that purpose.

"(d) OTHER SEIZURE, FORFEITURE, AND DESTRUCTION.—

"(1) Except as provided in paragraph (2), the Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any chemical weapon defined in section 227D(2) (B) or (C) of this title that exists by reason of conduct prohibited under section 227 of this title.

"(2) In exigent circumstances, seizure and destruction of any such chemical weapon described in paragraph (1) may be made by the Attorney General upon probable cause without the necessity for a warrant.

"(3) Property seized pursuant to this subsection shall be summarily forfeited to the United States and destroyed.

"(e) ASSISTANCE.—The Attorney General may request assistance from any agency or department in the handling, storage, transportation or destruction of property seized under this section.

"(f) OWNER LIABILITY.—The owner or possessor of any property seized under this section shall be liable to the United States for any expenses incurred incident to the seizure, including any expenses relating to the handling, storage, transportation and destruction or other disposition of the seized property.

"SEC. 227B. INJUNCTIONS.

"(a) IN GENERAL.—The United States may obtain in a civil action an injunction against—

"(1) the conduct prohibited under section 227 of this title;

"(2) the preparation or solicitation to engage in conduct prohibited under section 227 of this title; or

"(3) the development, production, other acquisition, stockpiling, retention, direct or indirect transfer, use, ownership or possession, or the attempted development, production, other acquisition, stockpiling, retention, direct or indirect transfer, use, ownership or possession, of any alleged chemical weapon defined in section 227D(2)(A) of this title that is of a type or quantity that under the circumstances is inconsistent with the purposes not prohibited under the Chemical Weapons Convention, or the assistance to any person to do so.

"(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense against an injunction under subsection (a)(3) that—

"(1) the conduct sought to be enjoined is for a purpose not prohibited under the Chemical Weapons Convention; and

"(2) such alleged chemical weapon is of a type and quantity that under the circumstances is consistent with that purpose.

"SEC. 227C. OTHER PROHIBITIONS.

"(a) IN GENERAL.—Except as provided in subsection (b), whoever knowingly uses riot control agents as a method of warfare, or knowingly assists any person to do so, shall be fined under this title or imprisoned for a term of not more than ten years, or both.

"(b) EXCLUSION.—Subsection (a) shall not apply to members of the Armed Forces of the United States. Members of the Armed Forces of the United States who use riot control agents as a method of warfare shall be subject to appropriate military penalties.

"(c) JURISDICTION.—There is jurisdiction by the United States over the prohibited activity in subsection (a) if (1) the prohibited activity takes place in the United States or (2) the prohibited activity takes place outside of the United States and is committed by a national of the United States.

"SEC. 227D. DEFINITIONS.

"As used in this chapter, the term—

"(1) 'Chemical Weapons Convention' means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993;

"(2) 'chemical weapon' means the following, together or separately:

"(A) a toxic chemical and its precursors, except where intended for a purpose not prohibited under the Chemical Weapons Convention, as long as the type and quantity is consistent with such a purpose;

"(B) a munition or device, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (A), which would be released as a result of the employment of such munition or device; or

"(C) any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B);

"(3) 'toxic chemical' means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. This includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere. (For the purpose of implementing the Chemical Weapons Convention, toxic chemicals which have been identified for the application of verification measures are listed in Schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.);

"(4) 'precursor' means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multicomponent chemical system. (For the purpose of implementing the Chemical Weapons Convention, precursors which have been identified for the application of verification measures are listed in Schedules contained in the Annex on Chemicals of the Chemical Weapons convention.);

"(5) 'key component of a binary or multicomponent chemical system' means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system;

"(6) 'purpose not prohibited under the Chemical Weapons Convention' means—

"(A) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;

"(B) protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons;

"(C) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warefare; or

"(D) law enforcement purposes, including domestic riot control purposes;

"(7) 'national of the United States' has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(8) 'United States,' when used in a geographical sense, includes all places under the jurisdiction or control of the United States, including (A) any of the places within the provisions of section 101(41) of the Federal Aviation Act of 1958, as amended (49 U.S.C. Sec. 40102(41)), (B) any public aircraft or civil aircraft of the United States, as such terms are defined in sections 101(36) and (18) of the Federal Aviation Act of 1958, as amended (49 U.S.C. Secs. 40102(37) and 40102(17)), and (C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C. App. Sec. 1903(b));

"(9) 'person' means (A) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity; and (B) any legal successor, representative, agent, or agency of the foregoing; and

"(10) 'riot control agent' means any chemical not listed in a Schedule in the Annex on Chemicals of the Chemical Weapons Convention, which can produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure.

Nothing in paragraphs (3) or (4) of this section shall be construed to limit verification activities pursuant to part X or part XI of the Annex on Implementation and Verification of the Chemical Weapons Convention."

(b) CLERICAL AMENDMENTS.—The table of chapters for part I of title 18, United States Code, is amended by—

(1) in the item for chapter 11A relating to child support, redesignating "11A" as "11B"; and

(2) inserting after the item for chapter 11 the following new item:

"11A. CHEMICAL WEAPONS ..... 227."

SEC. 202. EFFECTIVE DATE.

This title shall take effect on the date the Chemical Weapons Convention enters into force for the United States.

SEC. 203. RESTRICTIONS ON SCHEDULED CHEMICALS.

(a) SCHEDULE 1 ACTIVITIES.—It shall be unlawful for any person, or any national of the United States located outside the United States, to produce, acquire, retain, transfer or use a chemical listed on Schedule 1 of the Annex on Chemicals of the Chemical Weapons Convention, unless—

(1) the chemicals are applied to research, medical, pharmaceutical or protective purposes;

(2) the types and quantities of chemicals are strictly limited to those that can be justified for such purposes; and

(3) the amount of such chemicals per person at any given time for such purposes does not exceed a limit to be determined by the United States National Authority, but in any case, does not exceed one metric ton.

(b) EXTRATERRITORIAL ACTS.—

(1) It shall be unlawful for any person, or any national of the United States located outside the United States, to produce, acquire, retain or use a chemical listed on Schedule 1 of the Annex on Chemicals of the Chemical Weapons Convention outside the territories of the States Parties to the Convention or to transfer such chemicals to any person located outside the territory of the United States, except as provided for in the Convention for transfer to a person located in the territory of another State Party to the Convention.

(2) Beginning three years after the entry into force of the Chemical Weapons Convention, it shall be unlawful for any person, or any national of the United States located outside the United States, to transfer a chemical listed on Schedule 2 of the Annex on Chemicals of the Convention to any person located outside the territory of a State Party to the Convention or to receive such a chemical from any person located outside the territory of a State Party to the Convention.

(c) JURISDICTION.—There is jurisdiction by the United States over the prohibited activity in subsections (a) and (b) if (1) the prohibited activity takes place in the United States or (2) the prohibited activity takes place outside of the United States and is committed by a national of the United States.

TITLE III—REPORTING

SEC. 301. REPORTING OF INFORMATION.

(a) REPORTS.—The Department of Commerce shall promulgate regulations under which each person who produces, processes, consumes, exports or imports, or proposes to produce, process, consume, export or import, a chemical substance subject to the Chemical Weapons Convention shall maintain and permit access to such records and shall submit to the Department of Commerce such reports as the United States National Authority may reasonably require pursuant to the Chemical Weapons Convention. The Department of Commerce shall promulgate regulations pursuant to this title expeditiously, taking into account the written decisions issued by the Organization for the Prohibition of Chemical Weapons, and may amend or change such regulations as necessary.

(b) COORDINATION.—To the extent feasible, the United States National Authority shall not require any reporting that is unnecessary, or duplicative of reporting required under any other Act. Agencies and departments shall coordinate their actions with other agencies and departments to avoid duplication of reporting by the affected persons under this Act or any other Act.

SEC. 302. CONFIDENTIALITY OF INFORMATION.

(a) FREEDOM OF INFORMATION ACT EXEMPTION FOR CERTAIN CHEMICAL WEAPONS CONVENTION INFORMATION.—Any information reported to, or otherwise obtained by, the United States National Authority, the Department of Commerce, or any other agency or department under this Act or under the Chemical Weapons Convention shall not be required to be publicly disclosed pursuant to section 552 of title 5, United States Code.

(b) PROHIBITED DISCLOSURE AND EXCEPTIONS.—Information exempt from disclosure under subsection (a) shall not be published or disclosed, except that such information—

(1) shall be disclosed or otherwise provided to the Technical Secretariat or other States Parties to the Chemical Weapons Convention in accordance with the Convention, in particular, the provisions of the Annex on the Protection of Confidential Information;

(2) shall be made available to any committee or subcommittee of Congress of appropriate jurisdiction upon the written request of the chairman or ranking minority member of such committee or subcommittee, except that no such committee or subcommittee, or member thereof, shall disclose such information or material;

(3) shall be disclosed to other agencies or departments for law enforcement purposes with regard to this Act or any other Act, and may be disclosed or otherwise provided when relevant in any proceeding under this Act or any other Act, except that disclosure or provision in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding; and

(4) may be disclosed, including in the form of categories of information, if the United States National Authority determines that such disclosure is in the national interest.

(c) NOTICE OF DISCLOSURE.—If the United States National Authority, pursuant to subsection (b)(4), proposes to publish or disclose or otherwise provide information exempted from disclosure in subsection (a), the United States National Authority shall, where appropriate, notify the person who submitted such information of the intent to release such information. Where notice has been provided, the United States National Authority may not release such information until the expiration of 30 days after notice has been provided.

(d) CRIMINAL PENALTY FOR WRONGFUL DISCLOSURE.—Any officer or employee of the United States or former officer or employee of the United States, who by virtue of such employment or official position has obtained possession of, or has access to, information the disclosure or other provision of which is prohibited by subsection (a), and who knowing that disclosure or provision of such information is prohibited by such subsection, willfully discloses or otherwise provides the information in any manner to any person, including person located outside the territory of the United States, not entitled to receive it, shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both.

(e) INTERNATIONAL INSPECTORS.—The provisions of this section on disclosure or provision of information shall also apply to employees of the Technical Secretariat.

SEC. 303. PROHIBITED ACTS.

It shall be unlawful for any person to fail or refuse to (a) establish or maintain records, (b) submit reports, notices, or other information to the Department of Commerce or the United States National Authority, or (c) permit access to or copying of records, as required by this Act or a regulation thereunder.

TITLE IV—INSPECTIONS

SEC. 401. INSPECTIONS PURSUANT TO ARTICLE VI OF THE CHEMICAL WEAPONS CONVENTION.

(a) AUTHORITY.—For purposes of administering this Act—

(1) any duly designated member of an inspection team of the Technical Secretariat may inspect any plant, plant site, or other facility or location in the United States subject to inspection pursuant to the Chemical Weapons Convention; and

(2) the National Authority shall designate representatives who may accompany members of an inspection team of the Technical Secretariat during the inspection specified in paragraph (1). The number of duly designated representatives shall be kept to the minimum necessary.

(b) NOTICE.—An inspection pursuant to subjection (a) may be made only upon issuance of a written notice to the owner and to the operator, occupant or agent in charge of the premises to be inspected, except that failure to receive a notice shall not be a bar to the conduct of an inspection. The notice shall be submitted to the owner and to the operator, occupant or agent in charge as soon as possible after the United States National Authority receives it from the Technical Secretariat. The notice shall include all appropriate information supplied by the Technical Secretariat to the United States National Authority regarding the basis for the selection of the plant site, plant, or other facility or location for the type of inspection sought, including, for challenge inspections pursuant to Article IX of the Chemical Weapons Convention, appropriate evidence or reasons provided by the requesting State Party to the Convention with regard to its concerns about compliance with the Chemical Weapons Convention at the facility or location. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection.

(c) CREDENTIALS.—If the owner, operator, occupant or agent in charge of the premises to be inspected is presented, a member of the inspection team of the Technical Secretariat, as well as, if present, the representatives of agencies or departments, shall present appropriate credentials before the inspection is commenced.

(d) TIME FRAME FOR INSPECTIONS.—Consistent with the provisions of the Chemical Weapons Convention, each inspection shall be commenced and completed with reasonable promptness and shall be conducted at reasonable times, within reasonable limits, and in a reasonable manner. The Department of Commerce shall endeavor to ensure that, to the extent possible, each inspection is commenced, conducted and concluded during ordinary working hours, but no inspection shall be prohibited or otherwise disrupted for commencing, continuing or concluding during other hours. However, nothing in this subsection shall be interpreted as modifying the time frames established in the Chemical Weapons Convention.

(e) SCOPE.—

(1) Except as provided in paragraph (2) of this subsection and subsection (f), an inspection conducted under this title may extend to all things within the premises inspected (including records, files, papers, processes, controls, structures and vehicles) related to whether the requirements of the Chemical Weapons Convention applicable to such premises have been complied with.

(2) To the extent possible consistent with the obligations of the United States pursuant to the Chemical Weapons Convention, no inspection under this title shall extend to—

(A) financial data;

(B) sales and marketing data (other than shipment data);

(C) pricing data;

(D) personnel data;

(E) research data;

(F) patent data;

(G) data maintained for compliance with environmental or occupational health and safety regulations; or

(H) personnel and vehicles entering and personnel and personal passenger vehicles exiting the facility.

(f) FACILITY AGREEMENTS.—

(1) Inspection of plants, plant sites, or other facilities or locations for which the United States has a facility agreement with the Organization for the Prohibition of Chemical Weapons shall be conducted in accordance with the facility agreement.

(2) Facility agreements shall be concluded for plants, plant sites, or other facilities or locations that are subject to inspection pursuant to paragraph 4 of Article VI of the Chemical Weapons Convention unless the owner and the operator, occupant or agent in charge of the facility and the Technical Secretariat agree that such an agreement is not necessary. Facility agreements should be concluded for plants, plant sites, or other facilities or locations that are subject to inspection pursuant to paragraphs 5 or 6 of Article VI of the Chemical Weapons Convention if so requested by the owner and the operator, occupant or agent in charge of the facility.

(3) The owner and the operator, occupant or agent in charge of a facility shall be notified prior to the development of the agreement relating to that facility and, if they so request, may participate in the preparations for the negotiation of such an agreement. To the extent practicable consistent with the Chemical Weapons Convention, the owner and the operator, occupant or agent in charge of a facility may observe negotiations of the agreement between the United States and the Organization for the Prohibition of Chemical Weapons concerning that facility.

(g) SAMPLING AND SAFETY.—

(1) The Department of Commerce is authorized to require the provision of samples to a member of the inspection team of the

Technical Secretariat in accordance with the provisions of the Chemical Weapons Convention. The owner or the operator, occupant or agent in charge of the premises to be inspected shall determine whether the sample shall be taken by representatives of the premises or the inspection team or other individuals present.

(2) In carrying out their activities, members of the inspection team of the Technical Secretariat and representatives of agencies or departments accompanying the inspection team shall observe safety regulations established at the premises to be inspected, including those for protection of controlled environments within a facility and for personal safety.

(h) COORDINATION.—To the extent possible consistent with the obligations of the United States pursuant to the Chemical Weapons Convention, the representatives of the United States National Authority, the Department of Commerce and any other agency or department, if present, shall assist the owner and the operator, occupant or agent in charge of the premises to be inspected in interacting with the members of the inspection team of the Technical Secretariat.

SEC. 402. OTHER INSPECTIONS PURSUANT TO THE CHEMICAL WEAPONS CONVENTION AND LEAD AGENCY.

(a) OTHER INSPECTIONS.—The provisions of this title shall apply, as appropriate, to all other inspections authorized by the Chemical Weapons Convention. For all inspections other than those conducted pursuant to paragraphs 4, 5 or 6 of Article VI of the Convention, the term "Department of Commerce" shall be replaced by the term "Lead Agency" in section 401.

(b) LEAD AGENCY.—For the purposes of this title, the term "Lead Agency" means the agency or department designated by the President or the designee of the President to exercise the functions and powers set forth in the specific provision, based, inter alia, on the particular responsibilities of the agency or department within the United States Government and the relationship of the agency or department to the premises to be inspected.

SEC. 403. PROHIBITED ACTS.

It shall be unlawful for any person to fail or refuse to permit entry or inspection, or to disrupt, delay or otherwise impede an inspection as required by this Act or the Chemical Weapons Convention.

SEC. 404. PENALTIES.

(a) CIVIL.—

(1) (A) Any person who violates a provision of section 203 of this Act shall be liable to the United States for a civil penalty in an amount not to exceed $50,000 for each such violation.

(B) Any person who violates a provision of section 303 of this Act shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for each such violation.

(C) Any person who violates a provision of section 403 of this Act shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation. For purposes of this subsection, each day such a violation of section 403 continues shall constitute a separate violation of section 403.

(2)(A) A civil penalty for a violation of section 203, 303 or 403 of this Act shall be assessed by the Lead Agency by an order made on the record after opportunity (provided in accordance with this subparagraph) for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Lead Agency shall give written notice to the person to be assessed a civil penalty under such order of the Lead Agency's proposal to issue such order and provide such person an opportunity to request, within 15 days of the date the notice is received by such person, such a hearing on the order.

(B) In determining the amount of a civil penalty, the Lead Agency shall take into account the nature, circumstances, extent and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, the existence of an internal compliance program, and such other matters as justice may require.

(C) The Lead Agency may compromise, modify or remit, with or without conditions, any civil penalty which may be imposed under this subsection. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

(3) Any person who requested in accordance with paragraph (2)(A) a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may be filed only within the 30-day period beginning on the date the order making such assessment was issued.

(4) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (3); or

(B) after a court in an action brought under paragraph (3) has entered a final judgment in favor of the Lead Agency;

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (3) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount and appropriateness of such penalty shall not be subject to review.

(b) CRIMINAL.—Any person who knowingly violates any provision of section 203, 303 or 403 of this Act, shall, in addition to or in lieu of any civil penalty which may be imposed under subsection (a) for such violation, be fined under title 18, United States Code, imprisoned for not more than two years, or both.

SEC. 405. SPECIFIC ENFORCEMENT.

(a) JURISDICTION.—The district courts of the United States shall have jurisdiction over civil actions to—

(1) restrain any violation of section 203, 303 or 403 of this Act; and

(2) compel the taking of any action required by or under this Act or the Chemical Weapons Convention.

(b) CIVIL ACTIONS.—A civil action described in subsection (a) may be brought—

(1) in the case of a civil action described in subsection (a)(1), in the United States district court for the judicial district wherein any act, omission, or transaction constituting a violation of section 203, 303 or 403 of this Act occurred or wherein the defendant is found or transacts business; or

(2) in the case of a civil action described in subsection (a)(2), in the United States district court for the judicial district wherein the defendant is found or transacts business. In any such civil action process may be served on a defendant wherever the defendant may reside or may be found, whether the defendant resides or may be found within the United States or elsewhere.

SEC. 406. LEGAL PROCEEDINGS.

(a) WARRANTS.—

(1) The Lead Agency shall seek the consent of the owner or the operator, occupant or agent in charge of the premises to be inspected prior to the initiation of any inspection. Before or after seeking such consent, the Lead Agency may seek a search warrant from any official authorized to issue search warrants. Proceedings regarding the issuance of a search warrant shall be conducted ex parte, unless otherwise requested by the Lead Agency. The Lead Agency shall provide to the official authorized to issue search warrants all appropriate information supplied by the Technical Secretariat to the United States National Authority regarding the basis for the selection of the plant site, plant, or other facility or location for the type of inspection sought, including, for challenge inspections pursuant to Article IX of the Chemical Weapons Convention, appropriate evidence or reasons provided by the requesting State Party to the Convention with regard to its concerns about compliance with the Chemical Weapons Convention at the facility or location. The Lead Agency shall also provide any other appropriate information available to it relating to the reasonableness of the selection of the plant, plant site, or other facility or location for the inspection.

(2) The official authorized to issue search warrants shall promptly issue a warrant authorizing the requested inspection upon an affidavit submitted by the Lead Agency showing that—

(A) the Chemical Weapons Convention is in force for the United States;

(B) the plant site, plant, or other facility or location sought to be inspected is subject to the specific type of inspection requested under the Chemical Weapons Convention;

(C) the procedures established under the Chemical Weapons Convention and this Act for initiating an inspection have been complied with; and

(D) the Lead Agency will ensure that the inspection is conducted in a reasonable manner and will not exceed the scope or duration set forth in or authorized by the Chemical Weapons Convention or this Act.

(3) The warrant shall specify the type of inspection authorized; the purpose of the inspection; the type of plant site, plant, or other facility or location to be inspected; to the extent possible, the items, documents and areas that may be inspected; the earliest commencement and latest concluding dates and times of the inspection; and the identities of the representatives of the Technical Secretariat, if known, and, if applicable, the representatives of agencies or departments.

(b) SUBPOENAS.—In carrying out this Act, the Lead Agency may by subpoena require the attendance and testimony of witnesses and the production of reports, papers, documents, answers to questions and other information that the Lead Agency deems necessary. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In the event of contumacy, failure or refusal of any person to obey any such subpoena, any district court of the United States in which venue is

proper shall have jurisdiction to order any such person to comply with such subpoena. Any failure to obey such an order of the court is punishable by the court as a contempt thereof.

(c) INJUNCTIONS AND OTHER ORDERS.—No court shall issue an injunction or other order that would limit the ability of the Technical Secretariat to conduct, or the United States National Authority or the Lead Agency to facilitate, inspections as required or authorized by the Chemical Weapons Convention.

SEC. 407. AUTHORITY.

(a) REGULATIONS.—The Lead Agency may issue such regulations as are necessary to implement and enforce this title and the provisions of the Chemical Weapons Convention, and amend or revise them as necessary.

(b) ENFORCEMENT.—The Lead Agency may designate officers or employees of the agency or department to conduct investigations pursuant to this Act. In conducting such investigations, those officers or employees may, to the extent necessary or appropriate for the enforcement of this Act, or for the imposition of any penalty or liability arising under this Act, exercise such authorities as are conferred upon them by other laws of the United States.

SEC. 408. SAVING PROVISION.

The purpose of this Act is to enable the United States to comply with its obligations under the Chemical Weapons Convention. Accordingly, in addition to the authorities set forth in this Act, the President is authorized to issue such executive orders, directives or regulations as are necessary to fulfill the obligations of the United States under the Chemical Weapons Convention, provided such executive orders, directives or regulations do not exceed the requirements specified in the Chemical Weapons Convention.

U.S. ARMS CONTROL AND
DISARMAMENT AGENCY,
Washington, DC, March 27, 1997.

Hon. RICHARD G. LUGAR,
Committee on Foreign Relations,
U.S. Senate.

DEAR SENATOR LUGAR: On behalf of the Administration, I hereby submit for consideration the "Chemical Weapons Convention Implementation Act of 1997." This proposed legislation is identical to the legislation submitted by the Administration in 1995. The Chemical Weapons Convention (CWC) was signed by the United States in Paris on January 13, 1993, and was submitted by President Clinton to the United States Senate on November 23, 1993, for its advice and consent to ratification. The CWC prohibits, inter alia, the use, development, production, acquisition, stockpiling, retention, and direct or indirect transfer of chemical weapons.

The President has urged the Senate to provide its advice and consent to ratification as early as possible this year so that the United States will be an original State Party and can continue to lead the fight against these terrible weapons. The CWC will enter into force, with or without the United States, on April 29, 1997, if the United States has not ratified by that time, we will not have a seat on the governing council which will oversee implementation of the Convention and U.S. nationals will not be able to serve as inspectors and in other key positions. Here at home, the U.S. chemical industry could lose hundreds of millions of dollars and many well-paying jobs because of CWC-mandated trade restrictions against non-Parties. As Secretaries Albright and Cohen have recently underscored, ratifying the CWC before it enters into force is in the best interests of the United States.

The CWC contains a number of provisions that require implementing legislation to give them effect within the United States. These include: carrying out verification activities, including inspections of U.S. facilities; collecting and protecting the confidentiality of data declarations by U.S. chemical and related companies; and establishing a "National Authority" to serve as the liaison between the United States and the international organization established by the CWC.

In addition, the CWC requires the United States to prohibit all individuals and legal entities, such as corporations, within the United States, as well as all individuals outside the United States, possessing U.S. citizenship, from engaging in activities that are prohibited under the Convention. As part of this obligation, the CWC requires the United States to enact "penal" legislation implementing this prohibition (i.e., legislation that penalizes conduct, either by criminal, administrative, military or other sanctions).

Expeditious enactment of implementing legislation is very important to the ability of the United States to fulfill its obligations under the Convention. Enactment will enable the United States to collect the required information from industry, to provide maximum protection for confidential information, and to allow the inspections called for in the Convention. It will also enable the United States to outlaw all activities related to chemical weapons, except CWC permitted activities such as chemical defense programs. This will help fight chemical terrorism by penalizing not just the use, but also the development, production and transfer of chemical weapons. Thus, the enactment of legislation by the United States and other CWC States Parties will make it much easier for law enforcement officials to investigate and punish chemical terrorists early, before chemical weapons are used.

As the President indicated in his transmittal letter of the Convention: "The CWC is in the best interests of the United States. Its provisions will significantly strengthen United States, allied and international security, and enhance global and regional stability." Therefore, I urge the Congress to enact the necessary implementing legislation as soon as possible.

The Office of Management and Budget advises that there is no objection to the submission of this proposal and its enactment is in accord with the President's program.

Sincerely,

JOHN D. HOLUM,
Director.

By Mr. ROTH (for himself and Mr. MOYNIHAN):

S. 612. A bill to amend section 355 of the Internal Revenue Code of 1986 to prevent the avoidance of corporate tax on prearranged sales of corporate stock, and for other purposes; to the Committee on Finance.

CORPORATE ACQUISITION TRANSACTIONS LEGISLATION

Mr. ROTH. Mr. President, I ask unanimous consent that the following joint statement by the ranking member of the Finance Committee, Senator MOYNIHAN, and myself, be inserted in the RECORD at this point, along with the text of a bill we are introducing today.

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

S. 612

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

SECTION 1. APPLICATION OF SECTION 355 TO DISTRIBUTIONS FOLLOWED BY ACQUISITIONS AND TO INTRAGROUP TRANSACTIONS.

(a) DISTRIBUTIONS FOLLOWED BY ACQUISITIONS.—Section 355 of the Internal Revenue Code of 1986 (relating to distribution of stock and securities of a controlled corporation) is amended by adding at the end the following new subsection:

"(e) RECOGNITION OF GAIN WHERE CERTAIN DISTRIBUTIONS OF STOCK OR SECURITIES ARE FOLLOWED BY ACQUISITION.—

"(1) GENERAL RULE.—If there is a distribution to which this subsection applies, the following rules shall apply:

"(A) ACQUISITION OF CONTROLLED CORPORATION.—If there is an acquisition described in paragraph (2)(A)(ii) with respect to any controlled corporation (or any successor thereof), any stock or securities in the controlled corporation shall not be treated as qualified property for purposes of subsection (c)(2) of this section or section 361(c)(2).

"(B) ACQUISITION OF DISTRIBUTING CORPORATION.—If there is an acquisition described in paragraph (2)(A)(ii) with respect to the distributing corporation (or any successor thereof), the controlled corporation shall recognize gain in an amount equal to the amount of net gain which would be recognized if all the assets of the distributing corporation (immediately after the distribution) were sold (at such time) for fair market value. Any gain recognized under the preceding sentence shall be treated as long-term capital gain and shall be taken into account for the taxable year which includes the day after the date of such distribution.

"(2) DISTRIBUTIONS TO WHICH SUBSECTION APPLIES.—

"(A) IN GENERAL.—This subsection shall apply to any distribution—

"(i) to which this section (or so much of section 356 as relates to this section) applies, and

"(ii) which is part of a plan (or series of related transactions) pursuant to which a person acquires stock representing a 50-percent or greater interest in the distributing corporation or any controlled corporation (or any successor of either).

"(B) PLAN PRESUMED TO EXIST IN CERTAIN CASES.—If a person acquires stock representing a 50-percent or greater interest in the distributing corporation or any controlled corporation (or any successor of either) during the 4-year period beginning on the date which is 2 years before the date of the distribution, such acquisition shall be treated as pursuant to a plan described in subparagraph (A)(ii) unless it is established that the distribution and the acquisition are not pursuant to a plan or series of related transactions.

"(C) CERTAIN ACQUISITIONS NOT TAKEN INTO ACCOUNT.—If—

"(i) a person acquires stock in any controlled corporation by reason of holding stock in the distributing corporation, and

"(ii) such person did not acquire the stock in the distributing corporation pursuant to a plan described in subparagraph (A)(ii),

the acquisition described in clause (i) shall not be taken into account for purposes of subparagraph (A)(ii) or (B).

"(D) COORDINATION WITH SUBSECTION (d).—This subsection shall not apply to any distribution to which subsection (d) applies.

"(3) DEFINITION AND SPECIAL RULES.—For purposes of this subsection—

"(A) 50-PERCENT OR GREATER INTEREST.—The term '50-percent or greater interest' has the meaning given such term by subsection (d)(4).

"(B) DISTRIBUTIONS IN TITLE 11 OR SIMILAR CASE.—Paragraph (1) shall not apply to any distribution made in a title 11 or similar case (as defined in section 368(a)(3)).

"(C) AGGREGATION AND ATTRIBUTION RULES.—

"(i) AGGREGATION.—The rules of paragraph (7) of subsection (d) shall apply.

"(ii) ATTRIBUTION.—Section 318(a)(2) shall apply in determining whether a person holds stock or securities in any corporation. Except as provided in regulations, section 318(a)(2)(C) shall be applied without regard to the phrase '50 percent or more in value' for purposes of the preceding sentence.

"(D) STATUTE OF LIMITATIONS.—If there is an acquisition to which paragraph (1) (A) or (B) applies—

"(i) the statutory period for the assessment of any deficiency attributable to any part of the gain recognized under this subsection by reason of such acquisition shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) that such acquisition occurred, and

"(ii) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(4) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

"(A) providing for the application of this subsection where there is more than 1 controlled corporation,

"(B) treating 2 or more distributions as 1 distribution where necessary to prevent the avoidance of such purposes, and

"(C) providing for the application of rules similar to the rules of subsection (d)(6) where appropriate for purposes of paragraph (2)(B)."

(b) SECTION 355 NOT TO APPLY TO CERTAIN INTRAGROUP TRANSACTIONS.—Section 355 of the Internal Revenue Code of 1986, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(f) SECTION NOT TO APPLY TO CERTAIN INTRAGROUP TRANSACTIONS.—Except as provided in regulations, this section shall not apply to the distribution of stock from 1 member of an affiliated group filing a consolidated return to another member of such group, and the Secretary shall provide proper adjustments for the treatment of such distribution, including (if necessary) adjustments to—

"(1) the adjusted basis of any stock which—

"(A) is in a corporation which is a member of such group, and

"(B) is held by another member of such group, and

"(2) the earnings and profits of any member of such group."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after April 16, 1997.

(2) TRANSITION RULE FOR DISTRIBUTIONS FOLLOWED BY ACQUISITIONS.—The amendments made by subsection (a) shall not apply to any distribution after April 16, 1997, if such distribution is—

(A) made pursuant to a written agreement which was (subject to customary conditions) binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required solely by reason of the distribution.

This paragraph shall not apply to any written agreement, ruling request, or public announcement or filing unless it identifies the acquirer of the distributing corporation or any controlled corporation, whichever is applicable.

JOINT INTRODUCTORY STATEMENT OF SENATORS ROTH AND MOYNIHAN

BACKGROUND

Several recent news reports describe corporate acquisition transactions in which one corporation distributes the stock of one—or more—of its subsidiaries to its shareholders—in a so-called spin-off—and, pursuant to a pre-arranged plan, either the distributed subsidiary or the old parent corporation is acquired by another, unrelated corporation. Often, the corporation that is to be acquired borrows or assumes a large amount of debt incurred prior to the spin-off, while the proceeds of such indebtedness are retained by the other corporation.

For Federal income tax purposes, the initial distribution generally is tax free pursuant to section 355 of the Internal Revenue Code and the subsequent acquisition is tax free pursuant to one of the various reorganization provisions described in section 368. Such positions are consistent with the holding in the case of Commissioner v. Mary Archer W. Morris Trust, 367 F.2d 794 (4th Cir. 1966) and published IRS rulings.

Congress did not intend that section 355 apply to insulate these transactions from tax. Section 355 was intended to permit tax free restructurings of several businesses among existing shareholders, with limitations to prevent the bail-out of corporate earnings and profits to the shareholders as capital gains. The recent transactions that raise concerns have very little to do with individual shareholder tax planning. Rather, they are pre-arranged structures designed to avoid corporate-level gain recognition. In essence, these transactions resemble sales.

Today's introduced legislation is intended to treat transactions occurring after April 16, 1997, the general effective date of the bill, as sales at the corporate level.

A technical explanation of the legislation is provided below. This legislation affects complex transactions and additional or alternative legislative changes also may be appropriate. For example, it may be appropriate to amend or repeal present-law section 355(d), and to treat certain asset acquisitions as stock acquisitions. Written comments on the issues raised by this bill are welcome.

DESCRIPTION OF PROPOSAL

Acquisitions of distributing or controlled corporations pursuant to plan

The proposal would adopt additional restrictions under section 355. Under the proposal, if pursuant to a plan or arrangement in existence on the date of distribution, either the controlled or distributing corporation is acquired, gain would be recognized by the other corporation as of the date of the distribution.

Whether a corporation is acquired would be determined under rules similar to those of present-law section 355(d), except that acquisitions would not be restricted to purchase transactions. Thus, an acquisition would occur if a person—or persons acting in concert—acquired more than 50 percent of the vote or value of the stock of the controlled or distributing corporation pursuant to a plan or arrangement. For example, assume a corporation ("P") distributes the stock of its wholly-owned subsidiary ("S") to its shareholders. If, pursuant to a plan or arrangement, either P or S is acquired, the proposal would apply to require gain recognition by the corporation not acquired. It is anticipated that certain asset acquisitions would be treated as stock acquisitions.

Acquisitions occurring within the 4-year period beginning 2 years before the date of distribution would be presumed to have occurred pursuant to a plan or arrangement. Taxpayers could avoid gain recognition by showing that an acquisition occurring during this 4-year period was unrelated to the distribution.

In the case of an acquisition of the controlled corporation, the amount of gain recognized by the distributing corporation would be the amount of gain that the distributing corporation would have recognized had the stock of the controlled corporation been sold for fair market value on the date of distribution. In the case of an acquisition of the distributing corporation, the amount of gain recognized by the controlled corporation would be the amount of net gain that the distributing corporation would have recognized had it sold its assets for fair market value immediately after the distribution. This gain would be treated as long-term capital gain. No adjustment to the basis of the stock or assets of either corporation would be allowed by reason of the recognition of the gain.

The proposal would not apply to a distribution pursuant to a title 11 or similar case.

The Treasury Department would be authorized to prescribe regulations as

necessary to carry out the purposes of the proposal, including regulations to provide for the application of the proposal in the case of multiple distributions.

Treatment of distributions within affiliated groups

Except as provided in Treasury regulations, section 355 would not apply to a distribution of stock of one member of an affiliated group of corporations filing a consolidated return to another member. In the case of a distribution of stock within an affiliated group, the Secretary of the Treasury would be instructed to provide appropriate rules for the treatment of the distribution, including rules governing adjustments to the adjusted basis of the stock and the earnings and profits of the members of the group.

EFFECTIVE DATE

The proposal would be effective for distributions after April 16, 1997, unless the distribution is: First, made pursuant to a written agreement with an acquirer which was (subject to customary conditions) binding on or before such date and at all times thereafter; second, described in a ruling request that identifies the acquirer and is submitted to the IRS on or before such date; third, described in a Securities and Exchange Commission ("SEC") filing made on or before such date, to the extent such filing was required to be made on account of the distribution and identifies the acquirer; or fourth, described in a public announcement that identifies the acquirer on or before such date. The exceptions for written agreements, IRS ruling requests, SEC filings, and public announcements would not apply to distributions of stock within a consolidated group of corporations.

By Mr. THOMPSON (for himself and Mr. FRIST):

S. 613. A bill to provide that Kentucky may not tax compensation paid to a resident of Tennessee for certain services performed at Fort Campbell, KY; to the Committee on Finance.

FORT CAMPBELL TAX FAIRNESS ACT OF 1997

Mr. THOMPSON. Mr. President, today I am introducing legislation to provide much-needed tax relief to the residents of my State who are employed as civilians on Fort Campbell, KY. These Clarksville area Tennesseans are hard working citizens who, I believe, are being taxed unfairly by the Commonwealth of Kentucky.

Fort Campbell is the home of the Army's famous 101st Airborne Division. This installation straddles the border between Tennessee and Kentucky. In fact, 80 percent of it lies within the State of Tennessee. But because the post office is located on the Kentucky side of the base, it is best known to most people as Fort Campbell, KY.

Civilian residents of both Tennessee and Kentucky are employed by the Federal Government to perform important nonmilitary functions at Fort Campbell. Approximately 2,000 of the Tennesseans who work on post are employed on the Kentucky side in the schools, at the post office, at the post exchange, and on the primary airfield. Unfortunately, these Tennesseans are forced to pay income tax to the Commonwealth of Kentucky of up to 6 percent of their wages, in addition to the sales and excise taxes they pay to their home State of Tennessee.

Because the State of Tennessee does not have an income tax, Kentuckians employed on the Tennessee side of Fort Campbell do not pay income tax to the State of Tennessee. Nor are Kentuckians required to pay Tennessee sales tax on Fort Campbell. All of the facilities on the Tennessee side of Fort Campbell to which Kentuckians have access, the KFC and the Taco Bell, for example, are exempt from State sales tax. It is only when a Kentucky resident leaves post that he or she becomes subject to Tennessee sales tax on purchases made in the State.

Mr. President, I believe it is unfair of Kentucky to impose income tax on Tennesseans, because Tennesseans who work on the Kentucky side of Fort Campbell do not consume any services provided by the Commonwealth. Fort Campbell is a Federal installation. All emergency fire, police, and medical services on post are provided by the Federal Government, not the Commonwealth of Kentucky. All roads on Fort Campbell, both on the Kentucky and the Tennessee side, are maintained by the Federal Government. Water and sewer services are paid for by the Federal Government. If a Tennessean who worked on the Kentucky side of Fort Campbell were laid off, he or she would not be eligible to obtain unemployment benefits from Kentucky, despite the fact that he or she had been paying income tax to the Commonwealth of Kentucky. Finally, Tennesseans have no voice in the Kentucky legislature to affect change to this law. Tennesseans are being unfairly taxed without the benefit of representation—a principle anathema to this country. As I see it, the Commonwealth of Kentucky is receiving free money from residents of Tennessee who work on a Federal installation that happens to border their State.

And although Kentucky likes to argue that the residents of Clarksville are not forced to work on the Kentucky side of Fort Campbell, employees are often moved on the base where a change of buildings means a change of State. A Tennessean forced to move into a Fort Campbell job across the border takes an automatic pay cut of up to 6 percent—just for moving across the street. This situation has been the cause of significant morale problems at Fort Campbell. According to Kentucky, however, those employees can escape paying the income tax by quitting their jobs. I find this alternative an unacceptable one. It is for this reason that I am introducing legislation to prohibit Kentucky from imposing its income tax on these Tennesseans employed either by the Federal Government or by a contractor with the Federal Government at Fort Campbell. I am pleased to be joined by my colleague, Senator FRIST. Congressman ED BRYANT has introduced the similar legislation in the other body.

Let me provide some history on this issue. According to legislation enacted by Congress in 1940, the Commonwealth of Kentucky is permitted to impose its income tax on Federal employees working in the State. This legislation, the Buck Act, repealed a prior law prohibiting States from imposing income tax on individuals who live or work on Federal property. However, Congress has also granted exemptions from State income tax to classes of Federal employees based on their obvious special circumstances: military personnel and Members of Congress and their employees. In addition, Congress enacted legislation in 1990 to exempt Amtrak employees from State taxation in the States in which they do not reside but through which they travel while working. Congress intended these exemptions to provide relief from inequitable situations. The Tennesseans employed at Fort Campbell also merit an exemption.

Mr. President, I firmly believe that a State has the right to raise revenue in whatever manner its residents believe is most appropriate. In the case of Tennessee, residents have chosen sales and excise taxes to fund their cost of government—only one of six States in the United States without an income tax. But it should be noted that Kentucky has entered into reciprocal tax agreements with surrounding income tax States to ensure that Kentuckians are treated fairly. Unfortunately, Kentucky has refused to negotiate any type of reciprocal tax agreement with Tennessee, because it knows it has Tennesseans over a barrel. Prohibiting the Commonwealth of Kentucky from taxing Tennesseans working on the Kentucky side of Fort Campbell is the best way to resolve this inequitable situation.

During this week in April Americans are reminded of their obligations to government. I believe that Americans are willing to pay their fair share of taxes, but citizens should not be expected to pay tax to a government from which they receive nothing and in which they have no voice.

THE FORT CAMPBELL TAX FAIRNESS ACT OF 1997

Mr. FRIST. Mr. President, I rise today to join my friend, colleague, and senior Senator from Tennessee, FRED THOMPSON, to introduce the Fort Campbell Tax Fairness Act of 1997.

We are introducing this legislation today to rectify a tax injustice imposed on Tennessee residents at Fort Campbell in northwest Tennessee. Fort Campbell, a 105,000-acre military installation that serves as America's premier power projection platform, straddles the border of Tennessee and Kentucky. Under current law, about 2,000 Tennesseans who work on the Kentucky side of Fort Campbell are forced to pay income tax to Kentucky—even though they receive no benefits or services from the Kentucky State government.

They cannot send their children to Kentucky public schools. In an emergency, these residents cannot use Kentucky fire, ambulance, and police services. Tennesseans who want to attend a Kentucky public university must pay out-of-State tuition. Tennesseans who want to hunt and fish in Kentucky must pay out-of-State rates for licenses. Most importantly, these Tennesseans who are paying Kentucky income taxes cannot vote in Kentucky elections. I consider this inherently unfair situation a case of "taxation without representation"—violating a fundamental principle of our American Revolution.

Our bill, like its bipartisan companion in the House introduced by Representatives ED BRYANT and JOHN TANNER, simply provides that Kentucky may not tax compensation paid to Tennessee Federal workers and contractors working on the Kentucky side of Fort Campbell. I look forward to working with Senator THOMPSON and other members of the Tennessee delegation to enact this bill into law.

By Mr. BREAUX (for himself and Mr. D'AMATO):

S. 614. A bill to amend the Internal Revenue Code of 1986 to provide flexibility in the use of unused volume cap for tax-exempt bonds, to provide a $20,000,000 limit on small issue bonds, and for other purposes; to the Committee on Finance.

TAX-EXEMPT BONDS LEGISLATION

Mr. BREAUX. Mr. President, I rise today with Mr. D'AMATO to introduce legislation that will improve the use of tax-exempt bonds as a financing mechanism for small manufacturing facilities and other important uses.

The first thing our bill does is give States more flexibility under the annual $50 per capita or $150 million cap. Under current law, if the State designates bond money for a project and, for whatever reason, that project is not started in 3 years the State cannot put the bond money toward another project. This bill would allow States to reallocate that bond money to another type of project needed elsewhere in the State.

In addition, the $10 million limit on capital expenditures a company can maintain and still qualify for this industrial bond money would increase to $20 million under our bill. The increase reflects the effects of inflation since 1978 when the program was first created and also corrects for future effects of inflation on a company's real worth.

Finally, our bill would further clean up an omission in the current law. The 3-year carryover provision does not apply to small manufacturing facilities. In researching current law, it appears that denying carryover to manufacturing facilities is nothing more than an oversight. The legislation that we are introducing today will correct this error and allow Governors the flexibility to allow tax-exempt authority for manufacturing facilities to be carried over for 3 years in the same way as other activities allocated tax-exempt bonds.

Tax-exempt bonds are essential for States to finance industrial development projects, ranging from small manufacturing facilities to pollution control and resource recovery facilities. Our legislation would help States fund industrial development and better allocate their scarce tax-exempt bond authority.

I hope my colleagues will join me in cosponsoring this important legislation.

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. 614

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

SECTION 1. UNLIMITED 3-YEAR CARRYFORWARD OF UNUSED VOLUME CAP FOR BONDS, INCLUDING SMALL ISSUE BONDS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 146(d) of the Internal Revenue Code of 1986 (relating to State ceiling) are amended to read as follows:

"(1) IN GENERAL.—The State ceiling applicable to any State for any calendar year is an amount equal to the sum of—

"(A) the current year State ceiling of such State, plus

"(B) the unused State ceiling (if any) of such State for the preceding 3 calendar years.

"(2) CURRENT YEAR STATE CEILING.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The current year State ceiling of any State for any calendar year is an amount equal to the greater of—

"(i) an amount equal to $50 multiplied by the State population, or

"(ii) $150,000,000.

"(B) APPLICATION TO POSSESSIONS.—Clause (ii) of subparagraph (A) shall not apply to any possession of the United States.

"(3) UNUSED STATE CEILING.—For purposes of paragraph (1), the unused State ceiling of any State for any calendar year is the excess (if any) of the State ceiling of such State for such calendar year over the aggregate State ceiling allocated by the State for such calendar year.

"(4) RULES OF APPLICATION.—For purposes of paragraph (1), with respect to any calendar year—

"(A) the current year State ceiling shall be fully allocated before the allocation of the unused State ceiling, and

"(B) unused State ceiling shall be allocated in the order of the calendar years in which the unused State ceiling arose.".

(b) CONFORMING AMENDMENT.—Section 146(f)(1)(A) of the Internal Revenue Code of 1986 (relating to elective carryforward of unused limitation for specified purpose) is amended by inserting "and before 1998" after "after 1985".

(c) EFFECTIVE DATE; SPECIAL ELECTION.—

(1) EFFECTIVE DATE.—The amendments made by this section apply to the State ceiling for calendar years after 1997.

(2) SPECIAL ELECTION.—Notwithstanding section 146(f) of the Internal Revenue Code of 1986, within 120 days after the date of enactment of this Act, the person or entity responsible for allocating the State ceiling may irrevocably elect to treat (with the consent of each allocation recipient) such portion of the carryforwards elected under section 146(f) of such Code for the 3 calendar years ending in 1997 as unused State ceiling under section 146(d)(1) of such Code (as amended by this section).

SEC. 2. $20,000,000 CAPITAL EXPENDITURE LIMIT ON QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (A) of section 144(a)(4) of the Internal Revenue Code of 1986 (relating to $10,000,000 limit in certain cases) is amended by inserting "in excess of $10,000,000" after "amount of capital expenditures".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to—

(1) obligations issued after the date of the enactment of this Act, and

(2) capital expenditures made after such date with respect to obligations issued on or before such date.

By Mr. CHAFEE (for himself, Mrs. FEINSTEIN, Mr. D'AMATO, Mr. LIEBERMAN, Mr. DEWINE, Mr. MOYNIHAN, and Ms. MIKULSKI):

S. 615. A bill to amend the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide for continued eligibility for supplemental security income and food stamps with regard to certain classifications of aliens; to the Committee on Finance.

THE FAIRNESS FOR LEGAL IMMIGRANTS ACT OF 1997

Mr. CHAFEE. Mr. President, today Senators FEINSTEIN, D'AMATO, LIEBERMAN, DEWINE, MOYNIHAN, and MIKULSKI and I are introducing legislation to protect legal immigrants who are facing the loss of critical SSI and food stamp benefits later this summer.

Now that the welfare bill has become law, the crisis facing many legal immigrants, especially the elderly and disabled, is all too evident. For those legal immigrants who face the loss of assistance in August and September, the outlook is grim.

The bill we are introducing focuses on the plight of these legal immigrants. First, our bill grandfathers all legal immigrants who were receiving SSI or food stamp benefits as of August 22, 1996, the date the President signed the welfare bill. Second, our bill grandfathers those refugees who were in the

country on August 22, 1996, regardless of whether they were receiving benefits.

Why this approach? To us, it is a matter of fundamental fairness. That is the principle that underlies our bill. We believe that those who were in this country and playing by the rules should not have the rules suddenly changed out from under them. As for refugees, we provide them a slightly broader provision, since unlike other immigrants they do not have sponsors and they come here to flee persecution.

This is a matter of great importance to the residents in the States represented before you today. In my own State, a significant percentage of our total population is immigrants, indeed, measured in those terms, Rhode Island is one of the top immigrant States in the country. Some 10,000 legal immigrants in my State rely on SSI and food stamp benefits, quite a lot by RI standards.

We believe that our approach is a reasonable, commonsense proposal that will appeal to Members on both sides of the aisle and that can be enacted this year. By introducing this bipartisan bill today, we hope to signal to our colleagues the seriousness of our concern and the strength of our resolve. We intend to fight for passage of this bill, and we have every expectation of meeting with success.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the text of my statement be submitted in the RECORD at the appropriate place.

The welfare reform law that passed last year will have an adverse impact on legal immigrants who are elderly and disabled, the most vulnerable of our population.

That is why I am joining my colleagues, Senators CHAFEE, FEINSTEIN, MOYNIHAN, DEWINE, LIEBERMAN and MIKULSKI in introducing this legislation to protect vulnerable legal immigrants who are facing a loss of their supplemental security income [SSI] and food stamp benefits this August.

Now that the welfare reform law is being implemented, with nearly 900,000 SSI recipients nationwide receiving preliminary noncitizen status notices of the changes in the law, there has emerged a crisis facing legal immigrants who are elderly and disabled.

The Social Security Administration has estimated that these welfare reform changes may result in 434,000 legal immigrants actually losing SSI benefits.

Of the 80,000 legal immigrants at risk of losing their SSI benefits in New York State, roughly 70,000 are in New York City. New York City also expects that more than 130,000 legal immigrants currently receiving food stamps will lose those benefits by 1998.

The bill we are introducing will grandfather those immigrants who were receiving SSI or food stamp benefits as of August 22, 1996, the date of enactment of the Welfare bill. And it will grandfather refugees and asylees who were in this country as of August 22, 1996.

This bill is about making sure that some of the most vulnerable people, the elderly and the disabled, are not pushed out of the SSI and Food Stamp Programs.

The people of America recognize that many people who are elderly and disabled are in fact unable at times to take care of themselves without assistance through no fault of their own. To turn our back on these people would be cruel and not in keeping with our Nation's tradition of supporting those in need.

Refugees who have been granted political asylum also merit that extra consideration that comes from leaving one's own country under duress searching for freedom and a new way of life. They also need a hand up and that too is in the great and long tradition of America.

This is not a welfare bill, it is a bill of fundamental fairness and compassion. These people came to the United Sates and have been living under our laws for years. It is unfair to change the rules on them suddenly. That is the crux of this bill.

This isn't just a matter of statistics and hypothetical situations of what might happen. There are real people out there, and you can be sure that they are going to get hurt if we do nothing. We are not going to let that happen.

We want to work with our colleagues to pass a bill that will not put the elderly and the disabled out on the streets.

Mrs. FEINSTEIN. Mr. President, when Congress approved and the President signed the comprehensive welfare reform legislation last year, it was clear to many that it was not a perfect bill.

I, along with many of my colleagues expressed grave concern about a number of provisions that will have a devastating impact, not only on States and counties in terms of a huge cost shift, but on the lives and well-being of many elderly and disabled people—people who are now dependent upon public assistance for their survival.

The provision denying supplemental security income [SSI] and food stamps to virtually all legal immigrants who are noncitizens, even those who are elderly and disabled, who cannot support themselves, who have no sponsor or other means of support, such as refugees, in my view, is one of the most egregious flaws in that bill, and one of the main reasons why I voted against its passage.

Today, Senator CHAFEE and I, along with Senators D'AMATO, MOYNIHAN, DEWINE, LIEBERMAN, and MIKULSKI are offering legislation to correct this flaw.

The Fairness for Legal Immigrants Act of 1997 would grandfather in from the ban on SSI and food stamps: those elderly and disabled legal permanent residents who were receiving SSI and food stamps on or before August 22, 1996 and, those refugees who were in the country as of August 22, 1996.

This legislation prohibits SSI and food stamps for legal permanent residents who are not refugees and who were not receiving SSI and food stamps as of August 22, 1996.

This legislation also prohibits SSI and food stamps for all legal permanent residents and refugees coming to this country following the date of enactment of the Welfare Reform Bill, August 22, 1996.

Mr. President, to not correct this flaw in the bill represents an enormous unfunded mandate to States and counties by simply shifting the cost of caring for the seriously ill, disabled, and elderly legal immigrants who are destitute and have no other way to survive.

As I speak, SSA is sending out 125,000 SSI ban notices per week, to 800,000 legal immigrants who are on SSI nationwide. SSA estimates that more than 62.5 percent or 500,000 people currently receiving SSI benefits nationwide will lose their benefits under the current law—more than 40 percent, 205,000 of them in California. Many of these elderly and disabled legal immigrants have no family or friends to turn to for support and will become completely destitute. Their only recourse will be county general assistance programs or, at worst, homeless shelters.

Let me give you an example from my home State:

My staff met with a 73-year-old legal immigrant on SSI. She was welcomed to this county from Vietnam in 1980. She was a refugee from communism with no family in the United States. She speaks no English and she is suffering from kidney failure. She requires dialysis three times a week. Under this new law, this 73-year-old woman will lose SSI, her only source of support. Her well-being will become the responsibility of the county.

I am the first to acknowledge that prior to welfare reform, there was abuse of the SSI program in this country. Elderly noncitizens could collect SSI, even if they lived with their children, as long as they claimed to be financially independent from the children.

And the number of noncitizens receiving SSI has skyrocketed at a disproportionate rate to that of citizens. The number of noncitizens collecting SSI increased 477 percent in 14 years, from 1980 to 1994, while the number of U.S. citizens receiving SSI increased 33 percent during that same period.

Although I strongly support efforts to hold sponsors accountable for the

support of legal immigrants they bring into the country, the welfare reform bill passed by Congress simply went too far. It banned SSI and food stamps for virtually all legal immigrants, even those whose sponsors cannot afford to support them, or who have no sponsors at all.

The current welfare reform bill will not just eliminate fraudulent cases from the SSI rolls. It will eliminate truly needy people like the 73-year-old elderly refugee. Surely, it was not the intent of this Congress to leave elderly, disabled, and destitute people with nowhere to go to except county relief or the streets.

If we do not revise the welfare ban for legal immigrants the financial costs to States and counties will be enormous, and the human toll even greater:

Los Angeles County estimates that 93,000 legal immigrants in its county will lose SSI benefits at a cost of up to $236 million a year to the county.

San Francisco estimates that 20,000 legal noncitizens may turn to the county's general assistance program, at a total cost of up to $74 million annually.

I believe this body must finish what it started last year. In this time of budgetary constraints where tough choices have to be made, we must act with prudence and compassion toward those who truly have no one to turn to, while at the same time preserving portions of the savings needed to balance the budget and enact meaningful reform.

I urge my colleagues to support this legislation.

Mr. President, I ask that the SSA table be printed in the RECORD.

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

NUMBERS OF SSI RECIPIENTS RECEIVING PRELIMINARY NONCITIZEN STATUS NOTICES BY STATE, NUMBERS OF SSI RECIPIENTS CODED AS NONCITIZENS BY CATEGORY BY STATE, AND NUMBER OF SSI RECIPIENTS RECEIVING TYPE II NOTICES BY STATE

State	Notices		Noncitizens recipients on SSI	
	All[1]	Type II[2]	LAPR	Refugees[3]
Alabama	9,800	9,215	502	123
Alaska	757	117	569	95
Arizona	8,511	2,979	6,318	1,295
Arkansas	4,958	4,569	335	96
California	310,409	76,356	206,038	80,803
Colorado	6,149	1,898	3,353	1,426
Connecticut	5,071	1,111	3,440	1,009
Delaware	665	334	275	55
D.C	1,473	769	741	127
Florida	77,560	21,999	52,489	15,921
Georgia	13,794	9,474	3,235	1,366
Hawaii	4,616	1,026	3,461	554
Idaho	811	405	364	144
Illinois	27,446	6,783	16,233	6,769
Indiana	2,874	1,749	904	304
Iowa	2,055	1,053	631	454
Kansas	1,928	608	979	412
Kentucky	4,781	4,028	439	357
Louisiana	8,694	6,550	2,002	536
Maine	1,500	1,039	318	191
Maryland	9,645	2,456	5,424	2,087
Massachusetts	27,171	7,782	16,184	7,383
Michigan	12,136	5,232	5,364	2,069
Minnesota	8,025	1,529	3,319	3,362
Mississippi	8,232	7,852	363	72
Missouri	4,971	3,141	996	872

NUMBERS OF SSI RECIPIENTS RECEIVING PRELIMINARY NONCITIZEN STATUS NOTICES BY STATE, NUMBERS OF SSI RECIPIENTS CODED AS NONCITIZENS BY CATEGORY BY STATE, AND NUMBER OF SSI RECIPIENTS RECEIVING TYPE II NOTICES BY STATE—Continued

State	Notices		Noncitizens recipients on SSI	
	All[1]	Type II[2]	LAPR	Refugees[3]
Montana	462	302	103	75
Nebraska	1,023	427	402	238
New Hampshire	510	187	264	100
New Jersey	25,918	6,403	18,918	3,244
New Mexico	4,412	2,195	3,049	360
New York	125,919	28,583	81,701	32,917
North Carolina	9,645	7,468	1,659	627
North Dakota	429	314	66	70
Ohio	9,298	4,281	3,074	2,228
Oklahoma	4,785	3,743	923	243
Oregon	5,511	1,323	2,547	1,952
Pennsylvania	17,176	6,579	6,485	4,737
Rhode Island	3,755	1,194	2,640	724
South Carolina	6,119	5,535	505	124
South Dakota	504	337	56	115
Tennessee	8,952	7,622	968	426
Texas	66,750	31,421	50,434	5,772
Utah	1,753	389	995	503
Vermont	543	385	110	73
Virginia	10,336	3,830	5,247	1,500
Washington	15,583	2,622	7,579	6,242
West Virginia	1,316	1,181	118	23
Wisconsin	7,472	2,562	2,591	2,490
Wyoming	144	97	41	77
Totals	895,204	299,817	526,695	193,142

[1]Number of notices differs from number of noncitizens recipients because some SSI recipients' records do not contain information about their citizenship status (Type II notices) plus some of those designated as noncitizens did not receive notices because SSA records indicated that they met certain exemption from the ban on eligibility. Number reflects status as of 1/31/97.

[2]Type II notice are those mailed to recipients whose records do not contain information on citizenship status as of 1/31/97. These recipients were on the SSI roles prior to 1978 when this information began to be verified in SSA records.

[3]Category includes refugees, asylees, and other noncitizen recipients currently shown in SSA's records as permanently residing in the U.S. status as of 2/20/97.

By Mr. ALLARD:

S. 616. A bill to amend titles 23 and 49, United States Code, to improve the designation of metropolitan planning organizations, and for other purposes; to the Committee on Environment and Public Works.

THE METROPOLITAN PLANNING ORGANIZATIONS REFORM ACT OF 1997

Mr. ALLARD. Mr. President, today I am introducing legislation that will reform the relationship between central cities and their outlying areas in terms of distribution of highway funds. This issue was brought to my attention by one county in my State and they were quickly joined by several others who feel they have been treated unfairly in their MPO.

The current law governing MPO's is the 1991 Intermodal Service Transportation and Efficiency Act. This legislation established the planning powers of MPO's and also set standards for membership and qualifications for leaving MPO's. A number of counties in my State have indicated they are unhappy in their particular MPO and would like to leave. However, current law prohibits this.

One case in particular that has been brought to my attention is Douglas County's experience since 1991. Douglas County is directly south of Denver and is the fastest growing county in the Nation. Furthermore, they are a linkage county connecting Denver and Colorado Springs, which makes Douglas County's transportation needs tremendous. To meet these needs they have attempted to work with their MPO to receive an equitable share of funds. Douglas County has demonstrated that these attempts have failed, while they are 5.27 percent of their MPO, over the years their funding has been .35 percent for the fiscal year 1993–1995 cycle, 1.2 percent for the fiscal year 1995–1997 cycle, and .4 percent of the fiscal year 1997–1999 cycle. Clearly, there is a problem with how these funds are being distributed.

This issue cannot be dismissed as a one county problem either. In the Denver regional county of governments MPO [DRCOG], with the exception of Denver County, I have received letters from every county supporting the legislation I am introducing today.

This legislation would lower the barrier for disaffected parties that would like to create their own MPO or join an adjacent MPO. This legislation eliminates the 75 percent of the effected population threshold to leave necessary in current law, and lowers that to 50 percent. Furthermore, it would eliminate the central city veto authority.

This legislation will have no effect on those who are content with their MPO. Nor will this legislation have any impact on central cities that have worked with their MPO members equitably. It will only impact those areas where counties are being held in a relationship they feel is unfair. It's my hope that in future deliberations on transportation matters we can address and resolve this issue.

By Mr. JOHNSON (for himself, Mr. CRAIG, Mr. DASCHLE, Mr. BURNS, and Mr. BAUCUS):

S. 617. A bill to amend the Federal Meat Inspection Act to require that imported meat, and meat food products containing imported meat, bear a label identifying the country of origin; to the Committee on Agriculture, Nutrition, and Forestry.

THE IMPORTED MEAT LABEL ACT OF 1997

Mr. JOHNSON. Mr. President, I am pleased today to introduce legislation that would require that imported meat and meat food products containing imported meat be labeled for country of origin so that consumers can make the choice to buy meat produced from livestock raised on American ranches and farms. This act would require that these products be labeled for country of origin prior to their sale at the retail level in the United States.

Senator CRAIG, Senator DASCHLE, Senator BURNS, and Senator BAUCUS join me today in introducing this needed policy change. I welcome and applaud their support. I would also point out to my colleagues the support this legislation has received from the National Farmers Union, the American Farm Bureau Federation, the National Cattlemen's Beef Association, and the

American Sheep Industry. From my State, this legislation is supported by the South Dakota Farmers Union, South Dakota Farm Bureau, South Dakota Livestock Auction Markets Association, and the South Dakota Cattlemen's Association. I hope that other Senators join us in support of this measure and help us to quickly pass this bill.

America's livestock producers are proud of their record of producing quality meat and meat food products from American raised livestock. While labeling products from other industries for country of origin is commonplace, imported meat and meat food products containing imported meat are often not labeled at all. With the passage of the Canadian Free-Trade Agreement, NAFTA, and GATT, we are moving toward more imported meat. Exports of American meat are high quality, value added items that American exporters are proud to advertise as American produced. On the other hand, meat imports into the United States tend to be of lower quality and importers generally do not advertise the country of origin.

American consumers deserve to know the source of their meat and meat food products. The legislation that my colleagues and I are introducing will allow America's consumers to know the source of their meat and meat food products. Considering that food safety and the wisdom of production systems in other countries are concerns that consumers consistently have, this legislation allows the competitive free market to determine the prices and demand for imported meat and meat food products.

Finally, American taxpayers have invested heavily in our food safety system—and it is undoubtedly the safest in the world. It just makes good sense for these same taxpayers and consumers to know the origin of the meat they buy.

Mr. President, I ask unanimous consent to have the complete text of the legislation printed in the RECORD.

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

S. 617

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 "Imported Meat Labeling Act of 1997".

SEC. 2. COUNTRY OF ORIGIN LABELING OF IMPORTED MEAT AND MEAT FOOD PRODUCTS.

(a) LABELING REQUIRED.—Section 1(n) of the Federal Meat Inspection Act (21 U.S.C. 601(n)) is amended by adding at the end the following:

"(13)(A) If it is imported into the United States unless it bears or is accompanied by labeling that identifies the country of origin of the animal that is the source of the imported carcass, part thereof, or meat or is part of the contents of the imported meat food product.

"(B) If it originates from an animal that was imported into the United States less than 10 days prior to slaughter unless it bears or is accompanied by labeling that identifies the country of origin of the animal.

"(C) If it is a meat food product prepared in the United States using any carcass, part thereof, or meat imported into the United States unless the meat food product bears or is accompanied by labeling that identifies the country of origin of the animal that is the source of the imported carcass, part thereof, or meat.

"(D) In this paragraph, the term 'country of origin' means the country or countries in which an animal is raised before slaughter."

(b) CONFORMING AMENDMENTS.—Section 1(n) of the Federal Meat Inspection Act is amended—

(1) by striking "if" at the beginning of each of paragraphs (1) through (12) and inserting "If";

(2) by striking the semicolon at the end of each of paragraphs (1) through (10) and inserting a period, and

(3) in paragraph (11), by striking "; or" at the end and inserting a period.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act.

Mr. CRAIG. Mr. President, I am pleased to join my colleague from South Dakota today as an original cosponsor of the Imported Meat Labeling Act of 1997. This act would require the labeling of imported meat and meat products prior to their sale at a retail level in the United States.

For the record, I want my colleagues to know that this type of action is legal under the terms of our GATT Agreement. In addition, a number of groups have policy that support this type of measure including the American Farm Bureau, National Cattlemen's Beef Association, and the American Sheep Industry.

Again, I commend Senator JOHNSON for introducing the Imported Meat Labeling Act of 1997 and Senator BURNS from Montana for his additional efforts on this topic. I hope that other Senators will join us in support of this measure. I would pledge my support of addressing any legitimate concerns that this legislation might raise and ask in return that we seek quick resolution and passage of this bill.

One legitimate concern with this legislation is the treatment of Canadian cattle that are slaughtered in the United States. Concern along the northern tier States that border Canada is high among all areas of Canadian trade. Producers in these States might ask how cattle that are born in Canada, fed in Canada, but shipped to the United States for slaughter would be labeled. Realistically, these animals are Canadian and the beef produced from them should be labeled as such. However, if the legal interpretation is different, I state my willingness for the record to amend this legislation and address this type of concern.

Mr. BURNS. Mr. President, I rise today to sponsor a bill being introduced by myself, Mr. CRAIG, and Mr. JOHNSON on an issue of great importance to my State and the agricultural industry in Montana. The issue is that of labeling meat coming into America from other countries.

We are offering today language, which will require all meat products that come from a foreign country to be labeled with the country of origin of that meat. This will allow all Americans to know and understand where the meat they are purchasing really comes from. This bill will protect the consumer as well as an industry which has had to face severe competition from foreign countries in recent years.

Today when shopping at the local grocery market, the American consumer is buying meat products without all the information they need to make an informed decision on the product they are purchasing. Our consumers go to the market and purchase meat products with no idea of where the meat they are buying comes from. Recent events in foreign countries have made this issue important to the retail consumer. Outbreak of disease and problems with the quality of foreign products makes it necessary that we provide our consumers with all the information they should have when making an informed decision about the food they are buying.

If we look at the vast majority of products that are imported into our country, we find that they are labeled with the country in which that product was produced. We have consumers that for numerous years have established a custom of purchasing only products with a Made in America label. It only seems right that we provide these same consumers with the information that will allow them to make the same intelligent decision when shopping for the food that they consume.

Our consumers today go to the market and buy meat products under the assumption that if it carries a USDA inspection and graded label that the meat they are purchasing comes from the United States. This, we have recently found out, can be far from the truth. Just carrying that label does nothing to inform the consumer that the hamburger they are purchasing is from this country.

As I stated earlier, recent outbreaks of disease in foreign countries has haunted our American meat producers. The public fears that the beef they are buying could be from a European country with a disease that has killed their citizens. Out breaks in meat and vegetable products leads Americans to fear the purchase of American meat and vegetables because they are under the assumption that the product is American in origin. This is not always the case. The recent outbreak of hepatitis found in strawberries is proof.

American agriculture provides the American consumer with the safest

most reliable source of food and fiber in the world. With this in mind we then should be informing the American consumer that they really are purchasing American product or if they so chose product raised in a foreign country.

I am proud and very pleased to add my name to this bill and I look forward to moving this through the legislative process so we can give our consumers the information on meat that we have provided to them on other numerous consumer goods.

By Mr. SARBANES:

S. 618. A bill to amend the Federal Water Pollution Control Act to assist in the restoration of the Chesapeake Bay, and for other purposes; to the Committee on Environment and Public Works.

THE CHESAPEAKE BAY RESTORATION ACT OF 1997

By Mr. SARBANES:

S. 619. A bill to establish a Chesapeake Bay Gateways and Watertrails Network, and for other purposes; to the Committee on Environment and Public Works.

THE CHESAPEAKE BAY GATEWAYS AND WATERTRAILS ACT OF 1997

Mr. SARBANES. Mr. President, today I am introducing—along with a number of my colleagues—two measures to continue and enhance efforts to restore the Chesapeake Bay. Joining me in sponsoring one or both of these measures are my colleagues from Virginia, Pennsylvania, and Maryland, Senators WARNER, SANTORUM, ROBB, and MIKULSKI.

The Chesapeake Bay is one of the world's great natural resources. It is a world-class fishery that still produces a significant portion of the fin fish and shellfish catch in the United States.

It provides vital habitat for living resources, including more than 2,700 plant and animal species. It is a major resting area for migratory birds and waterfowl along the Atlantic flyway, including many endangered and threatened species.

As our Nation's largest estuary, the Chesapeake Bay is also key to the ecological and economic health of the mid-Atlantic region. The bay is a treasured asset for all our citizens, particularly for the nearly 15 million of us who live within the six State watershed. It is a one-of-a-kind recreational asset enjoyed by 9 million people, including many Members of this body.

The bay is also a major commercial waterway and shipping center for the region and much of the eastern United States. And it provides thousands of jobs for the people in this region. Certainly, we in Maryland regard the bay as a defining element in our State's history, and as a key to Maryland's quality of life.

Most people are aware of these and other dimensions of the bay. Certainly, our Nation's scientists are aware, and have consistently regarded the bay's protection and enhancement as an extremely important national objective.

When the bay began to experience serious unprecedented declines in water quality and living resources in recent decades, people in the region, including those in my State, suffered as well. We lost thousands of jobs in the fishing industry and much of the wilderness that defined the watershed.

We began to appreciate for the first time the profound impact that human activity could have on the Chesapeake Bay ecosystem. Untreated sewage, deforestation, toxic chemicals, farm runoff, and increased development resulted in a degradation of water quality and destruction of wildlife and its habitat.

Fortunately, over the last two decades we have also come to understand that humans can have a positive influence on the environment, and that we can, if we choose, assist nature to repair much of the damage which has been done.

We now treat sewage before it enters our waters, and even have a successful waste treatment pilot project here in Washington that utilizes state-of-the-art biological methods to significantly reduce nutrients entering the bay.

We banned toxic chemicals that were killing the wildlife, initiated programs to reduce nonpoint source pollution in the bay's tributaries, and we have taken aggressive steps to successfully restore the striped bass and other species.

We have undertaken the Nation's largest habitat restoration project on Poplar Island in the upper bay, and enacted legislation protecting the estuary from economically and ecologically harmful aquatic nuisance species.

The States of Maryland, Virginia, and Pennsylvania deserve much of the credit for undertaking many of the actions that have put the bay and its watershed on the road to recovery.

All three States have had major cleanup programs and have made significant commitments in terms of resources. The cleanup has remained an important priority item supported by Governors, State legislatures and the public. And a number of private organizations—the Chesapeake Bay Foundation and Alliance for the Chesapeake Bay come to mind—have done stellar work in this area.

But the Federal Government has played a critical catalyzing role in helping to bring about these successes. Without the Federal Clean Water Act, the Federal ban on DDT, and EPA's watershed-wide coordination of bay restoration and cleanup activities, we would not have been able to bring about the concerted effort, the real partnership, that is succeeding in improving bay water quality and in bringing back many fish and wildlife species that were on the verge of extinction.

The Chesapeake Bay is getting cleaner, but we cannot affort to be complacent. Ever increasing population and commercial stresses are imposed upon the bay. So we must not relax if we hope to maintain, and build upon, our past successes.

The first measure I am introducing today is designed to build upon our National Government's past role in the Chesapeake Bay Program, the highly successful Federal-State-local partnership to which I made reference, that so ably coordinates and directs efforts to restore the bay.

This legislation carries forward and enhances the role of the Environmetnal Protection Agency as the lead Federal agency committed to cleaning up the bay. It redoubles efforts to ensure wide compliance with Chesapeake Bay agreement goals, including habitat restoration and toxics reduction.

And it establishes a mechanism for EPA to further assist communities with local watershed restoration and protection projects in the bay and its tributaries. This is an especially important component of this measure. Let me spend a moment to explain why.

The initial stages of the bay cleanup focused on the mainstem bay. But it became increasingly clear that many of the bay's problems originate in the rivers and streams which flow into the bay. It also became obvious that we must expand efforts within these waters if we hope to achieve nutrient reductions and other improvements in the overall bay watershed.

The bay partners recognized this urgent need with 1992 and subsequent amendments to the Chesapeake Bay agreement that committed the bay partners to develop and implement tributary-specific strategies throughout the watershed, and the States are making tremendous progress in this regard.

It is clear that one of the most cost-effective ways to protect the rivers and streams in the watershed is to help, encourage and promote stewardship among citizens and others who have a direct stake in a specific local situation. After all, stewardship starts with the individual citizens who live in the watershed. And that is what this measure encourages by providing EPA with mechanisms to stimulate such local efforts.

The second measure I am introducing today would connect natural, historic, cultural, and recreational resources to create an innovative Chesapeake Bay Gateways and Watertrails Network throughout the mainstem bay and its tributaries.

The vast bay watershed contains many distinctive treasures that combine to tell a unique story about the evolvement of human settlement and culture within the area. Each region within the watershed is dotted with historic seaports, Federal and State parks, and other natural, cultural, or recreational sites.

Many residents of the bay are familiar with the rich resources within their particular region. Similarly, countless visitors to a particular segment of the watershed are exposed to selective sites, but receive only a limited if any introduction to similar resources throughout the entire bay. They learn little about the bay's collective cultural and natural history, and perhaps little about comprehensive bay cleanup efforts.

What we currently lack—and what this measure provides—is a mechanism that links these many valuable resources and sites throughout the watershed into a unified network of jewels of the Chesapeake.

This shared linkage and identity can improve access to the bay. It can further educate residents and visitors about this treasured resource.

It can boost the already substantial economic activity generated by tourism and recreation within the watershed, and it can entice additional residents within the watershed to play more active roles in the bay restoration effort.

This measure would accomplish these worthy goals in several ways. First, it authorizes and directs the Secretary of the Interior to identify and protect resources throughout the watershed, to identify these individual jewels as Chesapeake Bay Gateways, and to link them with trails, tour roads, scenic byways, and other sites.

Second, it directs the Secretary to develop and establish Chesapeake Bay Watertrails, consisting of important water routes, and connects these watertrails with gateways sites and other land resources to create a Chesapeake Bay Gateways and Watertrails Network. This network will guide residents and visitors alike along important water routes and the many land based resources within the watershed.

Third, this legislation authorizes the Secretary to provide technical and financial assistance to State and local partners for conserving and restoring these important resources throughout the watershed.

The Chesapeake Bay cleanup effort, and Federal-State efforts to protect related resources and to promote economic activity, have been major bipartisan undertakings in this body. The bay has been strongly supported by virtually all Members of the Senate, as evidenced by enactment of three of the five related measures introduced last session. I urge my colleagues to continue the momentum by supporting this legislation and contributing to the improvement and enhancement of one of our Nation's most valuable and treasured natural resources.

Mr. President, I ask unanimous consent that the Chesapeake Bay Restoration Act of 1997 and the Chesapeake Bay Gateways and Watertrails Act of 1997 be printed in the RECORD. I also ask unanimous consent that copies of letters from the Governor, State of Maryland, from the Chesapeake Bay Commission, from the Chesapeake Bay Foundation and from the Chesapeake Bay Local Government Advisory Committee be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 618

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 "Chesapeake Bay Restoration Act of 1997".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Chesapeake Bay is a national treasure and a resource of worldwide significance;

(2) in recent years, the productivity and water quality of the Chesapeake Bay and the tributaries of the Bay have been diminished by pollution, excessive sedimentation, shoreline erosion, the impacts of population growth and development in the Chesapeake Bay watershed, and other factors;

(3) the Federal Government (acting through the Administrator of the Environmental Protection Agency), the Governor of the State of Maryland, the Governor of the Commonwealth of Virginia, the Governor of the Commonwealth of Pennsylvania, the Chairperson of the Chesapeake Bay Commission, and the Mayor of the District of Columbia have committed as Chesapeake Bay Agreement signatories to a comprehensive and cooperative program to achieve improved water quality and improvements in the productivity of living resources of the Bay;

(4) the cooperative program described in paragraph (3) serves as a national and international model for the management of estuaries; and

(5) there is a need to expand Federal support for monitoring, management, and restoration activities in the Chesapeake Bay and the tributaries of the Bay in order to meet and further the original and subsequent goals and commitments of the Chesapeake Bay Program.

(b) PURPOSES.—The purposes of this Act are—

(1) to expand and strengthen cooperative efforts to restore and protect the Chesapeake Bay; and

(2) to achieve the goals established in the Chesapeake Bay Agreement.

SEC. 3. CHESAPEAKE BAY.

Section 117 of the Federal Water Pollution Control Act (33 U.S.C. 1267) is amended to read as follows:

"CHESAPEAKE BAY

"SEC. 117. (a) DEFINITIONS.—In this section:

"(1) CHESAPEAKE BAY AGREEMENT.—The term 'Chesapeake Bay Agreement' means the formal, voluntary agreements executed to achieve the goal of restoring and protecting the Chesapeake Bay ecosystem and the living resources of the ecosystem and signed by the Chesapeake Executive Council.

"(2) CHESAPEAKE BAY PROGRAM.—The term 'Chesapeake Bay Program' means the program directed by the Chesapeake Executive Council in accordance with the Chesapeake Bay Agreement.

"(3) CHESAPEAKE BAY WATERSHED.—The term 'Chesapeake Bay watershed' shall have the meaning determined by the Administrator.

"(4) CHESAPEAKE EXECUTIVE COUNCIL.—The term 'Chesapeake Executive Council' means the signatories to the Chesapeake Bay Agreement.

"(5) SIGNATORY JURISDICTION.—The term 'signatory jurisdiction' means a jurisdiction of a signatory to the Chesapeake Bay Agreement.

"(b) CONTINUATION OF CHESAPEAKE BAY PROGRAM.—

"(1) IN GENERAL.—In cooperation with the Chesapeake Executive Council (and as a member of the Council), the Administrator shall continue the Chesapeake Bay Program.

"(2) PROGRAM OFFICE.—The Administrator shall maintain in the Environmental Protection Agency a Chesapeake Bay Program Office. The Chesapeake Bay Program Office shall provide support to the Chesapeake Executive Council by—

"(A) implementing and coordinating science, research, modeling, support services, monitoring, data collection, and other activities that support the Chesapeake Bay Program;

"(B) developing and making available, through publications, technical assistance, and other appropriate means, information pertaining to the environmental quality and living resources of the Chesapeake Bay;

"(C) in cooperation with appropriate Federal, State, and local authorities, assisting the signatories to the Chesapeake Bay Agreement in developing and implementing specific action plans to carry out the responsibilities of the signatories to the Chesapeake Bay Agreement;

"(D) coordinating the actions of the Environmental Protection Agency with the actions of the appropriate officials of other Federal agencies and State and local authorities in developing strategies to—

"(i) improve the water quality and living resources of the Chesapeake Bay; and

"(ii) obtain the support of the appropriate officials of the agencies and authorities in achieving the objectives of the Chesapeake Bay Agreement; and

"(E) implementing outreach programs for public information, education, and participation to foster stewardship of the resources of the Chesapeake Bay.

"(c) INTERAGENCY AGREEMENTS.—The Administrator may enter into an interagency agreement with a Federal agency to carry out this section.

"(d) TECHNICAL ASSISTANCE AND ASSISTANCE GRANTS.—

"(1) IN GENERAL.—In consultation with other members of the Chesapeake Executive Council, the Administrator may provide technical assistance, and assistance grants, to nonprofit private organizations and individuals, State and local governments, colleges, universities, and interstate agencies to carry out this section, subject to such terms and conditions as the Administrator considers appropriate.

"(2) FEDERAL SHARE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of an assistance grant provided under paragraph (1) shall be determined by the Administrator in accordance with Environmental Protection Agency guidance.

"(B) SMALL WATERSHED GRANTS PROGRAM.—The Federal share of an assistance grant provided under paragraph (1) to carry out an implementing activity under subsection (g)(2) shall not exceed 75 percent of eligible project costs, as determined by the Administrator.

"(3) NON-FEDERAL SHARE.—An assistance grant under paragraph (1) shall be provided on the condition that non-Federal sources

provide the remainder of eligible project costs, as determined by the Administrator.

"(4) ADMINISTRATIVE COSTS.—Administrative costs (including salaries, overhead, and indirect costs for services provided and charged against projects supported by funds made available under this subsection) incurred by a person described in paragraph (1) in carrying out a project under this subsection during a fiscal year shall not exceed 10 percent of the grant made to the person under this subsection for the fiscal year.

"(e) IMPLEMENTATION GRANTS.—

"(1) IN GENERAL.—If a signatory jurisdiction has approved and committed to implement all or substantially all aspects of the Chesapeake Bay Agreement, on the request of the chief executive of the jurisdiction, the Administrator shall make a grant to the jurisdiction for the purpose of implementing the management mechanisms established under the Chesapeake Bay Agreement, subject to such terms and conditions as the Administrator considers appropriate.

"(2) PROPOSALS.—A signatory jurisdiction described in paragraph (1) may apply for a grant under this subsection for a fiscal year by submitting to the Administrator a comprehensive proposal to implement management mechanisms established under the Chesapeake Bay Agreement. The proposal shall include—

"(A) a description of proposed management mechanisms that the jurisdiction commits to take within a specified time period, such as reducing or preventing pollution in the Chesapeake Bay and to meet applicable water quality standards; and

"(B) the estimated cost of the actions proposed to be taken during the fiscal year.

"(3) APPROVAL.—If the Administrator finds that the proposal is consistent with the Chesapeake Bay Agreement and the national goals established under section 101(a), the Administrator may approve the proposal for a fiscal year.

"(4) FEDERAL SHARE.—The Federal share of an implementation grant provided under this subsection shall not exceed 50 percent of the costs of implementing the management mechanisms during the fiscal year.

"(5) NON-FEDERAL SHARE.—An implementation grant under this subsection shall be made on the condition that non-Federal sources provide the remainder of the costs of implementing the management mechanisms during the fiscal year.

"(6) ADMINISTRATIVE COSTS.—Administrative costs (including salaries, overhead, and indirect costs for services provided and charged against projects supported by funds made available under this subsection) incurred by a signatory jurisdiction in carrying out a project under this subsection during a fiscal year shall not exceed 10 percent of the grant made to the jurisdiction under this subsection for the fiscal year.

"(f) COMPLIANCE OF FEDERAL FACILITIES.—

"(1) SUBWATERSHED PLANNING AND RESTORATION.—A Federal agency that owns or operates a facility (as defined by the Administrator) within the Chesapeake Bay watershed shall participate in regional and subwatershed planning and restoration programs.

"(2) COMPLIANCE WITH AGREEMENT.—The head of each Federal agency that owns or occupies real property in the Chesapeake Bay watershed shall ensure that the property, and actions taken by the agency with respect to the property, comply with the Chesapeake Bay Agreement.

"(g) CHESAPEAKE BAY WATERSHED, TRIBUTARY, AND RIVER BASIN PROGRAM.—

"(1) NUTRIENT AND WATER QUALITY MANAGEMENT STRATEGIES.—Not later than 1 year after the date of enactment of this subsection, the Administrator, in consultation with other members of the Chesapeake Executive Council, shall ensure that management plans are developed and implementation is begun by signatories to the Chesapeake Bay Agreement for the tributaries of the Chesapeake Bay to achieve and maintain—

"(A) the nutrient goals of the Chesapeake Bay Agreement for the quantity of nitrogen and phosphorus entering the main stem Chesapeake Bay;

"(B) the water quality requirements necessary to restore living resources in both the tributaries and the main stem of the Chesapeake Bay;

"(C) the Chesapeake Bay basinwide toxics reduction and prevention strategy goal of reducing or eliminating the input of chemical contaminants from all controllable sources to levels that result in no toxic or bioaccumulative impact on the living resources that inhabit the Bay or on human health; and

"(D) habitat restoration, protection, and enhancement goals established by Chesapeake Bay Agreement signatories for wetlands, forest riparian zones, and other types of habitat associated with the Chesapeake Bay and the tributaries of the Chesapeake Bay.

"(2) SMALL WATERSHED GRANTS PROGRAM.—The Administrator, in consultation with other members of the Chesapeake Executive Council, may offer the technical assistance and assistance grants authorized under subsection (d) to local governments and nonprofit private organizations and individuals in the Chesapeake Bay watershed to implement—

"(A) cooperative tributary basin strategies that address the Chesapeake Bay's water quality and living resource needs; or

"(B) locally based protection and restoration programs or projects within a watershed that complement the tributary basin strategies.

"(h) STUDY OF CHESAPEAKE BAY PROGRAM.—Not later than January 1, 1999, and each 3 years thereafter, the Administrator, in cooperation with other members of the Chesapeake Executive Council, shall complete a study and submit a comprehensive report to Congress on the results of the study. The study and report shall, at a minimum—

"(1) assess the commitments and goals of the management strategies established under the Chesapeake Bay Agreement and the extent to which the commitments and goals are being met;

"(2) assess the priority needs required by the management strategies and the extent to which the priority needs are being met;

"(3) assess the effects of air pollution deposition on water quality of the Chesapeake Bay;

"(4) assess the state of the Chesapeake Bay and its tributaries and related actions of the Chesapeake Bay Program;

"(5) make recommendations for the improved management of the Chesapeake Bay Program; and

"(6) provide the report in a format transferable to and usable by other watershed restoration programs.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 1998 through 2003.".

S. 619

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 "Chesapeake Bay Gateways and Watertrails Act of 1997".

SEC. 2. DEFINITIONS.

In this Act:

(1) CHESAPEAKE BAY GATEWAYS SITES.—The term "Chesapeake Bay Gateways sites" means the Chesapeake Bay Gateways sites identified under section 5(a)(2).

(2) CHESAPEAKE BAY GATEWAYS AND WATERTRAILS NETWORK.—The term "Chesapeake Bay Gateways and Watertrails Network" means the network of Chesapeake Bay Gateways sites and Chesapeake Bay Watertrails created under section 5(a)(5).

(3) CHESAPEAKE BAY WATERSHED.—The term "Chesapeake Bay Watershed" shall have the meaning determined by the Secretary.

(4) CHESAPEAKE BAY WATERTRAILS.—The term "Chesapeake Bay Watertrails" means the Chesapeake Bay Watertrails established under section 5(a)(4).

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior (acting through the Director of the National Park Service).

SEC. 3. FINDINGS.

Congress finds that—

(1) the Chesapeake Bay is a national treasure and a resource of international significance;

(2) the region within the Chesapeake Bay watershed possesses outstanding natural, cultural, historical, and recreational resources that combine to form nationally distinctive and linked waterway and terrestrial landscapes;

(3) there is a need to study and interpret the connection between the unique cultural heritage of human settlements throughout the Chesapeake Bay Watershed and the waterways and other natural resources that led to the settlements and on which the settlements depend; and

(4) as a formal partner in the Chesapeake Bay Program, the Secretary has an important responsibility—

(A) to further assist regional, State, and local partners in efforts to increase public awareness of and access to the Chesapeake Bay;

(B) to help communities and private landowners conserve important regional resources; and

(C) to study, interpret, and link the regional resources with each other and with Chesapeake Bay Watershed conservation, restoration, and education efforts.

SEC. 4. PURPOSES.

The purposes of this Act are—

(1) to identify opportunities for increased public access to and education about the Chesapeake Bay;

(2) to provide financial and technical assistance to communities for conserving important natural, cultural, historical, and recreational resources within the Chesapeake Bay Watershed; and

(3) to link appropriate national parks, waterways, monuments, parkways, wildlife refuges, other national historic sites, and regional or local heritage areas into a network of Chesapeake Bay Gateways sites and Chesapeake Bay Watertrails.

SEC. 5. CHESAPEAKE BAY GATEWAYS AND WATERTRAILS NETWORK.

(a) IN GENERAL.—The Secretary shall provide technical and financial assistance, in cooperation with other Federal agencies,

State and local governments, nonprofit organizations, and the private sector—

(1) to identify, conserve, restore, and interpret natural, recreational, historical, and cultural resources within the Chesapeake Bay Watershed;

(2) to identify and utilize the collective resources as Chesapeake Bay Gateways sites for enhancing public education of and access to the Chesapeake Bay;

(3) to link the Chesapeake Bay Gateways sites with trails, tour roads, scenic byways, and other connections as determined by the Secretary;

(4) to develop and establish Chesapeake Bay Watertrails comprising water routes and connections to Chesapeake Bay Gateways sites and other land resources within the Chesapeake Bay Watershed; and

(5) to create a network of Chesapeake Bay Gateways sites and Chesapeake Bay Watertrails.

(b) COMPONENTS.—Components of the Chesapeake Bay Gateways and Watertrails Network may include—

(1) State or Federal parks or refuges;

(2) historic seaports;

(3) archaeological, cultural, historical, or recreational sites; or

(4) other public access and interpretive sites as selected by the Secretary.

SEC. 6. CHESAPEAKE BAY GATEWAYS GRANTS ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a Chesapeake Bay Gateways Grants Assistance Program to aid State and local governments, local communities, nonprofit organizations, and the private sector in conserving, restoring, and interpreting important historic, cultural, recreational, and natural resources within the Chesapeake Bay Watershed.

(b) CRITERIA.—The Secretary shall develop appropriate eligibility, prioritization, and review criteria for grants under this section.

(c) MATCHING FUNDS AND ADMINISTRATIVE EXPENSES.—A grant under this section—

(1) shall not exceed 50 percent of eligible project costs;

(2) shall be made on the condition that non-Federal sources, including in-kind contributions of services or materials, provide the remainder of eligible project costs; and

(3) shall be made on the condition that not more than 10 percent of all eligible project costs be used for administrative expenses.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $3,000,000 for each fiscal year.

STATE OF MARYLAND,
OFFICE OF THE GOVERNOR,
April 5, 1997.

Hon. PAUL S. SARBANES,
U.S. Senate,
Washington, DC.

DEAR PAUL: Congratulations on the introduction of the Chesapeake Bay Restoration Act of 1997. Passage of this legislation will enable the State of Maryland to build on the progress that has been achieved in cleaning up the Bay by strengthening and expanding the federal Chesapeake Bay Program.

Your bill provides a much-needed increased focus on watershed planning and management. This effort skillfully complements the Tributary Strategy effort to reduce nutrient loadings into the Bay. The additional federal resources will also greatly increase the effectiveness of our joint effort to protect and restore the Bay.

The Chesapeake Bay is a national treasure. Your longstanding determined commitment to its protection and restoration has been key to the improvements in the water quality and living resources of the Bay. I stand ready to help you secure passage of this important legislation.

Sincerely,

PARIS N. GLENDENING,
Governor.

CHESAPEAKE BAY COMMISSION,
Annapolis, MD, March 20, 1997.

Hon. PAUL S. SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: I am writing, in my capacity as Chairman of the Chesapeake Bay Commission, to commend you for taking the initiative to reauthorize the Chesapeake Bay Program through the introduction of the Chesapeake Bay Restoration Act of 1997. The Commission strongly supports the legislation. We commit to you our resources and expertise in working to secure its passage.

We believe that the cooperation of government at the federal, state and local level is, and will continue to be, essential to protecting and restoring the Bay. Your bill helps to establish the blueprint for that cooperation. It provides new opportunities on habitat restoration through the creation of low-cost restoration and enhancement demonstration projects. These projects are key to protecting the living resources of the Bay, the main goal of the Chesapeake Bay Agreement.

As a signatory to the 1987 Chesapeake Bay Agreement, the Commission is committed to the reduction of nutrient and toxic loads entering the Chesapeake Bay. To do this, we have developed a river-specific approach to the implementation of pollution control strategies. The tributary strategy provisions of the legislation will support this effort and ensure that these strategies are implemented, basinwide.

The Chesapeake Bay watershed will face increasing environmental threats in the years ahead. The population of the watershed is growing. Development of our natural resource lands is commonplace. The burdens placed on our pollution control infrastructure are constantly expanding. The Commission has long recognized that coordinated, locally-based programs can help to counter these pressures.

For this reason, we are particularly supportive of the small watershed grants component of your bill. We believe that it will enhance efforts made by non-governmental organizations, local governments and private individuals to implement water quality and habitat protection programs at the local level. The small watershed grants program is also directly complementary to the Local Government Participation Action Plan, developed by the Chesapeake Bay Program in 1996, to better involve local governments in Bay restoration activities.

In our watershed, there are many examples of small watershed projects that would benefit from a cost-share grant program. In Maryland, residents and local government officials in Worcester and Somerset Counties have committed to improve the local economy through well-planned conservation and the promotion of natural, historic and cultural resources. In Pennsylvania, the Lackawanna River Corridor Association has been working to improve water quality by addressing acid mine drainage, combined sewer overflows and urban stormwater flow problems by developing public-private partnerships that leverage resources and expertise. And in my own home state of Virginia, private organizations have joined forces with local, state and federal government officials in the Chesconessex Creek Watershed to establish a project to restore vital habitat and living resources on Virginia's Eastern Shore.

In closing, I want to thank you, and Charles Stek and Kevin Miller of your office, for consulting extensively with our staff, and with the many sectors of the Bay community during the drafting of your legislation. The final product reflects a strong cooperative relationship with the Chesapeake Bay Program and will allow us to build on the progress that we have already made.

I look forward to working with you. We hope that this legislation can be moved forward as quickly as possible, and we offer our assistance with the hope that it will be enacted before this Congress comes to a close. I am,

Sincerely yours,

W. TAYLOE MURPHY, Jr.,
Chairman.

CHESAPEAKE BAY FOUNDATION,
Annapolis, MD, April 9, 1997.

Hon. PAUL S. SARBANES,
Washington, DC.

DEAR SENATOR SARBANES: I am writing to express the Chesapeake Bay Foundation's support for the Chesapeake Bay Restoration Act of 1997. Although I realize that no single piece of legislation can save the Chesapeake Bay, I believe this bill will help push the Bay Program towards an increased effort to carrying out the commitments made by the signatories.

I am particularly glad to see the section enhancing the oversight responsibilities of the Environmental Protection Agency. CBF has long felt that it is important for the Environmental Protection Agency to take a stronger leadership role in assuring that the participants are held accountable for their commitments.

I am also enthusiastic about the provisions providing for a small watershed grant program. Restoration of the Bay's essential habitat—its forests, wetlands, and grass beds—is a critical component of the effort to save the Bay, and this legislation should help move that effort forward.

In summary, this legislation provides a step forward for the Bay Program, and will help steer it in the right direction. I would like to thank you and your cosponsors for your efforts on behalf of this legislation and on behalf of the Chesapeake Bay.

Very truly yours,

WILLIAM C. BAKER,
President.

CHESAPEAKE BAY LOCAL
GOVERNMENT ADVISORY COMMITTEE,
Easton, MD, April 7, 1997.

Hon. SENATOR PAUL SARBANES,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of the Maryland Delegation of the Chesapeake Bay Local Government Advisory Committee (LGAC), I would like to offer support for the Bill to amend section 117 of the Clean Water Act which specifies a financial commitment by the Federal Government to the Chesapeake Bay protection effort. Specifically, the Maryland Delegation is in strong support of the Small Watershed Grants Program component of the Bill. This Program holds much promise to augment the important efforts being made by local governments in restoring, protecting, and sustaining the health of the Chesapeake Bay and its tributaries.

Additionally, the Bill directly supports policies of the Chesapeake Executive Council. The Executive Council recently adopted

the Local Government Partnership Initiative and the Local Government Participation Action Plan. The aim of these policies is to broaden the efforts of local governments in restoring and protecting the Chesapeake Bay and its tributaries. The Action Plan includes a commitment to seek a small watershed grants program through reauthorization of the Clean Water Act.

Over 14.9 million people live within the jurisdiction of more than 1,650 local governments within the Chesapeake Bay watershed. Each local government has the statutory authority to manage land use, manage infrastructure, including sewage treatment facilities and stormwater, and take a leadership role in fostering a land stewardship ethic in its community. Supporting local governments' collective efforts to restore, protect and sustain the health of Chesapeake Bay is a critical element of the Bay effort.

The Chesapeake Bay is a regional and national treasure that local governments throughout the watershed cherish and value. The LGAC commends the leadership role you have taken in furthering the efforts being made to protect and sustain the health of the Chesapeake Bay and its tributaries.

Sincerely,

GARY G. ALLEN,
Vice Chair.

CHESAPEAKE BAY LOCAL
GOVERNMENT ADVISORY COMMITTEE,
Easton, MD, April 7, 1997.

Hon. SENATOR PAUL SARBANES,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of the Pennsylvania Delegation of the Chesapeake Bay Local Government Advisory Committee (LGAC), I would like to offer support for the Bill to amend section 117 of the Clean Water Act which specifies a financial commitment by the Federal Government to the Chesapeake Bay protection effort. Specifically, the Pennsylvania Delegation is in strong support of the Small Watershed Grants Program component of the Bill. This Program holds much promise to augment the important efforts being made by local governments in restoring, protecting, and sustaining the health of the Chesapeake Bay and its tributaries.

Additionally, the Bill directly supports policies of the Chesapeake Executive Council. The Executive Council recently adopted the Local Government Partnership Initiative and the Local Government Participation Action Plan. The aim of these policies is to broaden the efforts of local governments in restoring and protecting the Chesapeake Bay and its tributaries. The Action Plan includes a commitment to seek a small watershed grants program through reauthorization of the Clean Water Act.

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The Chesapeake Bay is a regional and nation treasure that local governments throughout the watershed cherish and value. The LGAC commends the leadership role you have taken in furthering the efforts being made to protect and sustain the health of the Chesapeake Bay and its tributaries.

Sincerely,

RUSSELL PETTYJOHN,
Chair.

CHESAPEAKE BAY LOCAL
GOVERNMENT ADVISORY COMMITTEE,
Easton, MD, April 7, 1997.

Hon. SENATOR PAUL SARBANES,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of the Washington, D.C. Delegation of the Chesapeake Bay Local Government Advisory Committee (LGAC), I would like to offer support for the Bill to amend section 117 of the Clean Water Act which specifies a financial commitment by the Federal Government to the Chesapeake Bay protection effort. Specifically, the District of Columbia Delegation is in strong support of the Small Watershed Grants Program component of the Bill. This Program holds much promise to augment the important efforts being made by local governments in restoring, protecting, and sustaining the health of the Chesapeake Bay and its tributaries.

Additionally, the Bill directly supports policies of the Chesapeake Executive Council. The Executive Council recently adopted the Local Government Partnership Initiative and the Local Government Participation Action Plan. The aim of these policies is to broaden the efforts of local governments in restoring and protecting the Chesapeake Bay and its tributaries. The Action Plan includes a commitment to seek a small watershed grants program through reauthorization of the Clean Water Act.

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The Chesapeake Bay is a regional and national treasure that local governments throughout the watershed cherish and value. The LGAC commends the leadership role you have taken in furthering the efforts being made to protect and sustain the health of the Chesapeake Bay and its tributaries.

Sincerely,

WILLIAM RUMSEY, Jr.,
Vice-Chair.

By Mr. GREGG (for himself, Mr. ROTH, Mrs. HUTCHISON, Mr. JEFFORDS, Mr. MURKOWSKI, Mr. FAIRCLOTH, Mr. SANTORUM, Mr. BOND, Ms. COLLINS, Mr. DEWINE, Mr. ROBERTS, Mr. CRAIG, Mr. NICKLES, Mr. MCCONNELL, Mr. KYL, Ms. SNOWE, Mr. MACK, Mr. HAGEL, and Mr. GRASSLEY):

S. 620. A bill to amend the Internal Revenue Code of 1986 to provide greater equity in savings opportunities for families with children, and for other purposes; to the Committee on Finance.

THE WOMEN'S INVESTMENT AND SAVINGS EQUITY ACT

Mr. GREGG. Mr. President, I rise to introduce important and unique legislation known as the Women's Investment and Savings Equity Act, or the WISE bill.

As chairman of the Republican Task Force on Retirement Security, I have worked with other task force members to explore various ways that the Federal Government might better facilitate adequate savings for retirement. I am extremely pleased that Majority Leader LOTT convened this task force, and asked me to lead it, because the problem of ensuring adequate retirement savings has been one in which I have become increasingly engaged. I am extremely pleased to have had the assistance and cooperation of all of the other Senators in the task force.

We are currently in the process of drafting a comprehensive package of legislation designed to increase retirement saving through a diverse variety of means. However, one of these legislative initiatives, the WISE bill, has struck us as being so important that it warrants separate introduction and action. I am very proud of this legislation, and I am gratified to see the rapid growth in support for it.

One thing has become ever more clear in the course of our work: this Nation must increase retirement saving—at every level—in order to meet retirement needs in the 21st century.

The problem for women is particularly severe. They live longer than men, and they have less saving. As a result, they are almost twice as likely as men to spend their retirement years in poverty.

If you wan to see a demonstration of why it is important that we permit greater saving by women in their own name, all that you must do is to review the poverty rates for widows and divorcees. Overall, elderly women have a poverty rate of 15.7 percent. For men, the level is 8.9 percent. Divorcees suffer poverty rates of 29.1 percent, widows 21.5 percent. For too many women, it is the case that they enter their elderly years, after devoting much of their lives to raising a family, only to find themselves alone and without sufficient means of financial support. That is not right.

Current law has an unequal impact on women because they are more likely to interrupt their periods of paid employment in order to raise children. When they finally do return to the work force, and when they finally may have surplus money for saving, the law places tight limits on what they can contribute towards their own retirement.

We shouldn't force women to choose between attentive parenting and saving for retirement. Women shouldn't be more likely to enter poverty in retirement simply because they have taken time out from work to raise a child.

Our legislation would do three things:

First, it would strengthen the homemaker IRA law. We would permit

homemakers—and other workers without a pension—to make deductible contributions to IRA, regardless of whether their spouse participates in a pension plan.

This is good for saving. It is also good for women; we shouldn't deprive homemakers of the opportunity to save on the basis of their spouse's participation in a pension plan. This is an idea that already has broad bipartisan support.

Second, we would permit catch-up contributions to 401(k) retirement plans—and other types of elective deferral plans—for parents who miss time from work for maternity or paternity leave.

Under current law, if an individual goes on unpaid leave from work for service in the National Guard or certain other military service, they may make "catch-up" contributions to their 401(k) or similar retirement plans for the time that they missed.

We would make similar "catch-up" contributions available to cover the employee portion of contributions that would have been made by parents had they not gone on parental leave. This is good savings policy, and good family policy.

Third, and this is the most creative aspect of the legislation: We would create higher contribution limits—in "catch-up years"—for parents who have returned to work after a long period of nonparticipation in a pension plan.

Consider a too-familiar story: A woman spends 15 years working at home, raising a family. Or—and let me stress that our provision applies in this case, too—maybe she works part-time, but she cannot contribute to a pension plan because she needs that money for day care. Either way, she spends a large amount of her life, unable to contribute to a pension plan.

If she returns to the workforce at age 45 or 50, and her children are "out of the nest," perhaps only then does she have surplus money to put into retirement savings. But current law is inflexible; she can't "catch-up" for the lost years. She is limited by a short number of working years, and tight annual limits on what she can contribute.

Our legislation would simply do the following: For every year that you are unable to participate in a pension plan, and during which you are caring for a dependent child, you may take that number of "catch-up" years when you return to plan participation.

During that catch-up year, you can make your normal allowed contribution to a 401(k) or similar plan, and you can make an additional contribution of equal size to "catch-up" for a missed year. You can do this for up to 18 years.

Working people have been telling us that they need some flexibility in being allowed to "catch-up" for missed opportunities to save. Not everyone has the money to save when they are 25. The problem is most severe for parents—for mothers. The least we can do is to make the law flexible enough to permit additional retirement contributions when they can afford it.

These issues are not abstractions. For too many women, this is how life works. Maybe they suddenly become widows, or they go through a divorce. And they have forever lost their opportunity to generate saving in their own name. We see the results in the comparatively large number of women in poverty.

This legislation would build additional flexibility into the law so that women—and all parents—are not penalized for making the choice to raise a child.

Current law assumes that you have the same opportunity to save in every year of your life. That is just not so. Families with children often find it very difficult to save money, and this legislation would give them a chance to catch up when they reach a point where they at last can save.

I believe this legislation is worthy of favorable consideration by the Senate. I also believe that prospects are good that we can pass at least a version of it. The chairman of the Finance Committee, Senator ROTH, has contributed his valuable support, as has the chairman of the Labor Committee, Senator JEFFORDS. With the support of the leadership, and the support of the appropriate committee chairmen, I believe there is a basis for optimism that such overdue reforms will be passed by the Senate.

Mr. ROTH. Mr. President, Today, I am proud to join the Republican pension task force chaired by Senator GREGG to introduce the Women's Investment and Savings Equity Act of 1997, known as the Wise bill. I want to commend Senator GREGG for his leadership of the Republican pension task force and his hard work in putting this bill together.

Of the 63 million baby boomers in America, a full 32 million of them are saving less than one-third of what they will need for retirement. This concerns me. It concerns me even further that the overwhelming majority of these Americans, unprepared for retirement, are women. According to the Census Bureau, retired women are almost twice as likely as men to live in poverty. The poverty rate for elderly single women is about four times greater than the rate for those who are married.

I consider the Wise bill one of the beginning steps toward creating an environment where Americans can work for self-reliance and a secure future. It will go a long way toward establishing equity in the Tax Code for stay-at-home parents who want to save for their retirement years. And while it's called the women's investment and savings equity bill—because the majority of those who will benefit are women—it covers both mothers and fathers, whichever serves as homemaker.

The Wise bill of 1997 will allow homemakers and other workers without a pension plan to make a full $2,000 tax-deductible IRA contribution each year, regardless of their spouse's pension plan. In addition, parents who take maternity or paternity leave will be allowed to make catch-up payments to their retirement plans after they return to work. Even homemakers who return to employment after an extended absence, and working parents who cannot afford pension contributions while raising children, will be able to catch-up for the years they were raising children.

This bill is an important first step of a larger retirement savings and security expansion bill by the Republican pension task force. It will give families the tools for a secure retirement.

ADDITIONAL COSPONSORS

S. 65

At the request of Mr. HATCH, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 65, a bill to amend the Internal Revenue Code of 1986 to ensure that members of tax- exempt organizations are notified of the portion of their dues used for political and lobbying activities, and for other purposes.

S. 293

At the request of Mr. HATCH, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Oregon [Mr. WYDEN], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors 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. 295

At the request of Mr. JEFFORDS, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 295, a bill to amend the National Labor Relations Act to allow labor management cooperative efforts that improve economic competitiveness in the United States to continue to thrive, and for other purposes.

S. 304

At the request of Mr. DORGAN, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 304, a bill to clarify Federal law with respect to assisted suicide, and for other purposes.

S. 328

At the request of Mr. HUTCHINSON, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 328, a bill to amend the National Labor Relations Act to protect employer rights, and for other purposes.

S. 387

At the request of Mr. HATCH, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 387, a bill to amend the Internal Revenue Code of 1986 to provide equity to exports of software.

S. 405

At the request of Mr. HATCH, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 405, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit and to allow greater opportunity to elect the alternative incremental credit.

S. 415

At the request of Mr. BAUCUS, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 415, a bill to amend the medicare program under title XVIII of the Social Security Act to improve rural health services, and for other purposes.

S. 419

At the request of Mr. BOND, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 419, a bill to provide surveillance, research, and services aimed at prevention of birth defects, and for other purposes.

S. 438

At the request of Mr. GRASSLEY, the names of the Senator from Michigan [Mr. ABRAHAM], the Senator from Arkansas [Mr. HUTCHINSON], and the Senator from Arizona [Mr. KYL] were added as cosponsors of S. 438, a bill to provide for implementation of prohibitions against payment of social security benefits to prisoners, and for other purposes.

S. 495

At the request of Mr. KYL, the names of the Senator from Missouri [Mr. ASHCROFT], the Senator from Michigan [Mr. ABRAHAM], and the Senator from Kansas [Mr. BROWNBACK] were added as cosponsors of S. 495, a bill to provide criminal and civil penalties for the unlawful acquisition, transfer, or use of any chemical weapon or biological weapon, and to reduce the threat of acts of terrorism or armed aggression involving the use of any such weapon against the United States, its citizens, or Armed Forces, or those of any allied country, and for other purposes.

S. 575

At the request of Mr. DURBIN, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 575, A bill to amend the Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals.

At the request of Mr. HAGEL, the names of the Senator from Wyoming [Mr. ENZI], the Senator from Kansas [Mr. BROWNBACK], the Senator from Arkansas [Mr. HUTCHINSON], and the Senator from Alabama [Mr. SESSIONS] were added as cosponsors of S. 575, supra.

SENATE JOINT RESOLUTION 6

At the request of Mr. KYL, the names of the Senator from New Jersey [Mr. TORRICELLI], the Senator from Nevada [Mr. REID], the Senator from Georgia [Mr. CLELAND], and the Senator from Florida [Mr. MACK] were added as cosponsors of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE CONCURRENT RESOLUTION 13

At the request of Mr. SESSIONS, the names of the Senator from Mississippi [Mr. LOTT], and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of Senate Concurrent Resolution 13, A concurrent resolution expressing the sense of Congress regarding the display of the Ten Commandments by Judge Roy S. Moore, a judge on the circuit court of the State of Alabama.

SENATE CONCURRENT RESOLUTION 22—RELATIVE TO THE STATUE OF ROGER WILLIAMS

Mr. CHAFEE (for himself and Mr. REED) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 22

Whereas Roger Williams was the primary architect of the lively experiment of church-state separation as the necessary corollary of religious liberty;

Whereas Roger Williams was an ardent advocate of the legal rights of Native Americans, maintained a close friendship with them and purchased land from them;

Whereas Roger Williams may also be seen as the first European environmentalist on this continent; and

Whereas Roger Williams was the founder of the first Baptist church in America and the founder of the first Baptist denomination in this hemisphere: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the statue of Roger Williams shall be returned to the United States Capitol Rotunda at the conclusion of the temporary display of the Suffragists Portrait Monument.

Mr. CHAFEE. Mr. President, this weekend while we are away from the Capitol, an unusual event will occur here. Areas in the Capitol rotunda and the small rotunda, which are ordinarily open to the public, will be closed to visitors, as will the passageway to the majority leader's office. And starting tomorrow, temporary structures will be constructed in these areas. Under the able supervision of the Architect of the Capitol's office, steps are underway to move the statue of Roger Williams, which stands in the rotunda, to the second floor hallway outside of the majority leader's office.

In February, Senator WARNER, chairman of the Committee on Rules and Administration, notified me that the statue of Roger Williams would be moved from the rotunda in order to accommodate the so-called portrait monument of Elizabeth Cady Stanton, Susan B. Anthony, and Lucretia Mott in accordance with a concurrent resolution approved by both houses during the last Congress. While I have no objection to moving the portrait monument to the rotunda, I was disappointed to learn that it would result in the dislocation of the statue of Roger Williams. Senator WARNER assured me that the Roger Williams statue would receive an excellent new location and that none of the alternatives—namely in the rotunda—were available.

Senator WARNER certainly kept his word. The new location is very satisfactory. The statue will stand in the second floor hallway between the Senate Chamber and the rotunda, on the way to the majority leader's office. It is a bright and sunny space with windows looking out beyond the West Front of the Capitol to the Washington Monument. The statue of Roger Williams will be in good company, too. Other statues in this area depict Maria L. Sanford, a 19th century Minnesota teacher known as the best loved woman of the North Star State; Edward Douglas White of Louisiana, who served as Chief Justice of the U.S. Supreme Court; John Hanson, who was among the strongest colonial advocates for independence and who served as President of the United States in Congress Assembled under the Articles of Confederation from 1781 to 1782; representing Kentucky is a statue of Ephraim McDowell who was an eminent surgeon and founder of Centre College in Danville, KY; William Edgar Borah, a former chairman of the Senate Foreign Relations Committee who is best remembered for his integrity, his skills as an orator, and his bipartisanship, and finally; John Middleton Clayton who served in the Delaware State Legislature, the U.S Senate, as chief justice of the Delaware Supreme Court, and as Secretary of State.

I would like to commend the Architect of the Capitol, Alan Hantman, and his staff, most notably Roberto Miranda, Satish Gupta, and Ralph Atkins, for their extraordinary efforts to protect the statue of Roger Williams as it is transported to its new perch overlooking the National Mall. To ensure the safety of the statue which is quite delicate, it was wrapped in numerous layers of protective materials. First it was completely covered in plastic wrap. Then, it was wrapped in several layers of aluminum foil which was secured with duct tape. Next, it was covered with paraffin wax and a quarter of an inch of latex rubber was applied. All of this was bundled in burlap and a second layer of latex was applied. It was then completely covered with plaster, and tomorrow all of this will be encased in fiberglass. The actual move is

expected to occur on Saturday, and on Sunday, after the statue is replaced on its base and precisely positioned in the hallway, all of these layers of covering will be removed with the same kind of instrument orthopedic surgeons use to remove casts from patients. I have every confidence in the Architect's office and the office of the Curator that the job of relocating the Roger Williams statue will be skillfully completed.

As satisfied as I am with all of this, Mr. President, I am submitting a concurrent resolution to return this statue of Roger Williams to the rotunda when the portrait monument is removed. I do this because I believe that the millions of girls and boys, men and women, from all parts of the United States and of the world, should be reminded of the principles for which Roger Williams is known.

Roger Williams was born in England around 1603 to James and Alice Williams. He grew up in a section of London in which religious dissenters were burned at the stake. Through his personal ingenuity, he gained notice by Sir Edward Coke, who helped young Roger attend school. Later he was able to attend Pembroke Hall in Cambridge University. He was ordained by the Church of England and made chaplain at a manor house in Essex. It was there that he met and married his wife, Mary Barnard.

By 1629, Roger Williams had accepted many of the views of the Puritans and 1 year later, he and Mary left England aboard the *Lyon* to start a new life in New England.

He refused to join the congregation at Boston because of its close ties to the Church of England, and instead, became minister at Salem. The bad blood between Roger Williams and the Boston magistrates led to his departure from Salem. He moved to Plymouth where he joined the Separatist Pilgrims. He remained in Plymouth for 2 years, and eventually became assistant pastor. It was during his time in Plymouth that Roger Williams first became acquainted with and interested in native Americans.

Eventually he returned to Boston where he found himself again embroiled in controversy, this time because he questioned the validity of the Massachusetts Bay Colony's Charter. Roger Williams pointed out that the King of England had no authority to grant a charter giving away lands that were owned by the native Americans. Of course, this was virtual heresy, and Roger Williams, once again, was banished.

You can see that Roger Williams was way ahead of his time with his concern for native Americans and that they be paid fairly for their land. Because of this, once again he was banished.

Leaving his wife and baby daughter behind, he journeyed for 14 weeks through the winter harshness to seek refuge with his native American friends in Narragansett County. In the spring, he was joined by others, but soon this small group of dissenters was forced to uproot themselves again because they were still within the boundaries of the Massachusetts Bay Colony. They traveled across the Seekonk River, landed at Slate Rock on the west side of the Seekonk River and, in gratefulness for the goodness of God to him, he named the area where he was "Providence," and therefrom came the name of Providence. Subsequently, of course, it was the capital of the State of Rhode Island.

Roger Williams and his followers purchased land from Canonicus and Miantonomi, the chief sachems of the Narragansett Tribe, and in 1636, founded a new colony devoted to religious freedom and tolerance, the first time in the history of the world that there had been anything like this.

No one was turned away or banished because of his or her religious beliefs. Roger Williams embraced people of all faiths. In fact, the first synagogue in the New World was built in Newport, RI, and, after joining the Baptist faith, Roger Williams built the first Baptist Church in the New World. Both of these historic and religious landmarks still stand today and are completely operational, a living tribute to Roger Williams.

Roger Williams was banished time and again for having the courage of his convictions. He believed that every individual should be free to practice whatever faith he chose, a view that today is as integral to our national consciousness as is freedom of expression. He believed in the separation of church and state. And he believed in protecting the rights of those who first inhabited this beautiful land, the native Americans. This weekend, he will be banished once more from the pantheon of leaders with whom he certainly deserves to stand.

Mr. President, I believe it is only fair for this statue of Roger Williams—in this symbol here you see the picture on the stamp that was issued depicting his settlement in the State of Rhode Island in 1636.

I believe it only fair for this statue of Roger Williams, his symbol of tolerance, be returned to the Capitol Rotunda. This provision in the concurrent resolution says—the suggestion is that the statue of the women, the so-called monument, will only be there for a temporary period. Indeed, the resolution says that at the conclusion of the temporary display of the suffragettes—how long the temporary period is we are not sure. We are not against the statue of the suffragettes at all. But when that is moved, we ask that the statue of Roger Williams go back into the Rotunda.

As I say, I have no desire to hasten the removal of the portrait monument. But at the appropriate time, I and my colleagues believe that the Roger Williams statue should be returned.

So I send the concurrent resolution to the desk, and ask that it be referred to the appropriate committee.

I thank the Chair.

Mr. REED. Mr. President, I rise this evening to join my colleague, Senator CHAFEE, in support of his resolution to return a statue of Roger Williams to the Capitol rotunda, and also to commend Senator CHAFEE for his excellent statement. He has described in detail the central role that Roger Williams has played not only in the life of Rhode Island, but in the life of this Nation.

His displacement from the rotunda will not be the first time he was banished. In 1635 he was banished from his first home because he advocated at that time the revolutionary idea that there should be a separation between church and state, that individuals should have freedom of conscience, that individuals should be able to worship the god of their choice, and that the system of government should respect that choice.

In a sense he began the intellectual revolution that would culminate years later in the revolution against Great Britain that would lead to our Declaration of Independence and to the Constitution of the United States, because he emphasized in his quest for the rights of conscience that element of individuality which is so much a part of America.

Roger Williams was a central figure not only in the history of Rhode Island but in the history of this country, and we recognize that by giving him a place of honor and distinction in the rotunda of the Capitol.

Like Senator CHAFEE, I do not object at all to the display of the suffragettes statute. That is once again a recognition of individual Americans who showed us the way, who advocated for the right of people. In fact, their behavior was in some way directly or indirectly inspired by the tradition established by Roger Williams in the 1600's.

I also respect the deliberations of Senator WARNER to find a location which would be appropriate for Roger Williams. But my feeling, as well as my colleague's feeling, is that he is of such a historical character, not just to Rhode Island but to the Nation, that he well deserves a place in the rotunda of the Capitol of the United States.

When Roger Williams came to Rhode Island he created not just a State, but an attitude, an idea, that men and women could worship as they saw fit. He inspired the development of the first Baptist church in America which stands today in Providence. That spirit of tolerance, a respect for individuality, of respect for the dignity of the individual to choose, became a beacon for people around the world to come to

Rhode Island. As Senator CHAFEE indicated, the first Jewish synagogue in North America was established in Newport and stands today as a symbol of Roger Williams' legacy, of our commitment to tolerance, and the right and dignity of the individual.

Such accomplishments, which go to the very fiber and the spirit of America, must be recognized, and, in fact, I feel should be appropriately recognized by the display of the Roger Williams statue in the rotunda of the Capitol.

When Roger Williams established Rhode Island, he said he was going to begin a lively experiment, and he has. That lively experiment has spun through the ages the creation of our Government; the very debate that we have here today. His legacy is monumental. His monument should be in the rotunda.

I am proud to join my colleague from Rhode Island to cosponsor this resolution and to urge, along with him, that at the first appropriate moment the statue of Roger Williams should be returned to the rotunda, that its temporary banishment from the rotunda be ended, and that scores of Americans in this generation and generations to come can recognize his accomplishments, can recognize his particular contributions to America and, in recognizing those contributions, can continue to reaffirm the spirit of religious freedom, of tolerance, and of individual dignity which he represents so magnificently. I am proud to be associated with my senior colleague and hope that this Senate will move quickly to support the return of Roger Williams to the rotunda.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, our good friends and colleagues from Rhode Island make a very important statement about one of our very significant, historic leaders. But we in Massachusetts take some credit because Roger Williams really originated in Massachusetts before going to Rhode Island.

As a Senator from Massachusetts, I want to say that all of us in Massachusetts hope that our two friends and colleagues are going to be successful because we, too, hold this very important and significant historical figure in very high regard.

SENATE EXECUTIVE RESOLUTION 75—RELATIVE TO THE CHEMICAL WEAPONS CONVENTION

Mr. HELMS submitted the following executive resolution; which was referred to the Committee on Foreign Relations:

S. Exec. Res. 75

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO CONDITIONS.

The Senate advises and consents to the ratification of the Chemical Weapons Convention (as defined in section 3 of this resolution), subject to the conditions in section 2.

SEC. 2. CONDITIONS.

The Senate's advice and consent to the ratification of the Chemical Weapons Convention is subject to the following conditions, which shall be binding upon the President:

(1) EFFECT OF ARTICLE XXII.—Upon the deposit of the United State instrument of ratification, the President shall certify to the Congress that the United States has informed all other States Parties to the Convention that the Senate reserves the right, pursuant to the Constitution of the United States, to give its advice and consent to ratification of the Convention subject to reservations, notwithstanding Article XXII of the Convention.

(2) FINANCIAL CONTRIBUTIONS.—Notwithstanding any provision of the Convention, no funds may be drawn from the Treasury of the United States for payments or assistance (including the transfer of in-kind items) under paragraph 16 of Article IV, paragraph 19 of Article V, paragraph 7 of Article VIII, paragraph 23 of Article IX, Article X, or any other provision of the Convention, without statutory authorization and appropriation.

(3) ESTABLISHMENT OF AN INTERNAL OVERSIGHT OFFICE.—

(A) CERTIFICATION.—Not later than 240 days after the deposit of the United States instrument of ratification, the President shall certify to the Congress that the current internal audit office of the Preparatory Commission has been expanded into an independent internal oversight office whose functions will be transferred to the Organization for the Prohibition of Chemical Weapons upon the establishment of the Organization. The independent internal oversight office shall be obligated to protect confidential information pursuant to the obligations of the Confidentiality Annex. The independent internal oversight office shall—

(i) make investigations and reports relating to all programs of the Organization;

(ii) undertake both management and financial audits, including—

(I) an annual assessment verifying that classified and confidential information is stored and handled securely pursuant to the general obligations set forth in Article VIII and in accordance with all provisions of the Annex on the Protection of Confidential Information; and

(II) an annual assessment of laboratories established pursuant to paragraph 55 of Part II of the Verification Annex to ensure that the Director General of the Technical Secretariat is carrying out his functions pursuant to paragraph 56 of Part II of the Verification Annex;

(iii) undertake performance evaluations annually to ensure the Organization has complied to the extent practicable with the recommendations of the independent internal oversight office;

(iv) have access to all records relating to the programs and operations of the Organization;

(v) have direct and prompt access to any official of the Organization; and

(vi) be required to protect the identity of, and prevent reprisals against, all complainants.

(B) COMPLIANCE WITH RECOMMENDATIONS.—The Organization shall ensure, to the extent practicable, compliance with recommendations of the independent internal oversight office, and shall ensure that annual and other relevant reports by the independent internal oversight office are made available to all member states pursuant to the requirements established in the Confidentiality Annex.

(C) WITHHOLDING A PORTION OF CONTRIBUTIONS.—Until a certification is made under subparagraph (A), 50 percent of the amount of United States contributions to the regular budget of the Organization assessed pursuant to paragraph 7 of Article VIII shall be withheld from disbursement, in addition to any other amounts required to be withheld from disbursement by any other provision of law.

(D) ASSESSMENT OF FIRST YEAR CONTRIBUTIONS.—Notwithstanding the requirements of this paragraph, for the first year of the Organization's operation, ending on April 29, 1998, the United States shall make its full contribution to the regular budget of the Organization assessed pursuant to paragraph 7 of Article VIII.

(E) DEFINITION.—For purposes of this paragraph, the term "internal oversight office" means the head of an independent office (or other independent entity) established by the Organization to conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the Organization.

(4) COST SHARING ARRANGEMENTS.—

(A) ANNUAL REPORTS.—Prior to the deposit of the United States instrument of ratification, and annually thereafter, the President shall submit a report to Congress identifying all cost-sharing arrangements with the Organization.

(B) COST-SHARING ARRANGEMENT REQUIRED.—The United States shall not undertake any new research or development expenditures for the primary purpose of refining or improving the Organization's regime for verification of compliance under the Convention, including the training of inspectors and the provision of detection equipment and on-site analysis sampling and analysis techniques, or share the articles, items, or services resulting from any research and development undertaken previously, without first having concluded and submitted to the Congress a cost-sharing arrangement with the Organization.

(C) CONSTRUCTION.—Nothing in this paragraph may be construed as limiting or constricting in any way the ability of the United States to pursue unilaterally any project undertaken solely to increase the capability of the United States means for monitoring compliance with the Convention.

(5) INTELLIGENCE SHARING AND SAFEGUARDS.—

(A) PROVISION OF INTELLIGENCE INFORMATION TO THE ORGANIZATION.—

(i) IN GENERAL.—No United States intelligence information may be provided to the Organization or any organization affiliated with the Organization, or to any official or employee thereof, unless the President certifies to the appropriate committees of Congress that the Director of Central Intelligence, in consultation with the Secretary of State and the Secretary of Defense, has established and implemented procedures, and has worked with the Organization to ensure implementation of procedures, for protecting from unauthorized disclosure United States intelligence sources and methods connected to such information. These procedures shall include the requirement of—

(I) the offer and provision of advice and assistance to the Organization in establishing

and maintaining the necessary measures to ensure that inspectors and other staff members of the Technical Secretariat meet the highest standards of efficiency, competence, and integrity, pursuant to paragraph 1(b) of the Confidentiality Annex, and in establishing and maintaining a stringent regime governing the handling of confidential information by the Technical Secretariat, pursuant to paragraph 2 of the Confidentiality Annex;

(II) a determination that any unauthorized disclosure of United States intelligence information to be provided to the Organization or any organization affiliated with the Organization, or any official or employee thereof, would result in no more than minimal damage to United States national security, in light of the risks of the unauthorized disclosure of such information;

(III) sanitization of intelligence information that is to be provided to the Organization to remove all information that could betray intelligence sources and methods; and

(IV) interagency United States intelligence community approval for any release of intelligence information to the Organization, no matter how thoroughly it has been sanitized.

(ii) WAIVER AUTHORITY.—

(I) IN GENERAL.—The Director of Central Intelligence may waive the application of clause (i) if the Director of Central Intelligence certifies in writing to the appropriate committees of Congress that providing such information to the Organization or an organization affiliated with the Organization, or to any official or employee thereof, is in the vital national security interests of the United States and that all possible measures to protect such information have been taken, except that such waiver must be made for each instance such information is provided, or for each such document provided. In the event that multiple waivers are issued within a single week, a single certification to the appropriate committees of Congress may be submitted, specifying each waiver issued during that week.

(II) DELEGATION OF DUTIES.—The Director of Central Intelligence may not delegate any duty of the Director under this paragraph.

(B) PERIODIC AND SPECIAL REPORTS.—

(i) IN GENERAL.—The President shall report periodically, but not less frequently than semiannually, to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives on the types and volume of intelligence information provided to the Organization or affiliated organizations and the purposes for which it was provided during the period covered by the report.

(ii) EXEMPTION.—For purposes of this subparagraph, intelligence information provided to the Organization or affiliated organizations does not cover information that is provided only to, and only for the use of, appropriately cleared United States Government personnel serving with the Organization or an affiliated organization.

(C) SPECIAL REPORTS.—

(i) REPORT ON PROCEDURES.—Accompanying the certification provided pursuant to subparagraph (A)(i), the President shall provide a detailed report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives identifying the procedures established for protecting intelligence sources and methods when intelligence information is provided pursuant to this section.

(ii) REPORTS ON UNAUTHORIZED DISCLOSURES.—The President shall submit a report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives within 15 days after it has become known to the United States Government regarding any unauthorized disclosure of intelligence provided by the United States to the Organization.

(D) DELEGATION OF DUTIES.—The President may not delegate or assign the duties of the President under this section.

(E) RELATIONSHIP TO EXISTING LAW.—Nothing in this paragraph may be construed to—

(i) impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(5)); or

(ii) supersede or otherwise affect the provisions of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

(F) DEFINITIONS.—In this section:

(i) APPROPRIATE COMMITTEES OF CONGRESS.—The term "appropriate committees of Congress" means the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives.

(ii) ORGANIZATION.—The term "Organization" means the Organization for the Prohibition of Chemical Weapons established under the Convention and includes any organ of that Organization and any board or working group, such as the Scientific Advisory Board, that may be established by it.

(iii) ORGANIZATION AFFILIATED WITH THE ORGANIZATION.—The terms "organization affiliated with the Organization" and "affiliated organizations" include the Provisional Technical Secretariat under the Convention and any laboratory certified by the Director-General of the Technical Secretariat as designated to perform analytical or other functions.

(6) AMENDMENTS TO THE CONVENTION.—

(A) VOTING REPRESENTATION OF THE UNITED STATES.—A United States representative will be present at all Amendment Conferences and will cast a vote, either affirmative or negative, on all proposed amendments made at such conferences.

(B) SUBMISSION OF AMENDMENTS AS TREATIES.—The President shall submit to the Senate for its advice and consent to ratification under Article II, Section 2, Clause 2 of the Constitution of the United States any amendment to the Convention adopted by an Amendment Conference.

(7) CONTINUING VITALITY OF THE AUSTRALIA GROUP AND NATIONAL EXPORT CONTROLS.—

(A) DECLARATION.—The Senate declares that the collapse of the informal forum of states known as the "Australia Group," either through changes in membership or lack of compliance with common export controls, or the substantial weakening of common Australia Group export controls and nonproliferation measures in force on the date of United States ratification of the Convention, would constitute a fundamental change in circumstances to United States ratification of the Convention.

(B) CERTIFICATION REQUIREMENT.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that—

(i) nothing in the Convention obligates the United States to accept any modification, change in scope, or weakening of its national export controls;

(ii) the United States understands that the maintenance of national restrictions on trade in chemicals and chemical production technology is fully compatible with the provisions of the Convention, including Article XI(2), and solely within the sovereign jurisdiction of the United States;

(iii) the Convention preserves the right of State Parties, unilaterally or collectively, to maintain or impose export controls on chemicals and related chemical production technology for foreign policy or national security reasons, notwithstanding Article XI(2); and

(iv) each Australia Group member, at the highest diplomatic levels, has officially communicated to the United States Government its understanding and agreement that export control and nonproliferation measures which the Australia Group has undertaken are fully compatible with the provisions of the Convention, including Article XI(2), and its commitment to maintain in the future such export controls and nonproliferation measures against non-Australia Group members.

(C) ANNUAL CERTIFICATION.—

(i) EFFECTIVENESS OF AUSTRALIA GROUP.—The President shall certify to Congress on an annual basis that—

(I) Australia Group members continue to maintain an equally effective or more comprehensive control over the export of toxic chemicals and their precursors, dual-use processing equipment, human, animal and plant pathogens and toxins with potential biological weapons application, and dual-use biological equipment, as that afforded by the Australia Group as of the date of ratification of the Convention by the United States; and

(II) the Australia Group remains a viable mechanism for limiting the spread of chemical and biological weapons-related materials and technology, and that the effectiveness of the Australia Group has not been undermined by changes in membership, lack of compliance with common export controls and nonproliferation measures, or the weakening of common controls and nonproliferation measures, in force as of the date of ratification of the Convention by the United States.

(ii) CONSULTATION WITH SENATE REQUIRED.—In the event that the President is, at any time, unable to make the certifications described in clause (i), the President shall consult with the Senate for the purposes of obtaining a resolution of continued adherence to the Convention, notwithstanding the fundamental change in circumstance.

(D) PERIODIC CONSULTATION WITH CONGRESSIONAL COMMITTEES.—The President shall consult periodically, but not less frequently than twice a year, with the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives, on Australia Group export control and nonproliferation measures. If any Australia Group member adopts a position at variance with the certifications and understandings provided under subparagraph (B), or should seek to gain Australia Group acquiescence or approval for an interpretation that various provisions of the Convention require it to remove chemical-weapons related export controls against any State Party to the Convention, the President shall block any effort by that Australia Group member to secure Australia Group approval of such a position or interpretation.

(E) DEFINITIONS.—In this paragraph:

(i) AUSTRALIA GROUP.—The term "Australia Group" means the informal forum of states, chaired by Australia, whose goal is to

discourage and impede chemical and biological weapons proliferation by harmonizing national export controls chemical weapons precursor chemicals, biological weapons pathogens, and dual-use production equipment, and through other measures.

(ii) HIGHEST DIPLOMATIC LEVELS.—The term "highest diplomatic levels" means at the levels of senior officials with the power to authoritatively represent their governments, and does not include diplomatic representatives of those governments to the United States.

(8) NEGATIVE SECURITY ASSURANCES.—

(A) REEVALUATION.—In forswearing under the Convention the possession of a chemical weapons retaliatory capability, the Senate understands that deterrence of attack by chemical weapons requires a reevaluation of the negative security assurances extended to non-nuclear-weapon states.

(B) CLASSIFIED REPORT.—Accordingly, 180 days after the deposit of the United States instrument of ratification, the President shall submit to the Congress a classified report setting forth the findings of a detailed review of United States policy on negative security assurances, including a determination of the appropriate responses to the use of chemical or biological weapons against the Armed Forces of the United States, United States citizens, allies, and third parties.

(9) PROTECTION OF ADVANCED BIOTECHNOLOGY.—Prior to the deposit of the United States instrument of ratification, and on January 1 of every year thereafter, the President shall certify to the Committee on Foreign Relations and the Speaker of the House of Representatives that the legitimate commercial activities and interests of chemical, biotechnology, and pharmaceutical firms in the United States are not being significantly harmed by the limitations of the Convention on access to, and production of, those chemicals and toxins listed in Schedule 1 of the Annex on Chemicals.

(10) MONITORING AND VERIFICATION OF COMPLIANCE.—

(A) DECLARATION.—The Senate declares that—

(i) the Convention is in the interests of the United States only if all State Parties are in strict compliance with the terms of the Convention as submitted to the Senate for its advice and consent to ratification, such compliance being measured by performance and not by efforts, intentions, or commitments to comply; and

(ii) the Senate expects all State Parties to be in strict compliance with their obligations under the terms of the Convention, as submitted to the Senate for its advice and consent to ratification;

(B) BRIEFINGS ON COMPLIANCE.—Given its concern about the intelligence community's low level of confidence in its ability to monitor compliance with the Convention, the Senate expects the executive branch of the Government to offer regular briefings, not less than four times a year, to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on compliance issues related to the Convention. Such briefings shall include a description of all United States efforts in bilateral and multilateral diplomatic channels and forums to resolve compliance issues and shall include a complete description of—

(i) any compliance issues the United States plans to raise at meetings of the Organization, in advance of such meetings;

(ii) any compliance issues raised at meetings of the Organization, within 30 days of such meeting;

(iii) any determination by the President that a State Party is in noncompliance with or is otherwise acting in a manner inconsistent with the object or purpose of the Convention, within 30 days of such a determination.

(C) ANNUAL REPORTS ON COMPLIANCE.—The President shall submit on January 1 of each year to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a full and complete classified and unclassified report setting forth—

(i) a certification of those countries included in the Intelligence Community's Monitoring Strategy, as set forth by the Director of Central Intelligence's Arms Control Staff and the National Intelligence Council (or any successor document setting forth intelligence priorities in the field of the proliferation of weapons of mass destruction) that are determined to be in compliance with the Convention, on a country-by-country basis;

(ii) for those countries not certified pursuant to clause (i), an identification and assessment of all compliance issues arising with regard to the adherence of the country to its obligation under the Convention;

(iii) the steps the United States has taken, either unilaterally or in conjunction with another State Party—

(I) to initiate challenge inspections of the noncompliant party with the objective of demonstrating to the international community the act of noncompliance;

(II) to call attention publicly to the activity in question; and

(III) to seek on an urgent basis a meeting at the highest diplomatic level with the noncompliant party with the objective of bringing the noncompliant party into compliance;

(iv) a determination of the military significance and broader security risks arising from any compliance issue identified pursuant to clause (ii); and

(v) a detailed assessment of the responses of the noncompliant party in question to action undertaken by the United States described in clause (iii).

(D) COUNTRIES PREVIOUSLY INCLUDED IN COMPLIANCE REPORTS.—For any country that was previously included in a report submitted under subparagraph (C), but which subsequently is not included in the Intelligence Community's Monitoring Strategy (or successor document), such country shall continue to be included in the report submitted under subparagraph (C) unless the country has been certified under subparagraph (C)(i) for each of the previous two years.

(E) FORM OF CERTIFICATIONS.—For those countries that have been publicly and officially identified by a representative of the intelligence community as possessing or seeking to develop chemical weapons, the certification described in subparagraph (C)(i) shall in be unclassified form.

(F) ANNUAL REPORTS ON INTELLIGENCE.—On January 1, 1998, and annually thereafter, the Director of Central Intelligence shall submit to the Committees on Foreign Relations, Armed Services, and the Select Committee on Intelligence of the Senate and to the Committees on International Relations, National Security, and Permanent Select Committee of the House of Representatives, a full and complete classified and unclassified report regarding—

(i) the status of chemical weapons development, production, stockpiling, and use, within the meanings of those terms under the Convention, on a country-by-country basis;

(ii) any information made available to the United States Government concerning the development, production, acquisition, stockpiling, retention, use, or direct or indirect transfer of novel agents, including any unitary or binary chemical weapon comprised of chemical components not identified on the schedules of the Annex on Chemicals, on a country-by-country basis;

(iii) the extent of trade in chemicals potentially relevant to chemical weapons programs, including all Australia Group chemicals and chemicals identified on the schedules of the Annex on Chemicals, on a country-by-country basis;

(iv) the monitoring responsibilities, practices, and strategies of the intelligence community (as defined in section 3(4) of the National Security Act of 1947) and a determination of the level of confidence of the intelligence community with respect to each specific monitoring task undertaken, including an assessment by the intelligence community of the national aggregate data provided by State Parties to the Organization, on a country-by-country basis;

(v) an identification of how United States national intelligence means, including national technical means and human intelligence, is being marshaled together with the Convention's verification provisions to monitor compliance with the Convention; and

(vi) the identification of chemical weapons development, production, stockpiling, or use, within the meanings of those terms under the Convention, by subnational groups, including terrorist and paramilitary organizations.

(G) REPORTS ON RESOURCES FOR MONITORING.—Each report required under subparagraph (F) shall include a full and complete classified annex submitted solely to the Select Committee on Intelligence of the Senate and to the Permanent Select Committee of the House of Representatives regarding—

(i) a detailed and specific identification of all United States resources devoted to monitoring the Convention, including information on all expenditures associated with the monitoring of the Convention; and

(ii) an identification of the priorities of the executive branch of Government for the development of new resources relating to detection and monitoring capabilities with respect to chemical and biological weapons, including a description of the steps being taken and resources being devoted to strengthening United States monitoring capabilities.

(11) ENHANCEMENTS TO ROBUST CHEMICAL AND BIOLOGICAL DEFENSES.—

(A) SENSE OF THE SENATE.—It is the sense of the Senate that—

(i) chemical and biological threats to deployed United States Armed Forces will continue to grow in regions of concern around the world, and pose serious threats to United States power projection and forward deployment strategies;

(ii) chemical weapons or biological weapons use is a potential element of future conflicts in regions of concern;

(iii) it is essential for the United States and key regional allies to preserve and further develop robust chemical and biological defenses;

(iv) the United States Armed Forces are inadequately equipped, organized, trained and exercised for chemical and biological defense against current and expected threats, and that too much reliance is placed on non-active duty forces, which receive less training

and less modern equipment, for critical chemical and biological defense capabilities;

(v) the lack of readiness stems from a de-emphasis of chemical and biological defenses within the executive branch of Government and the United States Armed Forces;

(vi) the armed forces of key regional allies and likely coalition partners, as well as civilians necessary to support United States military operations, are inadequately prepared and equipped to carry out essential missions in chemically and biologically contaminated environments;

(vii) congressional direction contained in the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104-201) should lead to enhanced domestic preparedness to protect against chemical and biological weapons threats; and

(viii) the United States Armed Forces should place increased emphasis on potential threats to forces deployed abroad and, in particular, make countering chemical and biological weapons use an organizing principle for United States defense strategy and development of force structure, doctrine, planning, training, and exercising policies of the United States Armed Forces.

(B) ACTIONS TO STRENGTHEN DEFENSE CAPABILITIES.—The Secretary of Defense shall take those actions necessary to ensure that the United States Armed Forces are capable of carrying out required military missions in United States regional contingency plans, despite the threat or use of chemical or biological weapons. In particular, the Secretary of Defense shall ensure that the United States Armed Forces are effectively equipped, organized, trained, and exercised (including at the large unit and theater level) to conduct operations in a chemically or biologically contaminated environment that are critical to the success of the United States military plans in regional conflicts, including—

(i) deployment, logistics, and reinforcement operations at key ports and airfields;

(ii) sustained combat aircraft sortie generation at critical regional airbases; and

(iii) ground force maneuvers of large units and divisions.

(C) DISCUSSIONS WITH REGIONAL ALLIES AND LIKELY COALITION PARTNERS.—

(i) IN GENERAL.—The Secretaries of Defense and State shall, as a priority matter, initiate discussions with key regional allies and likely regional coalition partners, including those countries where the United States currently deploys forces, where United States forces would likely operate during regional conflicts, or which would provide civilians necessary to support United States military operations, to determine what steps are necessary to ensure that allied and coalition forces and other critical civilians are adequately equipped and prepared to operate in chemically and biologically contaminated environments.

(ii) REPORTING REQUIREMENT.—Not later than one year after deposit of the United States instrument of ratification, the Secretaries of Defense and State shall submit a report to the Committees on Foreign Relations and Armed Services of the Senate and to the Speaker of the House on the result of these discussions, plans for future discussions, measures agreed to improve the preparedness of foreign forces and civilians, and proposals for increased military assistance, including through the Foreign Military Sales, Foreign Military Financing, and the International Military Education and Training programs pursuant to the Foreign Assistance Act of 1961.

(D) UNITED STATES ARMY CHEMICAL SCHOOL.—The Secretary of Defense shall take those actions necessary to ensure that the United States Army Chemical School remains under the oversight of a general officer of the United States Army.

(E) SENSE OF THE SENATE.—Given its concerns about the present state of chemical and biological defense readiness and training, it is the sense of the Senate that—

(i) in the transfer, consolidation, and reorganization of the United States Army Chemical School, the Army should not disrupt or diminish the training and readiness of the United States Armed Forces to fight in a chemical-biological warfare environment;

(ii) the Army should continue to operate the Chemical Defense Training Facility at Fort McClellan until such time as the replacement training facility at Fort Leonard Wood is functional.

(F) ANNUAL REPORTS ON CHEMICAL AND BIOLOGICAL WEAPONS DEFENSE ACTIVITIES.—On January 1, 1998, and annually thereafter, the President shall submit a report to the Committees on Foreign Relations, Appropriations, and Armed Services of the Senate and the Committee on International Relations, National Security, and Appropriations of the House of Representatives, and Speaker of the House on previous, current, and planned chemical and biological weapons defense activities. The report shall contain for the previous fiscal year and for the next three fiscal years—

(i) proposed solutions to each of the deficiencies in chemical and biological warfare defenses identified in the March 1996 report of the General Accounting Office entitled "Chemical and Biological Defense: Emphasis Remains Insufficient to Resolve Continuing Problems", and steps being taken pursuant to subparagraph (B) to ensure that the United States Armed Forces are capable of conducting required military operations to ensure the success of United States regional contingency plans despite the threat or use of chemical or biological weapons;

(ii) identification of the priorities of the executive branch of Government in the development of both active and passive chemical and biological defenses;

(iii) a detailed summary of all budget activities associated with the research, development, testing, and evaluation of chemical and biological defense programs;

(iv) a detailed summary of expenditures on research, development, testing, and evaluation, and procurement of chemical and biological defenses by fiscal years defense programs, department, and agency;

(v) a detailed assessment of current and projected vaccine production capabilities and vaccine stocks, including progress in researching and developing a multivalent vaccine;

(vi) a detailed assessment of procedures and capabilities necessary to protect and decontaminate infrastructure to reinforce United States power-projection forces, including progress in developing a nonaqueous chemical decontamination capability;

(vii) a description of progress made in procuring light-weight personal protective gear and steps being taken to ensure that programmed procurement quantities are sufficient to replace expiring battle-dress overgarments and chemical protective overgarments to maintain required wartime inventory levels;

(viii) a description of progress made in developing long-range standoff detection and identification capabilities and other battlefield surveillance capabilities for biological and chemical weapons, including progress on developing a multi-chemical agent detector, unmanned aerial vehicles, and unmanned ground sensors;

(ix) a description of progress made in developing and deploying layered theater missile defenses for deployed United States Armed Forces which will provide greater geographic coverage against current and expected ballistic missile threats and will assist in mitigating chemical and biological contamination through higher altitude intercepts and boost-phase intercepts;

(x) an assessment of—

(I) the training and readiness of the United States Armed Forces to operate in a chemically or biologically contaminated environment; and

(II) actions taken to sustain training and readiness, including training and readiness carried out at national combat training centers;

(xi) a description of progress made in incorporating chemical and biological considerations into service and joint exercises as well as simulations, models, and war games and the conclusions drawn from these efforts about the United States capability to carry out required missions, including missions with coalition partners, in military contingencies;

(xii) a description of progress made in developing and implementing service and joint doctrine for combat and non-combat operations involving adversaries armed with chemical or biological weapons, including efforts to update the range of service and joint doctrine to better address the wide range of military activities, including deployment, reinforcement, and logistics operations in support of combat operations, and for the conduct of such operations in concert with coalition forces; and

(xiii) a description of progress made in resolving issues relating to the protection of United States population centers from chemical and biological attack, including plans for inoculation of populations, consequence management, and a description of progress made in developing and deploying effective cruise missile defenses and a national ballistic missile defense.

(12) PRIMACY OF THE UNITED STATES CONSTITUTION.—Nothing in the Convention requires or authorizes legislation, or other action, by the United States prohibited by the Constitution of the United States, as interpreted by the United States.

(13) NONCOMPLIANCE.—

(A) IN GENERAL.—If the President determines that persuasive information exists that a State Party to the Convention is maintaining a chemical weapons production or production mobilization capability, is developing new chemical agents, or is in violation of the Convention in any other manner so as to threaten the national security interests of the United States, then the President shall—

(i) consult with the Senate, and promptly submit to it, a report detailing the effect of such actions;

(ii) seek on an urgent basis a challenge inspection of the facilities of the relevant party in accordance with the provisions of the Convention with the objective of demonstrating to the international community the act of noncompliance;

(iii) seek, or encourage, on an urgent basis a meeting at the highest diplomatic level with the relevant party with the objective of bringing the noncompliant party into compliance;

(iv) implement prohibitions and sanctions against the relevant party as required by law;

(v) if noncompliance has been determined, seek on an urgent basis within the Security Council of the United Nations a multilateral imposition of sanctions against the noncompliant party for the purposes of bringing the noncompliant party into compliance; and

(vi) in the event that the noncompliance continues for a period of longer than one year after the date of the determination made pursuant to subparagraph (A), promptly consult with the Senate for the purposes of obtaining a resolution of support of continued adherence to the Convention, notwithstanding the changed circumstances affecting the object and purpose of the Convention.

(B) CONSTRUCTION.—Nothing in this section may be construed to impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(5)).

(C) PRESIDENTIAL DETERMINATIONS.—If the President determines that an action otherwise required under subparagraph (A) would impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure, the President shall report that determination, together with a detailed written explanation of the basis for that determination, to the chairmen of the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence not later than 15 days after making such determination.

(14) FINANCING RUSSIAN IMPLEMENTATION.—The United States understands that, in order to be assured of the Russian commitment to a reduction in chemical weapons stockpiles, Russia must maintain a substantial stake in financing the implementation of both the 1990 Bilateral Destruction Agreement and the Convention. The United States shall not accept any effort by Russia to make deposit of Russia's instrument of ratification contingent upon the United States providing financial guarantees to pay for implementation of commitments by Russia under the 1990 Bilateral Destruction Agreement or the Convention.

(15) ASSISTANCE UNDER ARTICLE X.—

(A) IN GENERAL.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Congress that the United States shall not provide assistance under paragraph 7(a) of Article X.

(B) COUNTRIES INELIGIBLE FOR CERTAIN ASSISTANCE UNDER THE FOREIGN ASSISTANCE ACT.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Congress that for any State Party the government of which is not eligible for assistance under chapter 2 of part II (relating to military assistance) or chapter 4 of part II (relating to economic support assistance) of the Foreign Assistance Act of 1961—

(i) no assistance under paragraph 7(b) of Article X will be provided to the State Party; and

(ii) no assistance under paragraph 7(c) of Article X other than medical antidotes and treatment will be provided to the State Party.

(16) PROTECTION OF CONFIDENTIAL INFORMATION.—

(A) UNAUTHORIZED DISCLOSURE OF UNITED STATES BUSINESS INFORMATION.—Whenever the President determines that persuasive information is available indicating that—

(i) an officer of employee of the Organization has willfully published, divulged, disclosed, or made known in any manner or to any extent not authorized by the Convention any United States confidential business information coming to him in the course of his employment or official duties or by reason of any examination or investigation of any return, report, or record made to or filed with the Organization, or any officer or employee thereof, and

(ii) such practice or disclosure has resulted in financial losses or damages to a United States person,

the President shall, within 30 days after the receipt of such information by the executive branch of Government, notify the Congress in writing of such determination.

(B) WAIVER OF IMMUNITY FROM JURISDICTION.—

(i) CERTIFICATION.—Not later than 270 days after notification of Congress under subparagraph (A), the President shall certify to Congress that the immunity from jurisdiction of such foreign person has been waived by the Director-General of the Technical Secretariat.

(ii) WITHHOLDING OF PORTION OF CONTRIBUTIONS.—If the President is unable to make the certification described under clause (i), then 50 percent of the amount of each annual United States contribution to the regular budget of the Organization that is assessed pursuant to paragraph 7 of Article VIII shall be withheld from disbursement, in addition to any other amounts required to be withheld from disbursement by any other provision of law, until—

(I) the President makes such certification, or

(II) the President certifies to Congress that the situation has been resolved in a manner satisfactory to the United States person who has suffered the damages due to the disclosure of United States confidential business information.

(C) BREACHES OF CONFIDENTIALITY.—

(i) CERTIFICATION.—In the case of any breach of confidentiality involving both a State Party and the Organization, including any officer or employee thereof, the President shall, within 270 days after providing written notification to Congress pursuant to subparagraph (A), certify to Congress that the Commission described under paragraph 23 of the Confidentiality Annex has been established to consider the breach.

(ii) WITHHOLDING OF PORTION OF CONTRIBUTIONS.—If the President is unable to make the certification described under clause (i), then 50 percent of the amount of each annual United States contribution to the regular budget of the Organization that is assessed pursuant to paragraph 7 of Article VIII shall be withheld from disbursement, in addition to any other amounts required to be withheld from disbursement by any other provision of law, until—

(I) the President makes such certification, or

(II) the President certifies to Congress that the situation has been resolved in a manner satisfactory to the United States person who has suffered the damages due to the disclosure of United States confidential business information.

(D) DEFINITIONS.—In this paragraph:

(i) UNITED STATES CONFIDENTIAL BUSINESS INFORMATION.—The term "United States confidential business information" means any trade secrets or commercial or financial information that is privileged and confidential, as described in section 552(b)(4) of title 5, United States Code, and that is obtained—

(I) from a United States person; and

(II) through the United States National Authority or the conduct of an inspection on United States territory under the Convention.

(ii) UNITED STATES PERSON.—The term "United States person" means any natural person or any corporation, partnership, or other juridical entity organized under the laws of the United States.

(iii) UNITED STATES.—The term "United States" means the several States, the District of Columbia, and the commonwealths, territories, and possessions of the United States.

(17) CONSTITUTIONAL PREROGATIVES.—

(A) FINDINGS.—The Senate makes the following findings:

(i) Article II, Section 2, Clause 2 of the United States Constitution states that the President "shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur".

(ii) At the turn of the century, Senator Henry Cabot Lodge took the position that the giving of advice and consent to treaties constitutes a stage in negotiation on the treaties and that Senate amendments or reservations to a treaty are propositions "offered at a later stage of the negotiation by the other part of the American treaty making power in the only manner in which they could then be offered".

(iii) The executive branch of Government has begun a practice of negotiating and submitting to the Senate treaties which include provisions that have the purported effect of—

(I) inhibiting the Senate from attaching reservations that the Senate considers necessary in the national interest; or

(II) preventing the Senate from exercising its constitutional duty to give its advice and consent to treaty commitments before ratification of the treaties.

(iv) During the 85th Congress, and again during the 102d Congress, the Committee on Foreign Relations of the Senate made its position on this issue clear when stating that "the President's agreement to such a prohibition cannot constrain the Senate's constitutional right and obligation to give its advice and consent to a treaty subject to any reservation it might determine is required by the national interest".

(B) SENSE OF THE SENATE.—It is the sense of the Senate that—

(i) the advice and consent given by the Senate in the past to ratification of treaties containing provisions which prohibit amendments or reservations should not be construed as a precedent for such provisions in future treaties;

(ii) United States negotiators to a treaty should not agree to any provision that has the effect of inhibiting the Senate from attaching reservations or offering amendments to the treaty; and

(iii) the Senate should not consent in the future to any article or other provision of any treaty that would prohibit the Senate from giving its advice and consent to ratification of the treaty subject to amendment or reservation.

(18) LABORATORY SAMPLE ANALYSIS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Senate that no sample collected in the United States pursuant to the Convention will be transferred for analysis to any laboratory outside the territory of the United States.

(19) EFFECT ON TERRORISM.—The Senate finds that—

(A) without regard to whether the Convention enters into force, terrorists will likely view chemical weapons as a means to gain greater publicity and instill widespread fear; and

(B) the March 1995 Tokyo subway attack by the Aum Shinrikyo would not have been prevented by the Convention.

(20) CONSTITUTIONAL SEPARATION OF POWERS.—

(A) FINDINGS.—The Senate makes the following findings:

(i) Article VIII(8) of the Convention allows a State Party to vote in the Organization if the State Party is in arrears in the payment of financial contributions and the Organization is satisfied that such nonpayment is due to conditions beyond the control of the State Party.

(ii) Article I, Section 8 of the United States Constitution vests in Congress the exclusive authority to "pay the Debts" of the United States.

(iii) Financial contributions to the Organization may be appropriated only by Congress.

(B) SENSE OF SENATE.—It is therefore the sense of the Senate that—

(i) such contributions thus should be considered, for purposes of Article VIII(8) of the Convention, beyond the control of the executive branch of the United States Government; and

(ii) the United States vote in the Organization should not be denied in the event that Congress does not appropriate the full amount of funds assessed for the United States financial contribution to the Organization.

(21) ON-SITE INSPECTION AGENCY.—It is the sense of the Senate that the On-Site Inspection Agency of the Department of Defense should have the authority to provide assistance in advance of any inspection to any facility in the United States that is subject to a routine inspection under the Convention, or to any facility in the United States that is the object of a challenge inspection conducted pursuant to Article IX, if the consent of the owner or operator of the facility has first been obtained.

(22) LIMITATION ON THE SCALE OF ASSESSMENT.—

(A) LIMITATION ON ANNUAL ASSESSMENT.—Notwithstanding any provision of the Convention, and subject to the requirements of subparagraphs (B), (C), and (D) the United States shall pay as a total annual assessment of the costs of the Organization pursuant to paragraph 7 of Article VIII not more than $25,000,000.

(B) RECALCULATION OF LIMITATION.—On January 1, 2000, and at each 3-year interval thereafter, the amount specified in subparagraph (A) is to be recalculated by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period.

(C) ADDITIONAL CONTRIBUTIONS REQUIRING CONGRESSIONAL APPROVAL.—

(i) AUTHORITY.—Notwithstanding subparagraph (A), the President may furnish additional contributions which would otherwise be prohibited under subparagraph (A) if—

(I) the President determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the failure to provide such contributions would result in the inability of the Organization to conduct challenge inspections pursuant to Article IX or would otherwise jeopardize the national security interests of the United States; and

(II) Congress enacts a joint resolution approving the certification of the President.

(ii) STATEMENT OF REASONS.—The President shall transmit with such certification a detailed statement setting forth the specific reasons therefor, and the specific uses to which the additional contributions provided to the Organization would be applied.

(D) ADDITIONAL CONTRIBUTIONS FOR VERIFICATION.—Notwithstanding subparagraph (A), for a period of not more than ten years, the President may furnish additional contributions to the Organization for the purposes of meeting the costs of verification under Articles IV and V.

(23) ADDITIONS TO THE ANNEX ON CHEMICALS.—

(A) PRESIDENTIAL NOTIFICATION.—Not later than 10 days after the Director-General of the Technical Secretariat communicates information to all States Parties pursuant to Article XV(5)(a) of a proposal for the addition of a chemical or biological substance to a schedule of the Annex on Chemicals, the President shall notify the Committee on Foreign Relations of the Senate of the proposed addition.

(B) PRESIDENTIAL REPORT.—Not later than 60 days after the Director-General of the Technical Secretariat communicates information of such a proposal pursuant to Article XV(5)(a) or not later than 30 days after a positive recommendation by the Executive Council pursuant to Article XV(5)(c), whichever is sooner, the President shall submit to the Committee on Foreign Relations of the Senate a report, in classified and unclassified form, detailing the likely impact of the proposed addition to the Annex on Chemicals. Such report shall include—

(i) an assessment of the likely impact on United States industry of the proposed addition of the chemical or biological substance to a schedule of the Annex on Chemicals;

(ii) a description of the likely costs and benefits, if any, to United States national security of the proposed addition of such chemical or biological substance to a schedule of the Annex on Chemicals; and

(iii) a detailed assessment of the effect of the proposed addition on United States obligations under the Verification Annex.

(C) PRESIDENTIAL CONSULTATION.—The President shall, after the submission of the notification required under subparagraph (A) and prior to any action on the proposal by the Executive Council under Article XV(5)(c), consult promptly with the Senate as to whether the United States should object to the proposed addition of a chemical or biological substance pursuant to Article XV(5)(c).

(24) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the Constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification with respect to the INF Treaty. For purposes of this declaration, the term "INF Treaty" refers to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter Range Missiles, together with the related memorandum of understanding and protocols, approved by the Senate on May 27, 1988.

(25) FURTHER ARMS REDUCTIONS OBLIGATIONS.—The Senate declares its intention to consider for approval international agreements that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner only pursuant to the treaty power as set forth in Article II, section 2, clause 2 of the Constitution.

(26) RIOT CONTROL AGENTS.—

(A) PERMITTED USES.—Prior the the deposit of the United States instrument of ratification, the President shall certify to Congress that the United States is not restricted by the Convention in its use of riot control agents, including the use against combatants who are parties to a conflict, in any of the following cases:

(i) UNITED STATES NOT A PARTY.—The conduct of peacetime muilitary operations within an area of ongoing armed conflict when the United States is not a party to the conflict (such as recent use of the United States Armed Forces in Somalia, Bosnia, and Ruanda).

(ii) CONSENSUAL PEACEKEEPING.—Consensual peacekeeping operations when the use of force is authorized by the receiving state, including operations pursuant to Chapter VI of the United Nations Charter.

(iii) CHAPTER VII PEACEKEEPING.—Peacekeeping operations when force is authorized by the Securtity Council under Chapter VII of the United Nations Charter.

(B) IMPLEMENTATION.—The President shall take no measure, and prescribe no rule or regulation, which would alter or eliminate Executive Order 11850 of April 8, 1975.

(C) DEFINITION.—In this paragraph, the term "riot control agent" has the meaning given the term in Article II(7) of the Convention.

(27) CHEMICAL WEAPONS DESTRUCTION.—Prior to the deposit of the United States instrument of ratification of the Convention, the President shall certify to the Congress that all of the following conditions are satisfied:

(A) EXPLORATION OF ALTERNATIVE TECHNOLOGIES.—The President has agreed to explore alternative technologies for the destruction of the United States stockpile of chemical weapons in order to ensure that the United States has the safest, most effective and environmentally sound plans and programs for meeting its obligations under the Convention for the destruction of chemical weapons.

(B) CONVENTION EXTENDS DESTRUCTION DEADLINE.—The requirement in section 1412 of Public Law 99–145 (50 U.S.C. 1521) for completion of the destruction of the United States stockpile of chemical weapons by December 31, 2004, will be superseded upon the date the Convention enters into force with respect to the United States by the deadline required by the Convention of April 29, 2007.

(C) AUTHORITY TO EMPLOY A DIFFERENT DESTRUCTION TECHNOLOGY.—The requirement in Article III(1)(a)(v) of the Convention for a declaration by each State Party not later than 30 days after the date the Convention enters into force with respect to that Party, on general plans of the State Party for destruction of its chemical weapons does not preclude in any way the United States from deciding in the future to employ a technology for the destruction of chemical weapons different than that declared under that Article.

(D) PROCEDURES FOR EXTENSION OF DEADLINE.—The President will consult with Congress on whether to submit a request to the Executive Council of the Organization for an extension of the deadline for the destruction of chemical weapons under the Convention, as provided under part IV(A) of the Annex on Implementation and Verification to the Convention, if, as a result of the program of alternative technologies for the destruction of chemical munitions carried out under section 8065 of the Department of Defense Appropriations Act, 1997 (as contained in Public

Law 104-208), the President determines that alternatives to the incineration of chemical weapons are available that are safer and more environmentally sound but whose use would preclude the United States from meeting the deadlines of the Convention.

(28) CONSTITUTIONAL PROTECTION AGAINST UNREASONABLE SEARCH AND SEIZURE.—

(A) IN GENERAL.—In order to protect United States citizens against unreasonable searches and seizures, prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that—

(i) for any challenge inspection conducted on the territory of the United States pursuant to Article IX, where consent has been withheld, the United States National Authority will first obtain a criminal search warrant based upon probable cause, supported by oath or affirmation, and describing with particularity the place to be searched and the persons or things to be seized; and

(ii) for any routine inspection of a declared facility under the Convention that is conducted on an involuntary basis on the territory of the United States, the United States National Authority first will obtain an administrative search warrant from a United States magistrate judge.

(B) DEFINITION.—For purposes of this resolution, the term "National Authority" means the agency or office of the United States Government designated by the United States pursuant to Article VII(4) of the Convention.

(29) RUSSIAN ELIMINATION OF CHEMICAL WEAPONS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Congress that—

(A) Russia is making reasonable progress in the implementation of the Agreement between the United States of America and the Union of Soviet Socialist Republics on Destruction and Nonproduction of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons, signed on June 1, 1990 (in this resolution referred to as the "1990 Bilateral Destruction Agreement");

(B) the United States and Russia have resolved, to the satisfaction of the United States, outstanding compliance issues under the Memorandum of Understanding Between the Government of the United States of America and the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989, also known as the "1989 Wyoming Memorandum of Understanding", and the 1990 Bilateral Destruction Agreement;

(C) Russia has deposited the Russian instrument of ratification for the Convention and is in compliance with its obligations under the Convention; and

(D) Russia is committed to forgoing any chemical weapons capability, chemical weapons modernization program, production mobilization capability, or any other activity contrary to the object and purpose of the Convention.

(30) CHEMICAL WEAPONS IN OTHER STATES.—

(A) CERTIFICATION REQUIREMENT.—Prior to the deposit of the United States instrument of ratification the President, in consultation with the Director of Central Intelligence, shall certify to the Congress that countries which have been determined to have offensive chemical weapons programs, including Iran, Iraq, Syria, Libya, the Democratic People's Republic of Korea, China, and all other countries determined to be state sponsors of international terrorism, have ratified or otherwise acceded to the Convention.

(31) EXERCISE OF RIGHT TO BAR CERTAIN INSPECTORS.—

(i) IN GENERAL.—The President shall exercise United States rights under paragraphs 2 and 4 of Part II of the Verification Annex to indicate United States non-acceptance of all inspectors and inspection assistants who are nationals of countries designated by the Secretary of State as supporters of international terrorism under section 40(d) of the Arms Export Control Act, or nationals of countries that have been determined by the President, in the last five years, to have violated United States nonproliferation law, including—

(I) chapters 7, 8, and 10 of the Arms Export Control Act;

(II) sections 821 and 824 of the Nuclear Proliferation Prevention Act of 1994;

(III) sections 11b and 11c of the Export Administration Act of 1979;

(IV) the Export-Import Bank Act of 1945; and

(V) sections 1604 and 1605 of the Iran-Iraq Nonproliferation Act of 1992.

(ii) OTHER GROUNDS OF EXCLUSION.—The President shall also bar such nationals from entering United States territory for the purpose of conducting any activity associated with the Convention, notwithstanding paragraph 7 of Part II of the Verification Annex.

(32) STEMMING THE PROLIFERATION OF CHEMICAL WEAPONS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that—

(A) the State Parties have concluded an agreement amending the Convention—

(i) by striking Article X; and

(ii) by amending Article XI to strike any provision that states or implies disapproval of trade restrictions in the field of chemical activities, including paragraphs 2(b), 2(c), 2(d), and 2(e); and

(B) no provision has been added to the Convention or to any of its annexes, and no statement, written or oral, has been issued by the Organization, stating or implying the right or obligation of States Parties to share or facilitate the exchange among themselves of chemical weapons defense technology, chemicals, equipment, or scientific and technical information.

(33) EFFECTIVE VERIFICATION.—

(A) CERTIFICATION.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that compliance with the Convention is effectively verifiable.

(B) DEFINITIONS.—In this paragraph:

(i) EFFECTIVELY VERIFIABLE.—The term "effectively verifiable" means that the Director of Central Intelligence has certified to the President that the United States intelligence community (as defined in section 3(4) of the National Security Act of 1947) has a high degree of confidence in its ability to detect militarily significant violations of the Convention, including the production, possession, or storage of militarily significant quantities of lethal chemicals, in a timely fashion, and to detect patterns of marginal violation over time.

(ii) MILITARILY SIGNIFICANT.—The term "militarily significant" means one metric ton or more of chemical weapons agent.

(iii) TIMELY FASHION.—The term "timely fashion" means detection within one year of the violation having occurred.

SEC. 3. DEFINITIONS.

As used in this resolution:

(1) CHEMICAL WEAPONS CONVENTION OR CONVENTION.—The terms "Chemical Weapons Convention" and "Convention" mean the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, Opened for Signature and Signed by the United States at Paris on January 13, 1993, including the following protocols and memorandum of understanding, all such documents being integral parts of and collectively referred to as the "Chemical Weapons Convention" or the "Convention" (contained in Treaty Document 103-21):

(A) The Annex on Chemicals.

(B) The Annex on Implementation and Verification.

(C) The Annex on the Protection of Confidential Information.

(D) The Resolution Establishing the Preparatory Commission for the Organization for the Prohibition of Chemical Weapons.

(E) The Text on the Establishment of a Preparatory Commission.

(2) ORGANIZATION.—The term "Organization" means the Organization for the Prohibition of Chemical Weapons established under the Convention.

(3) STATE PARTY.—The term "State Party" means any nation that is a party to the Convention.

(4) UNITED STATES INSTRUMENT OF RATIFICATION.—The term "United States instrument of ratification" means the instrument of ratification of the United States of the Convention.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, April 17, 1997, at 9 a.m. in SR-328A to receive testimony regarding crop and revenue insurance oversight.

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

COMMITTEE ON FINANCE

Mrs. HUTCHISON. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Thursday, April 17, 1997, beginning at 10 a.m. in room 215 Dirksen.

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

COMMITTEE ON FOREIGN RELATIONS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 17, 1997, at 10 a.m. to hold a hearing.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, April 17, 1997, at 9:15 a.m. for a hearing on public education improvement opportunities for the District of Columbia.

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

COMMITTEE ON THE JUDICIARY

Mrs. HUTCHISON. Mr. President, the Committee on the Judiciary would like to request unanimous consent to hold an executive business meeting on Thursday, April 17, 1997, at 10 a.m., in Room 226 of the Senate Dirksen Office Building.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, April 17, 1997, beginning at 9:30 a.m. to consider the course of action regarding petitions in connection with a contested U.S. Senate election held in Louisiana in November 1996.

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

COMMITTEE ON VETERANS' AFFAIRS

Mrs. HUTCHISON. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing to hear the testimony of Gen. Colin Powell on Persian Gulf War issues. The hearing will be held on April 17, 1997, at 9:30 a.m., in room 216 of the Hart Senate Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, April 17, 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 EASTERN AND SOUTH ASIAN AFFAIRS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 15, 1997, at 2 p.m. to hold a hearing.

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

SUBCOMMITTEE ON EMPLOYMENT AND TRAINING

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a Employment and Training Subcommittee Hearing on Innovations in Youth Training, during the session of the Senate on Thursday, April 17, 1997, at 9:30 a.m.

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

SUBCOMMITTEE ON INTERNATIONAL SECURITY, SECURITY, PROLIFERATION, AND FEDERAL SERVICES

Mrs. HUTCHISON. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services to meet on Thursday, April 17, at 10:30 a.m. for a classified hearing on "Proliferation: Chinese Case Studies."

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

SUBCOMMITTEE ON READINESS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Subcommittee of Readiness of the Committee on Armed Services be authorized to meet at 10 a.m. on Thursday, April 17, 1997, in open session, to receive testimony on the status of the operational readiness of the U.S. Military Forces in review of S. 450, the National Defense Authorization Act for fiscal year 1998 and 1999.

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

ADDITIONAL STATEMENTS

SURFACE TRANSPORTATION AND EFFICIENCY ACT

• Mr. JEFFORDS. Mr. President, I am pleased to join 31 of my fellow Senators in introducing a reauthorization of our Nation's transportation legislation, the Intermodal Surface Transportation and Efficiency Act [ISTEA]. This bill commits our country to sound transportation planning and development and reflects the vital role transportation plays in our expanding economy.

In 1991, I was proud to be a member of the Environment and Public Works Committee and an original author of ISTEA. This innovative law has resulted in the development of efficient and effective transportation throughout our country. ISTEA shifted decision making from Washington to local communities, enhanced air quality health standards, increased mobility and allowed our economy to grow in an intelligent manner.

Today, I am equally honored to be involved in the introduction of ISTEA WORKS, the continuation of this successful law. This bill retains the basic structure of ISTEA, preserving the role of States and local communities in deciding transportation policies, continuing the emphasis on intermodalism and maintaining support for strong environmental provisions. The bill protects the important enhancements programs, expands the Congestion Mitigation and Air Quality program and improves safety.

This legislation also addresses an issue important to Vermont and the Nation. As we have heard recently, Amtrak continues to struggle with its finances. Although I know Amtrak will survive, action must be taken to improve the system now. ISTEA WORKS grants States the flexibility to use Federal transportation dollars for operating and maintaining passenger service. This flexibility is important to Vermont, where we are running two of the most successful passenger trains in the Nation. The new authority will also enable our State to expand passenger rail and upgrade rail lines to benefit freight rail traffic.

Mr. President, this is a historic occasion. With the introduction of this legislation, we begin to raise the awareness of the success of ISTEA and the urgent need to reauthorize this important legislation with few major changes.•

NOMINATION OF PETE PETERSON TO BE AMBASSADOR TO VIETNAM

• Mr. FEINGOLD. Mr. President, I was pleased to see the Senate consider the President's nomination of Douglas "Pete" Peterson to be the United States Ambassador to Socialist Republic of Vietnam late last week. I supported this nomination in the Foreign Relations Committee. But I did so after careful consideration of the symbolism of this vote and of the signal it sends to Americans.

Mr. President, the appointment of an ambassador is a normal consequence of having full diplomatic relations with a given country. And we have had diplomatic relations with Vietnam since July 1995 when the President signed an executive order establishing such ties. So, technically, the Senate's view on this nominee does not represent a statement of policy. It simply represents the normal procedure by which the Senate provides its advice and consent to a Presidential nomination.

There has never been any serious question raised regarding the President's selection of Mr. Peterson to fill this position. Mr. Peterson is an outstanding citizen and public servant. He spent nearly 30 years in the U.S. Air Force, including 6½ years as a prisoner of war in Vietnam, and has received numerous awards for his valiant service. As a three-term Member of Congress from the second district in Florida, Mr. Peterson also has devoted significant energies to working with both the Bush administration and the Clinton administration to bolster the U.S. search program for POW/MIA's. There are few people who have as deep of an understanding of the uniqueness of America's relationship with Vietnam, so I fully support the President's choice.

This does not mean that there do not remain myriad outstanding questions and issues in our bilateral relations with Vietnam. One issue that is of particular concern to me is the human rights record of the Vietnamese Government which remains poor. According to the most recent State Department Report on Human Rights Practices, the Government of Vietnam continues to restrict basic freedoms; of speech, of the press, of assembly, of association, of privacy, and of religion.

Citizens can be arbitrarily arrested or detained for trying to express political or religious objections to government policies. And although the Vietnamese Constitution provides for the right to privacy, according to the State Department, the Vietnamese Government continues to operate a "nationwide system of surveillance and control through * * * block wardens who use informants to keep track of individuals' activities." The Vietnamese Government also has in place a policy of forced family planning.

Mr. President, this is not a country that shares with the United States the principle that government should exist to promote the general welfare of its people. Nor is it one that has respect for the rule of law.

But, as I said in 1995 when the President first announced his decision to restore diplomatic relations with Vietnam, I believe that diplomatic relations actually enhance our ability to advocate for issues such as human rights and political freedoms. Through a permanent, high-level presence in the country, I believe the United States can intensify the dialog on human rights, work more closely with Vietnamese reformers, and more effectively monitor developments in the human rights situation.

Now I have listened carefully to the veterans in Wisconsin and to the national veterans' organizations. I recognize that the veterans themselves have differing opinions on the issue of diplomatic relations, in general, and of Senate confirmation of this nomination, in particular. The concerns are two-fold: Does having an ambassador on the ground in Vietnam actually help advance the accounting of POW and MIA cases? Or does the dispatching of a President's representative with ambassadorial rank imply that the United States no longer thinks we have reason to withhold a special privilege for Vietnam?

Mr. President, it is my view that having an ambassador resident in Hanoi can serve to better advance U.S. interests, in human rights, as I said earlier, and on issues related to the continued accounting of our POW's and MIA's. I salute the efforts of all those who have tirelessly sought details about missing U.S. service men and women, and, from most of their testimony, I am inclined to believe that we will enhance our ability to collect more information about the remaining POW and MIA cases through fulfilling the President's commitment to full diplomatic relations.

On the other hand, I think it is equally important to acknowledge that sending a Presidential representative of ambassadorial rank does indicate a symbolic change in our relationship with Vietnam that I know some observers still are hesitant to send. It is my view, however, that the United States can serve two purposes by that change: Better advance our interests as described above, and better indicate our concerns about Vietnam or its government through other actions. For example, that is why I voted against lifting the trade embargo against Vietnam and why I have supported congressional efforts to limit United States assistance to Vietnam.

However, I believe that in an era of global engagement and integration, it usually makes little sense to refuse diplomatic relations with a country in the international community. Vietnam is a large presence in a fast-growing region where the United States has ever-increasing interests. We can no longer hope to isolate it, nor will isolation serve to advance any of our goals.

To reiterate, Mr. President, I support the President's choice of Pete Peterson to be Ambassador to Vietnam because I believe that the United States best serves its citizens by having a Presidential representative of the highest order resident in the country. Nevertheless, I remain concerned about other aspects of our bilateral relations in that country and I will continue to scrutinize carefully the President's policies in that regard.•

COMMENDATION OF LT. COL. STEPHEN G. GRESS, JR.

• Mr. SANTORUM. Mr. President, I rise today to pay tribute to Lt. Col. Stephen G. Gress, Jr., who recently retired from the U.S. Air Force. A native of Pittsburgh, PA, Lieutenant Colonel Gress has served his country with valor and distinction for more than 22 years as an instructor pilot, a combat pilot, and as a member of the Air Force legislative liaison.

One needs only to look at Steve's academic credentials to see that he is a man of exceptional achievement. In addition to graduating from the Air Force Academy, Lieutenant Colonel Gress earned a masters degree in operation research from the Air Force Institute of Technology at Wright-Patterson Air Force Base. Likewise, Steve became a distinguished graduate of the Air Command and Staff College at Maxwell Air Force Base in 1987.

Mr. President, Lieutenant Colonel Gress was one of the military's premier pilots. He served as an instructor pilot for the T-38 at Webb Air Force Base, and later, for the T-41 at his alma mater, the U.S. Air Force Academy. In 1979, the Air Force chose Steve from a very select few to become an F-15 fighter pilot. Steve also distinguished himself in the Air Force Special Programs Office, where he managed the development of future fighter weapons systems. During his tenure at Bitburgh Air Force Base, Steve's extensive knowledge of fighter combat operations led to an appointment as the chief of wing inspections, a position that is critical to the combat effectiveness of all Air Force organizations.

I would also note that Lieutenant Colonel Gress is a war hero. As an F-15 flight leader, he flew 19 combat missions in Operation Desert Storm.

Later in 1991, Steve returned to the Pentagon. Once again, the Air Force came to rely upon his keen understanding of fighter combat. As the branch chief for both air to air weapons and fighter development, he worked to ensure that the next generation of fighter systems would secure American air dominance.

Steve moved to the Office of the Air Force Legislative Liaison in 1993. He worked his way up from the branch chief for fighter and fighter weapons to the division chief of the weapons systems division. As always, Steve took tremendous pride in his work. He strove to ensure that critical military issues were presented to Congress in a clear and nonparochial manner. Over the years, many congressional staff members have come to know Steve both as a serious professional and as a man of integrity.

As Lt. Col. Stephen G. Gress, Jr. retires to private life, I ask my colleagues will join me in commending the outstanding service he has given this country. On behalf of the Senate, I would like to wish Lieutenant Colonel Gress and his family the very best.•

FENTON A.J. PHILLIPS LIBRARY

• Mr. LEVIN. Mr. President, I rise today to honor the Fenton A.J. Phillips Library as it celebrates the 10th anniversary of operations in its current building. The history of the library dates back to 1906, when local industrialist A.J. Phillips bequeathed his old office building to the community for use as a library. Since then, the library has experienced many changes, but it has never stopped serving the residents of Fenton. In order to properly celebrate this achievement, the city of Fenton and the Fenton Library Board is holding a gala event which will include some of Neil Simon's hilarious sketches. These will be presented by the actors of the Readers Theatre at the library. Mayor Patricia Lockwood has proclaimed April 17, "Pride in the Fenton A.J. Phillips Library Day."

The Fenton Library is one of 18 libraries in the Genesee County Library System. It serves over 10,000 residents of Fenton, Fenton Township, and Tyrone Township. It contains over 55,000 volumes and offers online services to the community. It provides CD's, videos, and books on tape. The library also offers special programs for adults and children, and complete reference services. In 1988, the library was awarded the Michigan Municipal League's Municipal Achievement Award Honorable Mention for its outstanding work.

I recently visited the Fenton A.J. Phillips Library and saw the positive

influence it has on the local community. In this era when institutions are being asked to do more with less, it is heartening to see this library continue to provide quality service to the public. I know my Senate colleagues will join me in honoring the Fenton A.J. Phillips Library on its 10th Anniversary.•

COMMEMORATING THE FIRST INTERNATIONAL SCHOOL OF AMERICA

• Mrs. HUTCHISON. Mr. President, I rise today to recognize the Dallas Public School System in my State of Texas, and North Dallas High School in particular. Today the school is holding a celebration of cultural unity to recognize a wonderfully diverse student body made up of young Americans with family heritage from 33 different cultures around the world. To celebrate the day, the students of North Dallas High School have painted a mural titled "Unity Among Cultures," which will be unveiled today.

The Dallas Public School System, which administers North Dallas High School, covers over 300 square miles and 208 schools. Over 60 different cultural and linguistic groups are represented, from Amharic to Vietnamese. Within this school system, and most notably at the newly designated First International School of America, these diverse cultures come together as they always have in this country to form the great American culture.

Since its very beginnings as an independent republic, Texas has been a place to which people come to build their lives while helping build the land. No State in this great Nation represents a more diverse and exciting mix of cultures than Texas.

The First International School of America represents this great Texas heritage in a truly unique way, and gives life to the very foundation of these United States, engraved on the wall above me: E Pluribus Unum—From Many, One.

Mr. President, the future of my State and our country passes through the schoolhouse doors of Texas and schools around the country every day. I ask my colleagues to join me in commending North Dallas High School—the First International School of America—for leadership and wisdom in celebrating the cultural unity that makes America great.•

FIRST A.M.E. OF LOS ANGELES AND REV. CECIL MURRAY

• Mrs. BOXER. Mr. President, I would like to pay tribute today and commemorate the 125th anniversary of the First African Methodist Episcopal Church in Los Angeles, CA. First A.M.E., as it is known to millions of southern Californians, is the oldest predominately African-American church in Los Angeles. For the past 20 years, First A.M.E. has been led by the Reverend Cecil L. "Chip" Murray, who has distinguished himself as one of the leading black clergymen in America during his tenure at this church.

This year's anniversary celebration is about much more than longevity. It is about a legacy of and commitment to leadership and inspiration. First A.M.E. is not only the oldest and most well-known African-American church in Los Angeles, it is also the most highly respected. Its reputation as a place of worship and a center of black community fellowship and action is known to Angelenos of every social and ethnic background. Its voice has been an essential part of a city known for dynamic civic dialog.

In addition to its central role as a church, First A.M.E. also provides much-needed leadership and social service assistance in the community. Church outreach efforts include providing food and housing assistance to families and individuals in need, job training and placement services and working with young people to encourage them along the paths of personal and spiritual fulfillment and social responsibility. Although its focus is primarily local, First A.M.E. has also hosted leaders of national and international stature at its Sunday services. In so doing, First A.M.E. has provided a valuable forum, which has stimulated dialog and action in the community.

One-hundred and twenty-five years ago, a former slave, Biddy Mason, founded the First A.M.E. in her home in what is now downtown Los Angeles. Today, the congregation worships in a beautiful building designed by the renowned black architect Paul Williams. When the first service was held there were only 12 people in attendance. When I was there last year, there were over 600 people at just one service, and there were several held that day.

The Reverend Chip Murray joined First A.M.E. in 1977, when the congregation had but 300 active members. Today, this number has increased to over 9,000, representing all age ranges and every socioeconomic group in Los Angeles' diverse African-American community. Under Reverend Murray's leadership, First A.M.E. has developed 30 task forces that focus on such issues as health, substance abuse, aid to needy families and the elderly, housing and economic development, job training, and tutoring. I cannot say enough about First A.M.E.'s efforts to reach out to people from all walks of life.

Reverend Murray's mission has been to expand the church beyond its walls. As an example, every new congregant is asked to participate in a task force. Efforts such as this help ensure that First A.M.E. remains intimately involved in the life and times of the great city which it serves. Because of this dedication to public service, Reverend Murray and First A.M.E. have become beacons of hope and inspiration in a city where all too often fear and despair prevail. Their hard work and boundless decency represent well the power of faith leavened with action.•

WASTE TIRE RECYCLING, ABATEMENT, AND DISPOSAL ACT OF 1997

• Mr. CHAFEE. Mr. President, on March 14, I came to the floor to introduce S. 445, the Waste Tire Recycling, Abatement, and Disposal Act of 1997. Today, I want to make sure that the record is clear on an issue relating to the retreading of radial-type tires.

It has come to my attention that my remarks regarding retreading have led to some concern on the part of those engaged in the retreading industry. There are approximately 1,440 retreading plants in the United States, and approximately 90 percent of the retreading plants are independently owned small businesses.

In my oral remarks on March 14, I said "the nature of modern steel belted radial tires makes it very difficult to recycle these tires into new ones. Once upon a time, old tires were retreaded, as we all know. You cannot do that with radial tires." While that statement is true with regards to recycling rubber from modern radial tires directly into new radial tires, it is not accurate with respect to retreading of radials.

The Tire Retread Information Bureau and the International Tire and Rubber Association recently provided me with the information on the retreading of tires in 1996, when a total of 29.1 million tires were retreaded in the United States. This breaks down to approximately 4.2 million passenger car tires, 99 percent of them radials; 7 million light truck tires, 80 percent of them radials; and 16.5 million medium truck tires—tires for so-called 18 wheelers, 89 percent of them radials. The remainder are off-road vehicle tires, aircraft tires, and specialty tires.

My bill, S. 445, recognizes that retreading tires is an environmentally beneficial fate for tires that would otherwise require immediate disposal. Proposed section 4011(d)(1)(B) provides tire retreaders with an exception to the general prohibition on storage of more than 1,500 unshredded waste tires for a period greater than 7 days. This section affirmatively promotes retreading by allowing retreaders to store at their plants the greater of either 2,500 tires; or a number equal to the number of tires to be retreaded over a 30-day period.•

IN SUPPORT OF SENATE RESOLUTION 72

• Mr. DODD. Mr. President, I rise today in support of Senate Resolution

72, to allow disabled people with floor privileges to bring supporting services onto the floor with them when appropriate. For years, the disability community has fought for the right to be included and to be brought into the economic and social mainstream of American life. This resolution represents one more step forward in that long struggle to win equal treatment.

Throughout our history, the rules of the Senate have served us extraordinarily well. They enable us to preserve order and decorum so that the affairs of our Nation can be debated, discussed, and considered in a reasoned, deliberate manner. Yet, as is true of any set of rules, occasionally the need for change becomes apparent. Such a moment occurred in the Senate on Monday when a Senator sought floor privileges for a member of his staff who is blind and utilizes a guide dog in her work.

As a body, we responded to this moment as we should have: Carefully, deliberately, and swiftly. The staff member in question was granted access to the floor, and Senate Resolution 72 was promptly referred to the Committee on Rules and Administration. I am hopeful that, in due course, we will revise our rules to allow all people with disabilities to bring supporting services with them to the floor when appropriate.

Former Senator Lowell Weicker of my home State once said that people with disabilities spend a lifetime overcoming not what God wrought but what man imposed by custom and law. This resolution gratefully eliminates some of those customs and laws. It is an important step for disabled Americans, for the Senate, and for the entire country.●

U.S. ATTORNEY CHUCK STEVENS

● Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to a trusted colleague and dedicated public servant, Chuck Stevens. During his three-and-a-half-year tenure as the United States Attorney for the Eastern District of California, he compiled an undeniably strong record. However, what may be most impressive about Chuck is his self-effacing demeanor in a position that often requires being pushed into the limelight.

Chuck Stevens' career exemplifies the kind of integrity, dedication and skills essential for anyone who seeks to be an effective public servant. His success at the helm of the Eastern District in California so early in his career undoubtedly will be followed by great accomplishments in the future.

A native of Cranford, NJ, Mr. Stevens moved to California to study law at the University of California, Berkeley where he graduated in 1982. Prior to his current position, he worked as a litigator in complex cases in the private sector and as an Assistant United States Attorney.

Mr. Stevens returned to public service when he was appointed by President Clinton in November 1993 to be the United States Attorney for the Eastern District of California. I had the honor of recommending Mr. Stevens to the President for appointment.

Since then, Chuck has succeeded in prosecuting a multitude of crimes—from hate crimes to political corruption to halting health care fraud—with distinction and diligence. He was also appointed by United States Attorney General Reno to serve on her advisory committee representing United States Attorneys across the nation.

The Sacramento-based Eastern District of California is the tenth largest of the Nation's 94 Federal judicial districts. It covers 34 counties with 6 million residents scattered across 87,000 square miles from Oregon to Los Angeles and Nevada to the coastal range.

Members of the legal community and Federal investigative agents give Mr. Stevens universally high marks for his job performance. He is credited with having "no ego about himself and his work, unlike most lawyers," according to Sacramento based Federal Defender Quin Denvir. As anyone who has worked with Chuck knows, his work speaks for itself.

Recently, Mr. Stevens' office has handled the weighty responsibility of trying the Unabomber case for incidents that occurred in California. Due to Mr. Stevens' leadership, Sacramento was considered as a site for the Federal trial against Ted Kacyzinski. It comes as no surprise that this case has been handled without fanfare, but with the utmost professionalism Mr. Stevens is known for.

Chuck has always been ready and able to provide valuable advice on some of the State's most troubling problems. He is one of the most practical problem solvers in the criminal justice system.

Chuck leaves the United States Attorney's office to form his own law firm in California's capitol with his predecessor, former United States Attorney George O'Connell. I am sure this formidable pair will quickly make its mark in the Sacramento legal community.

Congratulations, Chuck, on the great opportunities that lie ahead and thank you for your outstanding public service to the people of this State and this Nation.●

TRIBUTE TO DR. VARTAN GREGORIAN, PRESIDENT OF BROWN UNIVERSITY

● Mr. REED. Mr. President, I rise today to commend a fellow Rhode Islander and friend, Dr. Vartan Gregorian. On January 6, Dr. Gregorian announced that he will leave his post as president of Brown University in Providence, RI, to become President of the Carnegie Corp. After 9 years on College Hill, he leaves behind a flourishing campus and community. Brown has more than doubled its endowment during his tenure. An ambitious capital campaign has raised over $500 million under Dr. Gregorian's leadership, and he has brought 275 new faculty members to Brown, including 72 new professors.

But, Mr. President, the true measure of Vartan Gregorian is not his skill as an administrator, booster, and fund raiser, it is his passion for teaching and learning. Even in the midst of the demands of his presidency, he has managed to find time to continue to teach, and I understand that he also continues to serve as an advisor for several fortunate students. In this regard, he is unique among his peers, and they recognize his prodigious efforts. James Freedman, president of Dartmouth, said of Dr. Gregorian, "He communicates the joy of learning."

Vartan Gregorian's interest in education is not limited to Brown or to other institutions of higher learning. He is deeply concerned about the condition of the Nation's public schools. As his colleague, Theodore Sizer, said recently, "No Ivy League president has put his shoulder to the wheel of public education more than Vartan Gregorian."

Last month, Dr. Gregorian wrote an article in Parade magazine entitled "10 Things You Can Do to Make Our Schools Better." Mr. President, I commend this article to my colleagues, and I hope all Senators read and benefit from Dr. Gregorian's observations, particularly that it is everyone's job to help improve our public schools. Mr. President, I ask that Dr. Gregorian's article be printed in the RECORD following my remarks.

Mr. President, no matter where he has gone, Vartan Gregorian has taken his appreciation for education and left behind him successful institutions and inspired students. Brown, Providence, and Rhode Island will miss him, but we know he will stay in close touch and that he will continue to lead at his new post at the Carnegie Corp. We wish him well.

The article follows:

10 THINGS YOU CAN DO TO MAKE OUR SCHOOLS BETTER

(By Vartan Gregorian)

When I was invited by Parade to write an article about improving our public educational system, I thought for a moment of titling it "In Praise of Public School Teachers." This is because, while our schools badly need reform and upgrading, the responsibility for their problems cannot simply be dumped on our teachers, who by and large are a dedicated, hardworking and undervalued corps of professionals.

In fact, even as we acknowledge that our public schools need help, we ought to recognize their achievements and successes along

with their shortcomings. They face problems that reflect those of our entire society, and they have to contend with burdens and restrictions that don't affect most of the private and parochial schools with which they are sometimes unfairly compared. Nevertheless, our public schools should be better—much better—than they are, and improving them is a job for everyone from parents to college presidents.

What are some of the things that you, as a concerned individual, can do right now to better the schools and the educational process in your own area? Here are 10 practical steps you can take in this direction.

1. Visit your schools. It's not enough for parents to go once or twice a year for PTA meetings. I'd like to see schools make it easier for parents to visit regularly, even holding weekend and evening open houses for parents who can't get there during their working hours.

2. Involve the grandparents. This is especially important in cases of single parents.

3. Make the public school a magnet for the community. Hold social and community functions in school buildings.

4. Volunteer to help in your school. When rules permit, parents or others should offer to take over nonteaching jobs, such as hall monitors or cafeteria supervisors. Teachers should be treated as professionals whose job is teaching.

5. Read to your children. Nothing is more important than this. Start your children with nursery rhymes and go on from there.

6. Give every schoolchild a library card. When I was president of the New York Public Library, we arranged with Mayor Ed Koch to give one million library cards to the city's schoolchildren. We found that the majority of them were put to good use. Every town library should issue a card to each child in the community.

7. Organize and attend shows that the children put on. They encourage children to work together and also serve as a bond with the community.

8. Recognize that too much television has a terrible effect. Consider making television a chore rather than an amusement. Let children watch four hours a day if they want to, but require them to write papers on what they see. My objection to television is not only the time it wastes but also the passivity it brings. It produces isolation, not communication. If children had to critique what they watched, it might even serve to reduce the violence on the screen.

9. Let our children go. Schools should take children on expeditions, and not just to a museum or zoo. Business and civic leaders could invite whole classes to visit workplaces for a day—banks, hospitals, universities, factories, police stations, places of worship, government offices.

10. Restore the arts as a major element in education. We've made a tremendous mistake in diminishing or eliminating art, music and dance as fluff or frills. The arts like sports, play a vital role in bringing students together and promoting teamwork. Athletics provide stability and a way to release energy. The arts allow children to develop creativity and imagination. The Duke Ellington School in Washington, D.C., has one of the lowest dropout rates anywhere. Ninety percent of the participants in The Boys Choir of Harlem go to college following high school. It's almost impossible to overemphasize the significance of the creative arts in education. Make sure that your own school district recognizes this.

An important challenge faced by today's schools that didn't exist in the past is the changed expectations of the public. Today, it is assumed that almost everybody has to go to college. A university education is regarded more as a necessity than as something extraordinary. And we glamorize the past. The 1930s and '40s had high dropout rates too, but fewer people then were deeply concerned about that. American society has changed and raised its expectations of what an educational system should provide.

How can we meet those expectations? The core of the teaching process is, and always will be, the teacher. I believe that to become a teacher is to join a noble profession. Teachers have an awesome responsibility: We entrust our sons and daughters to teachers to help prepare them for life. Yet too often teachers are held in low esteem. We pay them less than we pay plumbers and mechanics, and we complain about them more readily. As I have suggested, teachers today are not just teachers—they're called upon to be supervisors, custodians, counselors, hall and cafeteria monitors, law and order officers. Despite all this, thousands and thousands of men and women are public school teachers because they are dedicated people.

Are teachers' unions part of the solution? Yes. They are interested in the economic aspects of teaching, and they should be. But they have a moral; professional and historical obligation to help rescue and reform our public schools. The burnout rate among teachers in our nation's public schools is very high. Unions should join in an effort to allow teachers to be retrained, re-educated and immersed in the very disciplines in which they need renewal so they can further the horizons of education and knowledge.

There is a great need for strengthening the schools of education in our colleges and universities, so we can raise our standards of teaching. This is something in which college presidents can play a part, for too often the school of education is not regarded as highly as the rest of the university. The arts and science faculties in many universities have no close affinity with the schools of education. Schools of education often stress the technique rather than the substance of the subject matter. We really need to rethink our teacher-education and teacher-retraining programs.

I don't agree with those who feel that school vouchers are a panacea for our educational ills. Vouchers may solve individual problems, but not society's. Choice is meaningless for the millions of Americans who live in rural areas with few schools. Choice between bad schools is not useful to city dwellers.

Parents who want their children to attend private schools learn quickly that parents don't choose private schools—private schools choose children. I have a drastic solution for a school that is bad: Shut it down. We don't allow a bad hospital to function: why should we allow a bad school?

A national consensus exists on the need for school reform. According to a *Wall Street Journal*/NBC News poll taken just before the election, four in 10 voters said education should be one of the next President's two top priorities. It ranked evenly with keeping the economy healthy as the No. 1 concern. During the last decade, there has been a nationwide movement for school reform, and there is a major national effort now being made to bring this about—the Annenberg Challenge, which deserves to be widely recognized.

The Annenberg Challenge is a metaphor for change in our schools. It was launched in 1993 with a five-year, $500 million grant by Walter Annenberg, our former ambassador to Great Britain. Since it was a 2-for-1 matching challenge, the total amount will reach $1.5 billion, the largest such grant ever made to American public education. The Annenberg Challenge is not for budget relief; it is for enhancement. A full 90 percent must go to teaching and to the classroom, with only 10 percent to be spent on overhead.

The Annenberg Challenge operates on a variety of fronts. It includes grants to some of the nation's largest urban school systems, a rural schools initiative and an arts initiative, as well as aid to such organizations as the New American Schools Development Corporation, the Education Commission of the States and the Annenberg Institute of School Reform to carry forward their respective programs.

Wherever it has been put in operation, the Annenberg Challenge has required a cooperative effort by the school boards, labor leaders and legislators, as well as corporate and foundation executives. In New York City, Chicago, Philadelphia, Los Angeles, Detroit and other localities where the Challenge now functions, I actually have witnessed the encouraging phenomenon of such groups working together to produce results. As of now, some 4500 schools throughout the country are benefiting from the program. The Annenberg Challenge money itself will not reform the entire system, but it has created laboratories for change.

So I am optimistic about the possibilities of improving our schools. As a college president, especially, I know how important it is that we do so, for I do not want to see our universities turn into remedial schools. The superstructure cannot stand without a healthy infrastructure. When the *Titanic* sinks, you cannot say, "I was traveling first class." We all are our future's guardians, and our future is our children.●

TRIBUTE TO PATRICK H. WINDHAM

● Mr. HOLLINGS. Mr. President, I want to take a few moments to remark on the outstanding Senate career of my long time science staffer, Pat Windham, whose last day on the Senate Commerce Committee staff will be tomorrow. At the end of this month, Pat will be returning to the San Francisco area where he grew up. With his wife Arati and their cute infant daughter Katie, he will be living within shouting distance of Stanford University, his undergraduate alma mater, and across the bay from the University of California at Berkeley where he received his masters in public policy.

Pat first came to the Senate in the late 1970's for a 2-year stint on the Commerce Committee staff as a congressional fellow in connection with his doctoral program at Berkeley. He returned in 1982, when he served for 2 years as a legislative assistant on my personal staff. Since 1984 he has been the Commerce Committee's resident expert on science policy, touching on virtually every science and technology issue you can imagine.

Early in his career here Pat was deeply involved in the ocean and coastal issues that are so important to the recreational and commercial needs of South Carolinians. On my personal

staff he also mastered the myriad complexities of the Nation's nuclear energy policy, acquiring detailed knowledge of nuclear powerplant technology and waste storage problems.

In his service for the Commerce Committee's Science, Techology, and Space Subcommittee, he has had principal responsibility for overseeing technology policy and industrial competitiveness. I strongly believe that the key to our national economic strength is the link between technology and industry. Pat shares this vision, and has made an enormous difference to me in developing programs that are targeted at forging that link. One such program is the Manufacturing Extension Partnership, which facilitates the transfer of manufacturing technology directly from the laboratory to the operations of the small- and medium-sized firms that carry out the bulk of U.S. manufacturing. Thanks in large part to Pat's tenacity in working to steadily improve the program, there are now locally run and cost-shared manufacturing extension centers in South Carolina and throughout the Nation that provide essential technical assistance to thousands of small manufacturers.

Another such program is the Advanced Technology Program [ATP], overseen by the National Institute of Science and Technology within the Department of Commerce. ATP recognizes the intense investor pressure on American companies to cut costs and spend limited research dollars on projects with short-term payoffs. It is a peer-reviewed, industry-led undertaking that provides matching funds for the development of advanced technologies—in areas like electronics, information technology, robotics, advanced materials, and biotechnology—that will be central to the formation of new industries in the 21st century. Pat spearheaded the creation of ATP in the late 1980's, and now that ATP is beginning to bear fruit, he has fought tirelessly against efforts to undercut its effectiveness.

During his 17 years of Senate service, Pat has earned wide respect and affection from Members of Congress and staff, administration officials, and the scientific community for his commitment to the development of sound science and technology policy. He has an extraordinary capacity to digest large amounts of highly technical information in a number of scientific fields and communicate it clearly to decisionmakers. Further, in spite of his intense dedication to achieving his legislative goals, Pat has made loyal and enthusiastic friends among allies and adversaries alike.

I have no doubt that in his new surroundings Pat will find ways to further his splendid contributions to our Nation's industry and technological progress. He has certainly been everything I have wanted, and more, as a staff professional, and I thank him for his excellent work.

I wish Pat, Arati, and little Katie the bestoffortuneinalltheirfuture endeavors.•

TRIBUTE TO JACKIE AND RACHEL ROBINSON

• Mr. DODD. Mr. President, this past Tuesday, more than 34,000 baseball fans, including President Clinton, came to Shea Stadium in New York to honor Jackie Robinson on the 50th anniversary of his breaking the color barrier for major league baseball. For all Americans, and especially for African-Americans, Jackie Robinson's historic achievement was a source of inspiration, and it forever changed the face of our society.

Jackie Robinson's legacy is of particular importance to the State of Connecticut, because Jackie Robinson's family retired to Stamford in 1956. Among those in attendance at Shea Stadium on Tuesday were 640 children from Stamford, who are participants in the Jackie Robinson Park of Fame project. The project's goal is to celebrate Jackie Robinson's life and instill our young people with courage and confidence.

Hopefully, these children will learn about Jackie Robinson's heroic feats on the baseball diamond, and, most of all, the grace with which he overcame the many obstacles that were placed in his path as he sought to almost single-handedly integrate our national pastime. More important, I hope that these children and all Americans will learn about Jackie Robinson's sacrifices away from baseball and his undying commitment to uplifting his race and his country.

For anyone who saw Jackie Robinson play, they would probably be surprised to learn that some believe baseball was Jackie's worst sport. He was UCLA's first-ever four-sport letterman, starring in football, basketball, and track, as well as baseball. While there were many Negro League players who were talented enough to play in the major leagues, Jackie Robinson was a special person whose intelligence, character, and athleticism uniquely qualified him to become major league baseball's first African-American player.

When Brooklyn Dodgers' President Branch Rickey signed Jackie Robinson to break baseball's color line, Jackie had to agree that, for two full seasons, he would turn the other cheek no matter what abuse was directed at him by opposing players and fans. Jackie Robinson withstood a seemingly endless barrage of verbal, physical, and psychological assaults and was still able to excel in nearly every facet of the game with an uncommon dignity. When Robinson would slide into second base with an easy double, the opposing shortstop would sometimes slam Jackie in the face with his glove so hard that you could hear it in the dugout. In response, Jackie Robinson would simply stand up, dust himself off, and then steal third on the very next pitch.

Jackie Robinson's quiet humility and devotion to principle stand in sharp contrast to today's pro athletes who seem more interested in corporate sponsorships and performance bonuses in their multimillion dollar contracts than in giving back to their communities. For Jackie Robinson, baseball was about more than individual statistics and lucrative contracts. It was about breaking down barriers and instilling others with a sense of hope.

Jackie Robinson's silence did not last forever, and his actions after retiring from baseball are often overlooked but equally deserving of praise. Many would argue that, by integrating baseball, Jackie Robinson had done more for the cause of racial justice than any other individual of that era. But Jackie Robinson did not view his baseball career as the peak of his life, and his greatest contributions to American society may have come after his retirement.

Whereas his fame and wealth would have allowed him to enjoy a very comfortable retirement, Jackie Robinson remained committed to the fight against racism and social injustice until his death. He helped to establish the Freedom National Bank in Harlem, which provided loans to African-Americans trying to start their own businesses. He also founded his own construction company which built housing for low-income families in New York.

Jackie Robinson was also active politically. He spoke throughout the country in support of civil rights, participated in protest marches, and raised large sums of money for civil rights organizations. He also worked actively for several politicians who promoted the cause of racial equality.

Despite all the sacrifices in his life, Jackie Robinson always maintained that there was more work to be done. Hence, he entitled his autobiography, "I Never Had It Made." He wrote, "I am grateful for all the breaks and honors and opportunities I've had, but I always believe I won't have it made until the humblest black kid in the most remote backwoods of America has it made."

Unfortunately, 50 years after the fall of baseball's color barrier and 25 years after Jackie Robinson's death, America still has a long way to go if it hopes to ever meet Jackie Robinson's vision of what America should be. But while we still have not evolved into a society that is completely free from prejudice and social injustice, there are countless visible signs of Jackie Robinson's impact on this country.

Last week, we all witnessed a true testament to Jackie Robinson's legacy

as we watched 21-year-old Tiger Woods become the first person of color to win the Masters—golf's most prestigious tournament. But perhaps the most encouraging aspect of Tiger Woods' performance came during his acceptance speech. Tiger Woods specifically credited Lee Elder, Charlie Sifford, and Teddy Rhodes, the first African-Americans to ever compete at Augusta, for opening doors for him. He acknowledged that, without the sacrifices of trailblazers like these men and Jackie Robinson, very few of today's minority athletes would know the success that they have grown accustomed to. This is why we must celebrate the achievements of Jackie Robinson and other pioneers, because the lessons that they taught us are as relevant today as they were decades ago, and we must heed their words and actions or we will cease to be a progressive society.

Tuesday night's event at Shea Stadium had many special moments, but the most touching came when Rachel Robinson, Jackie's widow, spoke in honor of her husband, and the audience gave her the warm ovation that she so richly deserved. Her sacrifices were as great as her husband's, and too often we forget that Jackie Robinson, who was described as the loneliest man in sports, endured and prevailed only with the support of his partner Rachel, who was always by his side.

Rachel Robinson sacrificed her own personal aspirations during Jackie's playing career and dedicated herself to raising their children and supporting her husband. But upon their retirement to Connecticut, she earned her master's degree in psychiatric nursing at Yale. She later operated a day clinic for acutely ill psychiatric patients, taught at Yale's School of Nursing, and served as director of nursing for the Connecticut Mental Health Center. Despite her own personal success, Rachel Robinson again displayed tremendous selflessness after Jackie's death in 1972.

Upon his passing, it would have been easy for Rachel Robinson to continue the pursuit of her own career, but instead she gave up her medical career and dedicated her life to preserving the legacy of her husband. In 1973, she formed the Jackie Robinson Foundation, which has awarded more than 450 college scholarships to minority and disadvantaged students who have exhibited leadership potential and shown a commitment to community service. Throughout his life, Jackie Robinson always stressed the importance of education, and for a man whose life was dedicated to creating opportunities for others, providing young adults the chance to go to college is perhaps the most fitting tribute one could ever pay to this great man. I am proud to say that Rachel Robinson still resides in my home State of Connecticut, and we are truly fortunate to call her one of our own.

While many glorious words have been spoken in honor of Jackie Robinson, I truly believe that the greatest tribute that we could ever pay to this man would be through our actions. As Rachel Robinson eloquently said, "This anniversary * * * has given us an opportunity to reassess the challenges of the present. It is my passionate hope that we can take this reawakened feeling of unity and use it as a driving force so that each of us can recommit to equality of opportunity for all Americans." I hope that America will listen to the words of Rachel Robinson and work together to fulfill Jackie's and her dream.

America is a better place because of Jackie and Rachel Robinson, and I want to thank both of them for their courage and sacrifice.•

BABY TALK

• Mr. DURBIN. Mr. President, I rise today to pay tribute to a group of citizens in Decatur, IL, who noticed a serious problem in their community, banded together to develop a solution to this problem, and then saw this practical solution through with a strong sense of commitment and compassion.

All over this country, communities like Decatur are responding to the realization that the experiences of the earliest years of life have a powerful influence on how human beings develop. Research indicates that young children are developing brain patterns which will affect everything they do for the rest of their lives. The way they process information, the way they relate to other people, their abilities in every domain—these important human functions are being written on the minds of children at a time in their lives when basic needs often go unmet. We often realize the importance of this time only when it is too late to go back and fill in the gaps—when these children fail in school or commit a crime or become a burden to society.

The people of Decatur, IL, realized that the most important resource every child must have is a loving adult who cares for them, understands their needs, and makes that child a priority. How can we encourage parents to nurture their own children? How can we take advantage of this wonderful window of opportunity for young children by making sure they are loved and encouraged to develop?

My friends in Decatur pondered these very questions in 1986 and the result is Baby Talk. Baby Talk is a community collaboration that reaches out to all parents of very young children and gives them the support that they need. This project is a joint effort of schools, hospitals, libraries, health clinics, Head Start, literacy projects, and local government. Baby Talk establishes a relationship with every family who has a newborn child in order to offer encouragement and support for the most important task they will ever undertake—raising a child.

Baby Talk delivers programs where parents and children already are. In this way, Baby Talk reaches the entire population of child raising families casting a net of support over the community. Every parent of a child born in one of Decatur's two hospitals, receives a personal visit from Baby Talk to learn about their newborn's abilities and needs. Parents receive a book and advice about how to read aloud with their child. They also receive a magnet with the Baby Talk telephone number to call for assistance.

Information about predictable challenges and encouragement for parents are provided at child clinics and through letters sent to families every 2 to 3 months through the child's first 3 years. "Baby Talk Times" and "Lapsit" groups meet weekly at many locations where parents and children play, sing, read books, and share their challenges and achievements.

Parents who did not finish high school participate in Baby Talk's Even Start program where comprehensive family literacy programming is offered at the health department and Head Start.

Baby Talk makes 4,000 contacts monthly with parents and children of different backgrounds and income levels. Fortunately, this service does not exist only in Decatur. Professionals from 30 States and Canada have received training and materials from the Baby Talk organization to serve families in their communities.

Baby Talk has been recognized by the U.S. Department of Education for meeting Goal One of the America 2000 Strategy: "That by the year 2000, all children will start school ready to learn."

Recently, Baby Talk celebrated its 10th anniversary with the announcement that it has served the families of 20,000 babies. I would specifically like to commend the efforts of Claudia Quigg who was the initial pioneer of this effort and currently acts as Baby Talk's executive director. Through the efforts of Ms. Quigg and many other dedicated Baby Talk staff members, the city of Decatur is investing in its future and putting into practice their belief that a stitch in time saves nine.

We are looking forward to the years ahead when thousands of Baby Talk children grow up to be caring, successful, and productive citizens. I present Baby Talk as an example of what can be accomplished when a community pulls together and stays committed to an important goal. I am very proud to have this organization performing their good works in my State and I hope others can learn from the accomplishments that Baby Talk has had in Illinois.•

AUTHORITY TO MAKE APPOINTMENTS TO SENATE ARMS CONTROL OBSERVER GROUP

Mr. CHAFEE. Mr. President, I ask unanimous consent that during the 105th Congress, the authority of the majority leader to make six appointments and that of the Democratic leader to make seven appointments to the Senate Arms Control Observer Group, pursuant to Senate Resolution 105 of the 101st Congress, as amended, shall be increased to eight appointments for the majority leader and nine appointments for the Democratic leader.

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

APPOINTMENTS BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Senate Resolution 105, adopted April 13, 1989, as amended by Senate Resolution 280, adopted October 8, 1994, announces the following appointments and designations to the Senate Arms Control Observer Group:

The Senator from Alaska [Mr. STEVENS] as majority administrative cochairman;

The Senator from South Carolina [Mr. THURMOND] and the Senator from Indiana [Mr. LUGAR] as cochairmen for the majority;

The Senator from Rhode Island [Mr. CHAFEE];

The Senator from Mississippi [Mr. COCHRAN];

The Senator from North Carolina [Mr. HELMS];

The Senator from Arizona [Mr. KYL];

The Senator from Mississippi [Mr. LOTT];

The Senator from Oklahoma [Mr. NICKLES];

The Senator from New Hampshire [Mr. SMITH];

The Senator from Maine [Ms. SNOWE]; and

The Senator from Virginia [Mr. WARNER].

The Chair, on behalf of the majority leader, after consultation with the Democratic leader, pursuant to Public Law 104-201, appointed the following individuals as members of the Commission on Maintaining United States Nuclear Weapons Expertise: Henry G. Chiles, Jr., of Virginia, and Robert A. Hoover, of Idaho.

ORDER TO PLACE H.R. 1226 ON THE CALENDAR

Mr. CHAFEE. Mr. President, I ask unanimous consent that once the Senate receives from the House H.R. 1226, it be placed on the calendar.

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

ORDERS FOR MONDAY, APRIL 21, AND TUESDAY, APRIL 22, 1997

Mr. CHAFEE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Monday, April 21, for a pro forma session only. I further ask unanimous consent that immediately following the pro forma session, the Senate stand in adjournment until the hour of 10 a.m. on Tuesday, April 22.

I further ask unanimous consent that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted and there then be a period for the transaction of morning business, with Senators to speak for up to 5 minutes each, with the following exceptions: Senator COVERDELL, or his designee, in control of 60 minutes from 1 p.m. to 2 p.m.—that is from 1300 to 1400—Senator DASCHLE, or his designee, for 60 minutes.

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

UNANIMOUS-CONSENT AGREEMENT—EXECUTIVE RESOLUTION 75

Mr. CHAFEE. Mr. President, I ask unanimous consent, as in executive session, that if executive resolution 75 is defeated, the Senate then agree to the motion to reconsider that vote and the resolution then be pending once again.

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

PROGRAM

Mr. CHAFEE. Mr. President, for the information of all Senators, there will be no session of the Senate on Friday, and the Senate will be in session on Monday for a pro forma session only. No business will be conducted during Monday's pro forma session.

The Senate will then reconvene on Tuesday for a period of morning business. As previously announced, there will be no rollcall votes during Tuesday's session. Also as a reminder to my colleagues, policy lunches normally held on Tuesday will occur on Wednesday of this coming week. All Senators should be aware that under the previous order, the Senate will begin consideration of the Chemical Weapons Convention Treaty on Wednesday and Thursday. Rollcall votes can therefore be expected beginning Wednesday of next week.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. CHAFEE. Mr. President, I ask unanimous consent that committees be permitted to file legislative or executive calendar items from 10 a.m. to 12 noon on Friday, April 18 and Monday, April 20.

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

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

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Calendar Nos. 63, 64, 66, and 69. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations appear at this point in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

Susan R. Baron, of Maryland, to be a member of the National Corporation for Housing Partnerships for the term expiring October 27, 1997.

NATIONAL INSTITUTE OF BUILDING SCIENCES

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, vice Walter Scott Blackburn, term expired.

EXECUTIVE OFFICE OF THE PRESIDENT

Jeffrey A. Frankel, of California, to be a member of the Council of Economic Advisers, vice Martin Neil Baily, resigned.

TENNESSEE VALLEY AUTHORITY

Johnny H. Hayes, of Tennessee, to be a member of the Board of Directors of the Tennessee Valley Authority for a term expiring May 18, 2005.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ADJOURNMENT UNTIL MONDAY, APRIL 21, 1997

Mr. CHAFEE. If there is no further business to come before the Senate, Mr. President, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:37 p.m., adjourned until Monday, April 21, 1997, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 17, 1997:

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

SUSAN R. BARON, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS FOR THE TERM EXPIRING OCTOBER 27, 1997.

NATIONAL INSTITUTE OF BUILDING SCIENCES

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.

EXECUTIVE OFFICE OF THE PRESIDENT

JEFFREY A. FRANKEL, OF CALIFORNIA, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS.

TENNESSEE VALLEY AUTHORITY

JOHNNY H. HAYES, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR A TERM EXPIRING MAY 18, 2005.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Thursday, April 17, 1997*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. KOLBE].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 17, 1997.

I hereby designate the Honorable JIM KOLBE to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

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

We know, gracious God, that Your blessings can flood our hearts and give us vision for the new day if we are open to Your good grace and hear Your words of forgiveness and promise. With all the distractions of everyday life and with all the tasks before us, may Your eternal presence and Your reconciling spirit guide, guard, and gird us along life's way so that Your blessings touch us in the depths of our hearts and lead us in the way of truth. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. 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.

Ms. JACKSON-LEE of Texas. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

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

Ms. JACKSON-LEE of Texas. 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 the provisions of clause 5 of rule I, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

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

Mr. ROEMER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 1003. An act to clarify Federal law with respect to restricting the use of Federal funds in support of assisted suicide.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 914. An act to make certain technical corrections in the Higher Education Act of 1965 relating to graduation data disclosures.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain ten 1-minutes on each side.

ETHICS ASSESSMENT

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

Mr. DELAY. Mr. Speaker, for months the political opponents of Speaker GINGRICH have been on a singular mission to destroy him. That mission has failed.

Today, the Speaker has assured us of his intent to pay the full amount of his ethics assessment out of his own pocket. This is the responsible thing to do, and I support his decision and thank him for his sacrifice.

We can finally put an end to the sad display of bitter partisan attacks that we saw from the other side. They wanted to destroy the Speaker because they have no new ideas. They wanted to destroy him because they have nothing substantial to contribute to mainstream political dialog.

The American people want lower taxes and less Government. And they respect leaders who take responsibility when things go wrong, unlike what we see at the other end of Pennsylvania Avenue.

I applaud the Speaker. I respect the Speaker. I thank the Speaker.

DEVELOPING FERTILE MINDS

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

Mr. ROEMER. Mr. Speaker, just a month ago on the front page of Time magazine, we have a cover story talking about our children in this country and new, brandnew research coming out how a child's brain develops fertile minds. We find that researchers across our great country are saying that the best time to learn a new language, to learn new things in our educational progress as people, might be between 0 and 5. That is what our researchers and our parents and our educators are telling us.

At the White House today the President and the First Lady are convening a session on what we do and how we help our families get this information out there even more. But here in the House of Representatives, yesterday in our Committee on Appropriations, the Republicans proposed to slash WIC programs, which are for education and nutrition and development for our children and our families. What better contrast between the White House and our House of Representatives.

Let us invest in our children.

DOING THE RIGHT THING

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

Mr. BALLENGER. Mr. Speaker, today, Speaker GINGRICH is doing the right thing. The reimbursement that he is paying is not a fine. The committee itself makes it clear that the reimbursement of legal expenses are for costs only. The Committee on Standards of Official Conduct imposed no restrictions on how the reimbursement could be paid. Speaker GINGRICH could have used campaign funds to reimburse the committee. Others have done this, the gentleman from Missouri [Mr. GEPHARDT], the gentleman from Texas [Mr. FROST], former Congressman Rose.

Speaker GINGRICH could have used the NEWT GINGRICH trust fund approved by the committee for the stated purpose of paying the reimbursement. Instead, the Speaker chose to do the

right thing by reimbursing the taxpayers and taking full responsibility with borrowed money under his own name. I commend Speaker GINGRICH for the effort that he is putting forward.

PUT EDUCATION FIRST

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

Mr. ETHERIDGE. Mr. Speaker, I rise today to call on the people's House to put education first on our Nation's agenda.

As a former two-term State superintendent in North Carolina, I know firsthand what can happen and what a difference a strong educational system can make in the lives of our people. My State has proven that bold, visionary leadership can make a difference tangibly in the lives of young people when we do the right thing.

Mr. Speaker, when students, parents, teachers, and communities get involved, strong improvement is the result of what happens. Several weeks ago, the rigorous NAEP scores came out, and in our State, North Carolina, students came out near the top in this country.

Mr. Speaker, as the first member of my family to graduate from college, I learned long ago the value of educational excellence. As a Congressman, I know how important education is to my constituents and to this Nation. We must provide safe healthy schools and we must do it now.

NEW DAY IN CONGRESS

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

Mr. SOLOMON. Mr. Speaker, today represents a new day in this Congress. The Speaker has accepted full responsibility for the reimbursement that is owed to the American people. It is now the duty of this Congress to move forward with our agenda, an agenda that the American people have asked us to implement.

That agenda signals a desire to put the country on a new path, a path of greater freedom, more personal responsibility and less interference from Washington. This represents a change in direction, Mr. Speaker. Most Americans agree that the country has been moving in a direction of bigger Government, higher taxes and a decay in the American spirit of unlimited possibilities.

I want to renew that spirit. It is a spirit that attracts over 1 million immigrants to our shores every year. It is a spirit that animates freedom lovers from Tiananmen Square to Moscow. It is a spirit that tells all American children that they can dream their dreams and grow up to be whatever they wish to be and soar to whatever heights their talents and efforts take them. Mr. Speaker, now let us move forward with that renewed spirit. I thank you for your leadership.

SPECIAL INTEREST MONEY IN THE PEOPLE'S HOUSE

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

Mr. MILLER of California. Mr. Speaker, when will it ever end? When will it ever end with respect to special interest money and public policy in the people's House. Later today we will learn that Speaker GINGRICH will pay his fine for lying to Congress by borrowing it from Bob Dole, Bob Dole who was recently hired by big tobacco to get a settlement in the Congress of the United States for all of the people that tobacco has injured because of addiction and the cancer causing agent. We now have the chief lobbyists for big tobacco financing the payoff of the Speaker's fine for lying to the Congress.

Is there nothing that we cannot do without special interest money? Is there nothing that we cannot do that is on the level? Do we now have to bring in big tobacco to rescue the ethics of the Speaker of the House of Representatives?

This is a very sad day for the House of Representatives when the tobacco industry is paying the legal fines of Members of Congress.

DO THE RIGHT THING

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

Mr. PAXON. Mr. Speaker, the American people have just witnessed a good example of how difficult it is in the environment of the House of Representatives on some days to do the right thing.

The Speaker is going to come to this floor very shortly and do the right thing, set the highest possible standard. He was not required to repay this reimbursement, not a fine, reimbursement for expenses, out of his own funds, but he is going to do so today to move this institution forward on the important agenda of the American people.

Now we just have a Member of this House come forward who decides he is going to continue this battle in the days ahead. That is a mistake. The gentleman who was just at the well is the man who said, NEWT GINGRICH has command and control of the Republicans and we are going to take him out.

Well, they did not take him out and the bitterness is showing today. Mr. GINGRICH, our Speaker, is stepping forward once again to set a high standard of personal responsibility, to pay this reimbursement out of his personal resources. I believe that every Member of this House should step forward and commend the Speaker for his action.

NO PRICE ON HONESTY

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

Mr. DOGGETT. Mr. Speaker, it has been said that no price can be placed on honesty, not $3, not $300,000.

After 3 months of carefully calculating every angle, of exploring fully the political calculus of every other alternative, the Speaker has reluctantly decided to do what law violators do in America every day: pay the fine for an offense on which a guilty plea was entered and a conviction found.

This decision, though belated, should be accepted by this House on both sides of the aisle, accepted but not applauded, not applauded any more than we would applaud the decision of a major polluter who had injured the public health and welfare through its pollution and then paid a fine for the conviction.

For pollution is what has occurred here, lies and deception that threaten the very fabric of our democracy. Nor does this payment remove other offenses that are still pending, some over 18 months. There is nothing noble about the payment of the fine. There is something very ignoble about the conduct that produced it.

PRIDE IN THE SPEAKER

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

Ms. DUNN. Mr. Speaker, I must say, this is a fascinating debate. Finally we have somebody in this political maelstrom who does the right thing, who goes above and beyond fairness and does the right thing, as the Speaker of the House, and the other side cannot stand it.

I want to tell my colleagues, I am proud of the Speaker. I am proud to be associated with him. I am proud to be part of his leadership team. He did not have to pay this reimbursement for legal services, but he has chosen to do that to set a new standard.

□ 1015

It seems to me when we have a Speaker of the House that is willing to set a standard in the House of Representatives, maybe a standard the White House could take a little information from, we ought to praise him.

I tell my colleagues it is time for the American people, who have helped us

to come to this decision, to come back with us and mesh in a partnership, take back the agenda of this House, get the problems solved, the problems we know that are hurting America today, and get off this politicized ethics process. We need to get back to the work at hand.

I call for bipartisanship, I call for great praise of the Speaker of the House.

ATTACKS ON ATTORNEY GENERAL JANET RENO UNJUSTIFIED

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

Mrs. KENNELLY of Connecticut. Mr. Speaker, I will do exactly as the gentlewoman suggests. I rise today to speak out for an honest woman, our Attorney General, Janet Reno. We have continued to expect much of her and she continues to conduct herself with grace under pressure and courage under fire.

I understand that many are concerned about her decision not to seek a special prosecutor at this time and, of course, that is their right, but I must speak out against the unjustified attacks on the Attorney General's motives.

Janet Reno knew that her decision would be controversial, so she has relied on the advice of a universally well-regarded team of career attorneys. She has resisted pressure from both sides, declining to act hastily. She has not shut down the investigation, which continues. In short, she has not rushed to judgment, and neither should her critics.

We are indeed fortunate to have a woman of such integrity, an honest woman, leading our Department of Justice.

SPEAKER GINGRICH TO COMPENSATE TAXPAYERS FOR COST OF ETHICS INVESTIGATION

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

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I am one of the freshmen here. I have been here on the job for 4 months, and I had hoped to come to Washington and deal with the matters that my constituents and the people of the country expect us to deal with, cutting taxes, providing tax relief, balancing the budget, returning authority back to the States, and doing things of a noble nature, noble causes.

Instead, I have come here and heard the other side berate our Speaker day after day and try to discredit the institution of Congress for what I consider to be, instead, a rather noble cause and a courageous response.

The Speaker taught a college course on American civilization and disclosed the terms of that course to the Committee on Standards of Official Conduct, apparently not to the satisfaction of the committee. He reached an agreement, and in the process of that agreed to compensate the taxpayers for the cost of the hearings and the investigation.

He stood up to the task and he agreed to participate and to compensate the taxpayers: A courageous act. I ask the American people to contrast that act of courage with the cowardice that we have heard from those who would oppose the Speaker.

SPEAKER SHOULD NOT BE APPLAUDED FOR VIOLATING ETHICS LAWS OF HOUSE

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

Ms. DELAURO. Mr. Speaker, I cannot believe what I am hearing today from my Republican colleagues. The Speaker brought discredit upon this House; he admitted that he lied to the Congress. Republicans are celebrating the fact that the gentleman from Georgia, NEWT GINGRICH, is paying a $300,000 fine for lying to Congress.

There is nothing to celebrate, my friends. The Speaker should not be applauded for violating the ethics law of this body. He should not be applauded for paying this fine after delaying for 4 months. Any American citizen would have had to pay that fine immediately.

The facts on his payment remain sketchy. Is it a loan or a $350,000 gift from the chief lobbyist of the tobacco industry? Let us not forget, let us not forget that the Speaker pled guilty. It is nothing to celebrate. It is, in fact, a sad day for the House of Representatives.

SPEAKER GINGRICH DID NOT LIE TO CONGRESS

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

Mrs. FOWLER. Mr. Speaker, I have to take umbrage with the comments from my good friend and colleague, the gentlewoman from Connecticut [Ms. DELAURO]. She is totally inaccurate. The Speaker did not lie to the American Congress.

The Committee on Standards of Official Conduct found that the Speaker broke no rules, broke no regulations. The only thing was that due diligence was not exercised in committee correspondence. That is all. This is a fact. Read through the Committee on Standards of Official Conduct finding.

This is a reimbursement for the expenses incurred by that committee, and I commend our Speaker. It is a courageous step he has taken today to accept full personal responsibility, reimbursing the expenses of the Committee on Standards of Official Conduct out of his own personal funds. I think this is a great step for him to take. He has said as Speaker that he has the responsibility to do the right thing and to serve the American people responsibly.

Senator Bob Dole, who was given the Presidential Medal of Freedom by President Clinton, has stepped forward to help a friend. And Bob Dole is not a registered lobbyist, contrary to what the other side has been saying today. He is helping a friend.

So we all need to get together now and move forward and do the work the American people sent us here to this Congress to do.

CONGRESS SHOULD DO A BETTER JOB FOR THE AMERICAN PEOPLE

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, there is a need for us to do a much better job on behalf of the American people.

Monday, the Speaker of the House attacked the integrity of the Attorney General because she refused to appoint a special prosecutor, when it was clear that there were individuals with integrity in the Justice Department doing the right thing.

Then on Wednesday, in this House and in a committee, we provided for 350,000 children not to have food by voting against an increase in the WIC Program.

Now, on Thursday, we come today to find that Members have risen to the floor of the House to say that the Speaker has not violated any rules; that there is no problem with the way he might be paying back this loan; that there is no question on how he would be repaying it and what the structure of the loan might be.

I would say that the American people are telling us we can do a much better job for them. We can recognize when rules have been broken, when the rules of the Committee on Standards of Official Conduct have been broken. We can recognize there is a need to directly pay back a loan from personal funds.

I believe the American people are saying we can do a much better job for us, and we should say just do it.

SPEAKER GINGRICH UNDERSTANDS PRINCIPLE OF LEADERSHIP

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

Mr. THUNE. Mr. Speaker, leadership is about many things. One vital aspect of leadership is setting the right example. The Speaker's decision today tells all Members of Congress and the American people that the gentleman from Georgia, NEWT GINGRICH understands this principle of leadership.

The Speaker did not have to take the action he is taking. Indeed, it goes beyond the actions required of other Members of Congress. The Speaker is recognizing a higher standard in sending a clear signal to all that courage and responsibility are essentials of leadership.

The Speaker's courageous decision today brings closure to this matter and allows the Congress to focus on the priorities of the American people. The American people are waiting for Congress to implement the agenda that the majority of voters have expressed a wish to see pursued. Let us move forward today and pursue that agenda.

GET CAMPAIGN FINANCE REFORM LEGISLATION PASSED THIS YEAR

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

Mr. KIND. Mr. Speaker, I come to the House floor after completing a meeting of a bipartisan task force on campaign finance reform. It is a freshman task force, six Democrats, six Republicans, working together to try to advance some comprehensive campaign finance reform.

We are taking baby steps. It is a complex, difficult process, but we realize that as freshmen, as new Members of this institution, we are not going to be able to do it on our own. I am here today to ask for the leadership in this Congress to take a lead on this issue, to start responding to the calls for help from the American people and figure out a way to get big money out of the American political process.

I wish I had a magic wand as a freshman and could wave over this House and get one piece of legislation passed this year, and that is campaign finance reform. We are running out of precious time. We have an off election year. We have to do it in a bipartisan fashion to be successful before we get into another election year cycle.

The people back home in western Wisconsin, the district I represent, have a common refrain. They beg me every time I have town hall meetings to get campaign finance reform passed and to get big money out of politics. Let us start the work now.

CONGRESS SHOULD BE MOVING FORWARD TO HELP THE AMERICAN PUBLIC

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

Mr. FOLEY. Mr. Speaker, I am amazed at the hypocrisy of this Chamber. The minority leader had a similar circumstance—a similar fine levied against him by the Federal Election Committee. He paid out of campaign funds. So, while he paid his fine out of campaign funds, we hear this hue and cry from the other side that the gentleman from Georgia [Mr. GINGRICH] is somehow doing wrong.

Had he borrowed the money from the bank, there would have been further questions about the bank's involvement with those funds. The Speaker has done the honorable thing by stepping forward and paying out of his own proceeds.

The gentleman from Florida [Mr. DEUTSCH], offers a privileged resolution wanting interest payments on the fine. The gentleman from Florida, when he ran for this job, loaned his own campaign $300,000. Upon his election to this Chamber, he went to the PAC community and solicited funds from them in order to repay the loan to himself. Does the American public have the opportunity to go to PAC's to repay their loans as he used a little special-interest venture capital to finance his run for office? Absolutely not. The gentleman from Florida does, and then he files a resolution asking for the payment of interest.

Mr. Speaker, we are putting this behind us and we are moving forward to help the American people.

SPEAKER'S COMPENSATION FOR COST OF ETHICS INVESTIGATION

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

Mr. LEWIS of Georgia. Mr. Speaker, I am surprised to see my Republican colleagues on the floor today congratulating Speaker NEWT GINGRICH for doing something he should have done months ago, paying $300,000 for lying to Congress.

Speaker GINGRICH admitted to bringing discredit on the House of Representatives. He has admitted to lying to this House.

Mr. SOLOMON. Mr. Speaker, I ask the gentleman's words be taken down.

The SPEAKER pro tempore (Mr. KOLBE). The gentleman will suspend. The gentleman from Georgia will be seated.

□ 1030

The SPEAKER pro tempore (Mr. KOLBE). The Clerk will report the words.

The Clerk read as follows:

I am surprised to see my Republican colleagues on the floor today congratulating Speaker NEWT GINGRICH for doing something he should have done months ago, paying $300,000 for lying to Congress. Speaker GINGRICH admitted to bringing discredit on the House of Representatives. He has admitted to lying to this House.

The SPEAKER pro tempore. The Chair is prepared to rule.

The words of the gentleman from Georgia constitute a personality against the Speaker. Under the precedents, the debate should not go to the official conduct of a Member where that question is not pending as a question of privilege on the House floor. The fact that the House has addressed a Member's conduct at a prior time does not permit this debate at this time. Therefore, the gentleman's words are out of order.

Without objection, the gentleman's words will be stricken from the RECORD.

Mr. DOGGETT. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The question before the House is: Shall the gentleman's words be stricken from the RECORD?

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

RECORDED VOTE

Mr. DOGGETT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 227, noes 190, answered "present" 3, not voting 12, as follows:

[Roll No. 82]

AYES—227

Aderholt	Cooksey	Hansen
Archer	Cox	Hastert
Armey	Crapo	Hastings (WA)
Bachus	Cubin	Hayworth
Baker	Cunningham	Hefley
Ballenger	Davis (VA)	Herger
Barr	Deal	Hill
Barrett (NE)	DeLay	Hilleary
Bartlett	Diaz-Balart	Hobson
Barton	Dickey	Hoekstra
Bass	Doolittle	Horn
Bateman	Dreier	Hostettler
Bereuter	Duncan	Houghton
Bilbray	Dunn	Hulshof
Bilirakis	Ehlers	Hunter
Bliley	Ehrlich	Hutchinson
Blunt	Emerson	Hyde
Boehlert	English	Inglis
Boehner	Ensign	Jenkins
Bonilla	Everett	Johnson (CT)
Bono	Ewing	Johnson, Sam
Brady	Fawell	Jones
Bryant	Foley	Kasich
Bunning	Forbes	Kelly
Burr	Fowler	Kim
Burton	Fox	Kind (WI)
Buyer	Franks (NJ)	King (NY)
Callahan	Frelinghuysen	Kingston
Calvert	Gallegly	Klug
Camp	Ganske	Knollenberg
Campbell	Gekas	Kolbe
Canady	Gibbons	LaHood
Cannon	Gilchrest	Largent
Castle	Gillmor	Latham
Chabot	Gilman	LaTourette
Chambliss	Goodlatte	Lazio
Chenoweth	Goodling	Leach
Christensen	Goss	Lewis (CA)
Coble	Graham	Lewis (KY)
Coburn	Granger	Linder
Collins	Greenwood	Livingston
Combest	Gutknecht	LoBiondo
Cook	Hall (OH)	Lucas

Luther
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Minge
Molinari
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skaggs
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wolf
Young (AK)
Young (FL)

NOES—190

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Cummings
Danner
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (TX)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Schumer
Scott
Serrano
Sherman
Sisisky
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

ANSWERED "PRESENT"—3

Berman
Cardin
Sawyer

NOT VOTING—12

Allen
Andrews
Costello
Crane
Davis (IL)
Istook
Morella
Owens
Schiff
Tierney
Whitfield

□ 1103

Mrs. MALONEY of New York, Ms. FURSE, and Mr. MOAKLEY changed their vote from "aye" to "no."

So the motion to strike the words was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. KOLBE). Without objection, the gentleman from Georgia [Mr. LEWIS] may proceed in order.

Mr. SOLOMON. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard from the gentleman from New York [Mr. SOLOMON].

MOTION OFFERED BY MR. DOGGETT

Mr. DOGGETT. Mr. Speaker, I move that the gentleman from Georgia [Mr. LEWIS] be allowed to proceed in order.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DOGGETT] that the gentleman from Georgia [Mr. LEWIS] be allowed to proceed in order.

Mr. SOLOMON. Mr. Speaker, I move to table the motion offered by the gentleman from Texas [Mr. DOGGETT].

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. SOLOMON] to lay on the table the motion offered by the gentleman from Texas [Mr. DOGGETT].

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

RECORDED VOTE

Mr. DOGGETT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 223, noes 199, not voting 10, as follows:

[Roll No. 83]

AYES—223

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—199

Abercrombie
Ackerman
Allen
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin

Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—10

Andrews
Costello
Crane
Farr
Harman
Istook
Jefferson
Morella
Schiff
Tierney

□ 1121

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KOLBE). The Chair announces that further 1-minutes will be postponed until the end of the day.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 963

Mr. WYNN. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 963.

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

There was no objection.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal.

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

RECORDED VOTE

Mr. DAVIS of Virginia. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 317, noes 100, not voting 15, as follows:

[Roll No. 84]

AYES—317

Aderholt
Allen
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Boswell
Boucher
Boyd
Brady
Brown (FL)
Bryant
Bunning
Burr
Burton
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Cox
Coyne
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (IL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Etheridge
Evans
Everett
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gejdenson
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy (MO)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Metcalf
Mica
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Oxley
Packard
Pappas
Parker
Pastor
Paul
Paxon
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Regula
Reyes
Riggs
Riley
Rivers
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Salmon
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stokes
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Torres
Towns
Traficant
Turner
Upton
Vento
Walsh
Wamp
Waters
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—100

Abercrombie
Ackerman
Baldacci
Barcia
Berry
Bishop
Bonior
Borski
Brown (OH)
Buyer
Callahan
Clay
Clyburn
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Doggett
Edwards
Engel
English
Ensign
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gephardt
Goode
Green
Gutierrez
Hastings (FL)
Hefley
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kennedy (RI)
Kennelly
Kilpatrick
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Maloney (NY)
Markey
McCarthy (NY)
McDermott
McGovern
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Neal
Oberstar
Olver
Owens
Pallone
Pascrell
Payne
Pickett
Pomeroy
Poshard
Ramstad
Roemer
Rush
Sanchez
Sherman
Skaggs
Slaughter
Stabenow
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson
Velázquez
Visclosky
Watt (NC)
Weller
Wexler
Yates

NOT VOTING—15

Andrews
Becerra
Bono
Brown (CA)
Costello
Crane
Eshoo
Ewing
Farr
Gekas
Istook
Morella
Sabo
Schiff
Tierney

□ 1142

So the Journal was approved.

The result of the vote was announced as above recorded.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 17, 1997.

Hon. NEWT GINGRICH,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the original certificate of election from the Honorable Antonio O. Garza, Jr., Secretary of State, State of Texas, indicating that, at a special run-off election held on Saturday, April 12, 1997, the Honorable Ciro D. Rodriguez was duly elected to the Office of Representative in Congress from the Twenty-eighth Congressional District, State of Texas.

With warm regards,

ROBIN H. CARLE.

SWEARING IN OF THE HONORABLE CIRO D. RODRIGUEZ OF TEXAS AS A MEMBER OF THE HOUSE

The SPEAKER. Will the Member-Elect, Mr. CIRO D. RODRIGUEZ, come forward, escorted by the Members of the Texas delegation.

Mr. RODRIGUEZ appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations, you are now a Member of the U.S. House of Representatives.

□ 1145

WELCOME CIRO D. RODRIGUEZ

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

Mr. GONZALEZ. Mr. Speaker, as the dean of the Texas delegation, it is a pleasure and a very great honor to introduce to the House our newest Member, the gentleman from Texas, CIRO D. RODRIGUEZ.

Not long ago, many of us mourned the tragic passing of our esteemed and loved colleague, Frank Tejeda. Yet, I think Frank would be happy to know that his work will be carried on by an individual like CIRO RODRIGUEZ.

Like Frank, Representative RODRIGUEZ has quite substantial legislative experience; and like Frank, he is a lifelong resident of the city of San Antonio. The gentleman also has that same deep commitment to the community, that same attachment to the people that he serves, and so I think we have in him a most worthy successor.

CIRO RODRIGUEZ served in the House of Representatives of the great State of Texas for 10 years and was an honored and valued member of that body right up to the time of his departure for today's swearing in. He was dean of the county's delegation and served with distinction on many committees, most particularly those that were related to public education.

He began his community service early. He was an educational consultant and he performed social work dealing with the problems of substance abuse and mental health concerns. He served on the local school board for 12 years before being elected to the Texas legislature.

Mr. Speaker, CIRO RODRIGUEZ brings to the House a deep knowledge of his community and long-seasoned experience in the House of Texas legislature. He brings to this House not only this knowledge and experience, but a heart filled with compassion and a soul filled with energy. He is ready to hit the ground running, and I feel certain that, beginning today, all of us will be finding that he is indeed a valued colleague and a very, very promising Member of the House.

I am very pleased and highly honored to introduce and welcome our newest Member.

READY TO BEGIN DUTIES AS NEW MEMBER OF HOUSE OF REPRESENTATIVES

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

Mr. RODRIGUEZ. Mr. Speaker, I know my colleagues put this function together just for me; right?

Let me first of all introduce my wife and my daughter. I want to ask them to stand up. Carolina, my wife, is a teacher, and we are real proud she got Teacher of the Year in San Antonio last year.

My daughter, Xochil. And my daughter, Xochil, is a 14-year-old. I also want to recognize some of the other members that have been real supportive, and I ask them to stand up for me today.

Let me just briefly thank my colleagues. There is no doubt that I am here with mixed emotions. I had the pleasure of being in high school when Congressman Tejeda was there, in the same high school in Harlandale. I had the pleasure of being in classes with him when we were in Saint Mary's University.

I also had the pleasure of being in the Texas House when he was in the Texas Senate. And I have had the pleasure of working on a variety of projects with him. And we all mourn the loss of Congressman Tejeda.

Today, I am also humbled in having been elected to this body. I know that my colleagues probably felt the same way I feel now, coming in, kind of in awe. It has not hit me yet. But I do want to thank all my fellow colleagues for allowing me to come in today and allowing my family to come in.

I do want to just indicate a few things. As I ran for office, one of the key things, one of the basic principles I have always had, when I ran for the school board 12 years ago, and I spent 12 years on the school board when I ran for the legislature, was that education is key.

I know President Kennedy once commented, in this same body 35 years ago, on the importance of human development, the importance of recognizing the individual, and in being able to do whatever we can to enhance the quality of that individual. I have always worked from that perspective.

I want to continue to work on that principle, that as far as I am concerned, as we move on to the next century, what is going to be the strength of this country is going to be its people, and we need to invest in ourselves and in our people. With that, come the investment in human development and investment in education and investment in training.

I want to take this opportunity to say it was a big honor for me growing up in San Antonio and having as my Congressman the gentleman from Texas, Congressman HENRY B. GONZALEZ. And for him to have given the introduction, I just want to thank him very much. I have always admired his hard work and his dedication.

So I say to my colleagues, I will be here representing the 28th Congressional District of the State of Texas, and I am looking forward to working with my colleagues. I will try to hit it running as quickly as I can. Muchas gracias.

QUESTION OF PERSONAL PRIVILEGE

Mr. GINGRICH. Mr. Speaker, I rise to a point of personal privilege.

The SPEAKER pro tempore. (Mr. KOLBE). The gentleman from Georgia [Mr. GINGRICH] is recognized for 1 hour.

Mr. GINGRICH. Mr. Speaker, I am standing here in the People's House at the center of freedom, and it is clear to me that for America to be healthy, our House of Representatives must be healthy. The Speaker of the House has a unique responsibility in this regard.

When I became Speaker of the House, it was the most moving day I could have imagined. It was the culmination of a dream. Little did I know that only 2 years later, I would go through a very painful time.

During my first 2 years as Speaker, 81 charges were filed against me. Of the 81 charges, 80 were found not to have merit and were dismissed as virtually meaningless. But the American public might wonder what kind of man has 81 charges brought against him?

Under our system of government, attacks and charges can be brought with impunity against a Congressman, sometimes with or without foundation. Some of these charges involved a college course I taught about renewing American civilization.

I am a college teacher by background. After years of teaching, it never occurred to me that teaching a college course about American civilization and the core values that have made our country successful could become an issue. However, as a precaution, I received the Committee on Standards of Official Conduct's approval in advance for teaching the course, and I accepted no payment for teaching the course.

Nonetheless, the course became embroiled in controversy. The most significant problem surfaced not from

teaching the course but from answering the Committee on Standards of Official Conduct's inquiries.

Before the 1994 election, the committee asked questions, and I submitted a letter in response. The committee agreed that this letter was accurate. Later, I hired a law firm to assist me in answering additional questions coming from the committee. A letter developed by the law firm became the heart of the problem. I signed that letter, and it became the basis for a later, longer letter signed by an attorney. I was deeply saddened to learn almost 2 years later that these letters were inaccurate and misleading.

While the letters were developed and drafted by my former attorneys, I bear the full responsibility for them, and I accept that responsibility.

Those letters should not have been submitted. The members of the Committee on Standards of Official Conduct should never have to worry about the quality and accuracy of information that that committee receives. Mainly because these two letters contradicted my own earlier and correct letter, the Committee on Standards of Official Conduct spent a great deal of time and money to figure out exactly what happened.

For this time and effort, for which I am deeply sorry and deeply regret, I have agreed to reimburse the American taxpayers $300,000 for legal expenses and costs incurred by the committee in its investigation.

It was the opinion of the committee and my own opinion that had accurate information been submitted in those two letters, the investigation would have ended much sooner with less cost to the taxpayer. It was not based on violation of any law or for the misuse of charitable contributions. There was no finding by the committee that I purposely tried to deceive anyone. To me, it simply seemed wrong to ask the taxpayers to pay for an investigation that should have been unnecessary. That is why I voluntarily agreed to reimburse the taxpayers.

Never before in history has a Member of Congress agreed to be responsible for the cost of an investigation conducted by a committee of the House. This $300,000 reimbursement is not a fine, as some have asserted. The settlement itself and the report of the Committee on Standards of Official Conduct makes it clear that it is a reimbursement of legal expenses and costs only.

The committee and its special counsel did not stipulate how the reimbursement should be paid. One option is to pay completely with campaign funds. As a matter of law, the attorneys tell me there is little question that my campaign has the legal authority under existing law and committee rules to pay the reimbursement.

The second option is to pay by means of a legal defense fund. The committee has previously determined that Members may set up such a fund.

A third option is to sue the law firm and apply the proceeds to the reimbursement.

And the fourth option is to pay completely with personal funds.

As we considered these options, we sought to do what was right for the House as it relates to future precedents and for reestablishing the trust of the American people in this vital institution. My campaign could have paid the entire amount, and it would have been legal and within past precedents of the House. Yet, on reflection, it was clear that many Americans would have regarded this as another example of politics as usual and of avoiding responsibility.

□ 1200

A lawsuit against the lawyers who prepared the two documents is a future possibility for me as a citizen, but that option could take years in court. A legal trust fund was in many ways the most appealing. There is more than adequate precedent for such a fund. Many friends from across the entire country had called to offer contributions. Many of my colleagues on both sides of the aisle felt that this was the safest approach. Yet on reflection it was clear that a legal trust fund would simply lead to a new controversy over my role.

I have a higher responsibility as Speaker to do the right thing in the right way and to serve responsibly. I also must consider what the personal payment precedent would mean to this House as an institution. Many Members in this Chamber, on both sides of the aisle, have raised serious concerns, citing the fear that a personal payment will establish a precedent that could financially ruin Members who were assessed costs incurred by special counsels. In the current environment, who could feel safe? There should be no precedent that penalizes the spouses and children of our Members, but that is what this option could effectively do. This is something we must address.

Yet the question still remains. What is the right decision for me and my wife personally, for my family, for this institution, and for the American people?

Marianne and I have spent hours and hours discussing these options. She is here too today. Let me just say that I have never been prouder of Marianne than over the last few months. Her ability to endure the press scrutiny, to live beyond the attacks, to enjoy life despite hostilities, has been a remarkable thing to observe and a wonderful thing to participate in. But she always came back to the same key question: What is the right thing to do for the right principles? Through the difficult days and weeks as we reviewed the options, it was the courage of her counsel which always led me to do my best. Marianne and I decided whatever the consequences, we had to do what was best, what was right, morally and spiritually. We had to put into perspective how our lives had been torn apart by the weight of this decision. We had to take into account the negative feelings that Americans have about government, Congress, and scandals. We had to take into account the responsibility that the Speaker of the House has to a higher standard.

That is why we came to the conclusion, of our own choice without being forced, that I have a moral obligation to pay the $300,000 out of personal funds; that any other step would simply be seen as one more politician shirking his duty and one more example of failing to do the right thing.

Therefore, as a person of limited means, I have arranged to borrow the money from Bob Dole, a close personal friend of impeccable integrity, and I will personally pay it back. The taxpayers will be fully reimbursed. The agreement will be completely honored. The integrity of the House ethics process will have been protected. This is my duty as Speaker, and I will do it personally.

I will also ask the House to pass a resolution affirming that this is a voluntary action on my part and that it will establish no precedent for any other Member in the future. It is vital that we not go down the road of destroying middle-class Members by establishing any personal burden in a nonjudicial system.

It is important to put decisions about politics and Government in perspective. This past year I have experienced some personal losses. I lost my father, and my mother lost her husband of 50 years. My mother, due to serious health problems, is being forced to move into assisted living. My mother has lost her home, her husband, and her life as she knew it.

This week before making this decision I visited my mother in her hospital in Harrisburg. I should say she is now out and is in the assisted living facility. I asked her how she could handle these setbacks with such a positive attitude. She said,

> Newtie—she still calls me that. I do not think I am ever going to get to Mr. Speaker with my mother—she says, Newtie, you just have to get on with life.

Coming back from Harrisburg, I realized that she gave me strength and made me realize that for Marianne and myself, moving on with our lives, in the right way, by doing the right thing was our most important goal.

Let me make clear: We endure the difficulties, and the pain of the current political process, but we believe renewing America is the great challenge for our generation. I said on the day I became Speaker for the second time that we should focus on the challenges of

race, drugs, ignorance and faith. Over the past few months, I have met with Americans of all backgrounds and all races as we discussed new approaches and new solutions. I am convinced that we can enter the 21st century with a renewed America of remarkable power and ability.

This is a great country, filled with good people. We do have the capacity to reform welfare and help every citizen move from welfare to work. We do have the potential to help our poorest citizens move from poverty to prosperity. We do have the potential to replace quotas with friendship and set-asides with volunteerism. We can reach out to every American child of every ethnic background, in every neighborhood, and help them achieve their Creator's endowed unalienable right to pursue happiness. We cannot guarantee happiness, but we can guarantee the right to pursue.

Recently, I had a chance to have breakfast with the fine young men and women of the 2d Infantry Division in Korea where my father had served. Today South Korea is free and prosperous because young Americans, for 47 years, have risked their lives in alliance with young Koreans.

I was reminded on that morning that freedom depends on courage and integrity; that honor, duty, country is not just a motto, it is a way of life. We in this House must live every day in that tradition. We have much to do to clean up our political and governmental processes. We have much to do to communicate with our citizens and with those around the world who believe in freedom and yearn for freedom. Everywhere I went recently, in Hong Kong, Beijing, Shanghai, Taipei, Seoul, and Tokyo, people talked about freedom of speech, free elections, the rule of law, an independent judiciary, the right to own private property, and the right to pursue happiness through free markets.

We in this House are role models. People all over the world watch us and study us. When we fall short, they lose hope. When we fail, they despair.

To the degree I have made mistakes, they have been errors of implementation but never of intent. This House is at the center of freedom, and it deserves from all of us a commitment to be worthy of that honor.

Today, I am doing what I can to personally live up to that calling and that standard. I hope my colleagues will join me in that quest.

May God bless this House, and may God bless America.

21ST CENTURY PATENT SYSTEM IMPROVEMENT ACT

Mr. MCINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 116 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 116

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. 400) to amend title 35, United States Code, with respect to patents, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. 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 the Judiciary. 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 the Judiciary now printed in the bill, modified as specified in section 2 of this resolution. The committee amendment in the nature of a substitute, as modified, shall be considered as read. All points of order against the committee amendment in the nature of a substitute, as modified, are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be fifteen minutes. 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, as modified. 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.

SEC. 2. The amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in H.R. 400 is modified as follows:

(a) page 14, line 19, after "at" insert "a rate not to exceed"; and

(b) page 46, line 15, strike "activities" and insert in lieu thereof "activities, subject to the submission of a plan to the Committees on Appropriations of the House and Senate in accordance with the procedures set forth in section 605 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act 1997".

□ 1215

PARLIAMENTARY INQUIRY

Ms. JACKSON-LEE of Texas. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. LAHOOD). The gentlewoman from Texas will state her parliamentary inquiry.

Ms. JACKSON-LEE of Texas. Mr. Speaker, after the conciliatory remarks of the previous speaker, I have an inquiry to the Speaker as to his recollection: In the last 90 years of this House have we any time where this House has voted to censor a Member the entire day by rollcall vote?

I would appreciate a response on that inquiry, Mr. Speaker.

The SPEAKER pro tempore. The Chair would advise the gentlewoman from Texas [Ms. JACKSON-LEE] in the House Manual on page 322, the Chair responded on June 25, 1992, to parliamentary inquiries relating in a practical sense to the pending proceedings but did not respond to requests to place them in historical context.

The gentleman from Colorado [Mr. MCINNIS] is recognized for 1 hour.

Mr. MCINNIS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I might consume. During the consideration of this resolution all time is yielded for the purpose of debate only.

Mr. Speaker, House Resolution 116 is a noncontroversial resolution. The proposed rule is an open rule providing for 1 hour of general debate divided equally between the chairman and the ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the 5-minute rule.

Furthermore, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill modified as specified in section 2 of House Resolution 1616. The resolution waives all points of order against the committee amendment in the nature of a substitute, as modified, and provides that it shall be considered as read.

Furthermore, Mr. Speaker, the resolution allows the Chair to accord priority recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD, and the Chair may postpone votes in the Committee of the Whole and reduce votes to 5 minutes if those votes follow a 15-minute rule.

At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted.

Finally, Mr. Speaker, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, this open rule was reported out of the Committee on Rules by a voice vote without any opposition. Under the proposed rule each Member has an opportunity to have their concerns addressed, debated and ultimately voted on, up or down, by this body.

I urge my colleagues to support the bill.

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

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleague, my friend from Colorado [Mr. MCINNIS], for yielding me the customary half hour.

Mr. Speaker, I think this is a day for celebration. We have finally gotten an open rule here on the floor. One of the 13 bills brought to the House by a rule this session, only 3 of them have been open. And as all my colleagues know, Mr. Speaker, we were promised more open rules, so I certainly hope that this is the beginning of a trend and not just a one-time occurrence.

I do find it ironic, Mr. Speaker, however, that just 2 days ago, just 2 days ago my colleagues on the Republican side of the aisle spent an entire afternoon trying to pass a constitutional amendment to require a two-thirds vote for any tax increase. Now they are bringing to the floor a bill that would pose new taxes. They can call them user fees, but I have got a letter from the gentleman from Texas [Mr. ARCHER], chairman of the Committee on Ways and Means, which says these are taxes, and they still increase costs to the American people.

Mr. Speaker, the goals of H.R. 400 are laudable, to strengthen our patent laws and patent process and to bring them into compliance with the standards utilized by the international community. The bill would also establish the U.S. Patent and Trademark Office as a separate Government agency to serve in a more efficient manner for those who utilize its services.

The United States, Mr. Speaker, is No. 1 in the world when it comes to the production of intellectual property. The development of a sound and effective policy for the protection of this property is critically important to our Nation's future dominance in this area.

But having said that, Mr. Speaker, this bill is not without its controversies. Some small inventors and others have some valid concerns with this legislation. But the time and place to address these problems is during the consideration of the bill itself. Under the open rule process, any amendment or substitute that is germane and does not violate any other House rules can be offered at that time.

Hopefully, these concerns will be thoroughly debated and addressed by the full House.

So, Mr. Speaker, I urge passage of this rule so that we may proceed to the consideration of the bill itself.

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

Mr. MCINNIS. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, the day has finally come, and I rise in support of the rule and in opposition to H.R. 400. I know a lot of people may vote in favor of my substitute to H.R. 400 just to shut me up and to keep me from giving all these special orders all the time, but the day has finally come when we will have a head-to-head discussion on the issue of what the patent law of the United States of America should be, and as I have pointed out on numerous occasions over the last few months, that the bill that was being crafted and, yes, the bill that finally went through the system is taking America in exactly the wrong direction.

Mr. Speaker, the United States of America has had essentially the same patent protections, the strongest patent system in the world up until this date, and if this vote passes today on H.R. 400, America's patent system will be gutted, that is gutted, and we will hear during this debate that they are doing it simply to get out a thing called the submarine patent.

Let me note this: That is very similar by saying the only way we are going to be able to handle Hustler magazine is to destroy all freedom of speech in the United States or the equivalent of saying, "You have a hangnail that might be infected, and the only way to cure it is to cut off your leg," and that is not the case. The Congressional Research Service states that my substitute bill to H.R. 400 will eliminate the practice of submarine patenting. It never was necessary to cut one's leg off to handle the hangnail.

What we have here is an attempt to use a small problem which can be cured in other ways, the submarine patent problem, as an excuse to gut the strongest patent system in the world.

The essential ingredient, we have offered to compromise time and time again with those people who are supporting H.R. 400, but they came back and were unwilling to compromise on the essential point, which was our country believes that, until a patent is issued, that the patent applicant has a right of confidentiality. This bill as it is written, and it has not changed, they have not exempted any of the small business they claim to have exempted; this bill would mandate that all of our secrets, every one of our secrets that would be held confidential under the current system under what they are proposing is a system that will publish them after 18 months for the world to see. Everyone can understand that.

Mr. Speaker, that is why the American people have risen up and called their Member of Congress to say we do not want to make America's technology vulnerable to foreign theft and the theft from huge corporations domestically. This, after asking for compromise for 2 years, we have not been able to compromise on this point because that is what the purpose of this bill is.

H.R. 400, when it was introduced last session, was called the Patent Publication Act. So all of the other wonderful things that we hear about this bill we have accepted in the substitute. I will be offering in the substitute almost all the wonderful things that we will hear, but the disagreement, the fundamental disagreement, is, No. 1, should we basically gut the patent system by corporatizing the Patent Office and taking it out of the U.S. Government, making it a corporate entity, taking our patent examiners, making them vulnerable to outside influences, No. 1; and No. 2, should we publish the information about our inventors' patent applications even before the patent is granted? If we succeed today or if the other side succeeds today, foreign corporations, whether in China or Japan or elsewhere, will be able to steal this information, use it, go into production, but those proponents say: But we give them the right to sue once the patent is issued.

Mr. and Mrs. America has to decide on that. Is this really an option if the People's Liberation Army is manufacturing some technology developed here and 4 or 5 years later the patent is issued giving the person who owns the patent the right to sue the People's Liberation Army 5 years later? Is that really recourse?

This is setting up, this is a set up for the biggest ripoff of technology in the history of the United States. Our most important ideas will be stolen from us by our worst adversaries and used against us; and when the court action comes up, what is going to happen? When the court action comes up, they will be using the money for manufacturing with stolen technology to defeat our people in court.

I ask my colleagues to support the rule, I ask my colleagues to oppose H.R. 400, the Steal American Technologies Act, and to support the Rohrabacher substitute.

Mr. MOAKLEY. Mr. Speaker, I would like to inquire of my distinguished colleague from Colorado how many speakers he has left.

Mr. MCINNIS. To my good friend from Massachusetts, I have a number of speakers who have just now signed up, so I assume that I will take the entire 30 minutes.

Mr. MOAKLEY. The only speaker I have is myself to finish our side of the debate, so I will allow my dear friend from Colorado to go forward.

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

Mr. MCINNIS. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Speaker, I have been called a puppet of the Japanese industrial complex as a result of this bill. I resent it. I have been called worse than that. We have tried to keep this on an evenhanded course, but alas to no avail.

The patent law, Mr. Speaker, as my colleagues know, provides a forum whereby cute, sexy questions can be propounded, but because of the complexity of the subject matters, cute, sexy responses are not that easy to be forthcoming.

This is a good bill. In contrast to what our opponents would have my colleagues believe, H.R. 400 has received more process than any patent bill in history. It is developed over a 2-year period and was the subject of more than 50 negotiating sessions with interested parties and the administration. And incidently, Mr. Speaker, in addition to the Clinton administration, the Bush and Reagan administrations heartily endorsed this proposal. During this time over 80 witnesses testified at eight different hearings to help craft its contents. I have no pride of exclusive authorship in H.R. 400 since so many fingerprints cover the bill including those of independent inventors, small and big business, industry groups, universities and research laboratories.

□ 1230

Our bill is supported by 75 American companies responsible for 90 percent of the patents issued to American applicants in the United States. Twenty-one CEO's of our Nation's high-technology companies which employ 1.4 million men and women and which hold 55,000 U.S. patents endorse H.R. 400 and oppose the Rohrabacher substitute. Mr. Speaker, pardon my immodesty, but that hardly sounds like a puppet of the Japanese industrial complex.

Title I of H.R. 400 would transform the Patent and Trademark Office, or the PTO, into a Government corporation. It would remain a Federal agency subject to congressional oversight and protected by all of the benefits and safeguards afforded any agency and its employees under title V of the U.S. Code.

The whole point of title I is to allow the PTO to operate more efficiently on a day-to-day basis. To illustrate, the agency would no longer be required to solicit permission from the General Services Administration each time it wished to buy a box of pencils or note pads.

Furthermore, title I would permit the PTO to keep all its funding derived from user fees. Last year alone, $92 million were diverted from those funds, which are exclusively funded by users, and the intent at the time of collection is to use those fees to operate and maintain the Patent and Trademark Office.

First, H.R. 400 helps American inventors under title II who file for patent protection overseas. Since all other developed countries which have patent systems require publication after 18 months, American inventors have their applications published in the language of the relative host country at this time. In contrast, foreign companies which seek protection in the United States do not reveal their applications until the U.S. patent issues. This is unfair on its face, since foreign companies are therefore able to study our latest technological developments abroad but are not required to reveal their work to our inventors on these same terms here. Eighteen-month publication, therefore, levels the international playing field.

Second, the publication inhibits the practice of patent submarining. My colleagues will hear more about that as this debate develops. A submariner is a bad-faith inventor who attempts to game the existing patent system by indulging in dilatory tactics that prevent the expeditious review of the application. By biding his time, the submariner can eventually identify a company which has independently developed the same idea, then sue for royalties. Quite obviously, this constitutes bad public policy, since the submariner has no intention of using an invention to manufacture a product or create a new job. The motivation of the submariner is to subsist off the work of others, and they do real well at it. I refer my colleagues to a recent article that appeared in last week's Wall Street Journal.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. CONYERS], the ranking member on the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I am here in my capacity as ranking member to urge that this rule be adopted. I understand that everybody that has spoken on the rule is supporting the rule, so very good. The only thing is that the first speaker, the gentleman from California [Mr. ROHRABACHER], in supporting the rule, said this was a bill that would gut the American patent process, if I heard him correctly. He is nodding, and apparently I did hear him correctly; that this bill, H.R. 400, would gut the U.S. patent process.

This is the same bill that has passed out of two Republican Congresses and two judiciary committees unanimously, and but for the tremendous acumen of the gentleman from California [Mr. ROHRABACHER] we would unwittingly have passed out last Congress and this Congress a bill that would gut the patent process of the United States of America.

We obviously owe this gentleman from California [Mr. ROHRABACHER] a huge debt. I mean our obligation must go up to the sky. I thank the gentleman from California [Mr. ROHRABACHER] for this great single feat of saving the American legal system from what would happen were it not for his substitute.

Fortunately, however, there is a remedy. The rule will call for the substitute, but until the debate occurs, could the gentleman help us keep the confusion level down to about its norm by refraining from these unsubstantiated statements so far in this debate. I know in the gentleman's mind the gentleman is pretty firm where he is coming from, but for those who may not be committed yet to this bill and who may not be on the substitute, could we have a debate that merely tries to describe what our humble Committee on the Judiciary and two Congresses have attempted to do on this, and if we could do that, I think it would win the approval of all of us in the Congress and it would help us a great deal.

Now, this bill is supported by five of the last six Commissioners of the Patent and Trademark Office. That means that the highest Government officials on this subject in the past have all signed off on this bill. There have been years of negotiation on this bill. We have finally reached, we thought, almost unanimity. It will stop cheating in the patent process by ending the prime delaying tactic, and on this, the gentleman from California [Mr. ROHRABACHER] and I agree, submarine patenting. It will end that process where lawyers now are coming forward representing people that are subverting the patent process.

This is the best thing that has ever happened for the small inventor, and I urge the support of the rule.

Mr. MCINNIS. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from Colorado for yielding me this time.

Mr. Speaker, I appreciate and I rise in strong support of this wide-open rule providing for consideration of H.R. 400. This open rule will allow for full debate on this very complex and controversial measure.

Mr. Speaker, the objective of this legislation is to promote greater efficiency in our patent system, and of course put us on an even footing overseas, at the same time balance this with fair protection for the independent inventor, and this is obviously a very delicate process.

My district is home to the Edison Inventors Association. We are very proud of that. They have directly and personally conveyed to me their very real concerns with the legislation as it is written, and I am sure the gentleman from California [Mr. ROHRABACHER] is going to speak to several of those issues as the day goes along. I have also spoken with proponents of H.R. 400, and they have made a compelling case for certain items in H.R. 400. So it seems we are getting most of the good issues out.

Among the inventors, there is a real concern that the 18-month publication period provision in this bill will pose a

risk to the little guy, the independent inventor. We certainly do not want to inadvertently create a situation, unintended negative consequences, where these entrepreneurs are squeezed out in the courtroom by large corporations. This is a real concern, and I know it will be addressed today.

On the other hand, I think we all agree that the proposed diversion of fees paid to the Patent and Trademark Office in the Clinton budget is a very bad idea. There was unanimity on this issue yesterday, I believe, in the Committee on Rules, and I am gratified that H.R. 400 hits this right on. Our inventors need to know that these fees are not being diverted to fund other initiatives, but are helping to speed the patent process along.

Mr. Speaker, I am not certain that the promised benefits in H.R. 400 are not outweighed by the potential setbacks. I am waiting to be convinced by the debate. Whenever we consider sweeping reform we would be wise, in my view, to follow the model of the medical profession. First, do no harm. While I remain uncertain that H.R. 400 is truly a step forward, I am glad that we are going to be able to have vigorous debate on this floor where both sides can make their case, and I certainly appreciate the hard work and long efforts of the committee on this process.

What we have here today is deliberative democracy at work in the people's House. I urge support for this good rule for that reason, and I commend the gentleman from New York [Mr. SOLOMON] and the gentleman from Colorado [Mr. MCINNIS] for bringing this rule forward.

Mr. MOAKLEY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I really cannot pass this opportunity to mention one more time that this bill contains a revenue increase. This bill contains a tax increase.

The fee in question is clearly a revenue increase, under the Speaker's guidelines on jurisdictional concepts distinguishing user fees from taxes. The guidelines were announced again on opening day, January 7, 1997, page H32, CONGRESSIONAL RECORD. The proceeds will be used to benefit some who did not pay the charge, and thus cannot be construed as a user fee. There are substantive charges to the existing patent fee so as to make this charge a tax.

Mr. Speaker, I include for the RECORD at this time a letter from the gentleman from Texas [Mr. ARCHER], the chairman of the Committee on Ways and Means, making it very clear that this fee is a tax.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, April 16, 1996.

Hon. HENRY J. HYDE,
Chairman, House Committee on Judiciary, Rayburn HOB, Washington, DC.

DEAR CHAIRMAN HYDE: As you know, H.R. 400, the "21st Century Patent System Improvement Act," would make various changes regarding the Patent and Trademark Office. In particular, section 122 would extend permanently these patent and trademark fee surcharges. In addition, it would also permit the imposition and collection of new fees to recover the costs of publication of patent applications and reexamination proceedings.

In determining what is a revenue measure within the jurisdiction of the Committee on Ways and Means, the Committee relies upon the statement issued by Speaker Foley in January 1991 (and reiterated by Speaker Gingrich on January 7, 1997) regarding the jurisdiction of the House Committees with respect to fees and revenue measures. Pursuant to that statement, the Committee on Ways and Means generally will not assert jurisdiction over "true" regulatory fees that meet the following requirements:

(i) The fees are assessed and collected solely to cover the costs of specified regulatory activities (not including public information activities and other activities benefiting the public in general);

(ii) The fees are assessed and collected only in such manner as may reasonably be expected to result in an aggregate amount collected during any fiscal year which does not exceed the aggregate amount of the regulatory costs referred to in (i) above;

(iii) The only persons subject to the fees are those who directly avail themselves of, or are directly subject to, the regulatory activities referred to in (i) above; and

(iv) The amounts of the fees (a) are structured such that any person's liability for such fees is reasonably based on the proportion of the regulatory activities which relate to such person, and (b) are nondiscriminatory between foreign and domestic entities.

Additionally, pursuant to the Speaker's statement, the mere reauthorization of a preexisting fee that had not historically been considered a tax would not necessarily require a sequential referral to the Committee on Ways and Means. However, if such a preexisting fee were fundamentally changed, it properly should be referred to the Committee on Ways and Means.

On October 20, 1995, I wrote to you regarding a fee provision adopted by the Committee on Judiciary during its budget reconciliation recommendations. That provision would have extended the expiration date of certain patent and trademark fee surcharges for four years, until 2002. Although the Committee on Ways and Means did not assert any jurisdictional claim over the fee at that time, I expressed my strong interest in working with you to conform this provision as closely as possible to a true "fee." With respect to similar "fees" that raise more revenue than is reasonable, the Committee on Ways and Means has worked with other committees on jurisdiction to design a means of reducing the "fees" over time so that the charges become true "fees" that are tied to the cost of the regulatory activity. I extended the same offer to work with you and the Appropriations Committee to reduce these charges over time so that they become true regulatory fees.

I understand that H.R. 400 is intended to make the current fees more closely resemble true "fees." Since he surcharge was imposed by the Omnibus Budget Reconciliation Act of 1990, only a portion of the surcharge proceeds have been made available to the PTO. The balance of the proceeds have been diverted to finance other governmental activities. By making the PTO fully financed through fees, this excessive imposition of PTO fees should be substantially reduced.

Nonetheless, the surcharge and the reexamination fee (due to its 50% reduction for qualified small entities) do not meet all four requirements set forth above. To the extent that any fee is set at a level to recover completely an agency's costs associated with a particular entity, a surcharge, by definition, will be excessive and therefore cause the "fees" to exceed the agency's costs associated with the entity. Moreover, at least a portion of the activities of the PTO benefit the public generally and cannot be recovered through narrowly-based fees.

With respect to the reexamination fee, to the extent that it is based upon the size of the affected entity, rather than the costs associated with that entity, it would violate (iv) above. Accordingly, I have been advised that the bill in its present form would violate Rule XXI clause 5(b) to the Rules of the House, which provides that no bill carrying a tax or tariff measure shall be reported by any committee not having jurisdiction to report tax and tariff measures.

Although the amount of fees and the manner in which they are imposed do not conform to the criteria discussed above, the modifications made by the bill would make PTO fees generally less of a revenue measure than they are currently. I also understand that H.R. 400 reflects a carefully constructed balance of competing interests, and is shortly due to be considered on the House Floor. Accordingly, I will not seek a sequential referral, or object to consideration of H.R. 400 on the Floor at this time.

However, this is being done with the understanding that the Committee will be treated without prejudice in the future as to its jurisdictional prerogatives on this or similar provisions, and it should not be considered as precedent for consideration of matters of jurisdictional interest to the Committee on Ways and Means in the future. It is also being done with the understanding that you will contact me if the fees are modified on the House floor or in conference, in which case I reserve the right to seek to have Members of the Committee on Ways and Means named as additional conferees. Finally, I would appreciate your response to this letter, confirming this understanding with respect to H.R. 400.

Thank you for your cooperation in this matter. With best personal regards,

Sincerely,

BILL ARCHER,
Chariman.

Since it is a tax increase, Mr. Speaker, I am waiting to see if my colleagues who supported the constitutional amendment to seek to amend the rule to require two-thirds vote to increase taxes will come forward because this is an open rule. They can come forward and put an amendment in to increase the vote by two-thirds in order to pass this bill because it has a tax increase.

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

Mr. MCINNIS. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I thank my friend for yielding this time to me. I thank all of the Members of this debate, because I think we are starting to frame the debate fairly effectively.

Let me say first that the gentleman from Illinois [Mr. HYDE], the chairman of the full committee, is one of the giants of this legislature, and I think we all recognize him as such on both sides of the aisle; the gentleman from North Carolina [Mr. COBLE], my good friend, who is the chairman of the subcommittee, one of my finest friends ever in the House of Representatives, and a superb legislator and a guy for whom I have a lot of respect. I know both gentlemen have worked long and hard on this bill.

Let me say that as we move along in this body, we begin to realize more and more how easy it is to get up and complain about something that is a work product that other folks have done a lot of work on, and we should not take that role or that opportunity frivolously.

Mr. Speaker, I thought one of the last things that the gentleman from Florida [Mr. GOSS] said was a very important thing. He said that the first rule of the physician is do no harm.

□ 1245

While I think there are a lot of good things in H.R. 400, I think there are a few fatal defects that do some harm.

The other thing that I think we have to realize when we go into this debate is that this is an enormous debate because it has a great deal to do with our most important property rights, our intellectual property rights; the centerpiece of America, the idea, the creator of technology, the innovator. And this property is just as valuable as real property that we cherish, the right to have real property; this right of an inventor to go out, come up with an idea, and get paid for that idea. We have a system that accords certain rights and privileges to that inventor. We are changing those rights and privileges markedly in this bill.

There are two sides to this debate, I think that is something we need to establish early, two legitimate sides to the debate. I was just going through the list of people who oppose the bill. Dr. Forrest Bird, inventor of the neonatal respirator; Dr. Paul Burstein, the inventor of rocket motor inspection system. Raymond Damadian, inventor of the MRI. He is opposed to the bill.

We have several Nobel laureates here: Gertrude Elion, the inventor of leukemia-fighting and transplant rejection drugs, Nobel laureate; the inventor of the Hovercraft, Charles Fletcher; Franco Modigliani, the inventor of the credit management system, Nobel laureate.

There are legitimate arguments on the other side of this bill. We are going to lay those out. The one thing that I am going to concentrate on is publication, because every inventor needs a period of secrecy, and there is no substitute for secrecy. I think that is what we are going to find out as this debate goes on. If we publish, if we expose this inventor's secrets 18 months after he has applied, it is going to kill him. I think we can lay that out clearly in the debate. I thank the gentleman for yielding me this time, and I like the rule.

Mr. MOAKLEY. Mr. Speaker, it gives me great pleasure to yield 4 minutes to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Speaker, I think there has been a great debate in the public that has unnecessarily and I think unduly alarmed Americans who are not immersed or totally familiar with the arcane details of patent law, and it has become very difficult for people to sort through the various arguments that are being made back and forth, and I am sure being made in good faith.

But I thought it would be helpful to this House to hear the comments made by the technology chairs of the White House Conference on Small Business, because much has been said that this might be a bill between the big guys and the little guys.

For those of us who have spent the past 2½ years sorting through this bill line by line so it would represent a good, solid, bipartisan effort to protect American industry, we were encouraged that the technology chairs of the White House Conference on Small Business were assigned by the other small business men and women of America to take a look at the bill and to examine the various claims being made.

It was very gracious of them to give the following report. I will not read their entire comments, but I would like to quote a few specific items. This is a direct quote: "During the past year," all 10 chair persons say, "Independent inventors and the small business community have been subjected to an intense campaign of fear, xenophobia, and misinformation. The White House Conference on Small Business researched many of the most emotional issues and found that much of the information being promulgated is simply wrong. Legislation based on bad data is bad legislation."

And then they go through the issues. First, the 20-year system. They conclude that "We believe most of the hysteria over the new 20-year term is based on misinformation."

Regarding the publication of patent applications, they say, "The vast majority of American patent applications are also filed in foreign countries where they are automatically published. Failure to publish these applications in the United States gives our foreign competitors a huge advantage. They can read our applications but we cannot read theirs. We need a level playing field with our foreign competitors."

Finally, on the issue of stealing American inventions, the small business men and women said, "It is misleading to suggest that the opportunity to copy U.S. inventions would be newly created by either of these bills." To that they refer to the predecessor bills to both H.R. 400 and the Rohrabacher amendment.

Mr. Speaker, the feared opportunity already exists. Foreigners are presently free to read and copy any U.S. patent. The publication provision of either of these bills will have no effect on this reality. "Stealing" is a false issue.

"The barrage of misinformation has caused great confusion and alarm," they say. "Further attention has been diverted from the much-needed modernization of U.S. Patent Law." Then they go on to endorse the elements that are encompassed in H.R. 400.

Mr. Speaker, it is important for the many citizens and Congress Members who are watching this debate today to understand that it is easy to make wild allegations, but hard, to do the tough work done by the gentleman from Michigan [Mr. CONYERS] and the gentleman from Illinois [Mr. HYDE], by the gentleman from North Carolina [Mr. COBLE] and the gentleman from Massachusetts [Mr. FRANK]—to go through the bill that protects American inventions and fosters prosperity for this country.

Mr. MCINNIS. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. FORBES].

Mr. FORBES. Mr. Speaker, I rise today in support of the rule and in vehement opposition to H.R. 400.

My dear friends, much has been made just a moment ago about small business. I could tell the Members that the Small Business Legislative Council, the Small Business Survival Caucus and Committee, and the Small Business Technological Committee and Coalition have all opposed H.R. 400 because they believe that it will be bad for small businesses and even more horrendous for entrepreneurs and the people out there who are working full-time jobs and spending extra hours at their garage or kitchen table coming up with a new invention. We are talking about Americans coming up with ideas that they will try to market here in America, not abroad.

I would just reference two wonderful books, which are two of many. If Members would remember, there are so many young children out there who go to the fourth grade or fifth grade, they go to the library and they take out books about Eli Whitney and books about Thomas Edison, and the great inventors of this Nation. They come home and they get energized about the greatness of America and that all things are possible.

H.R. 400 would kill that off, and it would make the entrepreneur extinct as far as the current patent situation as we know it today.

Mr. MCINNIS. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Speaker, there are two very serious errors in H.R. 400. Let me just start with these and try to return to these frequently. They are these.

First of all, if you are an inventor, you should not have to publish what your invention is until you get the patent. You should not have to. The reason for that is that if you do not want to make it known to the world at large, you should not have to, because you might be able to market it to a company as a trade secret. The reward to inventors sometimes is not to get it patented but to apply a trade secret. That is what Coca-Cola has done for more than a century.

This bill, H.R. 400, requires that even if you have not gotten the patent, when 18 months have run from the time that you have applied, you have to publish. That is a mistake.

The second error is this: When there is a prior user, somebody else who has been using this idea in a commercial way, under existing law that person does not win over the person who invents, the person who files the patent. That person has the right to that invention. But H.R. 400 says no, if there is a prior commercial user, that prior commercial user can continue, and not only continue, he or she can expand. If they were making 10 products a month, they can go to a thousand, and then if they are seeking to be acquired by a company, what they can do is say, "Look, here is the crown jewel. We have a prior commercial use as to this patent. Take over our company, and maybe we do not have the ability to go from 10 to 1 million units, but you do."

On these two points there is a very serious taking away from the patent applicant in the United States law from the present system. Somebody who spends the time to invent right now has the right to go around and market their idea and say, you know, it is a patent pending right now. If we get the patent, I am willing to sell it to you. If we do not, I am going to find that out from the Patent Office and keep it secret and try to sell you a trade secret. That would now change.

These are very significant differences. I have to ask the question: For what purpose? The answer we most frequently get is because there are submarine patents out there, and this is the term of art we will hear very frequently. The submariner is somebody who is gaming the system. That person can be dealt with explicitly, with a laser beam instead of with a floodlight.

The individual who is attempting to game the system is somebody who files a patent application and then asks that it be continued, and asks that it be continued and then delayed and delayed, waiting for some other company to take the idea, turn it into a profitable enterprise, and then the submarine surfaces and fires its torpedoes.

The solution to that is to deal with the person who is gaming the system. In other words, let us just say that the publication requirement, which obviously defeats this strategy, ought to apply if you have filed applications to continue to delay, to postpone.

So I went to my good friend and colleague, the gentleman from California [Mr. ROHRABACHER], and asked if he could add that to his bill, because I thought that the high-tech companies had a good point, that there might be an occasional instance of this submarine strategy, and he graciously agreed to do so.

My colleague and dear friend, the gentleman from North Carolina, entertained the idea, but in the final event, he was not able to accept it. So in H.R. 400, what we have is a very, very broad solution to a very narrow problem, with the result that the inventor loses what he or she has under American law.

We have heard already that H.R. 400 is supposed to level the playing field. Let me assure my colleagues, the level playing field exists right now. If you file in Europe, whether you are European, Asian, African, or American, you have to disclose after 18 months. If you file in America, whether you are Asian, European, American, or African, you do not. So there are two systems in the world. They are fair to everybody in each system, but the systems are different.

I wish to conclude with a personal note of gratitude to the chairman, the gentleman from North Carolina, HOWARD COBLE. This man is not engaged with any intent to do harm to the American public or to do harm to our patent system, by his lights.

I have respectfully come to the conclusion that I cannot support his bill, but that does not diminish in the slightest my respect for him or the intentions that motivate him, which I believe are of the highest order. It is only my regret that after 2 months of good faith negotiations, we were not able to reach the accommodations in H.R. 400 that I was able to achieve with H.R. 811 and H.R. 812.

I support the rule because it allows the Rohrabacher alternative to be in order, and that, to me, is the preferable bill.

Mr. MOAKLEY. Mr. Speaker, in the spirit of comity, I yield 2 minutes to the gentleman from Indiana [Mr. PEASE], on the other side of the aisle.

Mr. PEASE. Mr. Speaker, I thank the gentleman for yielding time to me.

I had not intended that my first remark to this body would be without aid of a script prepared by my staff; however, the script prepared by my staff will be reserved for the later debate this afternoon.

Let me just say this. I bring, I hope, to this discussion a different perspective. As many of the Members know, I am fortunate to have come from higher education, and there, though I do not speak for higher education, I have spoken extensively with the higher education community on this subject. They bring to us a perspective that is reflective of the inventor's community.

We have solo practitioners, faculty members, and students who work on their own in the invention field, and we have those who work under contract with major international corporations.

□ 1300

So we come from the higher education community with the perspective that includes all of the players that one would hope would be protected in this legislation that is before us.

The higher education community has debated extensively about the proposals in H.R. 400, and we have stayed in contact with them throughout the time that I have been involved in this discussion as well. Though most of them have not taken a position in terms of opposition or support of the proposed legislation, I am convinced, particularly with the amendments that will be offered through the floor managers' work, that the concerns that have been raised on this floor today will be addressed in the amended bill and that it will protect both the small inventors and the major corporate inventors and be good for the country.

I urge Members' support of the rule and of the bill.

Mr. MCINNIS. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman from Colorado for yielding me this time. I rise in support of the rule and in strong support of H.R. 400.

This is a very good bill and a very, very important bill to protect the competitiveness of American business and American inventors, large and small. Let me make that point very, very clear.

I commend the gentleman from North Carolina [Mr. COBLE], my good conservative friend, and the gentleman from Illinois, the chairman of the Committee on the Judiciary, for pushing this legislation forward. Mr. HYDE and Mr. COBLE know how important this legislation is for the American people.

We are not dealing with what the opponents would tell us is the Steal American Technologies Act. We are dealing with a situation where we have got to act and act now to protect American inventors from a situation where that technology is being stolen under current law.

Under current law, every single patent that is filed in the other major industrial countries around the world is published after 18-months, in Japanese, in German, in French, for those inventors and those countries to see. Forty-five percent of all the patents filed with the U.S. Patent Office are filed by foreign inventors, and U.S. inventors do not get to see that technology filed here in the United States.

This bill provides greater protection for the small inventor by improving the patent pending provisions of the law. This bill protects the small inventor in this country by giving them the opportunity to get capital behind those inventions much sooner than they get under current law.

The opponents would tell us that under the 18-month publication, they are going to have a gap between that publication, when they get the patent, and somebody is going to steal their ideas. That is not the experience they have had in Europe.

In Europe they get that capital sooner because the entrepreneurial investors in Europe know that that particular inventor is the lead inventor on that item because it has been published, published ahead of anybody else who might be in the system ahead of them. We have no way of knowing that in this country. So the capital does not come here until the patent is issued. In Europe that has changed.

This will help small inventors by giving them the opportunity to get that capital, get that product on the market sooner. It will give them the opportunity not to have to reinvent the wheel because they will know whether somebody else is already in the marketplace with that idea.

This is a good bill. It is a good bill for the little guy, and we should vote for the rule and vote for the bill and get this major improvement, major improvement to competitiveness in the United States against our foreign competition done.

Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I reluctantly rise in support of this rule because, once it is passed, Members like myself who oppose H.R. 400 are going to be given about 15 minutes out of the hour, only one-quarter of the time to present our views. That is typical of what has been happening on this extremely important bill.

I understand what the floor managers have to do here, but I truly object to the fact that we are not given equal time during debate to handle a bill of this magnitude. There is absolutely no question that this bill concerns America's future. It concerns our jobs. It concerns who controls our technology.

To be muzzled on the floor when we consider a bill that has constitutional implications is beyond my wildest dreams. Why would they do this to us? We know the Committee on Small Business has not been able to hold hearings because small inventors have not been allowed to present their case to the Congress. Now on the floor we will also have our hands tied behind our backs and be allowed so little time to discuss the merits.

In view of that, I say to the Members who are listening to this debate and to the people of the country, how many complaints have you ever gotten from your inventors about the current patent system? The United States leads the world in patent filings. We have 10 times more intellectual property breakthroughs than any other Nation in the world. Why would we want to change our system?

I heard the prior speaker say, "Japan or some other country." But, we lead the world. Why would we want to do anything to harm the system that has created the largest industrial and agricultural power on the face of the Earth? There is much at stake here, and there are many private interests that want to get their hands into what is happening at our Patent Office. We understand that well.

But there is more at stake here than just arcane rules that may be administered by a department that handles our patents.

I say to the membership, if they have not read this bill, if they do not understand its implications, vote no on H.R. 400 and vote for the substitute.

We will talk a lot about how the period is shortened for our inventors where, if you file a patent, in 18 months they will be able to get your blueprints. Your work will not be kept secret as it is today until the patent is issued. That is absolutely wrong. Why would we want to do that to the people who are creating our future in this country?

Why would we want to corporatize the Patent Office and take away the objectivity of its examiners? And why in heaven's name would you want to produce a bill, page 11, lines 15 through 17, which permits this Office, which will not have the same kind of control we have today, to accept monetary gifts or donations of services, of real estate, personal or mixed property in order to carry out the functions of the Office? We have seen all kinds of bribes in this city.

I hear from the chairman that may be out. Well, I will be really interested in what else is out of the bill because this truly is a work in progress. It is unfair to the membership. It is unfair to the people of this country who are creating our future to be muzzled here on this floor.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

As I said before, just a couple days ago there was a bill to amend the Constitution that required two-thirds to increase taxes. This bill increases taxes. And I was waiting to hear the amendment to the rule to require two-thirds vote for this bill to pass because it does raise taxes, but evidently it is not coming forward.

Mr. Speaker, I yield back the balance of my time.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

I would like to clarify the comments just made by the gentlewoman from the State of Ohio. Her remarks were that she would be and, for some reason, Members that favor her position were being muzzled on the House floor. It is unfortunate that she was not in here for the previous conversations that we have had, but to assist her knowledge, I would suggest that she study an open rule. This is an open rule. No one is being muzzled here. An open rule allows open debate.

I notice that the gentlewoman on a number of occasions, at least two, during her comments used the word "muzzled." I think it is that kind of rhetoric, frankly, that heats up the debate here unnecessarily. It is an open rule.

Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE], distinguished chairman.

The SPEAKER pro tempore (Mr. HOBSON). The gentleman from Illinois [Mr. HYDE] is recognized for 2½ minutes.

Mr. HYDE. Mr. Speaker, I say to my dear friend from Toledo, it is too bad she did not come up to the Committee on Rules and ask to structure a rule that would give her all the time she wants. But she did not, and we got an hour's debate. And out of the goodness of our hearts, we are yielding 7½ minutes, I assume the gentleman from Michigan [Mr. CONYERS], out of the goodness of his heart, will yield 7½ minutes, and there is 15 minutes plus an open rule. I think that ought to be enough, at least that is my humble opinion.

Ms. KAPTUR. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Out of an hour, then I understand, Mr. Speaker, we will receive 15 minutes?

Mr. HYDE. We each have a half hour. We have a half hour over here. We are going to give the gentlewoman 7½ minutes of it. She is against our bill, yes.

Ms. KAPTUR. So 15 over 60 is 25 percent. So we are not being given equal time.

Mr. HYDE. Mr. Speaker, the gentlewoman can talk to 6 p.m. or beyond this evening because we have an open rule. The gentleman from Massachusetts [Mr. MOAKLEY] wanted it open.

Ms. KAPTUR. Mr. Speaker, the rule is open to some, not all.

Mr. HYDE. Mr. Speaker, let me just suggest to my friends that H.R. 400 is a

very good bill. We have heard about corporatizing the U.S. Patent Office, new word, "corporatizing." There is more oversight over the corporate U.S. Patent Office than if we kept it as a bureau of the Department of Commerce. There will be an inspector general. There are reporting requirements to Congress. There are reporting requirements to the administration. The Government Cooperation Control Act has over 100 accountability provisions plus there is an advisory board, so that is a red herring.

What is really at stake in this issue, and I could not imagine patent law could be made exciting or interesting, but we have submarines floating around. I expect to see periscopes surfacing during this debate because that is what this is all about, protecting people who do not invent to make society a better place but to make a fast buck.

They file their applications and God forbid they should be published. They want to keep it below the surface so some poor guy who goes into business and is using a process and they find out about it, they surface, up periscope, and sue. And one person made $450 million doing that. His lawyer made $150 million, and they tell us submarine patenting is not a problem.

If you want to protect your invention, you have to file overseas. And when you file, it is published after 18 months. The whole patent system was set up to give you exclusivity for a term of years, hopefully 20 years, in exchange for sharing your deep, dark secret with the world and making this a better place to live. That is the tradeoff. If you do not want to have your secret published, do not file for a patent. Keep it as a trade secret.

Now, not publishing protects the submarine patent gamester who is out not to assist the economy but to fatten his personal treasury. It is, as I have said, the foreign patents. If you want protection overseas, you have got to file overseas in their language. They file here and it is not published. Nobody can find it. We want to play by the same rules overseas as we play here.

This is a good bill. I have a letter from the commissioners of patents under Nixon, Ford, Reagan, Bush; all say this is an excellent bill. And the Democratic administration presently, the President's administration supports it.

I say, pay attention, something is going on here. One of the handouts says, "Don't be fooled." Those are good words. Do not be fooled. Do not protect the submarine patent gamesters who use the system not to assist society but to make a fast buck.

Mr. McINNIS. 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.

□ 1314

The SPEAKER pro tempore (Mr. HOBSON). Pursuant to House Resolution 116 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. 400.

The Chair designates the gentleman from Illinois [Mr. LAHOOD] as Chairman of the Committee of the Whole, and requests the gentleman from Michigan [Mr. CAMP] to assume the Chair temporarily.

□ 1315

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. 400) to amend title 35, United States Code, with respect to patents, and for other purposes, with Mr. CAMP, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from North Carolina [Mr. COBLE] and the gentleman from Michigan [Mr. CONYERS] each will control 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Chairman, I yield myself such time as I may consume and say, before I get into this, that I want to extend what the gentleman from Illinois [Mr. HYDE] said to the gentlewoman from Ohio earlier about being muzzled and having their hands tied.

We have, in the ultimate sense of fairness and comity, agreed to give 7½ minutes to the gentleman from California [Mr. ROHRABACHER] to manage as he sees fit, but that in no way binds the gentleman from Michigan [Mr. CONYERS]. That was an agreement on this side, and the gentleman from Michigan may do as he likes.

I just wanted to get that on the table, Mr. Chairman.

Mr. Chairman, I ask unanimous consent to yield 7½ minutes to the gentleman from California [Mr. ROHRABACHER] and that he be permitted to control that time.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROHRABACHER. Mr. Chairman, I yield myself such time as I may consume to thank the gentleman from North Carolina [Mr. COBLE] very much for the courtesy of being able to participate in this debate as it goes along.

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

PARLIAMENTARY INQUIRIES

Mr. HYDE. Mr. Chairman, parliamentary inquiry.

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

Mr. HYDE. Mr. Chairman, it was our intention that the gentleman from California [Mr. ROHRABACHER] be given 7½ minutes from our side. We had hoped, and I had not had the opportunity to ask the gentleman from Michigan [Mr. CONYERS] to give him 7½ minutes. The purpose was so that he could go first and get his statements out and then we could proceed with the rest of the debate.

Evidently, Mr. Chairman, the gentleman wants to go last. So if the gentleman wishes to reserve his time and then go last, that is not in the contemplation of our agreement or our wish.

Mr. Chairman, I would ask the gentleman from Michigan if he is so inclined to give 7½ minutes to the gentleman from California?

Mr. CONYERS. Mr. Chairman, I hate to reveal my inclination at this time, but there has been nobody that has requested it.

Mr. ROHRABACHER. Mr. Chairman, the gentlewoman from Ohio [Ms. KAPTUR] was probably not informed of the agreement.

Mr. HYDE. Mr. Chairman, on my parliamentary inquiry, I yield to the gentleman from California.

The CHAIRMAN pro tempore. The gentleman may not yield on a parliamentary inquiry.

The Chair would state that three Members are in control of time and would ask which Member chooses to yield time.

Mr. ROHRABACHER. Point of information, Mr. Speaker.

The CHAIRMAN pro tempore. Does the gentleman wish to state a parliamentary inquiry?

Mr. ROHRABACHER. Yes, or point of information.

Mr. Chairman, when someone yields a 7½-minute segment during a debate like this, it is possible for us to have an interchange so that the whole 7½ minutes is not used up at one moment, is it not, so that we can actually have an exchange of ideas rather than just having one person express their point of view and having the rest of the time being used to refute those arguments?

The CHAIRMAN pro tempore. The gentleman controls his time and may reserve it.

Mr. COBLE. Point of inquiry, Mr. Chairman.

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

Mr. COBLE. Mr. Chairman, my point of inquiry is that I assume I have the right to close debate; is that correct?

The CHAIRMAN pro tempore. The gentleman from North Carolina is correct; he has the right to close debate.

Mr. ROHRABACHER. Mr. Chairman, I would ask permission from the gentleman from Michigan [Mr. CONYERS] if I can claim the 7½ minutes and yield it to the gentlewoman from Ohio [Ms. KAPTUR] if she does show up here for the debate.

Mr. CONYERS. Mr. Chairman, if the gentleman would yield, I have never yielded a Republican Democratic time in that large amount.

Mr. ROHRABACHER. So the gentlewoman from Ohio [Ms. KAPTUR], another Democrat, would have to come forward for that time to be yielded to.

I am told the gentlewoman is on the way, by the way.

The CHAIRMAN pro tempore. The Chair must insist on some Member using his time.

Mr. COBLE. Mr. Chairman, to alleviate the problem, I will do that with the understanding that our side has the right to close, which the Chairman just assured me of.

The CHAIRMAN pro tempore. The gentleman from North Carolina [Mr. COBLE] is recognized.

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

Rhetoric is conventionally defined as the art of speaking or writing effectively, but it may also be defined as speaking or writing redundantly, deceptively, misleadingly, inaccurately, or untruthfully. All these versions, Mr. Chairman, have surfaced during the debate that has surrounded H.R. 400.

Patent law is complex and arcane. It is not sexy or engaging when seriously discussed, especially on television or radio. And when the rhetoric pertaining to such a subject is clearly manipulated and twisted to distort the facts, the complexity of the issue is compounded, and utter confusion is the result.

Mr. Chairman, I am not a patent lawyer, but the members of the Subcommittee on Courts and Intellectual Property are not assigned the duty of litigating contested patent cases. Our responsibility is to draft and promote the enactment of responsible legislation as it applies to the patent and trademark community, including the PTO, the Patent and Trademark Office, inventors, small and large, those with limited means and others blessed with more generous resources. The ultimate beneficiary of our work is the American consumer.

One need not possess the intellect of a rocket scientist, and incidentally, neither am I a rocket scientist, to conclude that H.R. 400 is sound, fair legislation that will benefit American consumers and American inventors, contrary to some of the aforementioned rhetoric that has been widely disseminated on the subject at hand.

Mr. Chairman, title I of H.R. 400 consists of those changes needed to streamline the Patent and Trademark Office into a modern government agency subject to the oversight authority of Congress. Currently, patent filings have greatly increased, but the PTO, as a result of government restrictions may not hire, train, and retain with extra pay additional examiners. This regulatory burden only results in fewer patents being processed expeditiously, which hurts the users of the system who fund the agency.

Under H.R. 400, the agency will have the authority to earmark the necessary funds more quickly, to hire more examiners. Another prominent feature of title I is that all application or user fees paid to the PTO will remain with the agency. Last year, $54 million of PTO money was spent elsewhere, and this next fiscal year, $92 million is proposed. This practice will cease under H.R. 400.

I should also emphasize that nothing in title I compromises the ability of the PTO employees to discharge their duties in a professional manner. All workers under the bill are protected by the full panoply of title 5 civil service safeguards.

Title II of H.R. 400 contains major improvements to our examining procedures for patents. The first of these will require, in most instances, the publication of a patent application after 18 months from the date of filing. Since the entire patent system is predicated on bringing new inventions into the public light for development, no inventor who seeks court-enforced patent protection can credibly assert his inventions should be kept secret based on a personal whim. If so, such an inventor may pursue protection provided by State trade secret and unfair competition statutes.

Most patents are granted within a 20- to 22-month timeframe, and all patents under the current system are published upon grant. Why make the change to 18 months?

First, it will enable small inventors to advertise or shop their ideas to perspective backers. This is important because small investors lack the necessary venture capital to commercialize an idea.

Second, it levels the playing field between our inventors and foreign corporations. Under present law, all other developed countries have an 18-month publication requirement. This means that an American inventor filing for protection abroad, and incidentally, Mr. Chairman, 75 to 78 percent of all patents filed in this country are filed abroad, this means the American inventor filing for protection abroad has his application published after 18 months in the language of the host country, enabling foreign companies to review the latest developments in American technology.

In contrast, however, a foreign corporation, filing in the United States, does not have its application published within the same time frame. This is unfair, since the practical effect is that they can study our technology overseas while our inventors are denied the same right to inspect their work in the United States.

The 18-month publication provision of H.R. 400 will, therefore, level this playing field between American inventors and their foreign counterparts.

Finally, publication at 18 months helps to deter an ongoing abuse in the current system, previously mentioned, "patent submarining." Submarining is appropriately described as those efforts in which a patent filer games the existing system by indulging in dilatory practices.

I quoted the words of a country song yesterday entitled "Playin' Possum and Layin' Low." That is precisely, Mr. Chairman, what a submarine patent applicant does. But to what end? Such an ill-intentioned inventor has no desire to help the Patent and Trademark Office process his or her application to secure a patent as quickly as possible.

Instead, the submariner waits to identify an unsuspecting inventor who has no knowledge of the unpublished application. Upon locating a company or inventor that has developed its idea independently and which has commercialized it through investment, manufacturing and the creation of jobs, the submariner surfaces and sues the company for infringement.

Mr. Chairman, this activity damages the American economy by promoting duplicative research, distorting financial decisionmaking and encouraging unnecessary litigation.

The 18-month publication requirement will place the good-faith company and inventor in this illustration on notice that a patent is pending on an invention it wishes to develop. The inventor may then decide how to devote or expend the financial resources to other endeavors.

Notwithstanding these benefits that accrue from the publication requirements of title II, a special provision has been inserted in H.R. 400 that will protect the independent inventors and small businesses who are genuinely unsure as to the patentability of an idea. The Manager's Amendment to H.R. 400, which we will discuss later, gives an independent inventor or small business who does not file abroad the option to withdraw his application up to 3 months prior to publication if the PTO has made two determinations that a patent will not issue. The inventor may then refine the application and try again, or seek protection under State trade secrecy law.

Most importantly, title II of the bill creates the presumption that any good-faith inventor who has diligently assisted the PTO in prosecuting his application is the victim of unusual administrative delay after 3 years of nonissuance, and at that point, the applicant is granted a day-for-day protection once the patent issues, in other

words, a guarantee for a minimum of 17 years of term.

Finally, current law affords no protection against any third party which appropriates the subject of a patent and commercializes it before the patent is granted. H.R. 400 corrects this problem by establishing a new inventor entitlement, a provisional right to compensation, which addresses the problem the gentlewoman from Ohio mentioned. This would allow an inventor to receive fair compensation from any third party who commercializes his or her idea between the time of publication and the time the patent issues.

Title III of the bill addresses the issue of prior domestic commercial use of a patented technology.

I want to speed this up so I can give my chairman some time.

Title IV of H.R. 400 is designed to protect novice inventors from unscrupulous invention development firms which often charge unsuspecting clients thousands of dollars for little work that rarely results in a patent or a commercial use of the invention.

Title V makes needed but limited changes to PTO reexamination procedures. The existing system was intended to provide an efficient and inexpensive way for the PTO to consider whether an issued patent was violated in light of patents and printed materials which an examiner may have overlooked during the initial examination.

□ 1330

H.R. 400 amends the existing reexamination process to provide more due process for a third party.

Mr. Chairman, this concludes my general description of the contents of H.R. 400. The legislation will benefit members of the patent and trademark communities as well as the public at large.

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

Mr. CONYERS. Mr. Chairman, I rise to announce that, as Chairman HYDE indicated, out of the goodness of my heart, I will yield to the gentlewoman from Ohio [Ms. KAPTUR], a dear friend of mine, 7½ minutes for her to dispense with as she chooses.

The CHAIRMAN pro tempore (Mr. CAMP). Without objection, the gentlewoman from Ohio [Ms. KAPTUR] will control 7½ minutes.

There was no objection.

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume. I thank the gentleman for yielding me the time. Though I hoped it would be more, we will take what we can get at this point, so I thank the gentleman very much.

Mr. Chairman, I rise in obvious strong opposition to H.R. 400. If this bill were so wonderful, then why are America's preeminent inventors opposed to it? Dr. Raymond Damadian, inventor of magnetic resonance scanning, Dr. Wilson Greatbatch, inventor of the cardiac pacemaker, Dr. Stephanie Kwolick, inventor of Kevlar, Dr. Jay Forrester, inventor of core memory, the first practical RAM. If this is such a great idea, then why are the people who have created America's future opposing it?

I have to say this bill is about a whole lot more than just arcane patent law. It is about what our Constitution guaranteed, and that is the property rights of our inventors. I hear all this concern about foreign countries and putting us on an equal footing with foreign countries. The facts are, we are the leader in the world.

Why should we want to dumb down our system or make it easier for others to tap into the inventions that our people produce? Why should we ask our inventors to have a greater burden of proof? Why should we make them be forced to get into this reexamination system? Why should we do this to the people who have built the greatest industrial and agricultural power on the face of the Earth?

I say to the membership, how many complaints have my colleagues received from their small inventors except on this bill? The system works for them. The only complaint one might get is about the maintenance fees, how much they have to pay to maintain a patent, and truly that needs to be improved. But we have a wonderful system that says if you have an idea, you file it at our patent office, that that idea is yours, it is secret until that patent is issued. Why would we want to change that system?

Mr. HUNTER. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank my friend for yielding.

The theme has been that we should be like Europe and Japan, but the fact is that high technology startups are something that is uniquely American. There are very few high technology startup companies in Europe and Japan. That is because they lose the one thing which is central to their success, and that is secrecy, because once they publish in 18 months, the big companies come in and sweep them off the map by patenting around them, which is called patent flooding. The gentlewoman is absolutely right.

Ms. KAPTUR. Mr. Chairman, reclaiming my time, I thank the gentleman for that comment. This whole question of submarine patents and so forth, there is less than 13/1000 percent of those that even affect this entire system, and even then we have to be about the task of protecting American inventors' rights. To the extent we can get other nations to conform their systems to ours, terrific, but why should we try to conform our system to theirs? Why should we make it more difficult for our inventors to pay the fees?

This office I am told has been changed as we are sitting here today. With this corporatization of the patent office, that now apparently is not going to be allowed to accept gifts and real estate, because of pressure from Members of Congress like myself, as it is in the base bill, when I read the amendment, and I really do not have a copy of it here, but it basically says you are going to require gift rules be drafted to ensure that gifts to this new office are not only legal but avoid any appearance of impropriety. Why should they be given those gifts in the first place? Why should that be happening under this bill? And why should we take away the objectivity of our patent examiners who are completely insulated from any kind of economic coercion by the current system?

I have to say that patents are the trade routes for the 21st century. America under H.R. 400 is throwing away our technological lead by publishing patent applications much earlier and taking away the secrecy that is inherent in our system to our inventors and making other radical changes which, by the way, to the membership, if anybody has a final copy of this bill I hope they will give it to me because somebody who has been as involved in this issue as any other Member, I cannot give my colleagues a bill that we will be asked to vote on here today that is accurate in terms of legislative language.

We have the choice here today to create prosperity for our Nation, to provide opportunities to our children, but if we change the patent system as H.R. 400 proposes, we will be throwing away the American dream of opportunity embedded in the Constitution of the United States. I guarantee my colleagues if this bill passes, there is going to be decades of litigation as the American people fight for the rights they were granted under our Constitution.

Our patent system is the heart of our economic strength because it creates new money, jobs, and new industries. I ask the membership to vote no on H.R. 400.

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

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

Mr. COBLE. Mr. Chairman, I yield 6½ minutes to the gentleman from the Roanoke Valley of Virginia [Mr. GOODLATTE] who has been very helpful in the movement of this bill, H.R. 400.

Mr. GOODLATTE. Mr. Chairman, I rise in strong support of H.R. 400, the 21st Century Patent System Improvement Act. Just remember that title. That is what this is about, improving our patent system. I would like to thank the gentleman from North Carolina [Mr. COBLE], chairman, for his

hard work and dedication on this important issue.

This legislation has been subject to a great deal of confusion in recent weeks, due largely to the blatant misrepresentations of its opponents. People who make their livings gaming our patent laws will stop at nothing in their effort to prevent meaningful and necessary reform of the system. Opponents of patent reform have engaged in a campaign of deliberate misrepresentation and confusion in the hopes that they might convince Members that H.R. 400 is an international sellout that will undermine the patent system created by our Founding Fathers. Nothing could be further from the truth.

H.R. 400 is one of the most thoroughly debated bills to come before the House this year. The provisions contained in this bill have been developed over the last 2 years and have been the subject of 10 full days of hearings with over 80 witnesses. Patent and trademark commissioners who dedicate themselves to the integrity of our patent system, from the Nixon, Ford, Reagan, Bush, and Clinton administrations support the major provisions of H.R. 400. These experts also oppose the major provisions of the Rohrabacher substitute, which was written on behalf of those who ignore the intent of our Founding Fathers by using subterfuge to destroy the integrity of the U.S. patent system. Taking the word of patent submariners on patent reform is like asking a fox for advice on how to guard the henhouse.

H.R. 400 is the unanimous product of the Committee on the Judiciary. Unanimous, 35 members of the committee. Not one voted against this, not one Democrat, not one Republican. Yet this issue has been demagogued by a very few. Through the legislative process, the committee has worked with independent inventors, small businesses, universities, industry groups, the White House Conference on Small Business, and the Senate. Over 75 U.S. companies, large and small alike, which employ 1.4 million American workers and hold 55,000 U.S. patents, support H.R. 400.

This legislation is critical to ensuring that America maintains our position as the world leader in intellectual property. H.R. 400 benefits independent inventors, small businesses, and other Americans who utilize our patent system in four key areas.

First, it guarantees diligent patent applicants at least 17 years of patent term and ensures that they will not lose their rights due to delays by the patent office. Second, the bill protects early domestic commercial inventors, including universities and researchers who use later patented technologies. Third, the legislation deters invention promoters from defrauding unsuspecting inventors. Finally, H.R. 400 gives all Americans a new property right while their patents are pending before the Patent Office.

Unfortunately, opponents of patent reform are unwilling to give up the loopholes through which they undermine the integrity of America's patent system. Their proposal, offered today by the gentleman from California [Mr. ROHRABACHER] as a substitute to H.R. 400, would encourage abuses of our patent system that currently cost American taxpayers and consumers hundreds of millions of dollars. Although they may argue otherwise, the Rohrabacher substitute is nothing more than a recipe for economic disaster.

Since opponents of meaningful patent reform allege that H.R. 400 is a huge corporate giveaway, I would like to respond by highlighting the ways in which H.R. 400 benefit small inventors. First, under H.R. 400, small inventors will be able to acquire venture capital to market their inventions more quickly and easily. This will put small inventors on a more level playing field with large multinational corporations, allowing individuals and small businesses to fully compete in the global marketplace.

Mr. Chairman, H.R. 400 also gives small inventors greater protection against those who try to steal their ideas. Under current law, small inventors have no protection against would-be thieves that steal the subject of a patent and commercialize it before the patent is granted. These inventors are then helpless to stop the commercialization of their inventions or to share in the profits until the patents are granted.

I should also note that the Rohrabacher substitute does nothing to help small inventors with this problem.

H.R. 400, however, allows small inventors to receive fair compensation from any third party who commercializes their ideas between the time of publication and the time the patent issues. Every one of us has seen the words "patent pending" on a product, but in the current system, these words do not provide any legal protection.

Under H.R. 400, small inventors will be given a new property right while their patents are pending, so they can punish intellectual property thieves who try to steal their ideas.

Additionally, H.R. 400 gives small inventors longer patent protection than they receive under current law. Under the old system, which the Rohrabacher substitute seeks to resurrect, patent protection was only available for 17 years from the date a patent was granted.

H.R. 400, however, guarantees good-faith patent applicants a minimum of 17 years of patent protection, with most applicants receiving more. The bill also provides extended protection for up to 10 years in cases where the Patent Office fails to give applicants firm rulings on their applications in a timely manner.

Finally, H.R. 400 gives small inventors a special option to avoid publication of their patents. During the application process, some inventors may have second thoughts about publishing their applications, especially in cases where an initial Patent Office review is not favorable.

Under H.R. 400, inventors may withdraw their applications prior to publication and either refile them in the future or seek protection under State trade secrecy law.

Mr. Chairman, the Framers of our Constitution created a system in which the Government grants exclusive rights to inventors for a fixed period of time, in exchange for the prompt public disclosure of their inventions. This exchange allows all of American society to benefit from the creation of new ideas.

H.R. 400 is exactly what our Founding Fathers intended. It promotes invention by guaranteeing longer patent terms, prevents fraud and abuse by stopping patent submariners from swindling American taxpayers out of hundreds of millions of dollars, and protects small inventors by giving them new property rights in their pending patent applications.

I urge my colleagues to vote for H.R. 400 and against the misguided Rohrabacher substitute.

Mr. ROHRABACHER. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. ROSCO BARTLETT], one Member of Congress who has 20 patents to his name and who can speak with expertise on the issue of patents.

Mr. BARTLETT of Maryland. Mr. Chairman, as the holder of 20 patents myself, I feel compelled to rise today in support of the Rohrabacher substitute. For over 200 years, the American patent system has empowered inventors to make this country the most innovative in the world.

If H.R. 400 becomes law, small businesses and inventors will be forced to publish their patents before receiving a patent. This opens the door for every copycat in the world to steal this information and begin manufacturing and marketing before the inventor has patent protection.

Ladies and gentlemen, our Founding Fathers had the wisdom to recognize the need for a patent system unlike anywhere else in the world that promoted the concept of entrepreneurship and protected ingenuity.

□ 1345

Their foresight has resulted in the greatest industrial power this world has ever seen. Let us not weaken this protection in the name of international harmonization.

Next week I will hold hearings in the Subcommittee on Government Programs of the Committee on Small Business on this issue. I look forward to continuing this dialog.

Mr. COBLE. Mr. Chairman, I have only one speaker remaining. As I have the right to close, I will reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield 3½ minutes to the gentlewoman from California [Ms. LOFGREN], in whose district there are an incredible number of inventors and biotech people.

Ms. LOFGREN. Mr. Chairman, I rise in strong support of H.R. 400 and urge my colleagues to join me in voting for this important legislation.

As the gentleman from Michigan [Mr. CONYERS] has just indicated, I represent Silicon Valley in California. I know well the importance of ideas and the value of intellectual property. Our thriving economy back home is based on ideas and on technology.

It is worth pointing out to many Members who do not have exposure to high technology in their own districts the origin and history of our system of patent law. As my colleagues know, our Founding Fathers recognized the value of ideas in American ingenuity, and they put in our Constitution the authority of Congress to, "promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." That is in section 8, article I of the Constitution. By sharing ideas, inventors would advance the body of human knowledge and they would avoid the duplication of other scientists and knowledgeable people, and in exchange for sharing their ideas to advance human knowledge the inventors would receive for a period of time the exclusive ownership of that idea; and that really is the gist of patent law then and now.

Obviously the patent system today is different than it was in the 19th century. The original patent reform legislation was in 1836. We had revisions again in 1952. And here we are at the dawn of the 21st century once again updating patent law for the information society. H.R. 400 does that very well, as many of the speakers have already indicated.

I do, however, want to talk about some of the comments that have been made in criticism of the bill because it is important that they be put in the context of what is actually part of the law.

First, I have heard today and elsewhere the issue of gifts. I think that is quite a stretch, but it has confused many Members of this House because H.R. 400 does not change the current law in any respect relative to gifts. In fact, the Patent Trademark Office presently enjoys the right to use the authority to accept gifts and bequests granted to the Secretary of Commerce, and they are not unique in that regard.

For example, the Library of Congress is able to accept gifts and bequests along with the Secretary of Agriculture for the national ag lobby. We have taken it out. Unfortunately we have taken it out in the manager's amendment only to deal with an issue that did not need to be dealt with in reality.

There has been a lot of discussion that all of the inventors and all of the innovators are opposed to H.R. 400. Nothing could be farther from the truth. I would like to tell my colleagues that of the really thousands and thousands of people who are immersed and employed in technology, the overwhelming thrust from Silicon Valley is in favor of this reform of our patent bill, and of the high-tech companies who have been in communication with me, I would say there have been none, none who have opposed H.R. 400. Hewlett-Packard, Intel, and the inventors at IBM all beg us to adopt H.R. 400. I must say also they are considerably confused by the controversy that has erupted over this and cannot understand any of the argument being made in opposition since those arguments bear so little relationship to the law, to the facts and to the need for this update.

Mr. ROHRABACHER. Mr. Chairman I yield myself 1 minute.

So we have heard the submarine patent, that is the reason why we have to change the fundamental patent law of the United States that has been in place, the protections have been in place since the founding of our country. This is the equivalent of saying that because Hustler magazine is out, we have got to eliminate freedom of speech and totally restructure the civil liberties concerning freedom of speech in our country.

That is absolutely ridiculous. It is like saying, you got a hang nail, thus you got to amputate your whole leg in order to solve that problem.

No, the submarine patent issue is not the issue here. I put it into my substitute, I have been willing to end this problem all along. Congressional Research Service has found, has a finding, that my substitute ends the practice of submarine patenting. This is being used as a fig leaf to cover one of the most grotesque power grabs in the history of this country.

Little ROSCOE BARTLETT, the ROSCOE BARTLETT'S out there who discovered the wonderful things that change our lives, are being put at risk. It was very simple. We heard him say they are going to publish everything that he does so that everybody in the world can steal it and then say, "Sue them," to get it back.

Ms. KAPTUR. Mr. Chairman, I yield 1¼ minutes to the gentleman from Cleveland, OH [Mr. KUCINICH], our esteemed colleague.

Mr. KUCINICH. Mr. Chairman, I rise in opposition to H.R. 400.

The essence of this bill is a hostile takeover of the American patent system by private interests. The American patent system is a public trust. It is operated by a responsible government organization for the benefit of the American people and individual inventors. It exists to enhance the capacity of our economy to cultivate and commercialize new technologies.

If H.R. 400 becomes law, the integrity and independence of the patent system will be undermined. H.R. 400 would convert the Patent and Trademark Office, now part of the Department of Commerce, into a "corporate body not subject to direction or supervision by any department of the United States."

Another disturbing aspect of H.R. 400 is the establishment of a management advisory committee composed of corporate and management executives who will oversee the policies, goals and performance, budget, and user fees of this new government corporation. Even though the director of the Patent and Trademark Office would be appointed by the President of the United States, the director would be compelled to consult with a private sector board on all major decisions. The transformation of the PTO into a corporate body combined with the influence of the management advisory committee places our Nation on a slippery slope to corporate domination of the patent system and the destructive undermining of the democratic tradition which has produced some of the greatest inventions in the world from the American people.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. DELAHUNT].

Mr. DELAHUNT. Mr. Chairman, as a member of the committee and a cosponsor of House Resolution 400, I rise in support of the manager's amendment, and I want to commend our subcommittee chair, the gentleman from North Carolina [Mr. COBLE], for the fine work and for the patient and thoughtful way he has tried to reconcile all interests to perfect this legislation.

The critics have claimed that publication would enable foreign competitors to appropriate American ideas. The truth is that competitors who appropriate an invention after publication are liable for damages to the applicant, just as they would be once a patent is granted. The real issue is reciprocity.

The vast majority of American inventors seek patent protection not only at home but in foreign countries as well. To do so, they must publish their application in foreign countries 18 months after filing. But since America is the only industrialized Nation that does not have such a requirement, foreign companies seeking U.S. patent protection have no obligation to publish in the United States.

In other words Americans have to publish abroad while foreigners do not

have to publish here. This puts U.S. inventors at a serious disadvantage which the bill would correct.

This bill is about protecting American inventors, American businesses and American workers, and I urge passage of House Resolution 400.

Mr. Chairman, as a member of the committee and a cosponsor of H.R. 400, I rise in support of the manager's amendment and in opposition to the amendment in the nature of a substitute which will be offered by the gentleman from California.

I want to commend our subcommittee chairman, Mr. COBLE, for the patient and thoughtful way in which he has worked with all interested parties to refine and perfect this legislation over the past 3 years. I also wish to thank the ranking member, Mr. FRANK, and the chairman and ranking member of the full committee, Mr. HYDE and Mr. CONYERS, for their efforts on behalf of this legislation.

As a new member of the Subcommittee on Courts and Intellectual Property, I can sympathize with those of my colleagues who may feel intimidated by this complex and arcane subject. Unfortunately, that feeling has been compounded by a well-orchestrated campaign waged by opponents of this legislation to convince independent inventors and small businesses that this bill would benefit large international corporations at their expense.

I am proud to have many independent scientists, inventors, and startup companies in my district, and was appalled at what I was hearing from some of them about this bill. If what they were saying was true, this was David against Goliath, and I was not about to side with the Philistine. Frankly, I was ready to get out my slingshot too, until I learned the facts.

And the facts told a different story. I listened carefully to the testimony and studied the language of the bill, and found that this legislation had been totally mischaracterized by its opponents. The truth is that this bill benefits not only the major corporations and universities in my region who enthusiastically support it. It benefits every inventor and developer of advanced technology, whether large or small—from software developers and biotechnology companies on the South Shore to marine biologists at Woods Hole.

H.R. 400 creates a level playing field between U.S. patent applicants and their international competitors. It modernizes the patent office and reduces administrative delays. It protects inventors even before a patent is granted through publication of patent applications, and creates a "prior user" defense against claims of infringement for those who have independently developed and used inventions that are subsequently patented. These reforms will help ensure that the U.S. patent system keeps pace with the demands of the 21st century.

But what will all this mean for the independent inventor? Critics of the bill have claimed that requiring patent applicants to publish their application 18 months after filing would enable others to rob them of their work. The truth is that by publishing the application, the inventor gains a form of provisional protection not available under current law. Today, an inventor has no protection against a third party who exploits the inventor's idea while the application is pending. The phrase "patent pending" announces to the world that an application has been filed but affords no legal protection. By publishing the application, the inventor stakes a claim that entitles him or her to compensation for infringement from any third party that makes use of the idea between the date of publication and the date the patent issues.

Perhaps even more important for a small business or an independent inventor is the fact that other applicants must publish, too. Under current law, an applicant has no way of knowing whether another has filed first until one of them receives a patent. By then, the losing party may have invested everything it has in an idea that belongs to someone else. Under H.R. 400, an applicant will know if a patent has already been applied for.

The critics have claimed that publication would enable foreign competitors to appropriate American ideas. The truth is that competitors who appropriate an invention after publication are liable for damages to the applicant, just as they would be once a patent is granted. The real issue is reciprocity: The vast majority of American inventors seek patent protection not only at home but in foreign countries as well. To do so, they must publish their application in the foreign country 18 months after filing. But since America is the only industrialized nation that does not have such a requirement, foreign companies seeking U.S. patent protection have no obligation to publish in the United States. In other words, Americans have to publish abroad, while foreigners do not have to publish here. This puts U.S. inventors at a serious disadvantage which the bill would correct.

But what about inventors who have no intention of applying for a patent overseas? The critics have claimed that they have no recourse. The truth is that the bill will allow inventors applying for a patent exclusively in the United States to delay publication until 3 months after the Patent and Trademark Office has taken a second action with respect to the application. Since, in most cases, the second Office action is the issuance of the patent itself, this provision effectively exempts independent inventors and small businesses from the publication requirements. On the other hand, if the second Office action is a determination that a patent is unlikely to be issued, the applicant may withdraw the application and seek protection under the trade secret and unfair competition laws.

The other major claim made by critics of the bill is that the proposed term of 20 years from the date the application is filed would give inventors less protection than the current term of 17 years from the date the patent is granted. The truth is that those who apply in good faith and do not attempt to delay their applications are guaranteed a minimum of 17 years under the bill. Most applicants will receive more than 17 years of protection, since most applications are processed within less than 2 years. A diligent applicant who is forced to wait more than 3 years would be granted an extra day of patent protection for each day of delay.

I do not mean to suggest that all of the concerns that have been raised about this legislation are illegitimate. What I do believe is that the legitimate concerns raised by the gentleman from California and other critics of the legislation as originally drafted have been addressed. H.R. 400 includes numerous amendments that effectively respond to these and many other concerns raised over the 3 years that this legislation has been on the drawing board.

Those are the facts. It is unfortunate that the truth has been obscured by misinformation and demagoguery. But the loudest voices are not always right, and the constant repetition of a falsehood does not make it true. H.R. 400 is good for inventors, both large and small. It is good for our Nation as a whole. I urge my colleagues to reject the Rohrabacher amendment and pass the bill.

Mr. ROHRABACHER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, it should be apparent by now that there are some fundamental issues at play here between two people over a disagreement, an honest disagreement. Let me note this: that everything that has been said that is good about H.R. 400 has been included in my alternative bill which will be offered as a substitute on the floor.

What we have now are several issues that differentiate us, and one is, of course, after 18 months all of our technological information will be made public to the world. Why is this? Why are they insisting on publication? They say it is to handle the submarine patent issue, although we have already solved that according to the Congressional Research Service. It is because there has been an agreement made with Japan that I have put in the CONGRESSIONAL RECORD, time and time again, to harmonize our law; in other words, make American law like Japan's.

Mr. Chairman, if our colleagues listen very carefully to the arguments we have heard today that is what is being said. We have got to have a law like they have in Japan and in Europe. How has it worked in Japan? The little guy gets kicked and smothered and beaten down. We do not want a system like that here.

Mr. COBLE. Mr. Chairman, as I said previously. I only have one speaker left, and I have the right to close.

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

Mr. ROHRABACHER. Mr. Chairman, how much time is remaining?

The CHAIRMAN. The gentleman from California [Mr. ROHRABACHER] has 4½ minutes remaining, the gentleman from North Carolina [Mr. COBLE] has 5 minutes remaining, the gentleman from Michigan [Mr. CONYERS] has 16½ minutes remaining, and the gentlewoman from Ohio [Ms. KAPTUR] has 1¼ minutes remaining.

Mr. CONYERS. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, we are gathered here under unique circumstances. We have a manager's amendment which I think

will clear up many of the problems, I hope, that the gentleman from California [Mr. ROHRABACHER] has posed. I do not know if he is familiar with the manager's amendment. Apparently he is not.

Mr. ROHRABACHER. It would be very difficult because it did not come on the floor or was available to us until just a few hours ago.

Mr. CONYERS. Then the gentleman from California is not familiar with it.

Just a moment; I have not yielded.

Mr. ROHRABACHER. I thought the gentleman from Michigan was asking me a question. I am sorry.

Mr. CONYERS. No, I will handle this. The gentleman is not familiar with it, and it just came on the floor. It was brought forward at the Committee on Rules hearing yesterday that the gentleman attended with myself and the chairman of the Committee on the Judiciary.

Mr. ROHRABACHER. If the gentleman would yield, I am sorry I was not.

Mr. CONYERS. Mr. Chairman, I did not yield to the gentleman from California. Please. I know this is an anxious moment which the gentleman awaited a long time, and we have granted him time, but he cannot interrupt me.

□ 1400

Now, the manager's amendment might help bridge the difference between the unanimous conclusions of every Democrat and Republican on the Committee on the Judiciary and the distinguished gentleman from California. Manager's amendments have a way of coming up at Committee on Rules hearings. If it had been prepared earlier, we would have brought it out with the bill.

So I would propose that myself and the chairman of this committee make available to the gentleman from California [Mr. ROHRABACHER] the amendment, if the gentleman has not seen it, to see if it actually bridges any of the differences that we have, or if it fails, because if it does not, it limits what we are doing.

Now, according to the gentleman from California [Mr. ROHRABACHER] and the document the gentleman has held on the floor, the submarine issue is resolved. We resolved it, the gentleman resolved it, it is not in contention from the gentleman's position. The manager's amendment also might help resolve some more issues. I am just trying to reach some resolution here. So hopefully, that will happen.

Now, the vast majority of patents are filed both in the United States and abroad simultaneously, 80 percent of them. Abroad they are required to be published. So this requirement will not affect 80 percent of the patents. There is an exemption from the publications requirement for small businesses, and for the small inventor there is an exemption. This is relatively fundamental. It is in our bill.

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

Mr. CONYERS. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, it is not in the bill, and I would like to ask a question about that. As I read the manager's amendment, there is the opportunity for a small business to opt, if they have had two office actions, to either opt out of the patent system or to delay publication for 3 months, but they still have the publication mandate after 18 months, from the way I read the manager's amendment, and I ran that by the inventors.

Mr. CONYERS. Mr. Chairman, as far as the Rohrabacher group goes then, we do not solve that.

Then let me try the prior-use doctrine. The prior-use doctrine here protects the first to invent, not the person who steals the intellectual property, and we are attempting to give that protection, which does not exist now, and that is why publication in the end, I say to my colleagues, is so important. It stops the process whereby foreign competitors can game our patent system process by filing incomplete patent applications and extend their legal monopoly rights up to 40 years.

Now, the Wall Street Journal is not for or against H.R. 400 or the Rohrabacher substitute, but they are writing about Americans who are gaming the system. That is what we are trying to stop. Hence, the bill.

So there is something missing here in this debate. After years of working with both sides, inventors, lawyers, former patent commissioners, the administration, we finally come to closure with a unanimous vote in this Congress, and the last, and now the gentleman is telling us that this thing really was not cured. And I am stunned to find the Wall Street Journal pointing out that these kinds of fellows are the ones that we are trying to stop with this H.R. 400 and that we are not undermining the American patent process, we are really undergirding it and bringing the protection to small inventors.

That is why this Member supports the bill. I am not a shill for big corporations or any other kind of association, but the fact of the matter is, we are making this a better patent law by improving the defects that have existed for a considerable number of years. I urge Members to think of these arguments.

We will have the 5-minute rule in effect, and I hope that we can take care of every one of the reservations that my dear friend from Ohio [Ms. KAPTUR] has so articulately put forward in this debate, because that is what we are here for. We want to do the right thing, and I hope that my colleagues will move our debate along in that spirit.

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

Mr. ROHRABACHER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CAMPBELL] who represents the Silicon Valley area.

Mr. CAMPBELL. Mr. Chairman, I wish to speak on the question of who is on which side. I think that is a useful way to analyze the factors in these bills.

The inventors want to keep the rights that they have when they invent and do not want to be forced to disclose. The commercializers want to have as much disclosure as possible so that they can make use of those inventions.

I am not condemning either side, but by identifying them, I think we see that if we can achieve the commercializers' legitimate interests without undercutting the inventors, then we have achieved something. That is what is in the Rohrabacher bill.

Some of my colleagues on the other side have spoken about the high-tech companies who support H.R. 400, and I agree they do. But it is very interesting to me that the university community has been silent and has not rushed to support H.R. 400. In fact, I have had extensive dealings with the university community and they are staying off, because they are worried about what this might do to the inventive process.

Mr. Chairman, I would conclude with one last observation, and that is that people speak of a level playing field with Europe. I say to my colleagues, I do not want a level playing field. We are better.

Mr. ROHRABACHER. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. FORBES].

Mr. FORBES. Mr. Chairman, much has been made about previous administrations supporting this kind of initiative. Well, I have in my hand a Commerce Department news release which shows clearly what this is really about. It is not about submarines. It is about gaining access to foreign markets.

In this news release it says, quite specifically, that in exchange for loosening up U.S. patent protections that we will make concessions to other nations, and that clearly is what it is about, access to foreign markets. It is no secret why the political appointees want this for access to greater markets overseas, but let us talk about why we need to protect American ideas, American patents within America's borders. That is the key here.

Patent examiners, their association, oppose this bill. They find it horrendous. And it will hurt the small business people and the entrepreneurs, and if we care about small business and the entrepreneurs, the little guy, then my colleagues will support my amendment to this legislation.

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

Mr. Chairman, our hearings have revealed, and this is why we support the bill, it showed that 300 foreign companies were able to come into this country and game the process, so the previous speaker who says that this is all just about domestic, well, it is about foreign companies coming onto our turf, sir, and taking our patents. That is what we are trying to stop.

So to say that it does not involve foreign companies, it involves 300 foreign companies, according to our hearings. In one case, a British pharmaceutical company was so effective at the submarining game that the United States competitor had to relocate its operations abroad to be able to produce a competing project.

So we have our companies going out of the United States to come back in because of the submarine system, and some say this is just a domestic problem. It is not. It is a national, international problem.

Now, the submarine patents which we claim are now corrected on both sides, I would point out that there was one American, and this is not a foreign entrepreneur, was able to get $500 million in royalties. For doing what? For simply delaying for 35 years in some instances, the prosecution of a patent, and then suing other manufacturers who, in the meantime, not knowing about it, started using the process. Gilbert Hyatt submarined his patent for 20 years and extracted $70 million from Texas Instruments, who started using the same computer chip technology, totally unaware of Hyatt's submarine patent.

If the Rohrabacher bill cures it and the bill discussed by all of the members of the Committee on the Judiciary and two Congresses, what is wrong with H.R. 400? As a matter of fact, the gentleman from California [Mr. ROHRABACHER] came before the committee, and his ideas and discussion were taken into consideration, and we thought that we treated him very kindly.

So this is a big problem we are curing. It is not overturning the patent system; it is not undermining the American process which we have put together; it is really taking care of a problem that has to be addressed and is being addressed in the committee bill. Mr. Chairman, I urge its continued support.

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

Mr. ROHRABACHER. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. HUNTER].

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

We were told in some previous statements, I think the gentleman from Virginia [Mr. GOODLATTE] pointed to Japan and Europe and said, why can we not be like them? This poster shows the number of Noble Laureates in science and technology from the United States as opposed to the number from Japan. There are 175 from the United States, that is our broken system; and there are 5 from Japan, that is the good system.

Now, why are there so many from the United States and why are there so few from Japan? And I think my colleagues would see exactly the same numbers with Europe. Why are there almost no high-technology startup businesses in Japan and Europe and lots of them in the United States? Secrecy. Being able to keep one's idea under a cloak while one lines up the money and the power to get it into production.

□ 1415

You can do that in the United States. You cannot do it in Japan, you cannot do it in Europe. There is no running room.

We want to give our innovators running room. Do Members know something? We give it to them. They have some secrecy. There is no substitute for that secrecy, because after two of these office actions, we still are going to publish under the main bill, we are going to publish those folks. That is what we have said. The Patent Office tell us that clearly, more than 30 percent of the patents that are ultimately issued go past two office actions. So that means those folks are going to be exposed.

Submarine patents, do Members know how many submarine patents there have been in the last 2.3 million patents that have been issued? Three hundred and seventy. We do not need to expose all of our people to cut out 370.

Mr. COBLE. Mr. Chairman, will the gentleman from Michigan [Mr. CONYERS] yield 2 minutes to me?

Mr. CONYERS. I yield 2 minutes to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Chairman, I had not planned to, but it is tough to remain silent here. As my friend, the gentleman from Michigan, said, there has probably been more excitement surrounding the law of patents than has happened in the last 15 years. But the gentleman from New York stood in the well and said, this is not about submarine patenting. Mr. Chairman, it is about submarine patenting.

I direct the gentleman's attention to the front page of the Wall Street Journal, to which the gentleman from Michigan previously alluded, indicating in broad print that it is a big-time problem, submarine patenting. For the benefit of the uninformed, the last time I checked, the Wall Street Journal is not a yellow journalistic sheet, so I think there is some authenticity behind that.

I say to my good friend, the gentleman from California [Mr. CAMPBELL], one of the most learned people in this body, he mentioned the university system. He will recall that in the dialog in which he and I engaged we made amendments in order, and the manager's amendment reflects some of that, that satisfies the university community. They came back to me, and perhaps to others on the committee, telling us that it is far better than it was earlier. I think they are taking no position on either bill. So we did do some good work on that.

Mr. ROHRABACHER. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN pro tempore. The gentleman from California [Mr. ROHRABACHER] is recognized for his remaining 1 minute.

Mr. ROHRABACHER. Mr. Chairman, that is why this is not about submarine patents, because the Congressional Research Service has found that my bill, as well as the bill we are talking about, H.R. 400, deals with submarine patents. What we are talking about is a subterranean agreement with Japan, which I have held up, put in the CONGRESSIONAL RECORD, no one wants to comment on it, to harmonize our law with Japan's; Japan, where economic shoguns beat their people into submission because all of the secrets of the average person are made vulnerable to the big guys coming in and stealing it legally.

It does not make me feel any better that you have given the rights to the American people, after exposing them to theft, to sue Mitsubishi Corp. or the People's Liberation Army if they come over here and start stealing from our people.

This is about exposing the gentleman from Maryland [Mr. ROSCOE BARTLETT] and every other inventor in this country, and the five Nobel laureates who support my substitute bill, to grand theft and the lowering of the American standard of living because we have lost our technological edge, because we have given it away.

We have exposed it to theft, and if we pass this bill, a bill that opens up all of our secrets for our enemies to steal, we deserve it.

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

Mr. Chairman, we heard about a secret agreement with Japan that no one speaks about. I am happy to find out about it. I presume that the gentleman from California is referring to a part of the GATT conference?

At any rate, I will be happy to deal with that in the 5 minutes.

Mr. Chairman, could I just review a few circumstances that may come out as the debate goes on. The substitute of the gentleman from California [Mr. ROHRABACHER] provides that applications filed in this country may not be published sooner than 5 years after they are filed, and then, not if the application is under appellate review.

This is one of the ways a submariner delays its own application, is to file

spurious law claims and appeals. In addition, the director of the PTO must find that the application is not being pursued by an applicant before the publication can occur. I think we have some problems, because as anyone can imagine, it is almost impossible to identify maneuvers by patent lawyers to delay the processing of their applications.

So this provision is not very helpful in eliminating submarining, and is almost impossible to enforce, from my perspective. Imagine telling a judge that he can only allow the public to see the court documents relating to a case when a finding was made as to whether the merits were diligently pursued.

All judges, patent judges included, must give the benefit of the doubt to the filers that they are proceeding in good faith, and that they are legitimately pursuing their claims, or the whole system goes down.

The Rohrabacher substitute, as I understand it, demands a presumption of guilt in order to require publishing. This is a presumption that almost never can be established, and therein lies a serious grievance between the substitute and the bill, H.R. 400.

Mr. Chairman, what we are saying here is that we have a little submarining going on here on the floor. We have one bill that corrects submarining, a substitute that says, but we do, too, and then when we look at it a little more carefully there are a number of questions. And they may be drafting problems, or they may just not have been as tightly drawn, but they certainly cannot equally be said to deal with the problem of submarining. I do not think that is the case.

There is another way to game the system, under the Rohrabacher substitute. An applicant could file appeals, and listen carefully to this, an applicant under the Rohrabacher substitute could file an appeal to the Board of Patent Appeals which, while unlikely to succeed, are not so frivolous as to draw sanctions. That is what submariners love, new ways to game the system.

I am not saying this is done in bad faith. I am sure he is trying to cure it. But it simply does not cure it. That is why 37 members on the Committee on the Judiciary took this approach in H.R. 400.

PARLIAMENTARY INQUIRY

Mr. ROHRABACHER. Parliamentary inquiry, Mr. Chairman. If a Member is referred to by name on the floor and a question is asked, is it out of order for the Member then to ask if the person wants an answer to the point?

The CHAIRMAN pro tempore. The Member who controls the time decides if he wants to relinquish the time.

Ms. KAPTUR. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN pro tempore. The gentlewoman from Ohio [Ms. KAPTUR] is recognized for 1¼ minutes.

Ms. KAPTUR. Mr. Chairman, I say to the Members, if they have not read H.R. 400, I say vote "no." No one will have been able to read it because it has been changed so much, there is no final bill for Members to review.

Support the substitute. Remember, the United States leads the world in intellectual property breakthroughs by 10 times. Why change a system that is working, for a bill which Members have no final copy of to review? Why support a bill that takes away the guaranty of secrecy our patent applicants receive until their patent is granted? Why do that to them?

Why support H.R. 400, when it puts a greater burden of proof on our inventors to defend themselves, forcing them to sue, forcing them to greater re-examination procedures? Why do this to them?

Why support a bill that undermines the objectivity of our patent examiners, and changes our Patent Office?

This is a battle that goes to the heart of the constitutional rights of our citizens to invent opportunity in the 21st century. Vote "no" on H.R. 400. Support the substitute.

Mr. COBLE. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE], the distinguished chairman of the Committee on the Judiciary.

The CHAIRMAN pro tempore. The gentleman from Illinois [Mr. HYDE] is recognized for 5 minutes.

Mr. HYDE. Mr. Chairman, this is about submarine patenting, and lest anyone be confused, a submarine patent is an application made by somebody who does not really want a quick and speedy issuance or grant of a patent. He wants to keep his application alive below the surface, hoping that somebody else will come along and start marketing, start manufacturing, start using an idea which is a part of his application. Then he surfaces suddenly, periscope up, and sues.

That may sound convoluted, but there are people making millions and millions of dollars, and the only way to effectively dispel that gaming of the system is to expose the applicant to publication after a reasonable length of time. Eighteen months has been determined by the world and us to be a reasonable length of time.

The gentleman from California [Mr. ROHRABACHER] claims that his substitute effectively dispels the submarine problem. That is, forgive me, nonsense. Here is how he dispels the submarine problem.

His amendment provides for publication no sooner than 5 years after the filing date, but not even then, if the submariner files an appeal, which may or may not be legitimate.

□ 1430

That is a way to stretch this thing out. So under his curative amendment, submarines must surface after 5 years. That is a lifetime in the computer business. That is a lifetime in the pharmaceutical business. That is a lifetime in the biotech industry.

It is just no cure. I just think it is a convoluted way to continue gaming the system.

We have heard about stealing secrets. My God, we Americans are so brilliant and we invent these things and we clutch them to our bosom and nobody is going to steal them. Well, the problem is, if you want to be protected in Japan, if you want to be protected in France or Germany, you have to file over there. And if you file over there, you are going to be published in 18 months. On the other hand, 45 percent of the applications for patents in our country are from foreign countries, foreign inventors, rather, and they are not published under our present law, so we cannot see what they are doing; but, boy, they can see what we are doing.

Now, after publication, which is a healthy, good thing, not a poisonous thing, publication gives rise to what are called provisional rights, which means after your idea has been published but before you get a patent, you have rights which are enforceable in damages should somebody steal your idea and infringe your patent. So those things have to be taken into consideration.

This patent law is esoteric. It is difficult. But it is darned important to our economy and it is critical to our international competitiveness. I have heard language I expect to hear in the early 1940s about this country can go it alone, we are not involved in an international trade situation. Oh, yes we are. And this committee, the Committee on the Judiciary, has been involved in hearings and the study of this legislation for 3 years. There have been full and open hearings on this issue, and we have heard from scores of witnesses.

Mr. Chairman, the committee has marked up the bill twice, and both times key improvements were made to address the reasonable concerns of the parties involved. I ask that Members consider the fact that the Committee on the Judiciary has produced a bill that has twice been unanimously approved by voice vote.

Yes, the United States is the world's largest producer of intellectual property, but this success is dependent on a rational and sound and modern system of protection. To stay on top of an ever-changing technology and ever-changing economy, we have to make a number of changes in our patent code over the years. And we cannot ignore what is going on overseas.

First, in an era of unprecedented competition, the intellectual property

industries have emerged as an area of American strength; and, second, technological innovations, especially in the areas of biotechnology and computer science, have increased substantially.

Today there are more than 1,300 companies employing more than 100,000 Americans in the biotech industry. That is just one industry that would not exist if we did not have strong patent protection.

Mr. WELDON of Florida. Mr. Chairman, I rise to express my concerns about H.R. 400, patent reform legislation. As the bill is currently drafted, I cannot support this legislation. While I appreciate the concerns by Members on both sides of this issue, I believe that H.R. 400 has some flaws that I cannot overlook.

For the past 200 years, the U.S. patent system has been the envy of the world. I believe that H.R. 400 as brought to the House floor would significantly alter this system which has done so much throughout our history to make the United States the world's leading source of innovation. We must carefully guard against any changes that might adversely impact the United States.

If major issues are not addressed during the debate on this bill, I will cast a no vote when we take a final vote on H.R. 400.

I thank the chairman for giving me this opportunity to speak on this matter.

Mr. SPENCE. Mr. Chairman, I rise in support of the manager's amendment to H.R. 400, the 21st Century Patent System Improvement Act.

Section 202 of this act would require the publication of patent applications 18 months after they are filed with the Patent and Trademark Office. This is a significant departure from the current practice, whereby this information is not published until after the patent is granted. There is a national security issue here. Under the current process, before a patent is issued a review of the patent application is conducted to determine if it contains technical information that is sensitive from a national security standpoint. If, after a review by the Department of Defense and the Department of Energy it is determined that the public release of the information in the patent application would be detrimental to national security, the patent application is put under a secrecy order prohibiting its public release.

In reviewing the original draft of H.R. 400, I was concerned that it would require the publication of the patent application before the Defense Department had completed its security review. A historical review determined that during fiscal years 1994 and 1995 eight of the patent applications that were eventually placed under secrecy orders did not have security review completed within 18 months. While that number is small, in 2 years there would have been eight instances in which classified technical information would have been publicly released under the procedures proposed by H.R. 400.

To address this problem, I submitted an amendment on behalf of the National Security Committee to the Judiciary Committee that would prevent the publication of patent applications until the secrecy reviews have been completed and it is found that their publication would not be detrimental to national security. I am pleased to report that the chairman of the Courts and Intellectual Property Subcommittee, Mr. COBLE, has agreed to accept this change and thereby fix this problem.

I want to thank the Judiciary Committee and its staff for their assistance and for working with us to ensure that sensitive national security information is not inadvertently released as a consequence of reforming the patent system.

Mrs. KELLY. Mr. Chairman, I rise in strong support of H.R. 400, the 21st Century Patent System Improvement Act, legislation which might be more aptly titled the Keep America Competitive Act.

H.R. 400 makes a number of commonsense improvements to our patent system, but I want to focus on one particular problem inherent in the current system that this legislation will correct.

I'm talking about the problem of so-called submarine patents, situations where a patent applicant intentionally delays the issuance of a patent, sometimes for a decade or more, through repeated refilings, which has the effect of submerging their original application from public view.

At the same time, other individuals or companies, without knowledge of that pending application, develop and market the same new technology. The original filer then allows his pending application to issue as a patent—the submarine surfaces—and then proceeds to hit unknowing businesses with costly royalty claims.

Mr. Chairman, this is not how our patent system was intended to work. We need a system which encourages innovation and protects legitimate inventors who develop new ideas with the intention of bringing those ideas to market—not a system which encourages sham artists who file patent applications with no intention of developing a product, but every intention of hitting unsuspecting companies with huge royalties.

This is a very real problem for one of the major employers in my district—IBM. Time and time again, IBM is hit with royalty claims from patents that were filed as much as 20 years ago, but only recently surface as the patent issues. This is not rhetoric, Mr. Chairman, this is real; it costs the company millions of dollars and it hurts their ability to compete.

Now let me share with you some additional facts. The information technology industry is characterized by very short product cycles. A technology that is developed and goes to market today could be obsolete less than a year from now. Our patent system has not kept up with the pace of technology development in today's economy. We need a patent system that will take us into the 21st century, and yet forcing companies like IBM to wait 5 years or more before a patent application is published is totally out of step with the realities of the information age.

A 5-year publication requirement will accomplish one of two things: You will either inhibit new technologies from coming to market or you will ensure that submarine patents remain a problem, or both.

An 18-month publication requirement, as included in H.R. 400, gets the technology to the marketplace quicker and, most importantly, ensures that the inventor enjoys the royalty proceeds from their invention sooner.

I urge my colleagues to join me in supporting this important legislation to keep America competitive in the 21st century. Vote for H.R. 400. Thank you, Mr. Chairman.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill, modified as specified in section 2 of House Resolution 116, shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

H.R. 400

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 "21st Century Patent System Improvement Act".

SEC. 2. TABLE OF CONTENTS.

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TITLE I—PATENT AND TRADEMARK OFFICE MODERNIZATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Patent and Trademark Office Modernization Act".

Subtitle A—United States Patent and Trademark Office

SEC. 111. ESTABLISHMENT OF PATENT AND TRADEMARK OFFICE AS A GOVERNMENT CORPORATION.

Section 1 of title 35, United States Code, is amended to read as follows:

"§ 1. Establishment

"(a) ESTABLISHMENT.—The United States Patent and Trademark Office is established as a wholly owned Government corporation subject to chapter 91 of title 31, separate from any department of the United States, and shall be an agency of the United States under the policy direction of the Secretary of Commerce. For purposes of internal management, the United States Patent and Trademark Office shall be a corporate body not subject to direction or supervision by any department of the United States, except as otherwise provided in this title.

"(b) OFFICES.—The United States Patent and Trademark Office shall maintain its principal office in the metropolitan Washington, D.C. area, for the service of process and papers and for the purpose of carrying out its functions. The United States Patent and Trademark Office shall be deemed, for purposes of venue in civil actions, to be a resident of the district in which its principal office is located, except where jurisdiction is otherwise provided by law. The United States Patent and Trademark Office may establish satellite offices in such other places as it considers necessary and appropriate in the conduct of its business.

"(c) REFERENCE.—For purposes of this title, the United States Patent and Trademark Office shall also be referred to as the 'Office' and the 'Patent and Trademark Office'.".

SEC. 112. POWERS AND DUTIES.

Section 2 of title 35, United States Code, is amended to read as follows:

"§ 2. Powers and duties

"(a) IN GENERAL.—The United States Patent and Trademark Office, under the policy direction of the Secretary of Commerce—

"(1) shall be responsible for the granting and issuing of patents and the registration of trademarks;

"(2) may conduct studies, programs, or exchanges of items or services regarding domestic and international law of patents, trademarks, and other matters, the administration of the Office, or any function vested in the Office by law, including programs to recognize, identify, assess, and forecast the technology of patented inventions and their utility to industry;

"(3)(A) may authorize or conduct studies and programs cooperatively with foreign patent and trademark offices and international organizations, in connection with patents, trademarks, and other matters; and

"(B) with the concurrence of the Secretary of State, may authorize the transfer of not to exceed $100,000 in any year to the Department of State for the purpose of making special payments to international intergovernmental organizations for studies and programs for advancing international cooperation concerning patents, trademarks, and other matters; and

"(4) shall be responsible for disseminating to the public information with respect to patents and trademarks.

The special payments under paragraph (3)(B) shall be in addition to any other payments or contributions to international organizations described in paragraph (3)(B) and shall not be subject to any limitations imposed by law on the amounts of such other payments or contributions by the United States Government.

"(b) SPECIFIC POWERS.—The Office—

"(1) shall have perpetual succession;

"(2) shall adopt and use a corporate seal, which shall be judicially noticed and with which letters patent, certificates of trademark registrations, and papers issued by the Office shall be authenticated;

"(3) may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings, subject to the provisions of section 7;

"(4) may indemnify the Director, and other officers, attorneys, agents, and employees (including members of the Management Advisory Board established in section 5) of the Office for liabilities and expenses incurred within the scope of their employment;

"(5) may adopt, amend, and repeal bylaws, rules, regulations, and determinations, which—

"(A) shall govern the manner in which its business will be conducted and the powers granted to it by law will be exercised;

"(B) shall be made after notice and opportunity for full participation by interested public and private parties;

"(C) shall facilitate and expedite the processing of patent applications, particularly those which can be filed, stored, processed, searched, and retrieved electronically, subject to the provisions of section 122 relating to the confidential status of applications;

"(D) may govern the recognition and conduct of agents, attorneys, or other persons representing applicants or other parties before the Office, and may require them, before being recognized as representatives of applicants or other persons, to show that they are of good moral character and reputation and are possessed of the necessary qualifications to render to applicants or other persons valuable service, advice, and assistance in the presentation or prosecution of their applications or other business before the Office; and

"(E) recognize the public interest in continuing to safeguard broad access to the United States patent system through the reduced fee structure for small entities under section 41(h)(1) of this title;

"(6) may acquire, construct, purchase, lease, hold, manage, operate, improve, alter, and renovate any real, personal, or mixed property, or any interest therein, as it considers necessary to carry out its functions;

"(7)(A) may make such purchases, contracts for the construction, maintenance, or management and operation of facilities, and contracts for supplies or services, without regard to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 and following), the Public Buildings Act (40 U.S.C. 601 and following), and the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 and following); and

"(B) may enter into and perform such purchases and contracts for printing services, including the process of composition, platemaking, presswork, silk screen processes, binding, microform, and the products of such processes, as it considers necessary to carry out the functions of the Office, without regard to sections 501 through 517 and 1101 through 1123 of title 44;

"(8) may use, with their consent, services, equipment, personnel, and facilities of other departments, agencies, and instrumentalities of the Federal Government, on a reimbursable basis, and cooperate with such other departments, agencies, and instrumentalities in the establishment and use of services, equipment, and facilities of the Office;

"(9) may obtain from the Administrator of General Services such services as the Administrator is authorized to provide to other agencies of the United States, on the same basis as those services are provided to other agencies of the United States;

"(10) may, when the Director determines that it is practicable, efficient, and cost-effective to do so, use, with the consent of the United States and the agency, government, or international organization concerned, the services, records, facilities, or personnel of any State or local government agency or instrumentality or foreign government or international organization to perform functions on its behalf;

"(11) may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946');

"(12) may retain and use all of its revenues and receipts, including revenues from the sale, lease, or disposal of any real, personal, or mixed property, or any interest therein, of the Office, including for research and development and capital investment, subject to the provisions of section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note);

"(13) shall have the priority of the United States with respect to the payment of debts from bankrupt, insolvent, and decedents' estates;

"(14) may accept monetary gifts or donations of services, or of real, personal, or mixed property, in order to carry out the functions of the Office;

"(15) may execute, in accordance with its bylaws, rules, and regulations, all instruments necessary and appropriate in the exercise of any of its powers; and

"(16) may provide for liability insurance and insurance against any loss in connection with its property, other assets, or operations either by contract or by self-insurance.

"(c) CONSTRUCTION.—Nothing in this section shall be construed to nullify, void, cancel, or interrupt any pending request-for-proposal let or contract issued by the General Services Administration for the specific purpose of relocating or leasing space to the United States Patent and Trademark Office.".

SEC. 113. ORGANIZATION AND MANAGEMENT.

Section 3 of title 35, United States Code, is amended to read as follows:

"§3. Officers and employees

"(a) DIRECTOR.—

"(1) IN GENERAL.—The management of the United States Patent and Trademark Office shall be vested in a Director of the United States Patent and Trademark Office (in this title referred to as the 'Director'), who shall be a citizen of the United States and who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be a person who, by reason of professional background and experience in patent or trademark law, is especially qualified to manage the Office.

"(2) DUTIES.—

"(A) IN GENERAL.—The Director shall be responsible for the management and direction of the Office, including the issuance of patents and the registration of trademarks, and shall perform these duties in a fair, impartial, and equitable manner.

"(B) ADVISING THE PRESIDENT.—The Director shall advise the President, through the Secretary of Commerce, of all activities of the Office undertaken in response to obligations of the United States under treaties and executive agreements, or which relate to cooperative programs with those authorities of foreign governments that are responsible for granting patents or registering trademarks. The Director shall also recommend to the President, through the Secretary of Commerce, changes in law or policy which may improve the ability of United States citizens to secure and enforce patent rights or trademark rights in the United States or in foreign countries.

"(C) CONSULTING WITH THE MANAGEMENT ADVISORY BOARD.—The Director shall consult with the Management Advisory Board established in section 5 on a regular basis on matters relating to the operation of the Office, and shall consult with the Advisory Board before submitting budgetary proposals to the Office of Management and Budget or changing or proposing to change patent or trademark user fees or patent or trademark regulations.

"(D) SECURITY CLEARANCES.—The Director, in consultation with the Director of the Office of Personnel Management, shall maintain a program for identifying national security positions and providing for appropriate security clearances.

"(3) TERM.—The Director shall serve a term of 5 years, and may continue to serve after the expiration of the Director's term until a successor is appointed and assumes office. The Director may be reappointed to subsequent terms.

"(4) OATH.—The Director shall, before taking office, take an oath to discharge faithfully the duties of the Office.

"(5) COMPENSATION.—The Director shall receive compensation at a rate not to exceed the rate of pay in effect for level III of the Executive Schedule under section 5314 of title 5 and, in addition, may receive as a bonus, an amount which would raise the Director's total compensation to not more than the equivalent of the level of the rate of pay in effect for level I of the Executive Schedule under section 5312 of title 5, based upon an evaluation by the Secretary of Commerce of the Director's performance as defined in an annual performance agreement between the Director and the Secretary. The annual performance agreement shall incorporate measurable goals as delineated in an annual performance plan agreed to by the Director and the Secretary.

"(6) REMOVAL.—The Director may be removed from office by the President. The President shall provide notification of any such removal to both Houses of Congress.

"(7) DESIGNEE OF DIRECTOR.—The Director shall designate an officer of the Office who shall be vested with the authority to act in the capacity of the Director in the event of the absence or incapacity of the Director.

"(b) OFFICERS AND EMPLOYEES OF THE OFFICE.—

"(1) COMMISSIONERS.—The Director shall appoint a Commissioner for Patents and a Commissioner for Trademarks for terms that shall expire on the date on which the Director's term expires. The Commissioner for Patents shall be a person with demonstrated experience in patent law and the Commissioner for Trademarks shall be a person with demonstrated experience in trademark law. The Commissioner for Patents and the Commissioner for Trademarks shall be the principal policy and management advisers to the Director on all aspects of the activities of the Office that affect the administration of patent and trademark operations, respectively.

"(2) OTHER OFFICERS AND EMPLOYEES.—The Director shall—

"(A) appoint such officers, employees (including attorneys), and agents of the Office as the Director considers necessary to carry out the functions of the Office; and

"(B) define the authority and duties of such officers and employees and delegate to them such of the powers vested in the Office as the Director may determine.

The Office shall not be subject to any administratively or statutorily imposed limitation on positions or personnel, and no positions or personnel of the Office shall be taken into account for purposes of applying any such limitation.

"(c) CONTINUED APPLICABILITY OF TITLE 5.—Officers and employees of the Office shall be subject to the provisions of title 5 relating to Federal employees. Section 2302 of title 5 applies to the Office, notwithstanding subsection (a)(2)(B)(i) of such section.

"(d) ADOPTION OF EXISTING LABOR AGREEMENTS.—The Office shall adopt all labor agreements which are in effect, as of the day before the effective date of the Patent and Trademark Office Modernization Act, with respect to such Office (as then in effect).

"(e) CARRYOVER OF PERSONNEL.—

"(1) FROM PTO.—Effective as of the effective date of the Patent and Trademark Office Modernization Act, all officers and employees of the Patent and Trademark Office on the day before such effective date shall become officers and employees of the Office, without a break in service.

"(2) OTHER PERSONNEL.—Any individual who, on the day before the effective date of the Patent and Trademark Office Modernization Act, is an officer or employee of the Department of Commerce (other than an officer or employee under paragraph (1)) shall be transferred to the Office if—

"(A) such individual serves in a position for which a major function is the performance of work reimbursed by the Patent and Trademark Office, as determined by the Secretary of Commerce;

"(B) such individual serves in a position that performed work in support of the Patent and Trademark Office during at least half of the incumbent's work time, as determined by the Secretary of Commerce; or

"(C) such transfer would be in the interest of the Office, as determined by the Secretary of Commerce in consultation with the Director.

Any transfer under this paragraph shall be effective as of the same effective date as referred to in paragraph (1), and shall be made without a break in service.

"(3) ACCUMULATED LEAVE.—The amount of sick and annual leave and compensatory time accumulated under title 5 before the effective date described in paragraph (1), by those becoming officers or employees of the Office pursuant to this subsection, are obligations of the Office.

"(f) TRANSITION PROVISIONS.—

"(1) INTERIM APPOINTMENT OF DIRECTOR.—On or after the effective date of the Patent and Trademark Office Modernization Act, the President shall appoint an individual to serve as the Director until the date on which a Director qualifies under subsection (a). The President shall not make more than one such appointment under this subsection.

"(2) CONTINUATION IN OFFICE OF CERTAIN OFFICERS.—(A) The individual serving as the Assistant Commissioner for Patents on the day before the effective date of the Patent and Trademark Office Modernization Act may serve as the Commissioner for Patents until the date on which a Commissioner for Patents is appointed under subsection (b).

"(B) The individual serving as the Assistant Commissioner for Trademarks on the day before the effective date of the Patent and Trademark Office Modernization Act may serve as the Commissioner for Trademarks until the date on which a Commissioner for Trademarks is appointed under subsection (b).".

SEC. 114. MANAGEMENT ADVISORY BOARD.

Chapter 1 of part I of title 35, United States Code, is amended by inserting after section 4 the following:

"§5. Patent and Trademark Office Management Advisory Board

"(a) ESTABLISHMENT OF MANAGEMENT ADVISORY BOARD.—

"(1) APPOINTMENT.—The United States Patent and Trademark Office shall have a Management Advisory Board (hereafter in this title referred to as the 'Advisory Board') of 12 members, 4 of whom shall be appointed by the President, 4 of whom shall be appointed by the Speaker of the House of Representatives, and 4 of whom shall be appointed by the majority leader of the Senate. Not more than 3 of the 4 members appointed by each appointing authority shall be members of the same political party.

"(2) TERMS.—Members of the Advisory Board shall be appointed for a term of 4 years each, except that of the members first appointed by each appointing authority, 1 shall be for a term of 1 year, 1 shall be for a term of 2 years, and 1 shall be for a term of 3 years. No member may serve more than 1 term.

"(3) CHAIR.—The President shall designate the chair of the Advisory Board, whose term as chair shall be for 3 years.

"(4) TIMING OF APPOINTMENTS.—Initial appointments to the Advisory Board shall be made within 3 months after the effective date of the Patent and Trademark Office Modernization Act, and vacancies shall be filled within 3 months after they occur.

"(5) VACANCIES.—Vacancies shall be filled in the manner in which the original appointment was made under this subsection. Members appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor is appointed.

"(6) COMMITTEES.—The Chair shall designate members of the Advisory Board to serve on a committee on patent operations and on a committee on trademark operations to perform the duties set forth in subsection (e) as they relate specifically to the Office's patent operations, and the Office's trademark operations, respectively.

"(b) BASIS FOR APPOINTMENTS.—Members of the Advisory Board shall be citizens of the United States who shall be chosen so as to represent the interests of diverse users of the United States Patent and Trademark Office, and shall include individuals with substantial background and achievement in corporate finance and management.

"(c) APPLICABILITY OF CERTAIN ETHICS LAWS.—Members of the Advisory Board shall be special Government employees within the meaning of section 202 of title 18.

"(d) MEETINGS.—The Advisory Board shall meet at the call of the chair to consider an agenda set by the chair.

"(e) DUTIES.—The Advisory Board shall—

"(1) review the policies, goals, performance, budget, and user fees of the United States Patent and Trademark Office, and advise the Director on these matters; and

"(2) within 60 days after the end of each fiscal year, prepare an annual report on the matters referred to in paragraph (1), transmit the report to the President and the Committees on the Judiciary of the Senate and the House of Representatives, and publish the report in the Patent and Trademark Office Official Gazette.

"(f) COMPENSATION.—Members of the Advisory Board shall be compensated for each day (including travel time) during which they are attending meetings or conferences of the Advisory Board or otherwise engaged in the business of the Advisory Board, at the rate which is the daily equivalent of the annual rate of basic pay in effect for level III of the Executive Schedule under section 5314 of title 5, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

"(g) ACCESS TO INFORMATION.—Members of the Advisory Board shall be provided access to records and information in the United States Patent and Trademark Office, except for personnel or other privileged information and information concerning patent applications required to be kept in confidence by section 122.".

SEC. 115. CONFORMING AMENDMENTS.

(a) DUTIES.—Chapter 1 of title 35, United States Code, is amended by striking section 6.

(b) REGULATIONS FOR AGENTS AND ATTORNEYS.—Section 31 of title 35, United States Code, and the item relating to such section in the table of sections for chapter 3 of title 35, United States Code, are repealed.

SEC. 116. TRADEMARK TRIAL AND APPEAL BOARD.

Section 17 of the Act of July 5, 1946 (commonly referred to as the "Trademark Act of 1946") (15 U.S.C. 1067) is amended to read as follows:

"SEC. 17. (a) In every case of interference, opposition to registration, application to register as a lawful concurrent user, or application to cancel the registration of a mark, the Director shall give notice to all parties and shall direct a Trademark Trial and Appeal Board to determine and decide the respective rights of registration.

"(b) The Trademark Trial and Appeal Board shall include the Director, the Commissioner for Patents, the Commissioner for Trademarks, and administrative trademark judges who are appointed by the Director.".

SEC. 117. BOARD OF PATENT APPEALS AND INTERFERENCES.

Chapter 1 of title 35, United States Code, is amended by striking section 7 and inserting after section 5 the following:

"§6. Board of Patent Appeals and Interferences

"(a) ESTABLISHMENT AND COMPOSITION.—There shall be in the United States Patent and Trademark Office a Board of Patent Appeals and Interferences. The Director, the Commissioner for Patents, the Commissioner for Trademarks, and the administrative patent judges shall constitute the Board. The administrative patent judges shall be persons of competent legal knowledge and scientific ability who are appointed by the Director.

"(b) DUTIES.—The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, review adverse decisions of examiners upon applications for patents and shall determine priority and patentability of invention in interferences declared under section 135(a). Each appeal and interference shall be heard by at least 3 members of the Board, who shall be designated by the Director. Only the Board of Patent Appeals and Interferences may grant rehearings.".

SEC. 118. SUITS BY AND AGAINST THE OFFICE.

Chapter 1 of part I of title 35, United States Code, is amended by inserting after section 6 the following new section:

"§7. Suits by and against the Office

"(a) ACTIONS UNDER UNITED STATES LAW.—Any civil action or proceeding to which the United States Patent and Trademark Office is a party is deemed to arise under the laws of the United States. The Federal courts shall have exclusive jurisdiction over all civil actions by or against the Office.

"(b) REPRESENTATION BY THE DEPARTMENT OF JUSTICE.—The United States Patent and Trademark Office shall be deemed an agency of the United States for purposes of section 516 of title 28.

"(c) PROHIBITION ON ATTACHMENT, LIENS, ETC.—No attachment, garnishment, lien, or similar process, intermediate or final, in law or equity, may be issued against property of the Office.".

SEC. 119. ANNUAL REPORT OF DIRECTOR.

Section 14 of title 35, United States Code, is amended to read as follows:

"§14. Annual report to Congress

"The Director shall report to the Congress, not later than 180 days after the end of each fiscal year, the moneys received and expended by the Office, the purposes for which the moneys were spent, the quality and quantity of the work of the Office, and other information relating to the Office. The report under this section shall also meet the requirements of section 9106 of title 31, to the extent that such requirements are not inconsistent with the preceding sentence. The report required under this section shall not be deemed to be the report of the United States Patent and Trademark Office under section 9106 of title 31, and the Director shall file a separate report under such section.".

SEC. 120. SUSPENSION OR EXCLUSION FROM PRACTICE.

Section 32 of title 35, United States Code, is amended by inserting before the last sentence the following: "The Director shall have the discretion to designate any attorney who is an officer or employee of the United States Patent and Trademark Office to conduct the hearing required by this section.".

SEC. 121. FUNDING.

Section 42 of title 35, United States Code, is amended to read as follows:

"§42. Patent and Trademark Office funding

"(a) FEES PAYABLE TO THE OFFICE.—All fees for services performed by or materials furnished by the United States Patent and Trademark Office shall be payable to the Office.

"(b) USE OF MONEYS.—Moneys from fees shall be available to the United States Patent and Trademark Office to carry out, to the extent provided in appropriations Acts, the functions of the Office. Moneys of the Office not otherwise used to carry out the functions of the Office shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed by the United States, or in obligations or other instruments which are lawful investments for fiduciary, trust, or public funds. Fees available to the Office under this title shall be used for the processing of patent applications and for other services and materials relating to patents. Fees available to the Office under section 31 of the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946'; 15 U.S.C. 1113), shall be used only for the processing of trademark registrations and for other services and materials relating to trademarks.

"(c) BORROWING AUTHORITY.—The United States Patent and Trademark Office is authorized to issue from time to time for purchase by the Secretary of the Treasury its debentures, bonds, notes, and other evidences of indebtedness (hereafter in this subsection referred to as 'obligations') to assist in financing its activities. Borrowing under this subsection shall be subject to prior approval in appropriations Acts. Such borrowing shall not exceed amounts approved in appropriations Acts. Any borrowing under this subsection shall be repaid only from fees paid to the Office and surcharges appropriated by the Congress. Such obligations shall be redeemable at the option of the Office before maturity in the manner stipulated in such obligations and shall have such maturity as is determined by the Office with the approval of the Secretary of the Treasury. Each such obligation issued to the Treasury shall bear interest at a rate not less than the current yield on outstanding marketable obligations of the United States of comparable maturity during the month preceding the issuance of the obligation as determined by the Secretary of the Treasury. The Secretary of the Treasury shall purchase any obligations of the Office issued under this subsection and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include such purpose. Payment under this subsection of the purchase price of such obligations of the United States Patent and Trademark Office shall be treated as public debt transactions of the United States.".

SEC. 122. EXTENSION OF SURCHARGES ON PATENT FEES.

(a) IN GENERAL.—Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended to read as follows:

"SEC. 10101. PATENT AND TRADEMARK OFFICE USER FEES.

"(a) SURCHARGES.—There shall be a surcharge on all fees authorized by subsections (a) and (b) of section 41 of title 35, United States Code, in order to ensure that the amounts specified in subsection (c) are collected.

"(b) USE OF SURCHARGES.—Notwithstanding section 3302 of title 31, United States Code, all surcharges collected by the Patent and Trademark Office—

"(1) shall be credited to a separate account established in the Treasury and ascribed to the activities of the United States Patent and Trademark Office as offsetting collections,

"(2) shall be collected by and available to the United States Patent and Trademark Office for all authorized activities and operations of the Office, including all direct and indirect costs of services provided by the office, and

"(3) shall remain available until expended.

"(c) ESTABLISHMENT OF SURCHARGES.—The Director of the United States Patent and Trademark Office shall establish surcharges under subsection (a), subject to the provisions of section 553 of title 5, United States Code, in order to ensure that $119,000,000, but not more than $119,000,000, are collected in fiscal year 1999 and each fiscal year thereafter.

"(d) APPROPRIATIONS ACT REQUIRED.—Notwithstanding subsections (a) through (c), no fee established by subsection (a) shall be collected nor shall be available for spending without prior authorization in appropriations Acts.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1998.

SEC. 123. TRANSFERS.

(a) TRANSFER OF FUNCTIONS.—Except to the extent that such functions, powers, and duties relate to the direction of patent or trademark policy, there are transferred to, and vested in, the United States Patent and Trademark Office all functions, powers, and duties vested by law in the Secretary of Commerce or the Department of Commerce or in the officers or components in the Department of Commerce with respect to the authority to grant patents and register trademarks, and in the Patent and Trademark Office, as in effect on the day before the effective date of this title, and in the officers and components of such Office.

(b) TRANSFER OF FUNDS AND PROPERTY.—The Secretary of Commerce shall transfer to the United States Patent and Trademark Office, on the effective date of this title, so much of the assets, liabilities, contracts, property, records, and unexpended and unobligated balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Department of Commerce, including funds set aside for accounts receivable, which are related to functions, powers, and duties which are vested in the Patent and Trademark Office by this title.

SEC. 124. GAO STUDY AND REPORT.

The Comptroller General shall conduct a study of and, not later than the date that is 2 years after the effective date of this title, submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report on—

(1) the operations of the Patent and Trademark Office as a Government corporation; and

(2) the feasibility and desirability of making the trademark operations of the Patent and Trademark Office a separate Government corporation or agency.

Subtitle B—Effective Date; Technical Amendments

SEC. 131. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 4 months after the date of the enactment of this Act.

SEC. 132. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE 35.—

(1) The item relating to part I in the table of parts for chapter 35, United States Code, is amended to read as follows:

"I. United States Patent and Trademark Office ..... 1".

(2) The heading for part I of title 35, United States Code, is amended to read as follows:

"PART I—UNITED STATES PATENT AND TRADEMARK OFFICE".

(3) The table of chapters for part I of title 35, United States Code, is amended by amending the item relating to chapter 1 to read as follows:

"1. Establishment, Officers and Employees, Functions ..... 1".

(4) The table of sections for chapter 1 of title 35, United States Code, is amended to read as follows:

"CHAPTER 1—ESTABLISHMENT, OFFICERS AND EMPLOYEES, FUNCTIONS

"Sec.
"1. Establishment.
"2. Powers and duties.
"3. Officers and employees.
"4. Restrictions on officers and employees as to interest in patents.
"5. Patent and Trademark Office Management Advisory Board.
"6. Board of Patent Appeals and Interferences.
"7. Suits by and against the Office.
"8. Library.
"9. Classification of patents.
"10. Certified copies of records.
"11. Publications.
"12. Exchange of copies of patents with foreign countries.
"13. Copies of patents for public libraries.
"14. Annual report to Congress.".

(5) Section 155 of title 35, United States Code, is amended by striking "Commissioner of Patents and Trademarks" and inserting "Director".

(6) Section 155A(c) of title 35, United States Code, is amended by striking "Commissioner of Patents and Trademarks" and inserting "Director".

(7) Section 302 of title 35, United States Code, is amended by striking "Commissioner of Patents" and inserting "Director".

(8) Section 303(b) of title 35, United States Code, is amended by striking "Commissioner's" and inserting "Director's".

(9) Title 35, United States Code, is amended by striking "Commissioner" each place it appears and inserting "Director".

(10) Section 41(a)(8)(A) of title 35, United States Code, is amended by striking "On" and inserting "on".

(b) OTHER PROVISIONS OF LAW.—

(1)(A) Section 45 of the Act of July 5, 1946 (commonly referred to as the "Trademark Act of 1946"; 15 U.S.C. 1127), is amended by striking "The term 'Commissioner' means the Commissioner of Patents and Trademarks." and inserting "The term 'Director' means the Director of the United States Patent and Trademark Office.".

(B) The Act of July 5, 1946 (commonly referred to as the "Trademark Act of 1946"; 15 U.S.C. 1051 and following), except for section 17, as amended by section 116 of this Act, is amended by striking "Commissioner" each place it appears and inserting "Director".

(2) Section 9101(3) of title 31, United States Code, is amended by adding at the end the following:

"(R) the United States Patent and Trademark Office.".

(3) Section 500(e) of title 5, United States Code, is amended by striking "Patent Office" and inserting "United States Patent and Trademark Office".

(4) Section 5102(c)(23) of title 5, United States Code, is amended to read as follows:

"(23) administrative patent judges and designated administrative patent judges in the United States Patent and Trademark Office;".

(5) Section 5316 of title 5, United States Code (5 U.S.C. 5316) is amended by striking "Commissioner of Patents, Department of Commerce.", "Deputy Commissioner of Patents and Trademarks.", "Assistant Commissioner for Patents.", and "Assistant Commissioner for Trademarks.".

(6) Section 9(p)(1)(B) of the Small Business Act (15 U.S.C. 638(p)(1)(B)) is amended to read as follows:

"(B) the Director of the United States Patent and Trademark Office; and".

(7) Section 12 of the Act of February 14, 1903 (15 U.S.C. 1511) is amended by striking "(d) Patent and Trademark Office;" and redesignating subsections (a) through (g) as paragraphs (1) through (6), respectively.

(8) Section 19 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831r) is amended—

(A) by striking "Patent Office of the United States" and inserting "United States Patent and Trademark Office"; and

(B) by striking "Commissioner of Patents" and inserting "Director of the United States Patent and Trademark Office".

(9) Section 182(b)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2242(b)(2)(A)) is amended by striking "Commissioner of Patents and Trademarks" and inserting "Director of the United States Patent and Trademark Office".

(10) Section 302(b)(2)(D) of the Trade Act of 1974 (19 U.S.C. 2412(b)(2)(D)) is amended by striking "Commissioner of Patents and Trademarks" and inserting "Director of the United States Patent and Trademark Office".

(11) The Act of April 12, 1892 (27 Stat. 395; 20 U.S.C. 91) is amended by striking "Patent Office" and inserting "United States Patent and Trademark Office".

(12) Sections 505(m) and 512(o) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(m) and 360b(o)) are each amended by striking "Patent and Trademark Office of the Department of Commerce" and inserting "United States Patent and Trademark Office".

(13) Section 702(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372(d)) is amended by striking "Commissioner of Patents" and inserting "Director of the United States Patent and Trademark Office".

(14) Section 105(e) of the Federal Alcohol Administration Act (27 U.S.C. 205(e)) is amended by striking "United States Patent Office" and inserting "United States Patent and Trademark Office".

(15) Section 1295(a)(4) of title 28, United States Code, is amended—

(A) in subparagraph (A) by inserting "United States" before "Patent and Trademark"; and

(B) in subparagraph (B) by striking "Commissioner of Patents and Trademarks" and inserting "Director of the United States Patent and Trademark Office".

(16) Section 1744 of title 28, United States Code is amended—

(A) by striking "Patent Office" each place it appears in the text and section heading and inserting "United States Patent and Trademark Office";

(B) by striking "Commissioner of Patents" and inserting "Director of the United States Patent and Trademark Office"; and

(C) by striking "Commissioner" and inserting "Director".

(17) Section 1745 of title 28, United States Code, is amended by striking "United States Patent Office" and inserting "United States Patent and Trademark Office".

(18) Section 1928 of title 28, United States Code, is amended by striking "Patent Office" and inserting "United States Patent and Trademark Office".

(19) Section 151 of the Atomic Energy Act of 1954 (42 U.S.C. 2181) is amended in subsections c. and d. by striking "Commissioner of Patents" and inserting "Director of the United States Patent and Trademark Office".

(20) Section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182) is amended by striking "Commissioner of Patents" each place it appears and inserting "Director of the United States Patent and Trademark Office".

(21) Section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457) is amended—

(A) in subsection (c) by striking "Commissioner of Patents" and inserting "Director of the United States Patent and Trademark Office (hereafter in this section referred to as the 'Director')"; and

(B) by striking "Commissioner" each subsequent place it appears and inserting "Director".

(22) Section 12(a) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5510(a)) is amended by striking "Commissioner of the Patent Office" and inserting "Director of the United States Patent and Trademark Office".

(23) Section 1111 of title 44, United States Code, is amended by striking "the Commissioner of Patents,".

(24) Section 1114 of title 44, United States Code, is amended by striking "the Commissioner of Patents,".

(25) Section 1123 of title 44, United States Code, is amended by striking "the Patent Office,".

(26) Sections 1337 and 1338 of title 44, United States Code, and the items relating to those sections in the table of contents for chapter 13 of such title, are repealed.

(27) Section 10(i) of the Trading With the Enemy Act (50 U.S.C. App. 10(i)) is amended by striking "Commissioner of Patents" and inserting "Director of the United States Patent and Trademark Office".

(28) Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in paragraph (1)—

(i) by striking "and" before "the chief executive officer of the Resolution Trust Corporation;";

(ii) by striking "and" before "the Chairperson of the Federal Deposit Insurance Corporation;";

(iii) by striking "or" before "the Commissioner of Social Security,"; and

(iv) by inserting "or the Director of the United States Patent and Trademark Office;" after "Social Security Administration;"; and

(B) in paragraph (2)—

(i) by striking "or" before "the Veterans' Administration,"; and

(ii) by striking "or the Social Security Administration" and inserting "the Social Security Administration, or the United States Patent and Trademark Office".

Subtitle C—Miscellaneous Provisions

SEC. 141. REFERENCES.

(a) IN GENERAL.—Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a department or office from which a function is transferred by this title—

(1) to the head of such department or office is deemed to refer to the head of the department or office to which such function is transferred; or

(2) to such department or office is deemed to refer to the department or office to which such function is transferred.

(b) SPECIFIC REFERENCES.—Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Patent and Trademark Office—

(1) to the Commissioner of Patents and Trademarks is deemed to refer to the Director of the United States Patent and Trademark Office;

(2) to the Assistant Commissioner for Patents is deemed to refer to the Commissioner for Patents; or

(3) to the Assistant Commissioner for Trademarks is deemed to refer to the Commissioner for Trademarks.

SEC. 142. EXERCISE OF AUTHORITIES.

Except as otherwise provided by law, a Federal official to whom a function is transferred by this title may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this title.

SEC. 143. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Secretary of Commerce, any officer or employee of any office transferred by this title, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this title, and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date),

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law.

(b) PROCEEDINGS.—This title shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office transferred by this title, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS.—This title shall not affect suits commenced before the effective date of this title, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Commerce or the Secretary of Commerce, or by or against any individual in the official capacity of such individual as an officer or employee of an office transferred by this title, shall abate by reason of the enactment of this title.

(e) CONTINUANCE OF SUITS.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and under this title such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred by this title shall apply to the exercise of such function by the head of the Federal agency, and other officers of the agency, to which such function is transferred by this title.

SEC. 144. TRANSFER OF ASSETS.

Except as otherwise provided in this title, so much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with a function transferred to an official or agency by this title shall be available to the official or the head of that agency, respectively, at such time or times as the Director of the Office of Management and Budget directs for use in connection with the functions transferred.

SEC. 145. DELEGATION AND ASSIGNMENT.

Except as otherwise expressly prohibited by law or otherwise provided in this title, an official to whom functions are transferred under this title (including the head of any office to which functions are transferred under this title) may delegate any of the functions so transferred to such officers and employees of the office of the official as the official may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this section or under any other provision of this title shall relieve the official to whom a function is transferred under this title of responsibility for the administration of the function.

SEC. 146. AUTHORITY OF DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET WITH RESPECT TO FUNCTIONS TRANSFERRED.

(a) DETERMINATIONS.—If necessary, the Director of the Office of Management and Budget shall make any determination of the functions that are transferred under this title.

(b) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this title, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this title. The Director shall provide for the termination of the affairs of all entities terminated by this title and for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

SEC. 147. CERTAIN VESTING OF FUNCTIONS CONSIDERED TRANSFERS.

For purposes of this title, the vesting of a function in a department or office pursuant to reestablishment of an office shall be considered to be the transfer of the function.

SEC. 148. AVAILABILITY OF EXISTING FUNDS.

Existing appropriations and funds available for the performance of functions, programs, and activities terminated pursuant to this title shall remain available, for the duration of their period of availability, for necessary expenses in connection with the termination and resolution of such functions, programs, and activities, subject to the submission of a plan to the Committees on Appropriations of the House and Senate in accordance with the procedures set forth in section 605 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act 1997.

SEC. 149. DEFINITIONS.

For purposes of this title—

(1) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(2) the term "office" includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

TITLE II—EXAMINING PROCEDURE IMPROVEMENTS: PUBLICATION WITH PROVISIONAL ROYALTIES; TERM EXTENSIONS; FURTHER EXAMINATION

SEC. 201. SHORT TITLE.

This title may be cited as the "Examining Procedure Improvements Act".

SEC. 202. PUBLICATION.

Section 122 of title 35, United States Code, is amended to read as follows:

"§ 122. Confidential status of applications; publication of patent applications

"(a) CONFIDENTIALITY.—Except as provided in subsection (b), applications for patents shall be kept in confidence by the Patent and Trademark Office and no information concerning applications for patents shall be given without authority of the applicant or owner unless necessary to carry out the provisions of an Act of Congress or in such special circumstances as may be determined by the Director.

"(b) PUBLICATION.—

"(1) IN GENERAL.—(A) Subject to paragraph (2), each application for patent, except applications for design patents filed under chapter 16 of

this title and provisional applications filed under section 111(b) of this title, shall be published, in accordance with procedures determined by the Director, promptly after the expiration of a period of 18 months from the earliest filing date for which a benefit is sought under this title. At the request of the applicant, an application may be published earlier than the end of such 18-month period.

"(B) No information concerning published patent applications shall be made available to the public except as the Director determines.

"(C) Notwithstanding any other provision of law, a determination by the Director to release or not to release information concerning a published patent application shall be final and nonreviewable.

"(2) EXCEPTIONS.—(A) An application that is no longer pending shall not be published.

"(B) An application that is subject to a secrecy order pursuant to section 181 of this title shall not be published.

"(C)(i) Upon the request of the applicant at the time of filing, the application shall not be published in accordance with paragraph (1) until 3 months after the Director makes a notification to the applicant under section 132 of this title.

"(ii) Applications filed pursuant to section 363 of this title, applications asserting priority under section 119 or 365(a) of this title, and applications asserting the benefit of an earlier application under section 120, 121, or 365(c) of this title shall not be eligible for a request pursuant to this subparagraph.

"(iii) In a request under this subparagraph, the applicant shall certify that the invention disclosed in the application was not and will not be the subject of an application filed in a foreign country.

"(iv) The Director may establish appropriate procedures and fees for making a request under this subparagraph.

"(D)(i) In a case in which an applicant, after making a request under subparagraph (C)(i), determines to file an application in a foreign country, the applicant shall notify the Director promptly. The application shall then be published in accordance with the provisions of paragraph (1).

"(ii) The Director may establish appropriate fees to cover the costs of processing notifications under clause (i), including the costs of any special handling of applications resulting from the initial request under subparagraph (C)(i).

"(c) PRE-ISSUANCE OPPOSITION.—The provisions of this section shall not operate to create any new opportunity for pre-issuance opposition. The Director may establish appropriate procedures to ensure that this section does not create any new opportunity for pre-issuance opposition.".

SEC. 203. TIME FOR CLAIMING BENEFIT OF EARLIER FILING DATE.

(a) IN A FOREIGN COUNTRY.—Section 119(b) of title 35, United States Code, is amended to read as follows:

"(b)(1) No application for patent shall be entitled to this right of priority unless a claim is filed in the Patent and Trademark Office, at such time during the pendency of the application as is required by the Director, that identifies the foreign application by specifying its application number, the country in or for which the application was filed, and the date of its filing.

"(2) The Director may consider the failure of the applicant to file a timely claim for priority as a waiver of any such claim, and may require the payment of a surcharge as a condition of accepting an untimely claim during the pendency of the application.

"(3) The Director may require a certified copy of the original foreign application, specification, and drawings upon which it is based, a translation if not in the English language, and such other information as the Director considers necessary. Any such certification shall be made by the intellectual property authority in the foreign country in which the foreign application was filed and show the date of the application and of the filing of the specification and other papers.".

(b) IN THE UNITED STATES.—Section 120 of title 35, United States Code, is amended by adding at the end the following: "No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed application is submitted at such time during the pendency of the application as is required by the Commissioner. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this section. The Director may establish procedures, including the payment of a surcharge, to accept unavoidably late submissions of amendments under this section.".

SEC. 204. PROVISIONAL RIGHTS.

Section 154 of title 35, United States Code, is amended—

*(1) in the section caption by inserting "**; provisional rights**" after "**patent**"; and*

(2) by adding at the end the following new subsection:

"(d) PROVISIONAL RIGHTS.—

"(1) IN GENERAL.—In addition to other rights provided by this section, a patent shall include the right to obtain a reasonable royalty from any person who, during the period beginning on the date of publication of the application for such patent pursuant to section 122(b) of this title, or in the case of an international application filed under the treaty defined in section 351(a) of this title designating the United States under Article 21(2)(a) of such treaty, the date of publication of the application, and ending on the date the patent is issued—

"(A)(i) makes, uses, offers for sale, or sells in the United States the invention as claimed in the published patent application or imports such an invention into the United States; or

"(ii) if the invention as claimed in the published patent application is a process, uses, offers for sale, or sells in the United States or imports into the United States products made by that process as claimed in the published patent application; and

"(B) had actual notice of the published patent application and, where the right arising under this paragraph is based upon an international application designating the United States that is published in a language other than English, a translation of the international application into the English language.

"(2) RIGHT BASED ON SUBSTANTIALLY IDENTICAL INVENTIONS.—The right under paragraph (1) to obtain a reasonable royalty shall not be available under this subsection unless the invention as claimed in the patent is substantially identical to the invention as claimed in the published patent application.

"(3) TIME LIMITATION ON OBTAINING A REASONABLE ROYALTY.—The right under paragraph (1) to obtain a reasonable royalty shall be available only in an action brought not later than 6 years after the patent is issued. The right under paragraph (1) to obtain a reasonable royalty shall not be affected by the duration of the period described in paragraph (1).

"(4) REQUIREMENTS FOR INTERNATIONAL APPLICATIONS.—The right under paragraph (1) to obtain a reasonable royalty based upon the publication under the treaty defined in section 351(a) of this title of an international application designating the United States shall commence from the date that the Patent and Trademark Office receives a copy of the publication under such treaty of the international application, or, if the publication under the treaty of the international application is in a language other than English, from the date that the Patent and Trademark Office receives a translation of the international application in the English language. The Director may require the applicant to provide a copy of the international publication of the international application and a translation thereof.".

SEC. 205. PRIOR ART EFFECT OF PUBLISHED APPLICATIONS.

Section 102(e) of title 35, United States Code, is amended to read as follows:

"(e) the invention was described in—

"(1) an application for patent, published pursuant to section 122(b) of this title, by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) of this title shall have the effect under this subsection of a national application published under section 122(b) of this title only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language, or

"(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, or".

SEC. 206. COST RECOVERY FOR PUBLICATION.

The Director of the United States Patent and Trademark Office shall recover the cost of early publication required by the amendment made by section 202 by adjusting the filing, issue, and maintenance fees under title 35, United States Code, by charging a separate publication fee, or by any combination of these methods.

SEC. 207. CONFORMING CHANGES.

The following provisions of title 35, United States Code, are amended:

(1) Section 11 is amended in paragraph 1 of subsection (a) by inserting "and published applications for patents" after "Patents".

(2) Section 12 is amended—

*(A) in the section caption by inserting "**and applications**" after "**patents**"; and*

(B) by inserting "and published applications for patents" after "patents".

(3) Section 13 is amended—

*(A) in the section caption by inserting "**and applications**" after "**patents**"; and*

(B) by inserting "and published applications for patents" after "patents".

(4) The items relating to sections 12 and 13 in the table of sections for chapter 1, as amended by section 132(a)(4) of this Act, are each amended by inserting "and applications" after "patents".

(5) The item relating to section 122 in the table of sections for chapter 11 is amended by inserting "; publication of patent applications" after "applications".

(6) The item relating to section 154 in the table of sections for chapter 14 is amended by inserting "; provisional rights" after "patent".

(7) Section 181 is amended—

(A) in the first paragraph—

(i) by inserting "by the publication of an application or" after "disclosure"; and

(ii) by inserting "the publication of the application or" after "withhold";

(B) in the second paragraph by inserting "by the publication of an application or" after "disclosure of an invention";

(C) in the third paragraph—

(i) by inserting "by the publication of the application or" after "disclosure of the invention"; and

(ii) by inserting "the publication of the application or" after "withhold"; and

(D) in the fourth paragraph by inserting "the publication of an application or" after "and" in the first sentence.

(8) Section 252 is amended in the first paragraph by inserting "substantially" before "identical" each place it appears.

(9) Section 284 is amended by adding at the end of the second paragraph the following: "Increased damages under this paragraph shall not apply to provisional rights under section 154(d) of this title.".

(10) Section 374 is amended to read as follows:

"§374. Publication of international application: Effect

"The publication under the treaty defined in section 351(a) of this title of an international application designating the United States shall confer the same rights and shall have the same effect under this title as an application for patent published under section 122(b), except as provided in sections 102(e) and 154(d) of this title.".

(11) Section 135(b) of title 35, United States Code, is amended—

(A) by inserting "(1)" after "(b)";

(B) by striking "from the date on which the patent was granted" and inserting "after the date on which the patent is granted and the applicant makes a prima facie showing of prior invention"; and

(C) by adding at the end the following:

"(2) A claim which is the same as, or for the same or substantially the same subject matter as, a claim of a published application may be made in an application filed after the published application is published only if the claim is made prior to one year after the date on which the published application is published and the applicant of the later filed application makes a prime facie showing of prior invention.".

SEC. 208. PATENT TERM EXTENSION AUTHORITY.

Section 154(b) of title 35, United States Code, is amended to read as follows:

"(b) TERM EXTENSION.—

"(1) BASIS FOR PATENT TERM EXTENSION.—

"(A) DELAY.—Subject to the limitations set forth in paragraph (2), if the issue of an original patent is delayed due to—

"(i) a proceeding under section 135(a) of this title, including any appeal under section 141, or any civil action under section 146, of this title,

"(ii) the imposition of an order pursuant to section 181 of this title,

"(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued pursuant to a decision in the review reversing an adverse determination of patentability, or

"(iv) an unusual administrative delay by the Patent and Trademark Office in issuing the patent,

the term of the patent shall be extended for the period of delay.

"(B) ADMINISTRATIVE DELAY.—For purposes of subparagraph (A)(iv), an unusual administrative delay by the Patent and Trademark office is the failure to—

"(i) make a notification of the rejection of any claim for a patent or any objection or argument under section 132 of this title or give or mail a written notice of allowance under section 151 of this title not later than 14 months after the date on which the application was filed;

"(ii) respond to a reply under section 132 of this title or to an appeal taken under section 134 of this title not later than 4 months after the date on which the reply was filed or the appeal was taken;

"(iii) act on an application not later than 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 of this title or a decision by a Federal court under section 141, 145, or 146 of this title in a case in which allowable claims remain in an application;

"(iv) issue a patent not later than 4 months after the date on which the issue fee was paid under section 151 of this title and all outstanding requirements were satisfied; or

"(v) issue a patent within 3 years after the filing date of the application in the United States, if the applicant—

"(I) has not obtained further limited examination of the application under section 209 of the Examining Procedure Improvements Act;

"(II) has responded to all rejections, objections, arguments, or other requests of the Patent and Trademark Office within 3 months after the date on which they are made;

"(III) has not benefitted from an extension of patent term under clause (i), (ii) or (iii) of paragraph (1)(A);

"(IV) has not sought or obtained appellate review by the Board of Patent Appeals and Interferences or by a Federal Court other than in a case in which the patent was issued pursuant to a decision in the review reversing an adverse determination of patentability; and

"(V) has not requested any delay in the processing of the application by the Patent and Trademark Office.

"(2) LIMITATIONS.—(A) The total duration of any extensions granted pursuant to either clause (iii) or (iv) of paragraph (1)(A) or both such clauses shall not exceed 10 years. To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any extension granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

"(B) The period of extension of the term of a patent under this subsection shall be reduced by a period equal to the time in which the applicant failed to engage in reasonable efforts to conclude prosecution of the application. The Director shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application in order to ensure that applicants are appropriately compensated for any delays by the Patent and Trademark Office in excess of the time periods specified in paragraph (1)(B).

"(C) No patent the term of which has been disclaimed beyond a specified date may be extended under this section beyond the expiration date specified in the disclaimer.

"(3) PROCEDURES.—The Director shall prescribe regulations establishing procedures for the notification of patent term extensions under this subsection and procedures for contesting patent term extensions under this subsection.".

SEC. 209. FURTHER EXAMINATION OF PATENT APPLICATIONS.

The Director of the United States Patent and Trademark Office shall prescribe regulations to provide for the further limited reexamination of applications for patent. The Director may establish appropriate fees for such further limited reexamination and shall be authorized to provide a 50 percent reduction on such fees for small entities that qualify for reduced fees under section 41(h)(1) of title 35, United States Code.

SEC. 210. LAST DAY OF PENDENCY OF PROVISIONAL APPLICATION.

Section 119(e) of title 35, United States Code, is amended by adding at the end the following:

"(3) If the day that is 12 months after the filing date of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, the period of pendency of the provisional application shall be extended to the next succeeding business day.".

SEC. 211. REPORTING REQUIREMENT.

The Director of the United States Patent and Trademark Office shall report to the Congress not later than April 1, 2001, and not later than April 1 of each year thereafter, regarding the impact of publication on the patent applications filed by an applicant who has been accorded the status of independent inventor under section 41(h) of title 35, United States Code. The report shall include information concerning the frequency and number of initial and continuing patent applications, pendency, interferences, reexaminations, rejection, abandonment rates, fees, other expenses, and other relevant information related to the prosecution of patent applications.

SEC. 212. EFFECTIVE DATE.

(a) SECTIONS 202 THROUGH 207.—Sections 202 through 207, and the amendments made by such sections, shall take effect on April 1, 1998, and shall apply to all applications filed under section 111 of title 35, United States Code, on or after that date, and all international applications designating the United States that are filed on or after that date.

(b) SECTIONS 208 THROUGH 210.—The amendments made by sections 208 through 210 shall take effect on the date of the enactment of this Act and, except for a design patent application filed under chapter 16 of title 35, United States Code, shall apply to any application filed on or after June 8, 1995.

TITLE III—PROTECTION FOR PRIOR DOMESTIC USERS OF PATENTED TECHNOLOGIES

SEC. 301. SHORT TITLE.

This title may be cited as the "Protection for Prior Domestic Commercial and Research Users of Patented Technologies Act".

SEC. 302. DEFENSE TO PATENT INFRINGEMENT BASED ON PRIOR DOMESTIC COMMERCIAL OR RESEARCH USE.

(a) DEFENSE.—Chapter 28 of title 35, United States Code, is amended by adding at the end the following new section:

"§273. Prior domestic commercial or research use; defense to infringement

"(a) DEFINITIONS.—For purposes of this section—

"(1) the terms 'commercially used', 'commercially use', and 'commercial use' mean the use in the United States in commerce or the use in the design, testing, or production in the United States of a product or service which is used in commerce, whether or not the subject matter at issue is accessible to or otherwise known to the public;

"(2) in the case of activities performed by a nonprofit research laboratory, or nonprofit entity such as a university, research center, or hospital, a use for which the public is the intended beneficiary shall be considered to be a use described in paragraph (1) if the use is limited to activity that occurred within the laboratory or nonprofit entity or by persons in privity with that laboratory or nonprofit entity before the effective filing date of the application for patent at issue, except that the use—

"(A) may be asserted as a defense under this section only by the laboratory or nonprofit entity; and

"(B) may not be asserted as a defense with respect to any subsequent use by any entity other than such laboratory, nonprofit entity, or persons in privity;

"(3) the terms 'used in commerce', and 'use in commerce' mean that there has been an actual sale or other arm's-length commercial transfer of the subject matter at issue or that there has been an actual sale or other arm's-length commercial transfer of a product or service resulting from the use of the subject matter at issue; and

"(4) the 'effective filing date' of a patent is the earlier of the actual filing date of the application for the patent or the filing date of any earlier United States, foreign, or international application to which the subject matter at issue is entitled under section 119, 120, or 365 of this title.

"(b) DEFENSE TO INFRINGEMENT.—(1) A person shall not be liable as an infringer under section 271 of this title with respect to any subject

matter that would otherwise infringe one or more claims in the patent being asserted against such person, if such person had, acting in good faith, commercially used the subject matter before the effective filing date of such patent.

"(2) The sale or other disposition of the subject matter of a patent by a person entitled to assert a defense under this section with respect to that subject matter shall exhaust the patent owner's rights under the patent to the extent such rights would have been exhausted had such sale or other disposition been made by the patent owner.

"(c) LIMITATIONS AND QUALIFICATIONS OF DEFENSE.—The defense to infringement under this section is subject to the following:

"(1) DERIVATION.—A person may not assert the defense under this section if the subject matter on which the defense is based was derived from the patentee or persons in privity with the patentee.

"(2) NOT A GENERAL LICENSE.—The defense asserted by a person under this section is not a general license under all claims of the patent at issue, but extends only to the subject matter claimed in the patent with respect to which the person can assert a defense under this chapter, except that the defense shall also extend to variations in the quantity or volume of use of the claimed subject matter, and to improvements in the claimed subject matter that do not infringe additional specifically claimed subject matter of the patent.

"(3) EFFECTIVE AND SERIOUS PREPARATION.—With respect to subject matter that cannot be commercialized without a significant investment of time, money, and effort, a person shall be deemed to have commercially used the subject matter if—

"(A) before the effective filing date of the patent, the person actually reduced the subject matter to practice in the United States, completed a significant portion of the total investment necessary to commercially use the subject matter, and made an arm's-length commercial transaction in the United States in connection with the preparation to use the subject matter; and

"(B) thereafter the person diligently completed the remainder of the activities and investments necessary to commercially use the subject matter, and promptly began commercial use of the subject matter, even if such activities were conducted after the effective filing date of the patent.

"(4) BURDEN OF PROOF.—A person asserting the defense under this section shall have the burden of establishing the defense.

"(5) ABANDONMENT OF USE.—A person who has abandoned commercial use of subject matter may not rely on activities performed before the date of such abandonment in establishing a defense under subsection (b) with respect to actions taken after the date of such abandonment.

"(6) PERSONAL DEFENSE.—The defense under this section may only be asserted by the person who performed the acts necessary to establish the defense and, except for any transfer to the patent owner, the right to assert the defense shall not be licensed or assigned or transferred to another person except in connection with the good faith assignment or transfer of the entire enterprise or line of business to which the defense relates.

"(7) ONE-YEAR LIMITATION.—A person may not assert a defense under this section unless the subject matter on which the defense is based had been commercially used or actually reduced to practice more than one year prior to the effective filing date of the patent by the person asserting the defense or someone in privity with that person.

"(d) UNSUCCESSFUL ASSERTION OF DEFENSE.—If the defense under this section is pleaded by a person who is found to infringe the patent and who subsequently fails to demonstrate a reasonable basis for asserting the defense, the court shall find the case exceptional for the purpose of awarding attorney's fees under section 285 of this title.

"(e) INVALIDITY.—A patent shall not be deemed to be invalid under section 102 or 103 of this title solely because a defense is established under this section.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 28 of title 35, United States Code, is amended by adding at the end the following new item:

"273. Prior domestic commercial or research use; defense to infringement.".

SEC. 303. EFFECTIVE DATE AND APPLICABILITY.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act, but shall not apply to any action for infringement that is pending on such date of enactment or with respect to any subject matter for which an adjudication of infringement, including a consent judgment, has been made before such date of enactment.

TITLE IV—ENHANCED PROTECTION OF INVENTORS' RIGHTS

SEC. 401. SHORT TITLE.

This title may be cited as the "Enhanced Protection of Inventors' Rights Act".

SEC. 402. INVENTION DEVELOPMENT SERVICES.

Part I of title 35, United States Code, is amended by adding after chapter 4 the following new chapter:

"CHAPTER 5—INVENTION DEVELOPMENT SERVICES

"Sec.
"51. Definitions.
"52. Contracting requirements.
"53. Standard provisions for cover notice.
"54. Reports to customer required.
"55. Mandatory contract terms.
"56. Remedies.
"57. Records of complaints.
"58. Fraudulent representation by an invention developer.
"59. Rule of construction.

"§ 51. Definitions

"For purposes of this chapter—

"(1) the term 'contract for invention development services' means a contract by which an invention developer undertakes invention development services for a customer;

"(2) the term 'customer' means any person, firm, partnership, corporation, or other entity who is solicited by, seeks the services of, or enters into a contract with an invention promoter for invention promotion services;

"(3) the term 'invention promoter' means any person, firm, partnership, corporation, or other entity who offers to perform or performs for, or on behalf of, a customer any act described under paragraph (4), but does not include—

"(A) any department or agency of the Federal Government or of a State or local government;

"(B) any nonprofit, charitable, scientific, or educational organization, qualified under applicable State law or described under section 170(b)(1)(A) of the Internal Revenue Code of 1986; or

"(C) any person duly registered with, and in good standing before, the United States Patent and Trademark Office acting within the scope of that person's registration to practice before the Patent and Trademark Office; and

"(4) the term 'invention development services' means, with respect to an invention by a customer, any act involved in—

"(A) evaluating the invention to determine its protectability as some form of intellectual property, other than evaluation by a person licensed by a State to practice law who is acting solely within the scope of that person's professional license;

"(B) evaluating the invention to determine its commercial potential by any person for purposes other than providing venture capital; or

"(C) marketing, brokering, licensing, selling, or promoting the invention or a product or service in which the invention is incorporated or used, except that the display only of an invention at a trade show or exhibit shall not be considered to be invention development services.

"§ 52. Contracting requirements

"(a) IN GENERAL.—(1) Every contract for invention development services shall be in writing and shall be subject to the provisions of this chapter. A copy of the signed written contract shall be given to the customer at the time the customer enters into the contract.

"(2) If a contract is entered into for the benefit of a third party, such party shall be considered a customer for purposes of this chapter.

"(b) REQUIREMENTS OF INVENTION DEVELOPER.—The invention developer shall—

"(1) state in a written document, at the time a customer enters into a contract for invention development services, whether the usual business practice of the invention developer is to—

"(A) seek more than 1 contract in connection with an invention; or

"(B) seek to perform services in connection with an invention in 1 or more phases, with the performance of each phase covered in 1 or more subsequent contracts; and

"(2) supply to the customer a copy of the written document together with a written summary of the usual business practices of the invention developer, including—

"(A) the usual business terms of contracts; and

"(B) the approximate amount of the usual fees or other consideration that may be required from the customer for each of the services provided by the developer.

"(c) RIGHT OF CUSTOMER TO CANCEL CONTRACT.—(1) Notwithstanding any contractual provision to the contrary, a customer shall have the right to terminate a contract for invention development services by sending a written letter to the invention developer stating the customer's intent to cancel the contract. The letter of termination must be deposited with the United States Postal Service on or before 5 business days after the date upon which the customer or the invention developer executes the contract, whichever is later.

"(2) Delivery of a promissory note, check, bill of exchange, or negotiable instrument of any kind to the invention developer or to a third party for the benefit of the invention developer, without regard to the date or dates appearing in such instrument, shall be deemed payment received by the invention developer on the date received for purposes of this section.

"§ 53. Standard provisions for cover notice

"(a) CONTENTS.—Every contract for invention development services shall have a conspicuous and legible cover sheet attached with the following notice imprinted in boldface type of not less than 12-point size:

"'YOU HAVE THE RIGHT TO TERMINATE THIS CONTRACT. TO TERMINATE THIS CONTRACT, YOU MUST SEND A WRITTEN LETTER TO THE COMPANY STATING YOUR INTENT TO CANCEL THIS CONTRACT. THE LETTER OF TERMINATION MUST BE DEPOSITED WITH THE UNITED STATES POSTAL SERVICE ON OR BEFORE FIVE (5) BUSINESS DAYS AFTER THE DATE ON WHICH YOU OR THE COMPANY EXECUTE THE CONTRACT, WHICHEVER IS LATER.

"'THE TOTAL NUMBER OF INVENTIONS EVALUATED BY THE INVENTION DEVELOPER FOR COMMERCIAL POTENTIAL IN

THE PAST FIVE (5) YEARS IS _____. OF THAT NUMBER, _____ RECEIVED POSITIVE EVALUATIONS AND _____ RECEIVED NEGATIVE EVALUATIONS.

"'IF YOU ASSIGN EVEN A PARTIAL INTEREST IN THE INVENTION TO THE INVENTION DEVELOPER, THE INVENTION DEVELOPER MAY HAVE THE RIGHT TO SELL OR DISPOSE OF THE INVENTION WITHOUT YOUR CONSENT AND MAY NOT HAVE TO SHARE THE PROFITS WITH YOU.

"'THE TOTAL NUMBER OF CUSTOMERS WHO HAVE CONTRACTED WITH THE INVENTION DEVELOPER IN THE PAST FIVE (5) YEARS IS _____. THE TOTAL NUMBER OF CUSTOMERS KNOWN BY THIS INVENTION DEVELOPER TO HAVE RECEIVED, BY VIRTUE OF THIS INVENTION DEVELOPER'S PERFORMANCE, AN AMOUNT OF MONEY IN EXCESS OF THE AMOUNT PAID BY THE CUSTOMER TO THIS INVENTION DEVELOPER IS _____.

"'THE OFFICERS OF THIS INVENTION DEVELOPER HAVE COLLECTIVELY OR INDIVIDUALLY BEEN AFFILIATED IN THE LAST TEN (10) YEARS WITH THE FOLLOWING INVENTION DEVELOPMENT COMPANIES: (LIST THE NAMES AND ADDRESSES OF ALL PREVIOUS INVENTION DEVELOPMENT COMPANIES WITH WHICH THE PRINCIPAL OFFICERS HAVE BEEN AFFILIATED AS OWNERS, AGENTS, OR EMPLOYEES). YOU ARE ENCOURAGED TO CHECK WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE, THE FEDERAL TRADE COMMISSION, YOUR STATE ATTORNEY GENERAL'S OFFICE, AND THE BETTER BUSINESS BUREAU FOR ANY COMPLAINTS FILED AGAINST ANY OF THESE COMPANIES.

"'YOU ARE ENCOURAGED TO CONSULT WITH AN ATTORNEY OF YOUR OWN CHOOSING BEFORE SIGNING THIS CONTRACT. BY PROCEEDING WITHOUT THE ADVICE OF AN ATTORNEY REGISTERED TO PRACTICE BEFORE THE UNITED STATES PATENT AND TRADEMARK OFFICE, YOU COULD LOSE ANY RIGHTS YOU MIGHT HAVE IN YOUR IDEA OR INVENTION.'.

"(b) OTHER REQUIREMENTS FOR COVER NOTICE.—The cover notice shall contain the items required under subsection (a) and the name, primary office address, and local office address of the invention developer, and may contain no other matter.

"(c) DISCLOSURE OF CERTAIN CUSTOMERS NOT REQUIRED.—The requirement in the notice set forth in subsection (a) to include the 'TOTAL NUMBER OF CUSTOMERS WHO HAVE CONTRACTED WITH THE INVENTION DEVELOPER IN THE PAST FIVE (5) YEARS' need not include information with respect to customers who have purchased trade show services, research, advertising, or other nonmarketing services from the invention developer, nor with respect to customers who have defaulted in their payments to the invention developer.

"§ 54. Reports to customer required

"With respect to every contract for invention development services, the invention developer shall deliver to the customer at the address specified in the contract, at least once every 3 months throughout the term of the contract, a written report that identifies the contract and includes—

"(1) a full, clear, and concise description of the services performed to the date of the report and of the services yet to be performed and names of all persons who it is known will perform the services; and

"(2) the name and address of each person, firm, corporation, or other entity to whom the subject matter of the contract has been disclosed, the reason for each such disclosure, the nature of the disclosure, and complete and accurate summaries of all responses received as a result of those disclosures.

"§ 55. Mandatory contract terms

"(a) MANDATORY TERMS.—Each contract for invention development services shall include in boldface type of not less than 12-point size—

"(1) the terms and conditions of payment and contract termination rights required under section 52;

"(2) a statement that the customer may avoid entering into the contract by not making a payment to the invention developer;

"(3) a full, clear, and concise description of the specific acts or services that the invention developer undertakes to perform for the customer;

"(4) a statement as to whether the invention developer undertakes to construct, sell, or distribute one or more prototypes, models, or devices embodying the invention of the customer;

"(5) the full name and principal place of business of the invention developer and the name and principal place of business of any parent, subsidiary, agent, independent contractor, and any affiliated company or person who it is known will perform any of the services or acts that the invention developer undertakes to perform for the customer;

"(6) if any oral or written representation of estimated or projected customer earnings is given by the invention developer (or any agent, employee, officer, director, partner, or independent contractor of such invention developer), a statement of that estimation or projection and a description of the data upon which such representation is based;

"(7) the name and address of the custodian of all records and correspondence relating to the contracted for invention development services, and a statement that the invention developer is required to maintain all records and correspondence relating to performance of the invention development services for such customer for a period of not less than 2 years after expiration of the term of such contract; and

"(8) a statement setting forth a time schedule for performance of the invention development services, including an estimated date in which such performance is expected to be completed.

"(b) INVENTION DEVELOPER AS FIDUCIARY.—To the extent that the description of the specific acts or services affords discretion to the invention developer with respect to what specific acts or services shall be performed, the invention developer shall be deemed a fiduciary.

"(c) AVAILABILITY OF INFORMATION.—Records and correspondence described under subsection (a)(7) shall be made available after 7 days written notice to the customer or the representative of the customer to review and copy at a reasonable cost on the invention developer's premises during normal business hours.

"§ 56. Remedies

"(a) IN GENERAL.—(1) Any contract for invention development services that does not comply with the applicable provisions of this chapter shall be voidable at the option of the customer.

"(2) Any contract for invention development services entered into in reliance upon any material false, fraudulent, or misleading information, representation, notice, or advertisement of the invention developer (or any agent, employee, officer, director, partner, or independent contractor of such invention developer) shall be voidable at the option of the customer.

"(3) Any waiver by the customer of any provision of this chapter shall be deemed contrary to public policy and shall be void and unenforceable.

"(4) Any contract for invention development services which provides for filing for and obtaining utility, design, or plant patent protection shall be voidable at the option of the customer unless the invention developer offers to perform or performs such act through a person duly registered to practice before, and in good standing with, the Patent and Trademark Office.

"(b) CIVIL ACTION.—(1) Any customer who is injured by a violation of this chapter by an invention developer or by any material false or fraudulent statement or representation, or any omission of material fact, by an invention developer (or any agent, employee, director, officer, partner, or independent contractor of such invention developer) or by failure of an invention developer to make all the disclosures required under this chapter, may recover in a civil action against the invention developer (or the officers, directors, or partners of such invention developer) in addition to reasonable costs and attorneys' fees, the greater of—

"(A) $5,000; or

"(B) the amount of actual damages sustained by the customer.

"(2) Notwithstanding paragraph (1), the court may increase damages to not more than 3 times the amount awarded.

"(c) REBUTTABLE PRESUMPTION OF INJURY.—For purposes of this section, substantial violation of any provision of this chapter by an invention developer or execution by the customer of a contract for invention development services in reliance on any material false or fraudulent statements or representations or omissions of material fact shall establish a rebuttable presumption of injury.

"§ 57. Records of complaints

"(a) RELEASE OF COMPLAINTS.—The Director shall make all complaints received by the United States Patent and Trademark Office involving invention developers publicly available, together with any response of the invention developers.

"(b) REQUEST FOR COMPLAINTS.—The Director may request complaints relating to invention development services from any Federal or State agency and include such complaints in the records maintained under subsection (a), together with any response of the invention developers.

"§ 58. Fraudulent representation by an invention developer

"Whoever, in providing invention development services, knowingly provides any false or misleading statement, representation, or omission of material fact to a customer or fails to make all the disclosures required under this chapter, shall be guilty of a misdemeanor and fined not more than $10,000 for each offense.

"§ 59. Rule of construction

"Except as expressly provided in this chapter, no provision of this chapter shall be construed to affect any obligation, right, or remedy provided under any other Federal or State law.".

SEC. 403. TECHNICAL AND CONFORMING AMENDMENT.

The table of chapters for part I of title 35, United States Code, is amended by adding after the item relating to chapter 4 the following:

"5. Invention Development Services 51".

SEC. 404. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 60 days after the date of the enactment of this Act.

TITLE V—IMPROVED REEXAMINATION PROCEDURES

SEC. 501. SHORT TITLE.

This title may be cited as the "Improved Reexamination Procedures Act".

SEC. 502. DEFINITIONS.

Section 100 of title 35, United States Code, is amended by adding at the end the following new subsection:

"(e) The term 'third-party requester' means a person requesting reexamination under section 302 of this title who is not the patent owner.".

SEC. 503. REEXAMINATION PROCEDURES.

(a) REQUEST FOR REEXAMINATION.—Section 302 of title 35, United States Code, is amended to read as follows:

"§ 302. Request for reexamination

"Any person at any time may file a request for reexamination by the Office of a patent on the basis of any prior art cited under the provisions of section 301 of this title or on the basis of the requirements of section 112 of this title other than the requirement to set forth the best mode of carrying out the invention. The request must be in writing, must include the identity of the real party in interest, and must be accompanied by payment of a reexamination fee established by the Director pursuant to the provisions of section 41 of this title. The request must set forth the pertinency and manner of applying cited prior art to every claim for which reexamination is requested or the manner in which the patent specification or claims fail to comply with the requirements of section 112 of this title. Unless the requesting person is the owner of the patent, the Director promptly shall send a copy of the request to the owner of record of the patent.".

(b) DETERMINATION OF ISSUE BY DIRECTOR.—Section 303 of title 35, United States Code, is amended to read as follows:

"§ 303. Determination of issue by Director

"(a) REEXAMINATION.—Not later than 3 months after the filing of a request for reexamination under the provisions of section 302 of this title, the Director shall determine whether a substantial new question of patentability affecting any claim of the patent concerned is raised by the request, with or without consideration of other patents or printed publications. On the Director's initiative, at any time, the Director may determine whether a substantial new question of patentability is raised by any other patent or publication or by the failure of the patent specification or claims of a patent to comply with the requirements of section 112 of this title other than the best mode requirement described in section 302.

"(b) RECORD.—A record of the Director's determination under subsection (a) shall be placed in the official file of the patent, and a copy shall be promptly given or mailed to the owner of record of the patent and to the third-party requester, if any.

"(c) FINAL DECISION.—A determination by the Director pursuant to subsection (a) shall be final and nonappealable. Upon a determination that no substantial new question of patentability has been raised, the Director may refund a portion of the reexamination fee required under section 302 of this title.".

(c) REEXAMINATION ORDER BY DIRECTOR.—Section 304 of title 35, United States Code, is amended to read as follows:

"§ 304. Reexamination order by Director

"If, in a determination made under the provisions of section 303(a) of this title, the Director finds that a substantial new question of patentability affecting a claim of a patent is raised, the determination shall include an order for reexamination of the patent for resolution of the question. The order may be accompanied by the initial action of the Patent and Trademark Office on the merits of the reexamination conducted in accordance with section 305 of this title.".

(d) CONDUCT OF REEXAMINATION PROCEEDINGS.—Section 305 of title 35, United States Code, is amended to read as follows:

"§ 305. Conduct of reexamination proceedings

"(a) IN GENERAL.—Subject to subsection (b), reexamination shall be conducted according to the procedures established for initial examination under the provisions of sections 132 and 133 of this title. In any reexamination proceeding under this chapter, the patent owner shall be permitted to propose any amendment to the patent and a new claim or claims, except that no proposed amended or new claim enlarging the scope of the claims of the patent shall be permitted.

"(b) RESPONSE.—(1) This subsection shall apply to any reexamination proceeding in which the order for reexamination is based upon a request by a third-party requester.

"(2) With the exception of the reexamination request, any document filed by either the patent owner or the third-party requester shall be served on the other party.

"(3) If the patent owner files a response to any action on the merits by the Patent and Trademark Office, the third-party requester shall have 1 opportunity to file written comments within a reasonable period not less than 1 month after the date of service of the patent owner's response. Written comments provided under this paragraph shall be limited to issues covered by action of the Patent and Trademark Office or the patent owner's response.

"(c) SPECIAL DISPATCH.—Unless otherwise provided by the Director for good cause, all reexamination proceedings under this section, including any appeal to the Board of Patent Appeals and Interferences, shall be conducted with special dispatch within the Office.".

(e) APPEAL.—Section 306 of title 35, United States Code, is amended to read as follows:

"§ 306. Appeal

"(a) PATENT OWNER.—The patent owner involved in a reexamination proceeding under this chapter—

"(1) may appeal under the provisions of section 134 of this title, and may appeal under the provisions of sections 141 through 144 of this title, with respect to any decision adverse to the patentability of any original or proposed amended or new claim of the patent; and

"(2) may be a party to any appeal taken by a third-party requester pursuant to subsection (b) of this section.

"(b) THIRD-PARTY REQUESTER.—A third-party requester in a reexamination proceeding—

"(1) may appeal under the provisions of section 134 of this title, and may appeal under the provisions of sections 141 through 144 of this title, with respect to any final decision in the reexamination proceeding that is favorable to the patentability of any original or proposed amended or new claim of the patent; and

"(2) may be a party to any appeal taken by the patent owner with respect to a decision in the reexamination proceeding, subject to subsection (c) of this section.

"(c) PARTICIPATION AS PARTY.—(1) A third-party requester who, under the provisions of sections 141 through 144 of this title, files a notice of appeal, or who participates as a party to an appeal by the patent owner, with respect to a reexamination proceeding, is estopped from asserting at a later time, in any forum, the invalidity of any claim determined to be patentable on that appeal on any ground which the third-party requester raised or could have raised during the reexamination proceeding. This subsection does not prevent the assertion of invalidity based on newly discovered prior art unavailable to the third-party requester and the Patent and Trademark Office at the time of the reexamination proceeding.

"(2) For purposes of paragraph (1), a third-party requester is deemed not to have participated as a party to an appeal by the patent owner unless, not later than 20 days after the patent owner has filed a notice of appeal, the third-party requester files notice with the Commissioner electing to participate.".

(f) REEXAMINATION PROHIBITED.—(1) Chapter 30 of title 35, United States Code, is amended by adding at the end the following new section:

"§ 308. Reexamination prohibited

"(a) ORDER FOR REEXAMINATION.—Notwithstanding any provision of this chapter, once an order for reexamination of a patent has been issued under section 304 of this title, neither the patent owner nor the third-party requester, if any, nor privies of either, may, unless authorized by the Director, file a subsequent request for reexamination of the patent until a certificate relating to that reexamination proceeding is issued and published under section 307 of this title.

"(b) FINAL DECISION.—Once a final decision has been entered against a party in a civil action arising in whole or in part under section 1338 of title 28 that the party has not sustained its burden of proving the invalidity of any patent claim in suit, or if a final decision in a reexamination proceeding instituted by a third-party requester is favorable to the patentability or any original or proposed amended or new claim of the patent and such decision is not appealed by the third-party requester under section 306(b), then neither that party nor its privies may thereafter request reexamination of any such patent claim on the basis of issues which that party or its privies raised or could have raised in such civil action or reexamination proceeding. This subsection does not prevent the assertion of invalidity based on newly discovered prior art unavailable to the party or privies and the Office at the time of the civil action or reexamination proceeding, as the case may be.".

(2) The table of sections for chapter 30 of title 35, United States Code, is amended by adding at the end the following:

"308. Reexamination prohibited.".

(g) REPORT TO CONGRESS.—Within 4 years after the effective date of this title, the Director of the United States Patent and Trademark Office shall submit to the Congress a report evaluating whether the reexamination proceedings established under the amendments made by this title are inequitable to any of the parties in interest and, if so, the report shall contain recommendations for changes to the amendments made by this title to remove such inequity.

SEC. 504. CONFORMING AMENDMENTS.

(a) BOARD OF PATENT APPEALS AND INTERFERENCES.—The first sentence of section 6(b) of title 35, United States Code, as amended by section 117 of this Act, is amended to read as follows: "The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, or a patent owner or a third-party requester in a reexamination proceeding, review adverse decisions of examiners upon applications for patents and decisions of examiners in reexamination proceedings, and shall determine priority and patentability of invention in interferences declared under section 135(a) of this title.".

(b) PATENT FEES; PATENT AND TRADEMARK SEARCH SYSTEMS.—Section 41(a)(7) of title 35, United States Code, is amended to read as follows:

"(7) On filing each petition for the revival of an unintentionally abandoned application for a patent, for the unintentionally delayed payment of the fee for issuing each patent, or for an unintentionally delayed response by the patent owner in a reexamination proceeding, $1,250, unless the petition is filed under section 133 or 151 of this title, in which case the fee shall be $110.".

(c) APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES.—Section 134 of title 35, United States Code, is amended to read as follows:

"§ 134. Appeal to the Board of Patent Appeals and Interferences

"(a) PATENT APPLICANT.—An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

"(b) PATENT OWNER.—A patent owner in a reexamination proceeding may appeal from the final rejection of any claim by the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

"(c) THIRD-PARTY.—A third-party requester may appeal to the Board of Patent Appeals and Interferences from the final decision of the primary examiner favorable to the patentability of any original or proposed amended or new claim of a patent, having once paid the fee for such appeal.".

(d) APPEAL TO COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 141 of title 35, United States Code, is amended by amending the first sentence to read as follows: "An applicant, a patent owner, or a third-party requester, dissatisfied with the final decision in an appeal to the Board of Patent Appeals and Interferences under section 134 of this title, may appeal the decision to the United States Court of Appeals for the Federal Circuit.".

(e) PROCEEDINGS ON APPEAL.—Section 143 of title 35, United States Code, is amended by amending the third sentence to read as follows: "In ex parte and reexamination cases, the Director shall submit to the court in writing the grounds for the decision of the United States Patent and Trademark Office, addressing all the issues involved in the appeal.".

(f) CIVIL ACTION TO OBTAIN PATENT.—Section 145 of title 35, United States Code, is amended in the first sentence by inserting "(a)" after "section 134".

SEC. 505. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date that is 6 months after the date of the enactment of this Act and shall apply to all reexamination requests filed on or after such date.

TITLE VI—MISCELLANEOUS IMPROVEMENTS

SEC. 601. PROVISIONAL APPLICATIONS.

(a) ABANDONMENT.—Section 111(b)(5) of title 35, United States Code, is amended to read as follows:

"(5) ABANDONMENT.—Notwithstanding the absence of a claim, upon timely request and as prescribed by the Director, a provisional application may be treated as an application filed under subsection (a). If no such request is made, the provisional application shall be regarded as abandoned 12 months after the filing date of such application and shall not be subject to revival thereafter.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to any provisional application filed on or after June 8, 1995.

SEC. 602. INTERNATIONAL APPLICATIONS.

Section 119 of title 35, United States Code, is amended—

(1) in subsection (a), by inserting "or in a WTO member country," after "or to citizens of the United States,"; and

(2) by adding at the end the following new subsections:

"(f) APPLICATIONS FOR PLANT BREEDER'S RIGHTS.—Applications for plant breeder's rights filed in a WTO member country (or in a UPOV Contracting Party) shall have the same effect for the purpose of the right of priority under subsections (a) through (c) of this section as applications for patents, subject to the same conditions and requirements of this section as apply to applications for patents.

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'WTO member country' has the same meaning as the term is defined in section 104(b)(2) of this title; and

"(2) the term 'UPOV Contracting Party' means a member of the International Convention for the Protection of New Varieties of Plants.".

SEC. 603. PLANT PATENTS.

(a) TUBER PROPAGATED PLANTS.—Section 161 of title 35, United States Code, is amended by striking "a tuber propagated plant or".

(b) RIGHTS IN PLANT PATENTS.—The text of section 163 of title 35, United States Code, is amended to read as follows: "In the case of a plant patent, the grant shall include the right to exclude others from asexually reproducing the plant, and from using, offering for sale, or selling the plant so reproduced, or any of its parts, throughout the United States, or from importing the plant so reproduced, or any parts thereof, into the United States.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply on the date of the enactment of this Act. The amendment made by subsection (b) shall apply to any plant patent issued on or after the date of the enactment of this Act.

SEC. 604. ELECTRONIC FILING.

Section 22 of title 35, United States Code, is amended by striking "printed or typewritten" and inserting "printed, typewritten, or on an electronic medium".

SEC. 605. DIVISIONAL APPLICATIONS.

Section 121 of title 35, United States Code, is amended—

(1) in the first sentence by striking "If" and inserting "(a) If"; and

(2) by adding at the end the following new subsections:

"(b) In a case in which restriction is required on the ground that two or more independent and distinct inventions are claimed in an application, the applicant shall be entitled to submit an examination fee and request examination for each independent and distinct invention in excess of one. The examination fee shall be equal to the filing fee, including excess claims fees, that would have applied had the claims corresponding to the asserted independent and distinct inventions been presented in a separate application for patent. For each of the independent and distinct inventions in excess of one for which the applicant pays an examination fee within two months after the requirement for restriction, the Director shall cause an examination to be made and a notification of rejection or written notice of allowance provided to the applicant within the time period specified in section 154(b)(1)(B)(i) of this title for the original application. Failure to meet this or any other time limit set forth in section 154(b)(1)(B) of this title shall be treated as an unusual administrative delay under section 154(b)(1)(A)(iv) of this title.

"(c) An applicant who requests reconsideration of a requirement for restriction under this section and submits examination fees pursuant to such requirement shall, if the requirement is determined to be improper, be entitled to a refund of any examination fees determined to have been paid pursuant to the requirement.".

The CHAIRMAN. During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as read.

The Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment and may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device, without intervening business, provided that the time for voting by electronic device on the first in a series of questions shall not be less than 15 minutes.

Are there any amendments?

AMENDMENT OFFERED BY MR. COBLE

Mr. COBLE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. COBLE:

Page 3, insert in the table of contents after the item relating to section 149 the following:

Subtitle D—Under Secretary of Commerce for Intellectual Property Policy

Sec. 151. Under Secretary of Commerce for Intellectual Property Policy.

Sec. 152. Relationship with existing authorities.

Page 3, in the item relating to section 402, strike "development" and insert "promotion".

Page 5, line 12, insert "(1)" before "For purposes".

Page 5, insert after line 15 the following:

"(2) As used in this title, the term 'Under Secretary' means the Under Secretary of Commerce for Intellectual Property Policy.

Page 5, line 21, strike "under" and insert "subject to".

Page 6, line 1, strike "conduct" and insert ", in support of the Under Secretary, assist with".

Page 6, line 4, strike ", the administration" and all that follows through line 8 and insert a semicolon.

Page 6, line 9, strike "authorize or conduct studies and programs cooperatively" and insert ", in support of the Under Secretary, assist with studies and programs conducted cooperatively".

Page 7, strike line 23 and all that follows through page 8, line 3, and insert the following:

"(5) may establish regulations, not inconsistent with law, which—

"(A) shall govern the conduct of proceedings in the Office;

Page 9, line 1, insert "shall" after "(E)".

Page 9, after line 6, insert the following:

"(F) provide for the development of a performance-based process that includes quantitative and qualitative measures and standards for evaluating cost-effectiveness and is consistent with the principles of impartiality and competitiveness;

Page 11, strike lines 15 through 17 and redesignate the succeeding paragraphs accordingly.

Page 11, add the following after line 25:

"In exercising the Director's powers under paragraphs (6) and (7)(A), the Director shall consult with the Administrator of General Services when the Director determines that it is practicable, efficient, and cost-effective to do so.".

Page 13, strike lines 4 through 18 and redesignate the succeeding subparagraphs accordingly.

Page 14, strike line 18 and all that follows through page 15, line 7, and insert the following:

"(5) COMPENSATION.—The Director shall be paid an annual rate of basic pay not to exceed the maximum rate of basic pay of the Senior Executive Service established under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of title 5. In addition, the Director may receive a bonus in an amount up to, but not in excess of, 50 percent of such annual rate of basic pay, based upon an evaluation by the Secretary of Commerce of the Director's performance as defined in an annual performance agreement between the Director and the Secretary. The annual performance agreement shall incorporate measurable organization and individual goals in key operational areas as delineated in an annual performance plan agreed to by the Director and the Secretary. Payment of a bonus under this paragraph may be made to the Director only to the extent that such payment does not cause the Director's total aggregate compensation in a calendar year to equal or exceed the amount of the salary of the President under section 102 of title 3.

Page 16, line 2, strike "policy and".

Page 16, insert the following after line 20:

"(3) TRAINING OF EXAMINERS.—The Patent and Trademark Office shall develop an incentive program to retain as employees patent and trademark examiners of the primary examiner grade or higher who are eligible for retirement, for the sole purpose of training patent and trademark examiners.".

Page 21, line 13, insert "including inventors," after "Office,".

Page 21, line 20, insert after "call of the chair" the following: ", not less than every 6 months,".

Page 27, line 9, insert after the period close quotation marks and a second period.

Page 27, strike line 10 and all that follows through page 28, line 14.

Page 32, insert the following immediately before line 10 and redesignate the succeeding paragraphs accordingly:

(5) Section 41(h) of title 35, United States Code, is amended by striking "Commissioner of Patents and Trademarks" and inserting "Director".

Page 33, line 7, strike "Title" and insert "(A) Except as provided in subparagraph (B), title".

Page 33, insert the following after line 9:

(B) Chapter 17 of title 35, United States Code, is amended by striking "Commissioner" each place it appears and inserting "Commissioner of Patents".

Page 33, insert the following after line 12:

(12) Section 157(d) of title 35, United States Code, is amended by striking "Secretary of Commerce" and inserting "Director".

(13) Section 181 of title 35, United States Code, is amended in the third paragraph by striking "Secretary of Commerce under rules prescribed by him" and inserting "Director under rules prescribed by the Patent and Trademark Office".

(14) Section 188 of title 35, United States Code, is amended by striking "Secretary of Commerce" and inserting "Patent and Trademark Office".

(15) Section 202(a) of title 35, United States Code, is amended by striking "iv)" and inserting "(iv)".

Page 46, add the following after line 23:

Subtitle D—Under Secretary of Commerce for Intellectual Property Policy

SEC. 151. UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY POLICY.

(a) APPOINTMENT.—There shall be within the Department of Commerce an Under Secretary of Commerce for Intellectual Property Policy, who shall be appointed by the President, by and with the advice and consent of the Senate. On or after the effective date of this title, the President may appoint an individual to serve as the Under Secretary until the date on which an Under Secretary qualifies under this subsection. The President shall not make more than 1 appointment under the preceding sentence.

(b) DUTIES.—The Under Secretary of Commerce for Intellectual Property Policy, under the direction of the Secretary of Commerce, shall perform the following functions with respect to intellectual property policy:

(1) In coordination with the Under Secretary of Commerce for International Trade, promote exports of goods and services of the United States industries that rely on intellectual property.

(2) Advise the President, through the Secretary of Commerce, on national and international intellectual property policy issues.

(3) Advise Federal departments and agencies on matters of intellectual property protection in other countries.

(4) Provide guidance, as appropriate, with respect to proposals by agencies to assist foreign governments and international intergovernmental organizations on matters of intellectual property protection.

(5) Conduct programs and studies related to the effectiveness of intellectual property protection throughout the world.

(6) Advise the Secretary of Commerce on programs and studies relating to intellectual property policy that are conducted, or authorized to be conducted, cooperatively with foreign patent and trademark offices and international intergovernmental organizations.

(7) In coordination with the Department of State, conduct programs and studies cooperatively with foreign intellectual property offices and international intergovernmental organizations.

(c) DEPUTY UNDER SECRETARIES.—To assist the Under Secretary of Commerce for Intellectual Property Policy, the Secretary of Commerce shall appoint a Deputy Under Secretary for Patent Policy and a Deputy Under Secretary for Trademark Policy as members of the Senior Executive Service in accordance with the provisions of title 5, United States Code. The Deputy Under Secretaries shall perform such duties and functions as the Under Secretary for Intellectual Property Policy shall prescribe.

(d) COMPENSATION.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Under Secretary of Commerce for Intellectual Property Policy.".

(e) FUNDING.—Funds available to the United States Patent and Trademark Office shall be made available for all expenses of the office of the Under Secretary for Intellectual Property Policy, subject to prior approval in appropriations Acts. Amounts made available under this subsection shall not exceed 2 percent of the projected annual revenues of the Patent and Trademark Office from fees for services and goods of that Office. The Secretary of Commerce shall determine the budget requirements of the office of the Under Secretary for Intellectual Property Policy.

SEC. 152. RELATIONSHIP WITH EXISTING AUTHORITIES.

Nothing in section 151 shall derogate from the duties of the United States Trade Representative as set forth in section 141 of the Trade Act of 1974 (19 U.S.C. 2171).

Page 48, insert the following after line 18:

"(B) An application that is in the process of being reviewed by the Atomic Energy Commission, the Department of Defense, or a defense agency pursuant to section 181 of this title shall not be published until the Director has been notified by the Atomic Energy Commission, the Secretary of Defense, or the chief officer of the defense agency, as the case may be, that in the opinion of the Atomic Energy Commission, the Secretary of Defense, or such chief officer, as the case may be, publication or disclosure of the invention by the granting of a patent would not be detrimental to the national security of the United States.".

Page 48, line 19, strike "(B)" and insert "(C)".

Page 48, strike line 22 and all that follows through page 49, line 2, and insert the following:

"(D)(i) Upon the request at the time of filing by an applicant that is a small business concern or an independent inventor entitled to reduced fees under section 41(h)(1) of this title, the application shall not be published in accordance with paragraph (1) until 3 months after the Director makes a second notification to such applicant on the merits of the application under section 132 of this title. The Director may require applicants that no longer have the status of a small business concern or an independent inventor to so notify the Director not later than 15 months after the earliest filing date for which a benefit is sought under this title.

Page 49, line 7, strike ", 121,".

Page 49, insert after line 8 the following:

"(iii) Applications asserting the benefit of an earlier application under section 121 shall not be eligible for a request pursuant to this subparagraph unless filed within 2 months after the date on which the Director required the earlier application to be restricted to 1 of 2 or more inventions in the earlier application.

Page 49, line 9, strike "(iii)" and insert "(iv)".

Page 49, line 13, strike "(iv)" and insert "(v)".

Page 49, line 14, insert "nominal" before "fees".

Page 49, line 16, strike "(D)" and insert "(E)".

Page 49, line 17, strike "(C)" and insert "(D)".

Page 50, line 2, strike "(C)" and insert "(D)".

Page 50, after line 2, insert the following:

"(F) No fee established under this section shall be collected nor shall be available for spending without prior authorization in appropriations Acts.".

Page 58, strike lines 1 through 17 and insert the following:

(11) Section 135(b) of title 35, United States Code, is amended to read as follows:

"(b)(1) A claim which is the same as, or for the same or substantially the same subject matter as, a claim of an issued patent may only be made in an application if—

"(A) such a claim is made prior to 1 year after the date on which the patent was granted; and

"(B) the applicant files evidence which demonstrates that the applicant is prima facie entitled to a judgment relative to the patent.

"(2)(A) A claim which is the same as, or for the same or substantially the same subject matter as, a claim of a published application may only be made in an application filed after the date of publication of the published application if, except in a case to which subparagraph (B) applies—

"(i) such a claim is made prior to 1 year after the date of publication of the published application; and

"(ii) the applicant of the application filed after the date of publication of the published application files evidence that demonstrates that the applicant is prima facie entitled to a judgment relative to the published application.

"(B) If the applicant of the application filed after the date of publication of the published application alleges that the invention claimed in the published application was derived from that applicant, such a claim may only be made if that applicant files evidence which demonstrates that the applicant is prima facie entitled to a judgment relative to the published application.".

Page 59, line 7, strike "appellate".

Page 61, strike lines 5 through 9 and redesignate subclauses (III) through (V) as subclauses (II) through (IV), respectively.

Page 62, insert the following after line 6:

"(B) The period of extension of the term of a patent under clause (iv) of paragraph (1)(A), which is based on the failure of the Patent and Trademark Office to meet the criteria set forth in clause (v) of paragraph (1)(B), shall be reduced by the cumulative total of any periods of time that an applicant takes to respond in excess of 3 months after the date on which the Patent and Trademark Office makes any rejection, objection, argument, or other request.

Page 62, line 7, strike "(B)" and insert "(C)".

Page 62, line 19, strike "(C)" and insert "(D)".

Page 63, insert the following after line 4:

Section 132 of title 35, United States Code, is amended—

(1) in the first sentence by striking "Whenever" and inserting "(a) Whenever"; and

(2) by adding at the end the following:

Page 63, strike lines 5 through 7 and insert the following:

"(b) The Director shall prescribe regulations to provide for the further limited examination of applications for patent at the request of the applicant.

Page 63, line 9, strike "reexamination" and insert "examination".

Page 63, strike lines 11 and 12 and insert the following:

qualify for reduced fees under section 41(h)(1) of this title."

Page 63, line 21, insert "secular or" after "succeeding".

Page 64, lines 2 and 3, strike "an applicant who has been accorded the status of independent inventor under section 41(h)" and insert "applicants who are independent inventors entitled to reduced fees under section 41(h)(1)".

Page 71, line 8, strike "**DEVELOPMENT**" and insert "**PROMOTION**".

Page 71, line 11, strike "**DEVELOPMENT**" and insert "**PROMOTION**".

Page 71, in the item relating to section 58 in the matter after line 12, strike "developer" and insert "promoter".

Page 71, line 15, strike "development" and insert "promotion".

Page 71, lines 16 and 17, strike "developer" and insert "promoter".

Page 71, line 17, strike "development" and inserting "promotion".

Page 71, strike line 20 and all that follows through page 72, line 1, and insert the following: "partnership, corporation, or other entity who enters into a financial relationship or a contract".

Page 72, line 22, strike "development" and insert "promotion".

Pages 73 through 84, strike "invention developer" and "INVENTION DEVELOPER" each place it appears and insert "invention promoter" and "INVENTION PROMOTER", respectively.

Pages 73 through 84, strike "invention development" and "INVENTION DEVELOPMENT" each place it appears and insert "invention promotion" and "INVENTION PROMOTION", respectively.

Page 74, line 1, strike "DEVELOPER" and insert "PROMOTER".

Page 74, line 22, strike "developer" and insert "invention promoter".

Page 77, line 1, strike "DEVELOPER'S" and insert "PROMOTER'S".

Page 81, line 7, strike "DEVELOPER" and insert "PROMOTER".

Page 81, line 16, strike "developer's" and insert "promoter's.

Page 83, lines 19 and 21, and page 84, line 2, strike "developers" and insert "promoters".

Page 84, lines 3 and 4, strike "**developer**" and insert "**promoter**".

Page 84, in the matter after line 19, strike "**Development**" and insert "**Promotion**".

Page 85, line 16, strike "Any" and insert "(a) REQUEST FOR REEXAMINATION.—".

Page 85, line 19, strike "or on the basis of" and all that follows through "invention" on line 21.

Page 86, line 2, strike "or the" and all that follows through line 4 and insert a period.

Page 86, line 7, strike the quotation marks and second period and insert the following: "If multiple requests for reexamination of a patent are filed, they shall be consolidated by the Office into a single reexamination, if a reexamination is ordered.

"(b) COLLECTION AND AVAILABILITY OF FEES.—No fee for reexamination shall be collected nor shall be available for spending without prior authorization in appropriations Acts.".

Page 86, line 21, strike "or by the failure" and all that follows through line 24 and insert a period.

Page 89, line 8, insert before the quotation marks the following: "Special dispatch shall not be construed to limit the patent owner's ability to extend the time for taking action by payment of the fees set forth in section 41(a)(8) of this title.".

Page 95, line 13, strike "6 months" and insert "1 year".

Page 95, line 15, insert "effective" after "such".

Page 95, line 25, strike "If" and insert "Subject to section 119(e)(3) of this title, if".

Page 98, line 2, strike "Section" and insert "(a) IN GENERAL.—Section".

Page 99, add the following after line 8:

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is 2 years after the date of the enactment of this Act and shall apply to applications for patent filed on or after such effective date.

SEC. 606. PUBLICATIONS.

Section 11 of title 35, United States Code, is amended by adding at the end the following:

"(c) The Patent and Trademark Office shall make available for public inspection during regular business hours all solicitations issued by the Office for contracts for goods or services, and all contracts entered into by the Office for goods or services.".

Amend the table of contents accordingly.

Mr. COBLE. Mr. Chairman, generally on this Hill the Committee on the Judiciary is not known as the most bipartisan committee here, but there is an exception which has been struck to that belief on this bill. I would be remiss prior to putting my oars into the water and commencing this voyage if I did not recognize a few of my colleagues. Start naming Members and I will inevitably omit someone who should have been named, but I want to mention the gentleman from Michigan [Mr. CONYERS], the gentleman from Massachusetts [Mr. FRANK], the gentleman from Massachusetts [Mr. DELAHUNT], the gentlewoman from California [Ms. LOFGREN], of course, our chairman, the gentleman from Illinois [Mr. HYDE], the gentleman from Roanoke Valley, VA [Mr. GOODLATTE], the gentleman from Indiana [Mr. PEASE] has been helpful, the gentleman from Utah [Mr. CANNON]; others I am sure, as well. But we have done this in a bipartisan manner, Mr. Chairman. I think we have crafted a bill, perfect; no, there is not much perfect done around this town or in this world, but a good, solid bill that will serve Americans well.

I rise in support of the manager's amendment to H.R. 400, Mr. Chairman. Some of these amendments are technical. Most of them have been created for the benefits of small businesses defined as those who employ under 500 workers, and independent inventors, who are deserving of some extra protection in our patent system. The manager's amendment took an extremely long time to develop, and it strikes some very crucial compromises by granting additional protection while still preventing abuse.

Inventors have complained that the Patent and Trademark Office has not been able to spend its valuable resources on the most important function of the office, that is, granting patents and registering trademarks with quality review in the shortest time possible. The manager's amendment separates completely policy functions from operational functions. Policy functions are left to the Department of Commerce, giving patent and trademark policy a necessary representative at the President's table, while management and operational functions, day to day, if you will, are vested completely in the PTO. This will allow the PTO to be led by a director who will have only one mission: to process and adjudicate efficiently and fairly the important Government functions of granting and issuing patents and registering trademarks.

As we know, Mr. Chairman, the Committee on the Judiciary has been working with several groups to reach a compromise on special protections for small businesses and independent inventors from publication. We are offering a compromise which will grant protection while still preventing the practice of submarine patenting. While publication has many benefits for both independent inventors and small businesses, the manager's amendment gives

these groups a choice over whether or not they wish to be published. It will effectively exempt independent inventors and small businesses from publication by deferring publication until 3 months after the inventor has received at least two determinations on the merits of each invention claimed, on whether or not their patent will issue.

At this stage, the applicant knows whether or not he or she will receive a patent, in which case the patent would be published upon grant anyway under today's law. If it will not be granted, the applicant then may withdraw his application and avoid publication and protect the invention by another means.

Mr. Chairman, this is not a perfect exemption for opponents of this bill, nor is it a perfect exemption for supporters; rather, it is a compromise. If the applicant purposely tries to delay an application between the first and second office action, he or she will, unfortunately, succeed. If the PTO is slow and does not issue a second office action within 18 months, publication will still not occur until 3 months after that second action. The PTO has indicated that after two office actions of those who wish to proceed, 97 percent are granted in short order and, therefore, published. This should move the date of publication to almost exactly the time when publication would occur today.

However, those who want to purposely procrastinate for long periods of time and frustrate the prosecution of their patent applications will be published and, therefore, ultimately unable to submarine.

Another provision concerned the so-called gift provision contained in the bill. While the provisions contained in the bill did not grant the PTO any authority it does not already possess, we have deleted it from the bill. The PTO can accept a gift today.

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

(By unanimous consent, Mr. COBLE was allowed to proceed for 3 additional minutes.)

Mr. COBLE. Mr. Chairman, the manager's amendment also adopts two measures included in the bill introduced by the gentleman from California [Mr. HUNTER] which provide for an incentive program to better train examiners. While the current bill ensures that the advisory board for the new PTO should be composed of diverse users of the office in order to help Congress conduct more effective oversight, the manager's amendment expressly requires that inventors be included as members.

The Committee on Appropriations has expressed concern over the borrowing authority in the bill, as have some critics, although many misunderstood how the authority works under the control of Congress. Much ado has been made about a procedure which would offer a small possibility for the new PTO to borrow money instead of having to raise fees on inventors to pay for any high-technology future products. Accordingly, our amendment strikes the borrowing authority.

In further guaranteeing diligent inventors at least 17 years of patent term from the time of issuance, the manager's amendment allows inventors adequate time to respond to inquiries from the PTO regarding their applications.

Small businesses and independent inventors have been concerned that the new PTO may not recognize the long-standing reduction in fees applicable to these constituencies. The manager's amendment requires that the agency continue to provide that small businesses and independent inventors pay half price for their patent applications.

Independent inventors have claimed that the scope of the reexamination provisions contained in H.R. 400 is too broad. This has been amended to extend greater due process. As we can tell, Mr. Chairman, the committee has worked hard to accommodate the interests of our small business community, not just in this amendment but in the many amendments adopted throughout the process, while maintaining strong protection for U.S. interests against our foreign competitors. I strongly urge all of my colleagues to vote "yes" on the manager's amendment.

Mr. CAMPBELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wonder if I could engage my colleague and friend from North Carolina in a colloquy regarding the manager's amendment.

Mr. Chairman, I will state what I believe is true, and I just want to know if I have it correct or not. I believe that, even with the manager's amendment, every filer for a patent in the United States under the gentleman's bill would have to make public that application even if the patent has not yet been granted; is that correct?

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

Mr. CAMPBELL. I yield to the gentleman from North Carolina.

Mr. COBLE. Mr. Chairman, the applicant can, of course, withdraw if it is not to be granted.

Mr. CAMPBELL. Mr. Chairman, every applicant for a patent in the United States who intends to continue in the application process for a patent, even if he has not yet gotten that patent, must eventually disclose under the bill; is that correct?

Mr. COBLE. The purpose for that, Mr. Chairman, if I may say so, is to direct attention to the submariner.

Mr. CAMPBELL. Mr. Chairman, I appreciate the gentleman's understanding. But I believe his answer is yes; am I correct?

Mr. COBLE. Yes, sir.

Mr. CAMPBELL. I thank the gentleman.

Mr. Chairman, we have, I think, very clearly identified what is wrong with H.R. 400 and that it is not solved by the manager's amendment.

Every applicant for a patent who wishes to get that patent, even before they get the patent, is obliged to disclose. Goodbye to the strategy that you say, "Well I am trying for a patent but if I do not get it, I want to keep it secret and try the trade secret route."

One of the aspects that American patent law has right now is a tremendous incentive to the inventor because it allows just that opportunity. I will try for the patent, but if I do not get it, if it does not look like I am going to, then I am going to try the trade secret route.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I just wanted to ask a question. Assuming that happened to an inventor and he or she were published and that information were taken by some other interest in another nation, knowing some of the inventors that I know, if they had to sue, many of them do not have deep enough pockets. In fact, 80 percent of the inventors are small inventors and, if they had to take a case, would it not be extremely difficult for many inventors to try to protect their property rights internationally?

Mr. CAMPBELL. Mr. Chairman, my colleague from Ohio is quite right, but even more right than one might think; because what is the lawsuit about? Under H.R. 400, it is permitted to disclose. It is required to disclose. So if a foreigner takes that and uses that, what are you going to be hiring an attorney for?

Here is a question, Mr. Chairman, if I might instruct my colleagues to allow me to continue.

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Mr. CAMPBELL. Mr. Chairman, why are we messing with the U.S. patent system? Why are we messing with it?

We saw the chart of my colleague from California, Mr. HUNTER. We have Nobel prize winners. We have technology advancement second to none in the world. Why are we messing with it? Do my colleagues not think we should have a good reason before we change such a system as this that has produced such success for our country?

What answers have we heard today? We have heard one, submarine patents. This is what the Congressional Research Service says about the Rohrabacher substitute and House Resolution 400. It says the patent disclosure provisions of the Rohrabacher substitute, House Resolution 811, should substantially curtail the practice of

submarine patenting. Both bills seek to curtail submarine patenting and would likely end the practice. That is on pages 12 and 13 of the CRS report.

Let me repeat that. Both bills seek to curtail submarine patenting and would likely end the practice.

If we are messing with the U.S. patent system because of the abuse of the submarine patent, for heaven sakes, let us not go as broad and do the additional damage as House Resolution 400 would do when we can solve it with a much narrower solution, which is in the Rohrabacher substitute.

But let us ask one further question. How large, how deep, how profound is this problem of the submarine patent? Commissioner Lehman, in GATT hearings, was reported in the Washington Times of April 15 of this year to have said that the submarine patent constitutes approximately 1 percent of 1 percent of all patent filings. The numbers that he gave worked out to thirteen one-thousandths of 1 percent of all patent filings.

For that we are going to compel all patent filings, after 18 months, to be made public, whether or not there has been the patent granted? It simply is unnecessary for the small problem and it does a tremendous amount of collateral damage.

Mr. Chairman, I wish to conclude by pointing out that there has been no other case made for changing this present system that has worked so well, no other compelling case. If at the very least we do no harm, we have served our constituents well.

Mr. Chairman, I ask unanimous consent, as my colleague did, for 2 additional minutes.

Mr. GOODLATTE. Mr. Chairman, reserving the right to object, and I will not object, but I would ask that the gentleman from California, if we are going to conduct this debate under the 5-minute rule, recognize that he can make unanimous-consent requests for additional time.

No one here wants to do it, but if the gentleman is only going to recognize folks who agree with his opinion, he is not entering into a genuine debate, and I think we should have that.

So I will not object, but I would make the point to the gentleman.

The CHAIRMAN. The gentleman withdraws his objection and the gentleman from California is recognized for 2 additional minutes.

Mr. CAMPBELL. Mr. Chairman, since my colleague from North Carolina had 3, I would ask unanimous consent for 3 additional minutes.

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

There was no objection.

Mr. CAMPBELL. Mr. Chairman, I will reserve one of those minutes for a colloquy with my good friend, the gentleman from Virginia [Mr. GOODLATTE].

So we have the submarine patent as rationale for messing with the system, a small problem and one which is equally solved by the Rohrabacher substitute.

We have heard that research institutions are holding off. They are. Is it not troubling to my colleagues that we are going to be changing the U.S. patent system in a way that the major research universities of our country have chosen not to embrace?

Let me be very clear. They do not embrace the Rohrabacher substitute; they do not embrace the bill introduced by the gentleman from North Carolina. It seems they do not want a change. And I cannot blame them for that attitude. If we are going to change such a successful system, does it not cause us concern that the research universities are not here asking us to do it?

Oh, the commercializers are. And I do not put any negative spin on that phrase, a commercializer is important, as well as an inventor, but they are different, and the motive of the commercializer is to get available as quickly as possible the information and to use it for commercial purpose as quickly as possible. The inventor loses under House Resolution 400 in order to achieve that objective.

Last, we have heard the reference to a need to level the playing field. Well, I do not think we need to rush to equalize when we see the comparison in the numbers of inventions and Nobel prizes as a signal measure of the state of our country and others.

I repeat, in closing, reserving the last minute for our colloquy, no one responded to my point about a prior commercial user. Under the Coble bill, House Resolution 400, somebody who did not file, but has made use of this idea, can expand that use, can take what was making $10 a month and make it $1 million a month, totally eviscerating the value of the patent and destroying the incentive to invent in the first place.

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

Mr. CAMPBELL. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman for yielding, and I wanted to join in the conversation he had with the gentlewoman from Ohio, and point out the concern expressed by the two of them about situations in which foreign businesses might steal patent ideas published after 18 months presumes some important facts:

First, that that inventor did not file for a patent in a number of other foreign countries. If they do not file for the patent when the patent is issued, and the average patent is issued in 19 months in this country, there is nothing to stop that same thing from happening upon issuance of the patent all over the world.

Mr. CAMPBELL. Mr. Chairman, if I can reclaim my time to respond, the gentleman's point is quite right. If we file overseas, we put ourselves into the overseas system. If we file overseas, we put ourselves into the European system. And if we choose not to, because we prefer the American system, and for good reason we prefer it, because it has more incentives for invention and more protections for the inventor, we should be allowed to proceed under the American system.

The CHAIRMAN. The time of the gentleman from California [Mr. CAMPBELL] has expired.

The Chair would advise all Members that we will go back and forth and we will give priority to members of the committee.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the last word, although I might want to put it back by the time I am through.

I rise in support of the manager's amendment of the bill. I am the ranking minority member of the relevant subcommittee, so I have immersed myself to some extent in this. I have had some of my colleagues say to me that they do not quite understand why there is all this passion about the bill, and I will say to those who are looking to me for enlightenment on this that they will go unenlightened.

I think there is a dynamic of rhetoric that keeps arguments going even when they are not necessarily there anymore. There has been some convergence here. Originally, I was a cosponsor with the gentleman from California [Mr. ROHRABACHER]. I had heard from the biotechnology people that they did not like the alternative. That was several years ago.

In the interim, the bills have become less different. I do not expect the entrenched partisans on either side to acknowledge that, but it does seem to me we may want to look at it. In fact, the manager's amendment that came forward further bridges the difference, further reduces the problem of publication.

One point that should be made clear, and I say this because not every Member is fully familiar with it, and some Members were puzzled by publication, people should understand that we do not lose any legal right by publication.

There are some people who think it will be published before I have my patent and then I am not protected. No, that is not true. There is absolutely no diminution of legal right. What people are arguing is that the practical situation in which we are put to defend our legal right might be more difficult. But understand that there is no diminution of our legal right.

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

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

Mr. GOODLATTE. Mr. Chairman, the gentleman is correct, and not only

that, but because we improve the patent pending protections, then we can come back and get royalties during that patent pending term after we have been published that we cannot get under current law.

And, in addition, we found that the Europeans get that capital financing. One of the problems they have is the gap between the 18-month publication, when the patent is actually issued, saying, I am going to be exposed during that time. But, actually, the capital comes sooner because they know that since we have been published and no one else has been published ahead of us, we are the one that has that idea; and if they want to invest in it, they can do it now rather than wait until the patent is issued.

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, I think the general rule is sentence-yield, sentence-yield. So now it is time for a sentence, and then I will yield again after I get to say a sentence.

The sentence is, and it is actually a couple: We made another change in this. Under prior law, if two people both filed a similar patent, they were on equal terms before the law and had an equal burden in terms of proving who had invented first, not who filed first, which is not relevant.

We added to the bill after the bill was filed and added language that says, if we have published and someone files subsequent to our publication, we are no longer on an equal footing. We are now in a super-legal position. The person who filed subsequent to us has the burden of proof.

We will indeed, in fact, almost assume that the person copied our patent from the publication. And that is a very important difference.

It is true under old law we could file, somebody else could file, we would publish, someone else would file, and we would be at greater risk. We have further strengthened the hand of the person who files and is subject to publication.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman, because I know he approaches all these issues with complete objectivity and he tries to do what is best for the country.

Mr. FRANK of Massachusetts. On these issues. I get worked up on some others.

Ms. KAPTUR. In this case we disagree. I think that one of my greatest misgivings about the H.R. 400, and the reason I am supporting the substitute is because, having met many inventors, in a State like Ohio, what this bill does is it, and the gentleman says, well, they can defend their rights, and the gentleman from the other side was saying the same thing, but this is a real lawyers' field day because the small inventor, maybe the person who is working on their first patent, will be forced to take money that many of them do not have.

People can defend themselves if they are representatives of a large corporation that has a patent or is filing for a patent. They do not have as much trouble. But the average small inventor under this bill is seriously compromised by the system the gentleman is setting up where we publish after 18 months.

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, I say to the gentlewoman she has made her point and I want both to affirm it and then respond to it.

That is what I meant before. The legal right is not diminished. The gentlewoman is not contesting that. We have the same legal right whether or not there has been publication. The argument has been that those who want to intrude on our patent will do so, and if we are not a person with a lawyer, then we are at a disadvantage.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has expired.

(By unanimous consent, Mr. FRANK of Massachusetts was allowed to proceed for 2 additional minutes.)

Mr. FRANK of Massachusetts. That is also true once we have gotten a patent, Mr. Chairman.

In other words, if there are people out there who are determined to use their superior resources and their access to lawyers to infringe on and chip away at and take the benefit from our patent, they can do that whether it has been published or not once it is patented.

Yes, anybody in this society, I guess, who might be in difficulty is at more of a disadvantage if they do not have a lawyer handy than if they do. There might be other cases when people might consider it a disadvantage to be too near a lawyer, but in the case of a dispute, it is probably helpful. But that is true whether the patent is issued or not, whether or not there are people out there after us.

The point I would make is that publication, particularly with the safeguards we have, does not weaken either our legal position nor the disadvantage we might be at because of a lack of access to attorneys.

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

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

Mr. CAMPBELL. Mr. Chairman, it was for exactly that reason I never made the argument about the burdensome lawyers. My argument was different. I wonder what the gentleman's response might be to that.

I understand our legal rights are not changed by H.R. 400 in this regard, but as a practical matter, publication does destroy the applicant's opportunity to go the trade secret route and existing patent law does not. Would the gentleman agree?

Mr. FRANK of Massachusetts. Well, Mr. Chairman, first of all, let me say I welcome the support of the gentleman from California of my argument against the gentlewoman from Ohio. Because he just said he did not like her argument, and I appreciate that. I know they are friends in general, but I should like to point out that the gentleman from California——

Ms. KAPTUR. They are both attorneys. It is so interesting the way this debate goes.

Mr. FRANK of Massachusetts. Yes, but I have never practiced.

I did want to point out that my friend from California has just joined me in opposing the argument of the gentlewoman from Ohio, and I would say there may be an argument of his that she may not like, and I would be glad to have her join in on that one, too.

The next point is that that is true, that we are not forced, except for this thing. There is an inconsistency in the gentleman's question.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has expired.

(By unanimous consent, Mr. FRANK of Massachusetts was allowed to proceed for 2 additional minutes.)

Mr. FRANK of Massachusetts. Mr. Chairman, my understanding is that the trade secret is what we invoke as an alternative to patent.

The gentleman said if we file and are published, we lose our right to go for trade secrets. But my understanding is if we go the patent route, that is the alternative to trade secrets. So, therefore, yes, if we decide to get a patent, then we have given up our right to go the trade secret route.

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

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

Mr. CAMPBELL. Mr. Chairman, here is the question I was asking, and I did take the gentleman's answer to my previous question to be "yes," for which I am grateful.

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, maybe the gentleman misunderstood me, and I will clarify it.

The question was, if we are published, do we give up our ability to use trade secrets. My answer was, if that was the question, the answer is that any time we go for a patent, we give up the right to go trade secrets.

□ 1500

I want to finish the one question which was, is there a conflict between trade secrets and publication? My understanding, as I said, is that applying for a patent is an alternative to trade

secret. If that was not the question, rather than claiming I answered "Yes," the gentleman ought to rephrase the question.

Mr. CAMPBELL. It was the question, if the gentleman will yield.

Mr. FRANK of Massachusetts. I tried to respond to the gentleman. He then frankly, it seemed to me, somewhat distorted what I said. I am not going to simply allow that to happen, so I want to restate it.

If the question was, does publication take away your right to do trade secret, I would have to say I am surprised at the question, because any patent takes away your chance to use trade secret. Publication is not the operational problem there, it is the desire to ask for a patent.

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

Mr. FRANK of Massachusetts. I yield again to the gentleman from California.

Mr. CAMPBELL. I thank the gentleman. If somebody under present law wants to try for a patent and wants to keep that going until they are fairly sure they will not get it, they can still go the trade secret route, but under House Resolution 400, come 18 months, they cannot. That is a difference, is it not?

Mr. FRANK of Massachusetts. I would say this to the gentleman. That is a circumstance I had not previously thought about. In other words, what the gentleman is saying is you decide you are not going to get the patent and you withdraw it. I would be prepared to work on an amendment, which I suspect would make no difference to the gentleman overall.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has again expired.

Mr. FRANK of Massachusetts. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

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

Mr. CAMPBELL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. FRANK of Massachusetts. Mr. Chairman, I ask unanimous consent to proceed for an additional 30 seconds.

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

Mr. CAMPBELL. Mr. Chairman, reserving the right to object, if the gentleman would split the time with me.

Mr. FRANK of Massachusetts. No. I do not think the gentleman is interested in the conversation.

Mr. CAMPBELL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. GOODLATTE. Mr. Chairman, I move to strike the requisite number of words,, and I yield to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. I thank my friend from Virginia for yielding.

Mr. Chairman, the point is this. We are talking about a very, very limited circumstance. I think to some extent what we may be patenting—and maybe you cannot patent this, maybe we would copyright it—examples of horrible and extremist that we can come up with that might possibly under certain circumstances create a problem. The gentleman from California has had one. Here is what I think he is positing.

You apply for a patent. Your patent application is published. You subsequently decide that you are not going to get the patent, so you withdraw it and have you then lost your right to protect it under trade secrets?

I do not think it would do any violence to the bill in that circumstance where no one had previously suggested to say that no, you would not lose that. I would be glad to do that. I would be glad to support an amendment in a subsequent part of the process that said if in fact the only thing that happened was that you were published and you were not going to get a patent, that that would not destroy your limited right of trade secrets. That one does not bother me at all. It is the first I had heard of it in all my conversations with the gentleman.

Mr. GOODLATTE. Reclaiming my time, I would point out to the gentleman that there is a provision in the bill already that preserves the right of anybody to withdraw their patent application prior to the 18-month publication date and preserve their right to go the trade secret route. The problem we have here is there is an inherent difference between trade secrets and patents. Trade secrets are protected by keeping them secret. The formula for Coca-Cola, that is not patented, that is a recipe. They keep it locked up in a safe.

On the other hand, if you want to protect something by use of the patent system, the way we do that is the U.S. Government tells the whole world that that individual is the first person to come forward with that patent and they have that protection and that right, and all publication does is give them that right sooner. It does not in any way harm them or take away that right. If they want to go the trade secret route, they can still do it by withdrawing that application.

I would also point out that the average patent in this country takes 19 months, 1 month longer than the 18-month provision. So the fact of the matter is that we are doing very little to harm people and in fact publication is a positive thing.

Ms. LOFGREN. Mr. Chairman, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentlewoman from California.

Ms. LOFGREN. Is it not the case that in the bill if you are only filing in the United States and not abroad and are a small inventor or small businessperson, you have the ability to delay publication until after the second Office action, which is an up or down, and then have the ability to withdraw? So, the issue being raised is really not a problem because it has been dealt with in the bill.

Mr. GOODLATTE. The gentlewoman is correct.

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

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

Mr. FRANK of Massachusetts. I would also say I was a little bit surprised to hear my friend from California worried so much about the rights of people under trade secrets because I had previously in my conversations with him and in his amendment understood him to be somewhat critical of the trade secrets doctrine and to be interested in narrowing it substantially.

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

Mr. GOODLATTE. I yield to the gentleman from California.

Mr. KIM. I thank the gentleman for yielding. Mr. Chairman, I would like to have a colloquy with the gentleman from North Carolina [Mr. COBLE].

I would like to talk about a totally new subject, real estate.

Under section 112 of H.R. 400, the new Government corporation is not subject to the provisions of the Property Act of 1949, nor the Public Buildings Act of 1959. The bill would grant to each new corporation the ability to sign a lease and buy and sell property, construct a facility without regard to this law that I mentioned.

Indeed, the Patent and Trademark Office [PTO] is currently in the midst of having a new headquarters acquired by GSA, the landlord of the Federal Government. The PTO has requested acquisition of 2.3 million square feet of office space that could cost over $57 million annually, or even $1 billion over the next 20 years.

In fact, section 112 recognizes this action by stating that the land does not nullify, void, cancel or interrupt any pending request for proposal or acquisition by GSA for the express purpose of relocating or leasing space for the Patent and Trademark Office.

Is that the gentleman's understanding?

Mr. COBLE. If the gentleman will yield, that is my understanding, and I will be happy and any of the rest of us on the committee will be happy to work with the gentleman from California [Mr. KIM] on his committee of jurisdiction with Federal buildings, and I presume that is what prompts his question.

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

Mr. GOODLATTE. I yield to the gentleman from California.

Mr. CAMPBELL. I thank the gentleman for yielding.

Mr. Chairman, I simply wanted to point out this distinction and then get the benefit of the gentleman's response to it. Many people go into the patent system hoping to get the patent and they are disappointed, but they get indications of that disappointment.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. GOODLATTE] has expired.

(By unanimous consent, Mr. GOODLATTE was allowed to proceed for 1 additional minute.)

Mr. GOODLATTE. Mr. Chairman, I continue to yield to the gentleman from California.

Mr. CAMPBELL. So disappointed, they then choose to go the trade secret route. So that the choice is not only at the beginning but along the path when it does not look like you are going to get a patent. In that context the average time of a patent being 19 months means that a substantial number, more than half, will see the present right held by a patent applicant being taken away. That is my point. I would be grateful to hear the gentleman's response.

Mr. GOODLATTE. I would be happy to respond.

The individual who is in the process and is having a lengthier time processing the patent application than the 19-month average would be concerned about that. Under those circumstances, they would withdraw the patent application and if they wanted to try for the patent again, they are not in any way deprived from having the opportunity to resubmit the patent application which will then pick up with a lot of the work already having been done previously and process the patent through. I doubt there will be very much time lost.

Against that, I want to weigh the benefit of publication. No inventor wants to spend years of their life working on something to find out that somebody else had previously already filed, whether they are a deliberate submarine patenter like some who have kept them submerged for 30 years or others.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. GOODLATTE] has again expired.

(By unanimous consent, Mr. GOODLATTE was allowed to proceed for 1 additional minute.)

Mr. GOODLATTE. Therefore, publication has a number of benefits to inventors, including knowing that you are not wasting your time doing something that somebody else is already ahead of you on, and getting capital investment in your invention sooner because they know that you are the first out there because you are the first published and therefore they can invest in you sooner than they can if they have to wait until they are sure you are going to get the patent because they do not know under our current secret process whether or not somebody else got in there ahead of you. This is a benefit to the small investor, not a harm.

I yield to the gentleman again.

Mr. CAMPBELL. Mr. Chairman, I would just conclude, and I sure do appreciate the gentleman yielding, that overwhelmingly the commercializers are with the gentleman from North Carolina [Mr. COBLE], but overwhelmingly the inventors are with the gentleman from California [Mr. ROHRABACHER].

Mr. GOODLATTE. I have not found that to be the case.

Mr. CAMPBELL. That has been my observation, though I appreciate the gentleman might have a different one. I think that distinction speaks volumes to what the inventor sees as a hurt to his or her entrepreneurial activity.

Mr. GOODLATTE. That has not been the experience in Europe where this process has been used, and I would suggest that this is very much the type of change that we need in this country. This committee has improved the patent system for 200 years. I urge the support of this bill.

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

Mr. Chairman, I rise in support of the manager's amendment offered by the gentleman from North Carolina [Mr. COBLE], the subcommittee chairman.

Mr. Chairman, I would point out that the two major items in this amendment is, one, to completely separate the operational function of the Patent and Trademark Office from the policy responsibilities of the Patent and Trademark Office, thereby making it most efficient.

I presume that most everybody is for that. I do not recall much objection to it.

Mr. COBLE. I would say to the gentleman from Michigan, not unlike many other features about this bill, a lot of it was misunderstood, but I have heard virtually no complaints about that.

Mr. CONYERS. I did not think so.

I thank the gentleman.

The second most important part of the manager's amendment, from my point of view, is the exemption of the small inventor from the necessity of publication if he chooses to do so. And so, here this exemption from publication for the small inventor is that they do not have to publish until 3 months after the second patent and trademark action, which is usually the final decision regarding a patent.

That has great merit because it gives the protection to the small inventor. Ladies and gentlemen, those who are against GATT and NAFTA, listen up. This is precisely why I am supporting the bill and the manager's amendment because we provide additional protection to the small inventor, we give him the option of publishing 3 months after what is called the second PTO action, which is almost always the final decision regarding the issuance of a patent.

There are a number of technical amendments to the Coble manager's amendment. It is 18 pages long. The provision that I am referring to that exempts small inventors starts at page 10, line 1. Please read it. It is not complicated language.

It is not any more complex than anything we handle every day in the making of laws for the United States of America. It is pretty straightforward. It should not create any problem to anybody that is interested in protecting American inventors who are not corporations to give them the option that they require that they have never had before which does not subvert the patent process, it makes it stronger and is why we are here on the floor with this bill after several years.

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

Mr. Chairman, I just went through the manager's amendment, and it is a little difficult to sort through. I am not a lawyer, and I kind of think this ought to be approached in more of a pragmatic way. And so, in weighing this bill, I went back to those who are concerned with it and I talked to some of the people that deal with patents on a daily basis and in trying to improve themselves and our lives by taking their ideas into the patent system.

And I just want to tell my colleagues about a guy in Wichita, KS. His name is Jay Hajeer. He works for Sol Gate, and he has a very simple idea. This simple idea was to increase the size of a memory for most computer models even beyond the amount of design capacity that the computer already has in it.

Jay was able to keep his simple idea quiet enough as it went through the patent process until he did a little planning as far as production, a little planning as far as a way of marketing his product; and he was able to acquire the patent and go ahead and produce this simple product.

And now that it is out and available on the market, I would like to explain it. It is simply a clip. You take the memory board out of your computer, slip this clip in place and slide your memory board in plus an additional memory board, thereby, in this case, doubling the size of the memory.

You can do it for additional memory boards, also. But it is just a very simple idea, just a little plastic clip with a couple of connectors on it. And so, when he had this idea, he did not have to lay it out in front of other people.

□ 1515

I think that having to publish these ideas before they get a patent on it is

kind of like playing cards with a mirror at your back. The opponent on the other side of the table is able to read your cards, and he can see what is in your hand. And so in that respect it becomes a level playing field for your opponent, and I do not think we want to make a level playing field for our opponents, especially for other countries.

So let me go back to this simple design. Not only did Jay have time to develop the concept, get the drawings done, also develop a manufacturing plan and a marketing plan by the time he got his patent, once that was achieved, he was able to go right into the marketplace. Now if he had to publish this and there was a delay in his plans, it would have made it easier, especially for the companies in Southeast Asia, to capture this idea and go ahead with manufacturing and push them out of the market. He is a small investor, does not have a big company; he just has good ideas. So this open publishing of the idea, I think, would have made him vulnerable to larger manufacturers even in foreign governments.

So I am a little concerned about this level playing field concept, I am a little concerned about forcing someone to lay their cards on the table, letting them play cards with a mirror to their back. I think that we want to protect ideas and provide incentives for individuals.

And I guess the second point I would like to make is I am not very concerned about these alleged submariners, and perhaps I do not quite have a good grasp of the idea, but what we are trying to do is protect people who have ideas. That is why we have so many Nobel laureates, and that is why we have so many people who come up with ideas in America, is we give them incentives to sit around and dream up ideas.

I rode back to Wichita one time with a guy on the airplane who came up with an idea of mixing naphtha and water together, and one can burn it in a gasoline engine; and he has a license with Caterpillar to do just that. It is an idea that he has come up with that we can use water as a portion of the fuel. It cuts down emissions, it is a great idea. But he has to have a way of protecting his ideas so that he cannot lay his cards on the table and allow someone else to run with the ball until he gets the capital or gets the needs that he has.

So I guess I am not as concerned about the submariners as everybody else is because I think it is good to have a bank of ideas, to have them protected so that you can go on to the next idea while somebody develops a manufacturing process.

So those are my concerns on H.R. 400 and also in the manager's amendment, and that is why I will be voting against it, because it levels the playing field when I do not think it should; it levels it for the opponents.

Mr. HYDE. Mr. Chairman, I have a unanimous consent request that I would like to present to the House, but I would like just to say about those Nobel Prize winners, a lot of them have foreign accents, the ones I have met anyway.

Mr. Chairman, I ask unanimous consent that, when we finish with this manager's amendment, which I pray will be soon, I pray it is imminent, that debate on the Rohrabacher amendment and all amendments thereto be limited to 2 hours equally divided between proponents and opponents, the time to be controlled by the gentleman from California [Mr. ROHRABACHER] and the gentleman from North Carolina [Mr. COBLE] and that they be permitted to yield blocks of time.

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

Mr. ROHRABACHER. Reserving my right to object, Mr. Chairman, is his unanimous consent request saying that there would be 2 hours of debate for my substitute?

Mr. HYDE. Yes, Mr. Chairman.

Mr. ROHRABACHER. Mr. Chairman, but not for my substitute coupled with all the other amendments?

Mr. HYDE. No, Mr. Chairman. No, the other amendments will stand on their own, and we will probably get to them next week. It is simply trying to get the important amendment, if the other offerers will forgive me for downgrading their amendments, and get it out of the way and have an idea when we can secure because people would like to leave.

Mr. ROHRABACHER. Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.

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

Mr. Chairman, in all due respect, I have not had a chance, but 1 minute, to speak at various times here, so I would like to make a couple of points. I know the dialogue has gone on, and I will not try not to indulge the House too much longer.

I think it is very, very important though in this critical debate to understand that, while we have spent a lot of time on the submarine patent idea—you know, the notion that somebody hides this kind of prospective patent and it rears its ugly head to challenge somebody else later in the future, I appreciate that. And I think it has been well established here in this body this afternoon that either the main bill, H.R. 400, or the Rohrabacher substitute does deal with the submarine patent issue.

I think it is important again to stress that of the 2.3 million patents that were issued from 1971 to 1993, 2.3 million patents, 627 of those patents were deemed submarine, and almost half of those were by the U.S. Government. So the problem is not necessarily foreign interests bearing these submarine, these patents. So I think that is an important point to understand here, but we have dealt with the submarine issue, so I will not prolong that.

I think we get back to the essence here, and the essence of all of this really is again that we have American inventors who have defined this Nation as a place where somebody with a good American idea could come to Washington, DC, with that idea and protect that idea and it would not be made available to the whole world to steal.

I understand the distinction if one files overseas. I am today talking specifically about our American citizens who come up with good ideas and want to protect those ideas on American soil. That is what I am talking about, and I think we need to protect them.

That is why I am asking in a most aggressive manner through my amendment that we do protect the entrepreneur, the people who are working extra jobs to protect this idea that they have been working on, the small business people.

Look, the corporations, the multinational corporations, are well protected. They will be well protected in this legislation, they will have the battery of lawyers they need, but the little guys out there with no resources who have wonderful ideas that have made America great who have made us the superior Nation on the face of the earth because of our ideas and our technology, we are going to compromise that away. We will no longer have Alexander Graham Bells, we will no longer have first generation Americans coming up with a great ideas like Thomas Edison, and we will no longer have the Eli Whitneys or all the other people who have come through generations that have made this country the greatest Nation because of our people that go out there, come up with a great idea, send it to Washington and protect it. Now we are saying, "Sorry, individuals; sorry, small business people; you are not going to have the protections because you'll have to share your idea with the whole world after 18 months or some few months after that based on the manager's amendment which says, well, we will make a little alteration there."

If we are really caring about the individual in this country and not the corporate interests, we will make an exception for individuals, small business people, who do not have the resources that this bill will mandate.

Mr. Chairman, my colleague from Ohio was exactly correct. This will be a

lawyer's field day because we will turn it over to the courts, and even the presumption that the patent holder is protected will be put in jeopardy under these changes.

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

Mr. FORBES. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, is the gentleman aware of page 10 of the Coble manager's amendment starting at line one that exempts the small independent inventor from publication?

Mr. FORBES. Only if that inventor withdraws their patent application. It is not exemption.

Mr. CONYERS. It is optional with the small inventor; and if I might just read the sentence, it might change the gentleman's entire speech, and here is what it says. Just hear this.

The small, the independent, inventor in small businesses have expressed concern, and so the manager's amendment will give them a choice over whether or not they wish to be published. It will effectively exempt independent inventors by deferring until 3 months.

Mr. FORBES. Reclaiming my time, with all due respect I say to the gentleman I read it myself. And what it says is if someone is an individual in this country or a small business, and they do not have the resources, and they do not want their patent protected; I mean published, excuse me; then what they can do is they can opt out of participating in the patent protection system because then they will not get published.

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

Mr. FORBES. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, the gentleman is reading from the summary and not from the actual text. I note that point. But the summary is correct, and so was my colleague from New York. One can always get out of the mandatory publication rule.

The CHAIRMAN. The time of the gentleman from New York [Mr. FORBES] has expired.

(By unanimous consent, Mr. FORBES was allowed to proceed for 2 additional minutes.)

Mr. FORBES. Mr. Chairman, I yield to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Chairman, I appreciate the gentleman yielding continuously.

All that speaks to, Mr. Chairman, the gentleman from Michigan's point, all it speaks to, if one chooses to opt out of the patent system, then they do not have to disclose. But that is always the case. One can opt out of the patent system.

Mr. FORBES. Reclaiming my time, if I might, and in my remaining minute here I think it is just important to stress to my colleagues who have real problems understanding the technicalities of this issue, and I can appreciate it, this is very, very important. I am talking about the little people in this country, the small inventors, the people who do not have vast sums of money who have made this country great and changed the face of the economy of this Nation over the last 200 years. They will be hurt by this change.

Mr. Chairman, this is a harmful piece of legislation. In all due respect to the folks who have drafted it, this is not good for the little people in America, it is not good for small businesses, and I urge the defeat of H.R. 400.

Ms. LOFGREN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I doubt that I will use the entire 5 minutes. I just think it is important to point out a few things. There is an accuracy deficit here.

Mr. Chairman, in the bill with the exemptions provided for in the manager's amendment, which I support, publication is at 18 months, and the inventor is protected from that time forward. So it is not as if we are asking people to publish their invention without protection.

Mr. Chairman, I would like to complete my sentence. There has been a lot of discussion that the little guy will not be protected because he or she does not have access to the fancy lawyers and the legal system that is necessary to protect themselves. Let me point this out:

If someone obtains a patent—they have an invention, they file for their patent and their patent is issued—that patent is only as good as their ability to enforce it. Enforcing the patent requires them to oftentimes come into contact with the legal profession and to actually expend fees in pursuit of protecting their patent. And I would point out that there are many lawyers, if they have a good case, who will take the case on a contingent fee if the patent holder is being attacked by a foreign corporation in a patent infringement action.

It is important to talk about the issue of submarine patents. I have heard a lot about statistics. I do not hear those same sorts of arguments when we stand here and talk about, for example, product liability law. It is not our problem because it is only a percentage. If it is 500 million, it does not matter because it is only one case.

Let me talk about the case of Jerome Lemelson who filed in America for a bar code and robotic technologies who delayed his patent for 35 years. He collected $500 million in royalties from manufacturers from the late 1980's until the early 1990's. His patent attorney made $150 million in 1 year, and then later the Federal district court found that he did not have an enforceable patent.

I do not know Mr. Lemelson, I have nothing against him personally. I would just say that is nothing to advance the economic interests of America or of working people or of countries or of innovation. That is important; do not tell me about percentages. We need to prevent it.

Mr. GOODLATTE. Mr. Chairman, will the gentlewoman yield?

Ms. LOFGREN. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, I ask do we know how many hundreds of millions of dollars the attorney for Mr. Lemelson received in fees thus far for his submarine patenting?

Ms. LOFGREN. I do not know and I certainly never fault an attorney for earning an honest living. I would just point out that this issue is a big deal to those companies that paid those fees and the attorney fees.

I will tell the gentleman something else, and I do not want to quote the entire letter, but some of my colleagues have heard of Charles Trimble, the president and CEO of Trimble Navigation, a brilliant physicist and an individual who owns many patents and who was a leader in global positioning systems. Were it not for Dr. Trimble, we may not have that technology at all. I had the opportunity to talk to Dr. Trimble just a few short weeks ago. He followed our conversation with a letter to me. He is the owner of the patents. He is the one who has designed this system. He is fighting off submarine patents right and left.

□ 1530

It is not the right thing for our country to allow.

Mr. GOODLATTE. Mr. Chairman, if the gentlewoman will continue to yield, I think the point is that this patent reform bill fights against abuse of and gaming of the current system, which is a great playground for some lawyers to make huge fees at the expense of the American consumers and taxpayers, and we are correcting that with this legislation today, quite to the contrary of those who would allege that the new laws will help lawyers, quite to the contrary.

Ms. LOFGREN. Mr. Chairman, reclaiming my time, that is correct. The main point I wanted to make is to have rights that are enforceable one must seek access to courts, which requires lawyers, whether your rights attach at publication, whether the rights attach, as used to be the case, at issuance or the like. Your rights are only as good as what you stand up for.

Mr. DICKS. Mr. Chairman, will the gentlewoman yield?

Ms. LOFGREN. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I rise today to speak in strong support of H.R. 400, a package of patent reforms that will have significant positive impact in several key industries in the

State of Washington, namely the information technology, biotech, aerospace, and defense industries. I believe that this legislation will result in tangible improvements in our Nation's patent system, and that it strikes a balance between the need to assure strong patent protection for inventors while allowing for the free flow of information regarding new technologies. In this regard, I believe that H.R. 400 will foster the best of American ingenuity and serve as an important mechanism for spurring U.S. economic growth and competitiveness.

I regret, Mr. Chairman, that opponents of this legislation have sought to portray this patent debate as a David versus Goliath fight when, in fact, the reforms contained in the bill will benefit large and small companies alike. The committee bill protects the work and intellectual capital of thousands of Americans, whether working in basement laboratories or in teams at major U.S. corporations. By cutting bureaucratic red tape, reducing the operating costs, and promoting self-funded PTO, all patent filers stand to gain from a more predictable, efficient, inexpensive, and equitable patent system. H.R. 400 also contains several safeguards to protect independent inventors, and in this regard I note that nationwide associations representing 30,000 small business members are in support of the legislation we are debating today.

I also rise in strong opposition today to the amendment offered by the gentleman from California [Mr. ROHRABACHER] who seeks to substitute his legislation which, in my judgment, will reverse the positive patent reforms that were achieved through the GATT and would encourage abuse and manipulation of the patent system. The gentleman from California has maintained that the issue of the so-called submarine patents represent only a miniscule problem for our system. But I believe it has been shown that this gaming of the system has cost inventors, U.S. companies, and consumers billions of dollars and it would only continue under the language Mr. ROHRABACHER is asking us to adopt.

As a member of the National Security Appropriations Subcommittee and the House Intelligence Committee, and as a Representative of a State that depends upon the best of human and intellectual creativity, I can assure you I would never endorse a proposal that undermines our national security or undercuts our global competitiveness. In the 2 years prior to the passage of the 1995 GATT law, 300 foreign companies manipulated the patent system to their advantage, at the expense of American inventors and consumers. Despite Mr. ROHRABACHER's disingenuous label of H.R. 400 as the "Steal American Technology Act," I am afraid that the bill he is offering as a substitute would only worsen that draining of intellectual capital from the United States.

This is a major issue for all high-technology areas of the United States, and particularly for the Pacific Northwest, which has become an intellectual center for software development and biotechnology—two areas in which the United States leads the rest of the world. The foundation of the information technology industry in my region and nationwide is its intellectual capital, and as such, intellectual property protection is critical to the continued growth and success of this industry. In 1975, Microsoft was founded on the ideas and hard work of a handful of people; in just over 20 years, it now has almost 20,000 employees. Hundreds of startup companies have been launched following Microsoft's success, further contributing to the thriving high-technology industry in the area. The software industry as a whole provides high-wage, high-skilled jobs for more than 500,000 American workers and currently enjoys 70 percent of the world market—a share that will rapidly diminish if intellectual property protection is minimized. As R&D spending continues to increase, and while product cycles are condensing into timeframes of 9 to 12 months, predictability and full disclosure of existing patent applications becomes ever more critical. Due to the complexity of software patents, and a lack of prior art and expertise in the field, the average patent pendency for software is 36 months, double the PTO's average processing time. For this reason, an efficient PTO with highly trained and experienced examiners is becoming increasingly important.

Passage of the Rohrabacher substitute, H.R. 811, and a return to the previous system enabling the practice of submarine patents, also threatens the biotechnology industry which is thriving in the State of Washington. Patents are critical to the research of the biotechnology industry into cures and therapies for deadly and costly diseases like cancer, AIDS, Alzheimer's, cystic fibrosis, multiple selerosis, heart disease, and 5,000 genetic diseases. Any law which undermines the ability of biotechnology companies to secure patents with a full term undermines funding for research on deadly, disabling and costly diseases. Capital will not be invested in biotechnology companies if they are not able to secure intellectual property protection ensuring that they have a full term for a patent in which to recoup the substantial investments they must make in developing a product for market. Today, the United States remains preeminent in the field of biotechnology but has become a target of other country's industrial policies. Only by maintaining strong intellectual property protection, and preventing the gaming of the patent systems by foreign companies can the U.S. biotech industry continue to remain dominant.

I am convinced Mr. Chairman, that intellectual property is rapidly becoming the critical national resource of the next century's world economies, and I urge my colleagues to move forward with the improvements to our current patent system contained in the H.R. 400, which I have cosponsored, not backward with the substitute offered by Mr. ROHRABACHER. An efficient and predictable patent system encourages both job creation and the research and development activities that have made the United States the global leader in many high-technology sectors. This is precisely what H.R. 400 seeks to do.

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

Mr. Chairman, I want to reiterate what I said at the start of this good, robust debate, and that is that I have great respect for the gentleman from Illinois [Mr. HYDE], the chairman of the full committee and my great friend, and the gentleman from North Carolina [Mr. COBLE], the chairman of the subcommittee, my other great friend. I want to thank both of them for all of the great work that they have done.

I think one thing that we have proved to the world over the last several hours is that this is a fairly complex subject. I think that the area that the gentlewoman from California [Ms. LOFGREN] just spoke to is a huge area. It is an area of great importance, because we keep getting up on our side and saying that there is publication after 18 months, that all of these inventors have their secrecy ripped away from them, and then people can come in and unscrupulously flood around them with patents, which the practice of flooding is used in Europe and Japan where that 18-month publication system exists, and then the other side gets up and says, no, we have fixed that, there is an exception for small inventors. They do not have to publish.

Let us walk through that. Right now you do not have to publish until some 20 years after you have applied for your patent, and that gives you a long time, especially if you have a very complex piece of technology, to go out and get the money, get the running room that these Nobel laureates who support the Rohrabacher bill apparently want to keep. They do not like the new bill. But under the new bill, you jerk that veil of privacy away from them after 18 months.

Now, they do have a choice under the committee bill, but the choice for small businesses is not to be published. They do not have that choice. They either have to publish after 18 months or get out. They have to get out of the patent system and give up their attempt to get a patent and give up forever the chance to get that very important protection.

Now, it is true, and I want to hold up this list of people, very bright people who do not want this protection that the committee wants to give them. The gentleman, Nobel laureate, Franco Modigliani who developed management systems; Kary Mullis, Nobel laureate, polymerase chain reactor; Gertrude Elion, Nobel laureate, transplant antirejection drugs; the guy who invented the neonatal respirator; the guy who invented the MRI machine. Lots of these very bright people do not want to be published early under the system that exists in Japan.

Now, this chart tells you maybe why they do not want to be published. Why are there so few Nobel laureates in the sciences in Japan? Only five. There are 175 in the United States. The reason is very clear. These people get their privacy ripped away after 18 months. That means they do not have the running room to go out and get capital, to get a start-up company, to go out and line up the support that it takes to get a technology into production.

In the United States we have a ton of Nobel laureates because we give them protection, we give them some running room. So let us get this straight once and for all. The committee bill says that after you have had two office actions in the Patent Office, that at least a third of the patents go way beyond two office actions, but after you have two office actions, you have 3 months to decide whether to publish to the world or get out of the patent system.

Now, let us go to submarine patents for just 1 minute. Submarine patents have been the subject of almost three-quarters of the argument time spent by the proponents of this bill. I am told by the testimony that I read, or the summary of the testimony, by the Patent Commissioner was that over the last 20 years of 2.3 million patents issued, 370 of those patents were submarine patents. That is less than one-tenth of 1 percent.

So a lot of these Nobel laureates would probably say, you know what we would go along with? We are not a bunch of phoney submariners, we have good stuff, we just want to protect it. What we would go along with is a provision from the bill that would say, if you do not use due diligence, then the Patent Office should publish you.

That will take care of that problem. That takes care of those 370 submariners. That is in the Rohrabacher bill. If you do not use due diligence, you get published. So the guy that hides for years and years and years gets brought out into the open and published.

I think one reason these Nobel laureates do not like this is they are saying why do you expose 2.3 million patent holders early, early in the game and let people take advantage of them because of what 370 guys did? It does not make sense.

So once again, I want to thank the chairman of the subcommittee, the gentleman from North Carolina [Mr. COBLE], and the full committee chairman, the gentleman from Illinois [Mr. HYDE], for bringing this very important bill forward, but I go back to the beginning of the debate when the gentleman from Florida [Mr. GOSS] said first do no harm. Folks, we are doing harm with this bill.

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

First of all, I want to acknowledge the leadership that my good friend from California, [Mr. ROHRABACHER], has shown on this issue, and I think that the gentleman has taken up the interests of how we are going to be able to compete in the high-technology environment and in a global economy in a way that I was very supportive of in the last Congress. I commend the gentleman from California [Mr. ROHRABACHER] for the initiative that he has shown on this issue.

My feeling, after having listened to this debate and recognizing that I come from a district that represents universities such as Massachusetts Institute of Technology and Harvard University, I have more universities than any other Member of Congress, over 48 different universities come from the eighth district of Massachusetts. There is more research and development money spent in my congressional district than any other congressional district in the United States of America. I should not tell my colleagues all this because they will cut it all.

So anyway, I have to skip that part of the speech and get into the fact that what we have is an enormous concern over patent law and patent law deficiencies that have occurred during the course of the last few years. We have seen this most particularly with regard to the last few years in direct result of some of the GATT agreement that ended up as a result of a long negotiation providing protections for some of our inventors and some of our patent applicants here in the United States, but only after a very difficult set of negotiations. As a result of my involvement in that issue, I was happy to support the efforts of the gentleman from California [Mr. ROHRABACHER] in the last Congress.

My understanding, and I would be open to hearing from the gentleman from California [Mr. ROHRABACHER], is that the gentleman from North Carolina [Mr. COBLE] has, in fact, tried to take up some of the concerns.

We just heard the gentleman from California [Mr. HUNTER] talk about the fact that there is an issue pertaining to the small businessman or the small inventor that comes up with a particular idea and the fact that, as I understand it, in the legislation of the gentleman from North Carolina [Mr. COBLE], there would be, in fact, an 18-month protection, that there would be an opt-in for a total trade secret protection.

Now, that might not be fully protective of all of the interests of the small inventor, because at some point someone might go around him and try to steal the patent and then he is into a big lawsuit with a larger company. But it does seem to me that the gentleman from North Carolina [Mr. COBLE] has tried to come up with a reasonable compromise for us to be able to support.

So I would like to entertain just a discussion with the gentleman from California [Mr. ROHRABACHER], who, as I say, I did support in the last Congress. My inclination was to support the gentleman from North Carolina [Mr. COBLE] today. So I would like to hear what the gentleman's concern is.

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

Mr. KENNEDY of Massachusetts. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, no. I would say the efforts of the gentleman from North Carolina [Mr. COBLE] have not in any way met my concerns and, in fact, have raised more concerns the more I look into the legislation.

In fact, if the gentleman will notice from the universities that are in his district, none of them, none of them support H.R. 400. Had the gentleman from North Carolina [Mr. COBLE] actually gone and moved forward, trying to take those concerns that we all had last year into consideration, they would be here. Instead, the central issue, and the central issue which remains, as everyone can see, is whether or not our information that we have developed during a research and development process, so important to our colleges and universities, whether or not that information is going to be forcibly published so that everyone else in the world will be able to steal it.

Mr. KENNEDY of Massachusetts. Mr. Chairman, reclaiming my time briefly, I have been in touch with the universities of my district. While they are not perhaps as actively supportive as the gentleman from North Carolina [Mr. COBLE] would like, they do not oppose this amendment.

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

Mr. KENNEDY of Massachusetts. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I would think we could state this very clearly. No, the universities are not supporting the committee bill, they are not supporting the bill of the gentleman from California. He is being unusually reticent. My friend from California is being unusually reticent in leaving his own bill out of this conversation. He is not ordinarily so modest about it.

I have worked with the universities, with Harvard, and MIT and some others. My understanding of their position is that while they were originally opposed to H.R. 400, the changes we have made have brought them to a position of neutrality as between the two bills. I do believe they want to see a bill passed, but the fact is it seems rather odd for the proponents of one bill to be citing the universities' neutrality when the universities are neutral as between the two bills.

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

Mr. KENNEDY of Massachusetts. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, I think the correct point is that the universities have chosen to stay on the sidelines, and my colleague from Massachusetts, and I have both been in contact with them.

I believe this is very significant, because if one asks them, and this is my guess, I am not saying anyone told me precisely, though one actually did, they would prefer neither. They would prefer we do not mess with the system.

So the burden of proof should be on somebody who is proposing a major change in the patent bill. Research universities prefer no change, and that is what I think we should do.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. KENNEDY] has expired.

(By unanimous consent, Mr. KENNEDY of Massachusetts was allowed to proceed for 2 additional minutes.)

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

Mr. KENNEDY of Massachusetts. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, that is the oddest invocation of the burden of proof I have heard. The burden of proof is somehow on those who would support one bill, but not on those who would support one equally important.

The gentleman said the burden of proof is on one. As a matter of fact, what is clear to me from working with the universities is this: They had some objections. We have improved the bill from their standpoint to the point where they do not now object to it. They are not choosing between the two bills. But I would differ. At least with the universities I have talked to, there are elements in this bill, including, for instance, blocking the diversion of patent fees from the Patent Office, which makes them want some bill, and there are others who believe that some action in light of what is going on internationally is important.

The key point is this: People who are the proponents of one position versus another should not come in and simply say, oh, the universities do not like your position, when they have a neutral position. I think some Members got the impression that they have taken sides.

Mr. KENNEDY of Massachusetts. Mr. Chairman, reclaiming my time, let me yield to the gentleman from California. If the Chairman would just let me know when I have about 30 seconds left so I might close.

Mr. CAMPBELL. Mr. Chairman, there were things in the bill, however, that the universities do not like, like the reexamination procedure. They think they have a patent and then suddenly under this bill it can be opened up for reexamination in ways and in processes not under existing law.

I agree with my colleague, the gentleman from Massachusetts [Mr. FRANK]. The burden of proof is on anyone who wants to change the status quo, and that is true of the gentleman from California [Mr. ROHRABACHER] and it is true of the gentleman from North Carolina [Mr. COBLE]. But if you ask the universities, their bottom line is leave it alone, and that is what we should do today.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I would just like to close.

I have come into this debate with an open mind. My sense is that there has been, in fact, significant advancements made on where the Moorhead bill was 2 years ago to where the Coble bill is today.

My inclination, after having talked with the various universities and a lot of the small businesses, as well as other companies within my own district, that I think the gentleman from North Carolina [Mr. COBLE] is making a significant effort forward, and I look forward to supporting his bill.

□ 1545

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

Mr. Chairman, I just wish to follow up the comments of my colleague, the gentleman from Massachusetts [Mr. FRANK], who has been in personal conversation with a number of the universities in the Northeast. Our staff, at the request of the chairman, the gentleman from North Carolina [Mr. COBLE], together with his staff have spent a lot of time in conversation with associations which represent universities of all sizes, both public and private, across the country.

My assessment of those conversations is that the representation of the gentleman from Massachusetts [Mr. FRANK] is in fact accurate; that while there were concerns about some portions of the initial legislation, those concerns have been addressed, and while no piece of legislation may be perfect, that what we have before us with the manager's amendment does meet the great majority of those concerns from what is a very diverse audience that includes public and private schools, small and large schools, individual professors working alone, and professors working together and in cooperation with major corporations.

I think it would be as difficult to get consensus in higher education on this subject as it would be in this body to get consensus. But my assessment of the view of the associations with which we have worked is that the bill that we will have before us, after the manager's amendment, does address their major concerns.

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

Mr. PEASE. I yield to the gentleman from California.

Mr. CAMPBELL. I am grateful for the gentleman's yielding.

Mr. Chairman, it is my understanding that there are four universities who have expressed an opinion, and if this is wrong I am asking the gentleman to correct it.

It is my understanding that the State University of New York at Stony Brook supports Rohrabacher; that Louisiana State University supports Rohrabacher; that the University of Delaware supports Coble; that Rice University supports Coble; and that every other university has chosen not to take sides in this debate.

If that is incorrect, I would most welcome the correction. But if it is correct, I would suggest that the burden of my remarks that I made, that the universities would really prefer that we not mess with this system, is more accurate.

Mr. PEASE. Mr. Chairman, I cannot speak for the four universities individually to which the gentleman has made reference because we spoke only with associations, those who represent groups of universities, and not with individual universities. We did have conversations with individual universities, a number of them in the Midwest. In each case they referred us to the associations of which they were members.

Mr. CAMPBELL. If the gentleman will continue to yield, Mr. Chairman, does the gentleman know, since he has been in touch with the university associations, does any association of universities support either of these two bills, to the gentleman's knowledge?

Mr. PEASE. To my knowledge, none of the major associations has taken a position on either bill.

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

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

Mr. FRANK of Massachusetts. Mr. Chairman, I think we may be back in the Subcommittee on the Constitution of the Committee on the Judiciary, apparently. It sounds like some of my friends are about to create a third house of Congress, which is the universities, and only if they vote positively can we pass a bill.

Mr. Chairman, I differ with the implicit imputation of great inarticulateness to the university sector. The gentleman from California says it is true they have said they do not support or oppose either bill. They do not oppose it. But the gentleman says that he infers from the fact that they do not support or oppose either bill the fact that they oppose any bill at all.

In my experience, universities are not reticent. When universities have positions, they tell us. The fact that the universities have not said they were opposed to this would lead me to the conclusion, perhaps it is going out on a limb, but when the universities tell me they are not opposed to a bill, I infer they are not opposed to a bill. Perhaps there are subtleties unbeknownst to me.

I worked with universities when they were opposed, and when they were they have said so. So we have made some changes, and they are not now opposed to this, they are neutral. It does not seem to me we have to absolutely do whatever they say, anyway. But neutrality is not opposition.

Mr. CAMPBELL. Mr. Chairman, if the gentleman will yield further, I believe that the gentleman from Massachusetts and I agree that there is a

burden of proof in debate, there is a burden of proof in those who would change the status quo, and the university community is not a third house of Congress, nor have I set it up to be so.

But they are important. And they are not reticent in letting us know things they want, like major assistance with research, particularly in the times of a shrinking budget. That they have not done so is to me a very important point. That they have chosen to be silent regarding this bill is to me quite significant, if we start from the premise that there is a burden of proof on anyone who wants to change the status quo.

What we are left with, and I appreciate the gentleman's yielding, is that there are those who commercialize, like the Coble bill, those who invent, like the Rohrabacher bill, and universities have one foot in each camp, they both commercialize and invent, and it seems to me for that reason they are staying out.

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

Mr. Chairman, I rise in support of the Rohrabacher substitute and against H.R. 400. Mr. Chairman, I wanted to read into the RECORD some of the organizations that are opposing H.R. 400 and supporting the Rohrabacher substitute, organizations like the Alliance for American Innovation, the American College of Physician Inventors, the American Small Business Association, the National Association for the Self-employed, the National Association of Women Business Owners, the National Congress of Inventor Organizations, the National Patent Association, the National Small Business United. These are not insignificant organizations.

The Patent Office Professional Association, the Ohio State Bar Association, from my home State. This is a very small, partial list. The Small Business Legislative Council, the Small Business Technology Coalition, the Small Entity Patent Owners Association, United Inventors of America. One of the great scholars of our time, Franklin Modigliani at MIT, a Nobel laureate.

These are not insignificant organizations, nor individuals; inventors like Dr. Paul Burstein, the inventor of rocket motor inspection systems, or Gertrude Elion, the inventor of leukemia-fighting and transplant rejection drugs.

There are people here who recognize what is being proposed in the base bill is in fact a significant departure from current practice. They are not satisfied with the so-called changes that are being made actually every moment, from what I can tell from this position here, in order to accommodate the flaws that exist in the base bill.

So I would say to the Members, Mr. Chairman, that it is very important to recognize that we not tamper with a system that is working, that has worked for centuries, and certainly for the last several decades as the United States in this century became the preeminent industrial and agricultural leader of the world.

H.R. 400, in contrast to the substitute, is actually taking us back, not forward. Why we would want to subject our inventors to divulge the contents of their patent application before it is granted is beyond me. I do not know why we want to take that secret protection away and involve them in litigation. Why would we want to do that? Why would we want to do that domestically, and certainly why would we want to subject them to cases internationally, which are so expensive that most of the smaller inventors cannot even afford to defend their interests?

The average American knows it is hard for them to go to court and pay the court costs in this country. Can Members imagine what it is going to be like to deal with international infringements on their patent applications if they have to function under this proposed base bill?

Mr. ROHRABACHER. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, this is, after all, the ultimate bipartisan issue that we have been discussing today, and who supports the little guy. That is what we are trying to do with the Rohrabacher substitute.

Most people know there are a lot of conservative Republicans who have spoken today, and the gentlewoman has been here as well. Are there not many people on the gentlewoman's side of the aisle who are very concerned about this? Perhaps the gentlewoman would like to talk about some of the others who are supporting the Rohrabacher substitute, because I am proud to have many, many, liberal Democrats on our side protecting the little guy.

Ms. KAPTUR. Mr. Chairman, that is right. Actually, the gentlewoman from California, Ms. MAXINE WATERS, was down here earlier and had to go back to a markup. She is supporting this legislation.

The gentleman from Missouri, Mr. DICK GEPHARDT, our minority leader, will be supporting the Rohrabacher substitute.

The gentleman from Michigan, Mr. DAVID BONIOR, on our side of the aisle will be supporting the substitute. So frankly, I think this issue goes down to the point of who has actually read the legislation and who has not, and most Members do not serve on the Subcommittee on Courts and Intellectual Property of the Committee on the Judiciary. Therefore, they have not had an opportunity to follow some of the machinations.

I respect the gentlewoman's work on this measure. I know how hard she has worked on it, I know she has been accommodating to many of the changes we have been trying to make.

Mr. Chairman, the bill is not where we would like it to be yet, and therefore I remain supporting the Rohrabacher substitute, but we have broad bipartisan support on our side of the issue, and I look forward to the vote.

Ms. LOFGREN. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentlewoman from California.

Ms. LOFGREN. Mr. Chairman, I just wanted to point out that that leaves only right-wing Democrats such as the gentleman from Massachusetts [Mr. FRANK] and myself in support of the manager's amendment.

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

Mr. Chairman, it seems that the debate on submarine patenting has calmed down a bit, seeing the fact that we have stated over and over and over again, and used the Congressional Research Service finding, to prove beyond anyone's reasonable doubt that we have taken care of any potential submarine patenting problem.

I have with me the Congressional Research Service report that says that our alternative, basically the Rohrabacher substitute, will end the practice of submarine patenting. So that is the only substantial argument that the other side has to say that we should fundamentally change our patent system. They are proposing, in the name of stopping submarine patenting, because it is the only way to stop it is to change the fundamental law that has protected American technology for 225 years.

No, I have an alternative. The alternative was found by an independent reading by the Congressional Research Service to end submarine patenting. So what do we have? We have a proposal here to gut fundamental protections for American inventors, giving our technology away in order to end the submarine patenting problem, which we say we found another way to solve.

No, we do not have to cut our leg off in order to cure a hangnail or an infected toe. We do not have to destroy all freedom of speech because someone wants to publish Hustler magazine. In this particular case, people are moving forward to change the fundamentals, the fundamentals in our system that have served our country well, that have made us the leader in technology and ensured our people the highest standard of living, ensured our country the security we have because we have had the technological edge.

We have had the technological edge because the fundamentals have been right. This bill would change those fundamentals. One fundamental is a guaranteed patent term of 17 years. Their bill would go along with the elimination of that which took place 3 years

ago when someone, in an underhanded maneuver, snuck that change into the GATT implementation legislation, although it was not required by GATT; the most underhanded move that I have seen since I have been here in Congress. Our bill would restore that guaranteed 17-year patent term that has served America well for 225 years.

The second element that my substitute restores and guarantees, the confidentiality; the right of our citizens, that when they apply for a patent, that until that patent is issued it is going to be secret. We are not going to give away all the secrets to foreign multinational corporations to steal until the patent is issued.

What do we hear here? We have effectively exempted small business. We can put that argument to rest, too. What does "effectively" mean? We know what that means. That is a weasel word. The public knows what it means, too. It means that someone is trying to project that a change has happened and the change has not happened. That is what effectively means.

No, small business has not been exempt, individuals have not been exempt. As the gentleman from California, Mr. TOM CAMPBELL, brought out with his colloquy, no; they are not. They are still going to be published. The whole world will see every one of our secrets.

Please do not tell us that the Chinese Liberation Army is going to be deterred from using our secrets, going into manufacturing, making profit from those secrets, using those secrets in their technology against us, and then 5 years later or 10 years later, when the inventor is finally issued the patent, he gets to sue the Peoples Liberation Army?

They have taken care of the problem? That is a joke, and it is a sick joke that opens up all of our people to the worst kind of theft. Yes, the Chinese Army, I can hear them now, or Mitsubishi Corp: "I am using your technology? So, sue me." Yes, great. That is going to really protect our people and protect our country. This is an escalator down for our leadership in American technology.

By the way, something else I have heard today, yes, we have heard today that they have taken the provision out that permits this new corporatized Patent Office, where the Patent Office is part of the Government, making it a corporate entity; but they did manage to take out that part that says this corporate organization can accept gifts.

Why? Because the gentleman from North Carolina [Mr. COBLE] has explained, because they were permitted to accept gifts anyway. But what was not explained was that yes, they are able to accept gifts like anybody else, but this bill waives restrictions, because now it is a corporate entity, and they will not have the same restrictions that other Government agencies have when they accept gifts.

□ 1600

The GSA, the Commerce Department are no longer going to be in control of how those gifts are used. So what we have got is a Patent Office that can accept foreign gifts, and the controls over how those gifts are used are being taken away.

The CHAIRMAN. The time of the gentleman from California [Mr. ROHRABACHER] has expired.

(By unanimous consent, Mr. ROHRABACHER was allowed to proceed for 2 additional minutes.)

Mr. ROHRABACHER. Mr. Chairman, the patent examiners who work so hard in this country, these are people who make decisions that are worth billions and billions of dollars and whether our country will enjoy them, who will benefit from them, these patent examiners work hard and they have been totally insulated from outside influences because they have been part of the U.S. Government. They are opposed to H.R. 400. They are pleading with us, do not do this to us, because they have no idea what outside influences will come to play. No one knows.

We change something so fundamentally as making it a corporate structure rather than part of our Government, who knows what pressures will be put on these stalwart Government employees who are trying to do their job.

Finally let me say, my substitute has taken everything that has been done that is of benefit, that is a good thing for America out of the work of the gentleman from North Carolina [Mr. COBLE] and out of H.R. 400, and we have incorporated it into the substitute.

What we do not have is the publication that will make available to everyone to steal our technology after 18 months. We do not have the corporatization that will open up our patent examiners to outside influences, and what we do is we protect the fundamental system of American patent law that has made America the greatest country in the world. That is why we have so many Nobel laureates and all the Nobel laureates are on our side.

Do not be fooled with the idea that you to have cut your leg off to cure the hangnail of submarine patenting. We need to protect this American system that has done so much wonder for our people and created such a wondrous land. Those people in the small businesses, those Nobel laureates, those inventors, they are on our side. The big corporations are on the other side, and they put a lot of pressure on the universities and a lot of pressure on other people.

But we still have a democracy. The people still rule here. This bill protects the fundamental rights of Americans. That is why we do not want to harmonize with Japan. We do not want to harmonize with Europe. We want to have a better system where the individual rights of our citizens are protected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. COBLE].

The amendment was agreed to.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. ROHRABACHER:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent Rights and Sovereignty Act of 1997".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the right of an inventor to secure a patent is assured through the authorization powers of the Congress contained in Article I, section 8 of the Constitution, has been consistently upheld by the Congress, and has been the stimulus to the unique technological innovativeness of the United States;

(2) the right must be assured for a guaranteed length of time in the term of the issued patent and be further secured by maintaining absolute confidentiality of all patent application data until the patent is granted if the applicant is timely prosecuting the patent;

(3) the quality of United States patents is also an essential stimulus for preserving the technological lead and economic well-being of the United States in the next century;

(4) the process of examining and issuing patents is an inherently governmental function that must be performed by Federal employees acting in their quasi-judicial roles under regular executive and legislative oversight; and

(5) the quality of United States patents is inextricably linked to the professionalism of patent examiners and the quality of the training of patent examiners as well as to the resources supplied to the Patent and Trademark Office in the way of adequate manpower, appropriately maintained search files, and other needed professional tools.

SEC. 3. SECURE PATENT EXAMINATION.

Section 3 of title 35, United States Code, is amended by adding at the end thereof the following:

"(f) All examination and search duties for the grant of United States patents are sovereign functions which shall be performed within the United States by United States citizens who are employees of the United States Government.".

SEC. 4. MAINTENANCE OF EXAMINERS' SEARCH FILES.

Section 9 of title 35, United States Code, is amended—

(1) by striking "may revise and maintain" and inserting "shall maintain and revise"; and

(2) by adding at the end thereof the following: "United States patents, and all such

other patents and printed publications shall be maintained in the examiners' search files under the United States Patent Classification System.".

SEC. 5. PATENT EXAMINER TRAINING.

(a) IN GENERAL.—Chapter 1 of title 35, United States Code, is amended by adding at the end the following new section:

"§ 15. Patent examiner training

"(a) IN GENERAL.—All patent examiners shall spend at least 5 percent of their duty time per annum in training to maintain and develop the legal and technological skills useful for patent examination.

"(b) TRAINERS OF EXAMINERS.—The Patent and Trademark Office shall develop an incentive program to retain as employees patent examiners of the primary examiner grade or higher who are eligible for retirement, for the sole purpose of training patent examiners who have not achieved the grade of primary examiner.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 1 is amended by adding at the end the following:

"15. Patent examiner training."

SEC. 6. ADMINISTRATIVE MATTERS.

(a) LIMITATIONS ON PERSONNEL.—Section 3(a) of title 35, United States Code, is amended by adding at the end thereof the following: "The Office shall not be subject to any administratively or statutorily imposed limitation on positions or personnel, and no positions or personnel of the Office shall be taken into account for purposes of applying any such limitation.".

(b) RETENTION OF FEES.—(1) Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting after the item relating to the National Credit Union Administration, credit union share insurance fund, the following new item:

"Patent and Trademark Office".

(2) Section 10101(b)(2)(B) of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended by striking ", to the extent provided in appropriation Acts," and inserting "without appropriation".

(3) Section 42(c) of title 35, United States Code, is amended by striking the first sentence and inserting the following: "Revenues from fees shall be available to the Commissioner to carry out the activities of the Patent and Trademark Office, in such allocations as are approved by Act of Congress. Such revenues shall not be made available for any purpose other than that authorized for the Patent and Trademark Office.".

(c) USE OF FEES.—Section 42(c) of title 35, United States Code, is amended by adding at the end thereof the following: "All patent application fees collected under paragraphs (1), (3)(A), (3)(B), and (4) through (8) of section 41(a), and all other fees collected under section 41 for services or the extension of services to be provided by patent examiners shall be used only for the pay and training of patent examiners.".

(d) PUBLICATIONS.—Section 11 of title 35, United States Code, is amended by adding at the end thereof the following:

"(c) The Patent and Trademark Office shall make available for public inspection during regular business hours all solicitations issued by the Office for contracts for goods or services and all contracts for goods or services entered into by the Office.

"(d) Notice of a proposal to change United States patent law that will be made on behalf of the United States to a foreign country or international body shall be published in the Federal Register before, or at the same time as, the proposal is transmitted.".

SEC. 7. GAO STUDY AND REPORT.

(a) IN GENERAL.—The Comptroller General shall conduct a study of—

(1) the total number of patents applied for, issued, abandoned, and pending in the period of the study;

(2) the classification of the applicants for patents in terms of the country they are a citizen of and whether they are an individual inventor, small entity, or other;

(3) the pendency time for applications for patents and such other time and tracking data as may indicate the effectiveness of the amendments made by this Act;

(4) the number of applicants for patents who also file for a patent in a foreign country, the number of foreign countries in which such filings occur and which publish data from patent applications in English and make it available to citizens of the United States through governmental or commercial sources;

(5) a summary of the fees collected by the Patent and Trademark Office for services related to patents and a comparison of such fees with the fully allocated costs of providing such services; and

(6) recommendations regarding—

(A) a revision of the organization of the Patent and Trademark Office with respect to its patent functions, and

(B) improved operating procedures in carrying out such functions,

and a cost analysis of the fees for such procedures and the impact of the fees.

(b) ADDITIONAL STUDY MATTER.—The Committees on Appropriations, Judiciary, and Small Business of the House of Representatives and the Senate may, no later than 12 months after the beginning of the study under subsection (a), direct the Comptroller General to include other matters relating to patents and the Patent and Trademark Office in the study conducted under subsection (a).

(c) REPORT.—Upon the expiration of 36 months after the beginning of the study under subsection (a), the Comptroller General shall report the results of the study to the Congress.

SEC. 8. PATENT TERMS.

(a) AMENDMENT OF TITLE.—Effective on the date of the enactment of this Act, section 154 of title 35, United States Code, as amended by the Uruguay Round Agreements Act, is amended—

(1) in paragraph (2) of subsection (a), by striking "and ending" and all that follows in that paragraph and inserting "and ending—

"(A) 17 years from the date of the grant of the patent, or

"(B) 20 years from the date on which the application for the patent was filed in the United States, except that if the application contains a specific reference to an earlier filed application or applications under section 120, 121, or 365(c) of this title, 20 years from the date on which the earliest such patent application was filed,

whichever is later.".

(2) in subsection (c)(1), by striking "shall be the greater of the 20-year term as provided in subsection (a), or 17 years from grant" and inserting "shall be the term provided in subsection (a)".

(b) TECHNICAL AMENDMENT.—Section 534(b) of the Uruguay Round Agreements Act is amended by striking paragraph (3).

SEC. 9. DEFINITION OF SPECIAL CIRCUMSTANCES TO PROTECT THE CONFIDENTIALITY STATUS OF APPLICATIONS.

Section 122 of title 35, United States Code, is amended by striking "as may be determined by the Commissioner" and inserting "as in any of the following:

"(1) In the case of an application under section 111(a) for a patent for an invention for which the applicant intends to file or has filed an application for a patent in a foreign country, the Commissioner may publish, at the discretion of the Commissioner and by means determined suitable for the purpose, no more than that data from such application under section 111(a) which will be made or has been made public in such foreign country. Such a publication shall be made only after the date of the publication in such foreign country and shall be made only if the data is not available, or cannot be made readily available, in the English language through commercial services.

"(2)(A) If the Commissioner determines that a patent application which is filed after the date of the enactment of this paragraph—

"(i) has been pending more than 5 years from the effective filing date of the application,

"(ii) has not been previously published by the Patent and Trademark Office,

"(iii) is not under any appellate review by the Board of Patent Appeals and Interferences,

"(iv) is not under interference proceedings in accordance with section 135(a),

"(v) is not under any secrecy order pursuant to section 181,

"(vi) is not being diligently pursued by the applicant in accordance with this title, and

"(vii) is not in abandonment,

the Commissioner shall notify the applicant of such determination.

"(B) An applicant which received notice of a determination described in subparagraph (A) may, within 30 days of receiving such notice, petition the Commissioner to review the determination to verify that subclauses (i) through (vii) are all applicable to the applicant's application. If the applicant makes such a petition, the Commissioner shall not publish the applicant's application before the Commissioner's review of the petition is completed. If the applicant does not submit a petition, the Commissioner may publish the applicant's application no earlier than 90 days after giving such a notice.

"(3) If after the date of the enactment of this paragraph a continuing application has been filed more than 6 months after the date of the initial filing of an application, the Commissioner shall notify the applicant under such application. The Commissioner shall establish a procedure for an applicant which receives such a notice to demonstrate that the purpose of the continuing application was for reasons other than to achieve a delay in the time of publication of the application. If the Commissioner agrees with such a demonstration by the applicant, the Commissioner shall not publish the applicant's application. If the Commissioner does not agree with such a demonstration by the applicant or if the applicant does not make an attempt at such a demonstration within a reasonable period of time as determined by the Commissioner, the Commissioner shall publish the applicant's application.

The Commissioner shall ensure that publications under paragraph (1), (2), or (3) will not result in third-party pre-issuance oppositions which will delay or interfere with the issuance of the patents whose applications' data will be published.".

SEC. 10. INVENTION DEVELOPMENT SERVICES.

(a) INVENTION DEVELOPMENT SERVICES.—Part I of title 35, United States Code, is amended by adding after chapter 4 the following new chapter:

"CHAPTER 5—INVENTION DEVELOPMENT SERVICES

"Sec.
"51. Definitions.
"52. Contracting requirements.
"53. Standard provisions for cover notice.
"54. Reports to customer required.
"55. Mandatory contract terms.
"56. Remedies.
"57. Records of complaints.
"58. Fraudulent representation by an invention developer.
"59. Rule of construction.

"§ 51. Definitions

"For purposes of this chapter—

"(1) the term 'contract for invention development services' means a contract by which an invention developer undertakes invention development services for a customer;

"(2) the term 'customer' means any person, firm, partnership, corporation, or other entity who is solicited by, seeks the services of, or enters into a contract with an invention promoter for invention promotion services;

"(3) the term 'invention promoter' means any person, firm, partnership, corporation, or other entity who offers to perform or performs for, or on behalf of, a customer any act described under paragraph (4), but does not include—

"(A) any department or agency of the Federal Government or of a State or local government;

"(B) any nonprofit, charitable, scientific, or educational organization, qualified under applicable State law or described under section 170(b)(1)(A) of the Internal Revenue Code of 1986; or

"(C) any person duly registered with, and in good standing before, the United States Patent and Trademark Office acting within the scope of that person's registration to practice before the Patent and Trademark Office; and

"(4) the term 'invention development services' means, with respect to an invention by a customer, any act involved in—

"(A) evaluating the invention to determine its protectability as some form of intellectual property, other than evaluation by a person licensed by a State to practice law who is acting solely within the scope of that person's professional license;

"(B) evaluating the invention to determine its commercial potential by any person for purposes other than providing venture capital; or

"(C) marketing, brokering, licensing, selling, or promoting the invention or a product or service in which the invention is incorporated or used, except that the display only of an invention at a trade show or exhibit shall not be considered to be invention development services.

"§ 52. Contracting requirements

"(a) IN GENERAL.—(1) Every contract for invention development services shall be in writing and shall be subject to the provisions of this chapter. A copy of the signed written contract shall be given to the customer at the time the customer enters into the contract.

"(2) If a contract is entered into for the benefit of a third party, such party shall be considered a customer for purposes of this chapter.

"(b) REQUIREMENTS OF INVENTION DEVELOPER.—The invention developer shall—

"(1) state in a written document, at the time a customer enters into a contract for invention development services, whether the usual business practice of the invention developer is to—

"(A) seek more than 1 contract in connection with an invention; or

"(B) seek to perform services in connection with an invention in 1 or more phases, with the performance of each phase covered in 1 or more subsequent contracts; and

"(2) supply to the customer a copy of the written document together with a written summary of the usual business practices of the invention developer, including—

"(A) the usual business terms of contracts; and

"(B) the approximate amount of the usual fees or other consideration that may be required from the customer for each of the services provided by the developer.

"(c) RIGHT OF CUSTOMER TO CANCEL CONTRACT.—(1) Notwithstanding any contractual provision to the contrary, a customer shall have the right to terminate a contract for invention development services by sending a written letter to the invention developer stating the customer's intent to cancel the contract. The letter of termination must be deposited with the United States Postal Service on or before 5 business days after the date upon which the customer or the invention developer executes the contract, whichever is later.

"(2) Delivery of a promissory note, check, bill of exchange, or negotiable instrument of any kind to the invention developer or to a third party for the benefit of the invention developer, without regard to the date or dates appearing in such instrument, shall be deemed payment received by the invention developer on the date received for purposes of this section.

"§ 53. Standard provisions for cover notice

"(a) CONTENTS.—Every contract for invention development services shall have a conspicuous and legible cover sheet attached with the following notice imprinted in boldface type of not less than 12-point size:

"'YOU HAVE THE RIGHT TO TERMINATE THIS CONTRACT. TO TERMINATE THIS CONTRACT, YOU MUST SEND A WRITTEN LETTER TO THE COMPANY STATING YOUR INTENT TO CANCEL THIS CONTRACT. THE LETTER OF TERMINATION MUST BE DEPOSITED WITH THE UNITED STATES POSTAL SERVICE ON OR BEFORE FIVE (5) BUSINESS DAYS AFTER THE DATE ON WHICH YOU OR THE COMPANY EXECUTE THE CONTRACT, WHICHEVER IS LATER.

"'THE TOTAL NUMBER OF INVENTIONS EVALUATED BY THE INVENTION DEVELOPER FOR COMMERCIAL POTENTIAL IN THE PAST FIVE (5) YEARS IS _____. OF THAT NUMBER, _____ RECEIVED POSITIVE EVALUATIONS AND _____ RECEIVED NEGATIVE EVALUATIONS.

"'IF YOU ASSIGN EVEN A PARTIAL INTEREST IN THE INVENTION TO THE INVENTION DEVELOPER, THE INVENTION DEVELOPER MAY HAVE THE RIGHT TO SELL OR DISPOSE OF THE INVENTION WITHOUT YOUR CONSENT AND MAY NOT HAVE TO SHARE THE PROFITS WITH YOU.

"'THE TOTAL NUMBER OF CUSTOMERS WHO HAVE CONTRACTED WITH THE INVENTION DEVELOPER IN THE PAST FIVE (5) YEARS IS _____. THE TOTAL NUMBER OF CUSTOMERS KNOWN BY THIS INVENTION DEVELOPER TO HAVE RECEIVED, BY VIRTUE OF THIS INVENTION DEVELOPER'S PERFORMANCE, AN AMOUNT OF MONEY IN EXCESS OF THE AMOUNT PAID BY THE CUSTOMER TO THIS INVENTION DEVELOPER IS _____.

"'THE OFFICERS OF THIS INVENTION DEVELOPER HAVE COLLECTIVELY OR INDIVIDUALLY BEEN AFFILIATED IN THE LAST TEN (10) YEARS WITH THE FOLLOWING INVENTION DEVELOPMENT COMPANIES: (LIST THE NAMES AND ADDRESSES OF ALL PREVIOUS INVENTION DEVELOPMENT COMPANIES WITH WHICH THE PRINCIPAL OFFICERS HAVE BEEN AFFILIATED AS OWNERS, AGENTS, OR EMPLOYEES). YOU ARE ENCOURAGED TO CHECK WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE, THE FEDERAL TRADE COMMISSION, YOUR STATE ATTORNEY GENERAL'S OFFICE, AND THE BETTER BUSINESS BUREAU FOR ANY COMPLAINTS FILED AGAINST ANY OF THESE COMPANIES.

"'YOU ARE ENCOURAGED TO CONSULT WITH AN ATTORNEY OF YOUR OWN CHOOSING BEFORE SIGNING THIS CONTRACT. BY PROCEEDING WITHOUT THE ADVICE OF AN ATTORNEY REGISTERED TO PRACTICE BEFORE THE UNITED STATES PATENT AND TRADEMARK OFFICE, YOU COULD LOSE ANY RIGHTS YOU MIGHT HAVE IN YOUR IDEA OR INVENTION.'.

"(b) OTHER REQUIREMENTS FOR COVER NOTICE.—The cover notice shall contain the items required under subsection (a) and the name, primary office address, and local office address of the invention developer, and may contain no other matter.

"(c) DISCLOSURE OF CERTAIN CUSTOMERS NOT REQUIRED.—The requirement in the notice set forth in subsection (a) to include the 'TOTAL NUMBER OF CUSTOMERS WHO HAVE CONTRACTED WITH THE INVENTION DEVELOPER IN THE PAST FIVE (5) YEARS' need not include information with respect to customers who have purchased trade show services, research, advertising, or other nonmarketing services from the invention developer, nor with respect to customers who have defaulted in their payments to the invention developer.

"§ 54. Reports to customer required

"With respect to every contract for invention development services, the invention developer shall deliver to the customer at the address specified in the contract, at least once every 3 months throughout the term of the contract, a written report that identifies the contract and includes—

"(1) a full, clear, and concise description of the services performed to the date of the report and of the services yet to be performed and names of all persons who it is known will perform the services; and

"(2) the name and address of each person, firm, corporation, or other entity to whom the subject matter of the contract has been disclosed, the reason for each such disclosure, the nature of the disclosure, and complete and accurate summaries of all responses received as a result of those disclosures.

"§ 55. Mandatory contract terms

"(a) MANDATORY TERMS.—Each contract for invention development services shall include in boldface type of not less than 12-point size—

"(1) the terms and conditions of payment and contract termination rights required under section 52;

"(2) a statement that the customer may avoid entering into the contract by not making a payment to the invention developer;

"(3) a full, clear, and concise description of the specific acts or services that the invention developer undertakes to perform for the customer;

"(4) a statement as to whether the invention developer undertakes to construct, sell,

or distribute one or more prototypes, models, or devices embodying the invention of the customer;

"(5) the full name and principal place of business of the invention developer and the name and principal place of business of any parent, subsidiary, agent, independent contractor, and any affiliated company or person who it is known will perform any of the services or acts that the invention developer undertakes to perform for the customer;

"(6) if any oral or written representation of estimated or projected customer earnings is given by the invention developer (or any agent, employee, officer, director, partner, or independent contractor of such invention developer), a statement of that estimation or projection and a description of the data upon which such representation is based;

"(7) the name and address of the custodian of all records and correspondence relating to the contracted for invention development services, and a statement that the invention developer is required to maintain all records and correspondence relating to performance of the invention development services for such customer for a period of not less than 2 years after expiration of the term of such contract; and

"(8) a statement setting forth a time schedule for performance of the invention development services, including an estimated date in which such performance is expected to be completed.

"(b) INVENTION DEVELOPER AS FIDUCIARY.—To the extent that the description of the specific acts or services affords discretion to the invention developer with respect to what specific acts or services shall be performed, the invention developer shall be deemed a fiduciary.

"(c) AVAILABILITY OF INFORMATION.—Records and correspondence described under subsection (a)(7) shall be made available after 7 days written notice to the customer or the representative of the customer to review and copy at a reasonable cost on the invention developer's premises during normal business hours.

"§ 56. Remedies

"(a) IN GENERAL.—

"(1) VOIDABLE CONTRACT.—Any contract for invention development services that does not comply with the applicable provisions of this chapter shall be voidable at the option of the customer.

"(2) RELIANCE ON FALSE, FRAUDULENT, OR MISLEADING INFORMATION.—Any contract for invention development services entered into in reliance upon any material false, fraudulent, or misleading information, representation, notice, or advertisement of the invention developer (or any agent, employee, officer, director, partner, or independent contractor of such invention developer) shall be voidable at the option of the customer.

"(3) WAIVER.—Any waiver by the customer of any provision of this chapter shall be deemed contrary to public policy and shall be void and unenforceable.

"(4) ACTION BY DEVELOPER.—Any contract for invention development services which provides for filing for and obtaining utility, design, or plant patent protection shall be voidable at the option of the customer unless the invention developer offers to perform or performs such act through a person duly registered to practice before, and in good standing with, the Patent and Trademark Office.

"(b) CIVIL ACTION.—

"(1) IN GENERAL.—Any customer who is injured by a violation of this chapter by an invention developer or by any material false or fraudulent statement or representation, or any omission of material fact, by an invention developer (or any agent, employee, director, officer, partner, or independent contractor of such invention developer) or by failure of an invention developer to make all the disclosures required under this chapter, may recover in a civil action against the invention developer (or the officers, directors, or partners of such invention developer) in addition to reasonable costs and attorneys' fees, the greater of—

"(A) $5,000; or

"(B) the amount of actual damages sustained by the customer.

"(2) DAMAGE INCREASE.—Notwithstanding paragraph (1), the court may increase damages to not more than 3 times the amount awarded.

"(c) REBUTTABLE PRESUMPTION OF INJURY.—For purposes of this section, substantial violation of any provision of this chapter by an invention developer or execution by the customer of a contract for invention development services in reliance on any material false or fraudulent statements or representations or omissions of material fact shall establish a rebuttable presumption of injury.

"§ 57. Records of complaints

"(a) RELEASE OF COMPLAINTS.—The Director shall make all complaints received by the United States Patent and Trademark Office involving invention developers publicly available, together with any response of the invention developers.

"(b) REQUEST FOR COMPLAINTS.—The Director may request complaints relating to invention development services from any Federal or State agency and include such complaints in the records maintained under subsection (a), together with any response of the invention developers.

"§ 58. Fraudulent representation by an invention developer

"Whoever, in providing invention development services, knowingly provides any false or misleading statement, representation, or omission of material fact to a customer or fails to make all the disclosures required under this chapter, shall be guilty of a misdemeanor and fined not more than $10,000 for each offense.

"§ 59. Rule of construction

"Except as expressly provided in this chapter, no provision of this chapter shall be construed to affect any obligation, right, or remedy provided under any other Federal or State law.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part I of title 35, United States Code, is amended by adding after the item relating to chapter 4 the following:

"5. Invention Development Services ... 51".

SEC. 11. PROVISIONAL APPLICATIONS, PLANT BREEDER'S RIGHTS, DIVISIONAL APPLICATIONS.

(a) ABANDONMENT.—Section 111(b)(5) of title 35, United States Code, is amended to read as follows:

"(5) ABANDONMENT.—Notwithstanding the absence of a claim, upon timely request and as prescribed by the Director, a provisional application may be treated as an application filed under subsection (a). If no such request is made, the provisional application shall be regarded as abandoned 12 months after the filing date of such application and shall not be subject to revival thereafter.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to any provisional application filed on or after June 8, 1995.

(c) INTERNATIONAL APPLICATIONS.—Section 119 of title 35, United States Code, is amended—

(1) in subsection (a), by inserting "or in a WTO member country" after "the United States" the first place it appears; and

(2) by adding at the end the following new subsections:

"(f) APPLICATIONS FOR PLANT BREEDER'S RIGHTS.—Applications for plant breeder's rights filed in a WTO member country (or in a UPOV Contracting Party) shall have the same effect for the purpose of the right of priority under subsections (a) through (c) of this section as applications for patents, subject to the same conditions and requirements of this section as apply to applications for patents.

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'WTO member country' has the same meaning as the term is defined in section 104(b)(2) of this title; and

"(2) the term 'UPOV Contracting Party' means a member of the International Convention for the Protection of New Varieties of Plants.".

(d) PLANT PATENTS.—

(1) TUBER PROPAGATED PLANTS.—Section 161 of title 35, United States Code, is amended by striking "a tuber propagated plant or".

(2) RIGHTS IN PLANT PATENTS.—The text of section 163 of title 35, United States Code, is amended to read as follows: "In the case of a plant patent, the grant shall include the right to exclude others from asexually reproducing the plant, and from using, offering for sale, or selling the plant so reproduced, or any of its parts, throughout the United States, or from importing the plant so reproduced, or any parts thereof, into the United States.".

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply on the date of the enactment of this Act. The amendment made by paragraph (2) shall apply to any plant patent issued on or after the date of the enactment of this Act.

(e) ELECTRONIC FILING.—Section 22 of title 35, United States Code, is amended by striking "printed or typewritten" and inserting "printed, typewritten, or on an electronic medium".

(f) DIVISIONAL APPLICATIONS.—Section 121 of title 35, United States Code, is amended—

(1) in the first sentence by striking "If" and inserting "(a) If"; and

(2) by adding at the end the following new subsections:

"(b) In a case in which restriction is required on the ground that two or more independent and distinct inventions are claimed in an application, the applicant shall be entitled to submit an examination fee and request examination for each independent and distinct invention in excess of one. The examination fee shall be equal to the filing fee, including excess claims fees, that would have applied had the claims corresponding to the asserted independent and distinct inventions been presented in a separate application for patent. For each of the independent and distinct inventions in excess of one for which the applicant pays an examination fee within two months after the requirement for restriction, the Director shall cause an examination to be made and a notification of rejection or written notice of allowance provided to the applicant within the time period specified in section 154(b)(1)(B)(i) of this title for the original application. Failure to meet this or any other time limit set forth in section 154(b)(1)(B) of this title shall be treated as an unusual administrative delay under section 154(b)(1)(A)(iv) of this title.

"(c) An applicant who requests reconsideration of a requirement for restriction under this section and submits examination fees pursuant to such requirement shall, if the requirement is determined to be improper, be entitled to a refund of any examination fees determined to have been paid pursuant to the requirement.".

SEC. 12. PROVISIONAL RIGHTS.

Section 154 of title 35, United States Code, is amended—

(1) in the section caption by inserting "; **provisional rights**" after "**patent**"; and

(2) by adding at the end the following new subsection:

"(d) PROVISIONAL RIGHTS.—

"(1) IN GENERAL.—In addition to other rights provided by this section, a patent shall include the right to obtain a reasonable royalty from any person who, during the period beginning on the date of publication of the application for such patent pursuant to the voluntary disclosure provisions of section 122 or the publication provisions of section 122(1) or 122(2) of this title, or in the case of an international application filed under the treaty defined in section 351(a) of this title designating the United States under Article 21(2)(a) of such treaty, the date of publication of the application, and ending on the date the patent is issued—

"(A)(i) makes, uses, offers for sale, or sells in the United States the invention as claimed in the published patent application or imports such an invention into the United States; or

"(ii) if the invention as claimed in the published patent application is a process, uses, offers for sale, or sells in the United States or imports into the United States products made by that process as claimed in the published patent application; and

"(B) had actual notice of the published patent application and, where the right arising under this paragraph is based upon an international application designating the United States that is published in a language other than English, a translation of the international application into the English language.

"(2) RIGHT BASED ON SUBSTANTIALLY IDENTICAL INVENTIONS.—The right under paragraph (1) to obtain a reasonable royalty shall not be available under this subsection unless the invention as claimed in the patent is substantially identical to the invention as claimed in the published patent application.

"(3) TIME LIMITATION ON OBTAINING A REASONABLE ROYALTY.—The right under paragraph (1) to obtain a reasonable royalty shall be available only in an action brought not later than 6 years after the patent is issued. The right under paragraph (1) to obtain a reasonable royalty shall not be affected by the duration of the period described in paragraph (1).

"(4) REQUIREMENTS FOR INTERNATIONAL APPLICATIONS.—The right under paragraph (1) to obtain a reasonable royalty based upon the publication under the treaty defined in section 351(a) of this title of an international application designating the United States shall commence from the date that the Patent and Trademark Office receives a copy of the publication under such treaty of the international application, or, if the publication under the treaty of the international application is in a language other than English, from the date that the Patent and Trademark Office receives a translation of the international application in the English language. The Director may require the applicant to provide a copy of the international publication of the international application and a translation thereof.".

SEC. 13. EFFECTIVE DATE.

Except as otherwise provided, this Act and the amendments made by this Act shall take effect 60 days after the date of the enactment of this Act.

The CHAIRMAN. Under the previous unanimous-consent agreement, the gentleman from California [Mr. ROHRABACHER] will be recognized for 1 hour, and a Member opposed will also be recognized for 1 hour.

Mr. COBLE. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from North Carolina [Mr. COBLE] will be recognized for 1 hour.

Mr. ROHRABACHER. Mr. Chairman, I yield 30 minutes to the gentlewoman from Ohio [Ms. KAPTUR], and I ask unanimous consent that she be allowed to control the time.

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

There was no objection.

The CHAIRMAN. The gentlewoman from Ohio [Ms. KAPTUR] will be recognized for 30 minutes.

Mr. COBLE. Mr. Chairman, I yield 30 minutes to the gentlewoman from California [Ms. LOFGREN], and I ask unanimous consent that she be allowed to control the time.

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

There was no objection.

The CHAIRMAN. The gentlewoman from California [Ms. LOFGREN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, what the House is now considering is the Rohrabacher substitute. The Rohrabacher substitute has taken on many shapes and designs over these last few weeks, because we have tried our best to incorporate the very best aspects of H.R. 400 into our substitute. All of the good reforms that have been worked out by the gentleman from North Carolina [Mr. COBLE] and others on the committee have been incorporated into my substitute.

In fact, where we keep the fees of the Patent Office right there at the Patent Office so that people can make that Office more effective, we have done that. And we have made sure that all the hard work of this committee has not gone for naught.

In fact, I would like to compliment Mr. COBLE and I would like to say at this time that I have nothing but respect for the opposition here. Mr. COBLE and the gentleman from Virginia [Mr. GOODLATTE] and the gentleman from Illinois [Mr. HYDE] and others who, right now, we have such a heated debate going on, we have a great deal of mutual respect for one another. I have no doubt that their motives are good. It is just that we have a really fundamental disagreement on this piece of legislation, and we will likely be the best of allies 1 week from now on another piece of legislation.

So with that said, let me go into the fundamentals of how we differ on this. It comes down to three or four basic points. Unfortunately, those basic points are right at the heart of what America's patent system is all about.

What has differentiated us from other patent systems of the world, why we have had some economic progress here, why has our military been secure and actually one step ahead of our adversaries when we went into conflicts? Because we have a strong patent system that nurtured the creative genius of our people.

The two elements of that patent system that differentiated us from the Japanese and from the Europeans was a guaranteed 17-year patent term, which means no matter how long it takes you to get your patent issued, you are going to have that 17 years of a guaranteed protection time to earn that money back and to make a profit from it. That is why we have so many people willing to invest here in the United States in the creation of new technology. Otherwise, the Government would have to do it because there would be no guaranteed time that we could have a return on our investment.

The second end of it, the second part of our system was that when someone applied for a patent, it was absolutely confidential, the right of confidentiality until that patent was issued. What that did is it prevented the big guys from stealing from the little guys.

In Japan, where they have the system that I am afraid H.R. 400 is trying to impose on us, that system has worked to create a class of economic shoguns that beat down the average person, that over in Japan, where it may be a democracy but it is not a free country like ours in the sense that people have a right to challenge the economic elite, the economic elite in those countries can beat down any inventor who wants to create something.

In Japan that system permits, where you have, after 18 months, you have publication, the reason why the economic powers that be have sufficient leverage, they come immediately into the process when they find out that someone is developing a new technology, something that will create new wealth, and they have what they call patent flooding. They will form a circle around the little inventor and the little guy, the small businessman, and beat him down until he has agreed to give up all of his rights.

That is what will happen right here if we change our law. They can come right over to our system and do exactly the same thing. What makes us think they will not do that? That is what has happened there.

In fact, that is one of probably the worst flaws of H.R. 400, because now we are publishing. What are the consequences of that publishing? Very wealthy and powerful interests will get involved in the process where they have not done it before to try to thwart the issuance of that person's patent until he would agree to give up certain rights.

This is not the formula for a strong America. This is an escalator clause for America going downhill. Twenty years from now Americans will not know what hit them. It is Pearl Harbor in slow motion.

I will say, I have a copy and I have held it up several times. The reason why we are pushing on this, and you have heard it in the debate, we have to be like those other countries, we should not be like other countries, but yet we signed an agreement, a subterranean agreement 5 years ago to harmonize our law with Japan. Now they are seeking to try to push it through the system like when they tried to sneak that change through in the GATT implementation legislation.

We are going to thwart this power grab. We are going to thwart it, and we are going to make sure in doing so we protect America's future. If we lose our technological edge, if the individual inventor loses his rights and becomes vulnerable to these outside influences, if our patent examiners become vulnerable to all sorts of interferences and outside influences, America will cease to be a great country in decades ahead, and they will never know what hit them. It will be Pearl Harbor in slow motion, and we are going to stop that.

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

Mr. Chairman, the base bill that this substitute would replace essentially, as Mr. ROHRABACHER, who has led such a good fight on this and so many Members who have supported him, calls for a massive change in the way that we protect the secrecy of those who file patents in our country.

Now, to me, to move from a system that basically says when you file a patent your ideas can be protected for up to 17 years, up to the point that that patent is granted, and if the review office takes longer than 2 years, if it takes 4 years or 5 years for whatever reason, that your ideas are protected, why would we want to take away the property rights of our inventors by saying after 18 months, and where did the 18-month magic come from anyway, that after that point their ideas could be made available to whomever might want them?

To go from 17 years to 18 months to me is a massive change in the way the current system functions. I have never had an inventor in my district come up to me and ask for this change, so I wonder who it is that is proposing the change that is in the base bill.

I want to compliment Mr. ROHRABACHER for helping to expose this issue in detail so that we can better protect our inventors' technologies in this country.

From the inventors I have talked to, they have some pretty big problems, once they involve themselves in this whole idea of patenting their inventions. Number one is the cost. The fact that a really small person does have to put a lot forward in the first place just to patent their idea.

If you are a big company, that does not affect you as much. You have great wholeness in the system. You have the ability to float. But for the small people that are out there in their garages and their basements where wonderful ideas have come from, it is much more difficult for them to do that even in the existing system.

Once they do, one of the challenges they have as an inventor is that big companies, if they try to commercialize the technology, often try to buy their idea out before it is even applied in the manufacturing sector, because an inventor does not control the manufacturing process. They are not into the commercialization side. Under the current system, it is even difficult for many of these inventors to get someone to buy their idea.

Also we have a situation under the current system where inventors find that their ideas are counterfeited. In fact, we have had dumping of computer terminals that have come over from China and other places.

I wish the committee would have given a little more attention to the real problems that inventors are having out there, trying to work in this current system. But they have never complained to me about the protections they receive in this country for their property rights. They have never complained about the time period.

They are complaining to me now. The Ohio State Bar Association is very aware of what this bill does and has made its views known to us. And many, many other inventors throughout the State of Ohio.

But I say to myself, what could have propelled this committee into proposing this kind of change? I looked down the list of multinational corporations that want this particular right. They already function on the international front. They are the very same firms that try to buy out these small inventors and do not permit them to commercialize their technology, if they do not have deep pockets. They are the very same interests that are able to float in their little boats in international waters when the average inventor is not. They are the very ones that have no problems with existing fees. And it just seems to me that they got the red carpet rolled out for them when they went before the respective institutions of this House.

On the other hand, the small inventors of my community have not been afforded the opportunity to come before the committee. The small inventors of my community have not been allowed to come before the Committee on Small Business.

I heard one of the Members, the gentleman from Maryland [Mr. BARTLETT], say that the hearings would be held next week. My friends, the horse is already out of the barn. Next week? This bill is being heard today. So it seems to me that we have a responsibility to represent the majority of inventors in this country, most of whom do not have deep pockets.

Our job is not just to represent the multinationals who have lots of good ideas and they have a great ability to float their boats, but they are not the only ones out there in the ocean.

I would certainly say to those who would want to bend over backwards to other countries who do not give us market access, we have a $50 to $60 billion trade deficit with Japan, a $40 billion trade deficit with China, and it is growing. The situation we have with Mexico is abominable post-NAFTA. A lot of these other countries are going to be advantaged through this agreement. Why?

□ 1615

Why are we doing this to our inventors when in fact our country has 10 times more intellectual property breakthrough technologies than any other country in the world? We protect these property rights. It is inherent in the Constitution of this Nation. Why would we want to do this to the people of our Nation?

Now, let us take a look at the burden of proof and the fact that people say here, well, they can sue. If people do not like this new bill, H.R. 400, and they fail to vote for the Rohrabacher substitute, well, gosh, we will give them a chance to go to court.

A lot of these inventors out there do not have the money. They worry about paying their maintenance fees under the existing system, under the existing system. So why force them into cases where the burden is on them to prove that what they are doing is OK? Under the current system, it is.

Why place that burden on them? Why force them to go into these reexamination procedures? Why would we want to do that to our own people?

Frankly, for a lot of these nations or companies that function offshore, my own view is unless they give us market access, why give them anything? Why give them any advantage into this Nation's most precious seed corn, which is our patented inventors' property rights?

The whole idea of corporatizing the patent office, it is interesting that the people who work over there do not want this to happen. They are civil

servants. They objectively can review, regardless of what type of inventor comes in there with an invention.

None of us really understand the gentleman's proposal of what this quasi-government corporation or new entity, this PTO, what that is going to be. We have not had a chance to fully digest what that means down the road. How objective will these examiners be allowed to be? What will the CEO of that corporation, what rights will that individual have over those individual decisions? How objective and judiciallike will those decisions be able to be?

It seems to me there are a lot of issues in H.R. 400 that no Member here, including the people on the committee, can fully appreciate. Why do we not have an opportunity to clean this bill up? Let us adopt the Rohrabacher substitute, let us keep the system clean, the way it is, and then work through some of the issues that are of deep concern to Members here who want to represent not just those with deep pockets, but small inventors around our country who are really creating the future of us.

It was mentioned earlier there are some people concerned about jobs in our country and our trade policy who have engaged in this debate. Certainly we have, because we understand what it is like to negotiate against a country that uses every kind of barrier to disallow our product into their market.

But the inventions, the ideas, the intellectual property is the heart of our system. To allow them into the door when we have all sorts of other problems out there and we do not fully appreciate the long-term consequences of what is being proposed here, is a very dangerous position in which to place our country for the next century.

There is no question that patents are the primary source of job creation in this country. It goes to the heart of how we develop as an economy. When I see people like Nobel Laureates opposing the changes in H.R. 400, and I see the gentleman from California [Mr. ROHRABACHER] and our own minority leader, the gentleman from Missouri [Mr. GEPHARDT], and the gentleman from Maryland [Mr. HOYER], and others in this body, the gentleman from California [Mr. HUNTER], people on both sides of the aisle who have respect for members of the committee, but feel that we have not had our concerns solved, we have no choice but to wholeheartedly support the Rohrabacher substitute.

So I want to urge the membership, please, that if they have not read the bill, if they have not followed this debate, to support the Rohrabacher substitute. Do not fix a system that is not broken. Let us work hard, as this Congress progresses, in order to fix the current system if there are problems, but do not completely turn it upside down and take away the property rights of our inventors, especially the small inventors whose canoes are very small to row in the oceans of the international marketplace.

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

Mr. COBLE. Mr. Chairman, I yield 7 minutes to the gentleman from Utah, [Mr. CANNON].

Mr. CANNON. Mr. Chairman, I take the podium at the far right, the farthest right we can go here in the room as a Republican and a conservative.

And may I be the first Republican to welcome my colleague, the gentlewoman from California, [Ms. LOFGREN], and at her suggestion, also our colleague from Massachusetts, [Mr. FRANK], into the conservative wing of the party of the House.

Ms. LOFGREN. Mr. Chairman, will the gentleman yield?

Mr. CANNON. I yield to the gentlewoman from California.

Ms. LOFGREN. Mr. Chairman, I want to thank the gentleman for the compliment, and acknowledge that it was certainly made in jest. I had to do that for my district, to clarify that.

Mr. CANNON. Mr. Chairman, reclaiming my time, I say to the gentlewoman she is always welcome over here.

I do want to speak to those conservatives in the House, Mr. Chairman, about why I support H.R. 400. Before I do so, I want to establish my credentials on this issue.

I am a businessman and have invested in numerous companies, some large, mostly small. I have also funded several high-tech new ventures and my district is a high-tech center. We have biomedical companies, software companies, computer hardware companies and a host of innovative start-ups, start-ups based on innovative ideas, some of which have been patented, some which have not. Many of them have been commercial successes and many of those people who have been successful have, in fact, helped out in the commercialization of other technologies. But I do not know, in my district at least, of a distinction between commercializers and inventors.

The heart of my district, Utah County, has been compared to Silicon Valley, with Route 128 in Boston, with North Carolina's Research Triangle. The small town of Provo always shows up on these maps of where the technological centers in America are.

I am also a member of the Subcommittee on Courts and Intellectual Property. As many know, in the last Congress there was vigorous debate on patent reform, and as a new member, my staff and I took time carefully to review the arguments. After that review, I chose to cosponsor H.R. 400, and I want to detail why.

First, we conservatives support the use of a reasoned, thoughtful process of public policy. The development of H.R. 400 easily passes that test. Over the past couple of years the provisions of H.R. 400 have been subject to 8 full hearings over 10 days, involving 80 witnesses. The gentleman from California, [Mr. ROHRABACHER], has testified four times. Every side of every view has had the chance to be heard, not once but many times on this issue.

Second, conservatives, in particular Republican conservatives, hate bureaucracy. H.R. 400 takes the Patent Office out of the Commerce Department and gives it the flexibility to serve those seeking patent and trademark protection.

Third, conservatives support property rights. H.R. 400 expands the scope of protection afforded patent seekers. H.R. 400 guarantees diligent patent owners at least, let me emphasize at least, 17 years of patent term. But that is not all. In many cases, under H.R. 400, patent owners will receive even more than 17 years of patent term, in many cases about 18½ years of patent protection. This is both more protection than is available currently and more than available under Mr. ROHRABACHER's alternative.

Fourth, conservatives oppose giving individuals, corporations or foreign interests the ability to play games with our legal system. We believe in a system of laws. H.R. 400 is the only bill that drives a stake in the heart of submarine patents, an expensive, manipulative patent-seeking technique. While there is some debate over the number of submarine patents, the evidence is clear that submarine patents hurt both American industry and consumers. Submarine patents deserve to be permanently sunk, and H.R. 400 does the job.

Fifth, conservatives want U.S. companies to have a level playing field with their foreign competitors. That brings me to one of the most controversial provisions of the bill, the concept of publication. Frankly, this is a provision that is little understood and is easily misunderstood.

Let me provide some context by talking about what happens today to U.S. inventors who seek patent protection around the world.

The three primary places most inventors seek protection are Japan, the United States and Europe. A U.S. inventor who files in all three areas is published in 18 months in Japan and in Europe in a variety of European languages and in Japanese. Of course, that makes it easy for U.S. inventors' foreign competitors to read the American inventors' patent application in their own language and in their own country.

The U.S. inventor lacks the same advantage. Because the United States does not publish patent applications, an American inventor must go to Japan or Europe to find out about the

activities of his or her foreign competitors. This hurts small American businesses which cannot afford travel or translation. Publication in the United States simply helps our own people keep an eye on their overseas competitors.

Some have argued that publication is great for big U.S. companies, but it might hurt small U.S. inventors. That brings me to my sixth point. Conservatives should argue about real issues. The fact is, the current version of H.R. 400, based upon concerns previously raised by small inventors, effectively exempts small inventors from publication.

My last point is that conservatives should respect fellow conservatives. The driving forces behind this bill are conservatives, particularly the gentleman from North Carolina, [Mr. COBLE], and the gentleman from Illinois, [Mr. HYDE]. These are men of great integrity, great thoughtfulness and great judgment and should be accorded due deference.

Mr. Chairman, I encourage Members to pause before they vote today. I know patent law seems like a black art, but our decisions today are important. As a conservative, my considered opinion is that H.R. 400 is a balanced, rational package that strengthens our patent system, encourages high-tech innovation, and protects U.S. economic interests, including my favorite sector, the small business sector.

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

Mr. Chairman, a number of the speakers, and especially the last speaker, have addressed important issues for Members examining this whole issue. But I do want to address the matter that has been raised by a number of speakers, and that is the position of employees of the Patent Office regarding the bill, H.R. 400, as well as the Rohrabacher substitute.

I have here in my hand, and I include for the RECORD, dated April 16, a letter from the National Treasury Employees Union.

THE NATIONAL TREASURY
EMPLOYEES UNION,
Washington, DC, April 16, 1997.

Hon. ZOE LOFGREN,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE LOFGREN: As the full House of Representatives prepares to consider important intellectual property reform legislation later this week, I am writing to bring your attention to an issue of great importance to members of the National Treasury Employees Union.

H.R. 400, the "21st Century Patent System Improvement Act" is scheduled for floor consideration on April 17, 1997. It has come to my attention that Rep. Dana Rohrabacher (R-CA) is expected to offer H.R. 811 and H.R. 812—two patent bills introduced earlier this year—as a substitute to this legislation.

While H.R. 811 deals primarily with patent term and publication issues, H.R. 812 includes a number of provisions that would exclusively benefit the PTO's patent examiners. NTEU supports improving the training and benefits of all of the PTO's employees, and we therefore believe that it would be grossly unfair for such benefits to accrue only to patent examiners and not to their counterparts in the Trademark Office.

For this reason, I urge you to oppose the Rohrabacher substitute if it includes these provisions when intellectual property reform is considered by the full House.

H.R. 400 includes several important elements of H.R. 811 and H.R. 812, including a provision allowing for the above referenced training and benefits for patent examiners and trademark examiners. Although NTEU has remaining concerns about the labor-relations provisions in H.R. 400, and would prefer to see the labor-relations language approved last year by the House Judiciary Committee adopted as this issue goes forward, this bill is a better alternative to the proposed Rohrabacher substitute.

Sincerely,

ROBERT M. TOBIAS,
National President.

Mr. Chairman, I will not read it all, but I will say, and this is a quote, "I urge you to oppose the Rohrabacher substitute."

And the final paragraph says, and this is again from Mr. Robert Tobias, the national president of the National Treasury Employees Union, "H.R. 400 includes several important elements. Although NTEU does have remaining concerns about the labor relations provisions in H.R. 400, and would prefer to see the labor relations language approved last year by the House Committee on the Judiciary adopted as this issue goes forward, this bill is a better alternative to the proposed Rohrabacher substitute."

I think it is important to note, and perhaps the Chairman and ranking member can address the issue raised as to the remaining labor-management relations issue that the Treasury Employees Union wants addressed, and I, for one, would pledge to work with them on that issue, but it is important to note that even without that issue being resolved, the Treasury Union employees prefer H.R. 400 and they oppose the Rohrabacher substitute. I think that is an important issue for Members to know.

Second, I have heard a lot of discussion in this Chamber today, and people discussing it at large, about a variety of issues that have absolutely nothing to do with the issues before us. We have heard about GATT, we have heard about NAFTA, we have heard about the Red Chinese Army, we have heard about multinational businesses. That is not what this bill is about. It has nothing to do with the patent bill.

What this bill is about is not deferring foreign countries or conforming our law to theirs. What H.R. 400 is about is to advantage Americans who are presently being disadvantaged by our patent law.

I have heard people say, well, why would we want to dumb down our patent law? Why would we expect the rest of the world to change, to conform with us? My response is because they are taking advantage of us right now.

□ 1630

Why should they change when they are taking advantage of us? Why should we expect them to willingly give up the advantage that they currently have? It is up to this Congress to stand up for America by rejecting the Rohrabacher substitute and supporting H.R. 400.

Finally, I would like to thank the gentleman from Utah [Mr. CANNON] for his eloquent comments about why a conservative would support H.R. 400 and oppose the Rohrabacher amendment. I think it is also important to note that the high-techology sector has accounted for 40 percent of the growth in the gross domestic product in the last several years.

These companies are not all multinational corporations. Some of them are. I am not opposed to that. In fact, I think Intel Corp. is a great citizen. They just made a decision to give stock options to every single employee in their company down to the janitor. They do a great business. They have many patents, they are innovative, they are successful, and they support H.R. 400. I am proud that they do.

But I would like to point out that the Biotechnology Industry Organization also supports H.R. 400, and also opposes the Rohrabacher substitute, and 95 percent of the membership of the Biotechnology Industry Organization is made up of companies with 500 employees or less.

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

Mr. ROHRABACHER. Mr. Chairman, I yield 5 minutes to the gentleman from the Silicon Valley area of California [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Chairman, what is a compelling need to change the patent system of the United States that has served us so well? The case has not been made on the floor today.

I have one additional reason to suggest that H.R. 400 actually does more harm than has previously been brought forward in this debate, but before I do that I do wish to identify and draw some very clear focus on the fact that the only argument that has been made for the need to change is the submarine patent. That issue is taken off the table once we realize that the Rohrabacher bill also deals with the submarine patent. I believe that issue is no longer in debate. For those who are in doubt, those Members perhaps who are watching the debate, do check the Congressional Research Service, page 12 and 13, the quotation that I gave before. Both bills seek to curtail submarine patenting and would likely end the practice.

So what is the compelling need? Does it make sense that there is some benefit to be gained by those large firms

who wish to have earlier and more ready access to information that would otherwise be patented? Yes, it is in their interest. But insofar as it enhances their interest, it takes from the inventor. The inventor cannot be substituted for. There can be commercializers, there can be developers. Japan of course is the key commercializer probably in the world of somebody else's ideas. But America is unique as being the key inventor. So in the absence of a compelling need, I would think the logic would be, let us let it be, let us not change this system that has worked so well.

But let me now draw attention to the one additional problem that I believe H.R. 400 introduces that is of great seriousness. Do my colleagues realize that under H.R. 400, but not under the Rohrabacher substitute, anybody who was using the subject matter that eventually gets patented, who is using that subject matter commercially, before the grant of the patent, is exempted. That such a person can continue commercialization of that idea without ever having to pay a royalty to the person who invented and filed, followed the rules, in other words, of our patent system? And this is not in the existing law.

So what H.R. 400 does is to say, "Inventor, today you know that you have the right to your invention and if anybody else has been using it, they have got to pay you royalties." That is a whale of an incentive to go through the sweat and the hard work to invent. But after H.R. 400, if it becomes law, that right is substantially cut back. Any prior commercial user can continue that use, and not just in the scope of maybe a ma and pa who might have had one or two units made.

Let me read from the bill itself, from title 3:

> The defense, the prior commercial user defense, shall also extend to variations in the quantity or volume of use of the claimed subject matter.

This is remarkable. We have spent a lot of time on the floor this afternoon speaking about the requirement of early disclosure, but look what this does. Any prior commercial user can expand the use and utterly undermine the commercial value of the invention that was filed and that was patented. The harm is not even done there. Because if it is in the financial interest of this firm, this commercializer that has used the idea before the inventor patented it, if that commercializer wishes to sell it, well, so long as it is part of the sale of a general company, he or she may do so.

And I quote from the bill:

> The defense under this section may only be asserted by the person who performed the acts necessary to establish the defense . . . except in connection with the good faith assignment or transfer of the entire enterprise or line of business to which the defense relates.

So here is the situation. Today a person who does the hard work to get an idea has the protection of 17 years from the grant of that patent. After H.R. 400 it will not be 17 years from the grant of the patent. It will be something that could very well be less because it is 20 years from the date you applied. And if the Patent Office takes 3 years or longer, that is your risk, the time of your protection is less.

No. 2, today you are allowed to keep your idea as you are going toward a patent. After H.R. 400, you cannot, you have to disclose it, after 18 months.

No. 3, today if you are the first person to go into the patent system and to get your patent, no prior user can take that away from you. Under H.R. 400, it can be.

Ms. LOFGREN. Mr. Chairman, I yield myself such time as I may consume, just to simply say I do not want to address every single issue raised by the gentleman from California [Mr. CAMPBELL] because Members are getting restive. I just would point out that in H.R. 400, if the patent issuance is delayed through no fault of the applicant, the term is extended and added on to remainder of the 20-year term.

Mr. CAMPBELL. Mr. Chairman, will the gentlewoman yield?

Ms. LOFGREN. I yield to the gentleman from California.

Mr. CAMPBELL. I understand that, but the burden is to show by the patent applicant that the fault was the Patent Office's. If that burden has not been met, if things just chug along in their dear sweet time and it takes longer than 3 years, it is the patent applicant who suffers.

Ms. LOFGREN. Mr. Chairman, reclaiming my time, if the applicant does not take action to delay it, the term is extended and added on to the 20-year term.

Mr. CAMPBELL. And if the gentlewoman will continue to yield, but the burden of proving that is upon the applicant. So in order to get the benefit of the tacked-on time, I have to show that it was not my fault.

Ms. LOFGREN. You have to show that you did not continually amend your application.

Mr. CAMPBELL. Then our understanding is the same.

Ms. LOFGREN. Reclaiming my time, not an enormous burden, I might add.

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

PARLIAMENTARY INQUIRY

Mr. COBLE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. COBLE. Mr. Chairman, am I correct in concluding that we have the right to close?

The CHAIRMAN. The gentleman from North Carolina is correct.

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

We have heard a lot of talk this afternoon about secrecy, how important secrecy is. Mr. Chairman, if I may paraphrase the Constitution, what the Constitution conveyed to all of us Americans and patent applicants in particular is this: You get a limited monopoly with protection in exchange for society being able to see your secret. Illumination, light on the subject. I am told, Mr. Chairman, that mushrooms thrive in dark cellars. Submariners thrive in high weeds and below the water.

We have been told today, the gentleman from Illinois [Mr. HYDE] mentioned as have others, and the answer was, oh, this is not about submarine patenting. Mr. Chairman, to say that is not unlike saying that war is not about killing. I was born in the morning, but not yesterday morning. You all sell that submarine story to somebody else.

Let me review that with my colleagues.

Under the Rohrabacher substitute, applications filed in the United States only may not be published sooner than 5 years after they are filed, and then not if the application is under appellate review. One of the many ways a submariner delays its own application is to file spurious appeals.

In addition, and most importantly, under the Rohrabacher substitute, the director of the Patent and Trademark Office must find that the application is not being diligently pursued by an applicant before publication can occur.

As my colleagues can imagine, it is virtually impossible to identify maneuvers by patent lawyers to delay the processing of their applications. This is a sham provision that is impossible to enforce.

Can you imagine telling a judge that he or she can only allow the public to see court documents relating to a case when a finding was made as to whether the merits were diligently pursued?

All judges, including patent judges, must give the benefit of the doubt to the filers that they are proceeding in good faith and they are pursuing their claims legitimately or our whole system would collapse.

The Rohrabacher substitute demands a presumption of guilt in order to require publishing. This presumption probably could never be established. The Rohrabacher substitute further provides for publication of any amendment to an application, called a continuing application, which is filed more than 6 months after the application it amends, unless the applicant can demonstrate that the amendment was filed for any reason other than to achieve a delay in the time of publication.

What does this mean? Any lawyer wanting to delay can claim that the amendment is necessary to reflect the full richness of further developments of the invention in the application. While this may be totally spurious, it would

be virtually impossible to prove. This is the way it works in real patent law practice.

Here is another way to gain the system under the Rohrabacher substitute: An applicant can file appeals to the Board of Patent Appeals, which, while unlikely to succeed, are not so frivolous as to draw sanctions. There are many ways to delay which simply cannot be uncovered.

Submarine patenting, my colleague, is serious. And the Rohrabacher substitute, in my opinion, goes out of its way to create smoking mirrors around this burgeoning business of litigation.

The real question is: Why does the Rohrabacher substitute go out of its way to protect submariners? I want someone to answer that question for me before the end of this session.

The claim of the gentleman from California [Mr. ROHRABACHER] that his bill puts a stop to the practice of submarining in the real world is false. Just ask one of the lawyers mentioned on the front page of the Wall Street Journal last week who are joining the new, currently legal, cottage industry of suing those who invest in our economy.

I ask my colleagues to vote no on the Rohrabacher substitute and to support the bipartisan Judiciary Committee bill, H.R. 400.

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

Mr. ROHRABACHER. Mr. Chairman, I yield myself 5 minutes.

We knew we would hear a lot of talk about submarine patenting because there has to be some excuse that people would use in order to justify gutting the American patent system that has been in place for 225 years, there has to be some excuse for these fundamental changes.

What we got is what is called in debate school as the scarecrow argument. We just create a scarecrow there and we fill it full of hay and we claim that that is a real big threat.

Submarine patents, there is some problem. It is a minor problem I believe. The opposition claims it is a major problem.

In fact, however, my colleagues have not used one example of any submarine patent since the late 1970's. And I might add, in the 1970's, there was a system established in the Patent Office called the palm system; and it was established specifically to prevent people from delaying their patent intentionally, in other words, to deal with the submarine patent system issue.

Since that time there has not been any example, and that has been instituted already, there has not been one example of any submarine patent since the palm system was instituted in the Patent Office.

□ 1645

Now we are being told submarine patents are so bad that we have to destroy the current patent system, we have got to corporatize our patent office, taking patent examiners that are basically insulated from outside influences, and we got to corporatize that office, and who knows what type of outside influences are going to be brought to bear in this new system? We do not know. All we have got is the word of our friends. It does not say in our bill that they are going to be able to be any outside influences. Well, thanks. There are a lot of unintended consequences when one makes such radical changes as this. But, of course, the radical change is really necessary. It is the only way to deal with a submarine patent issue.

Well that is just not the case, my colleagues. The only way to deal with a hangnail is not to amputate the leg. The way to deal with magazines, obscene magazines, is not to destroy freedom of speech or freedom to publish and freedom of the press for everybody in the country. There are ways we deal with it legally that can bring the law to bear. My bill did that, and for 2 years I have been begging all of my colleagues and begging every organization that came to see me about patent law, give me the language of how we can stop submarine patenting and I will put it in my bill as long as it does not destroy the guaranteed patent term. And do my colleagues know what? We put the very strongest language we could.

Now we can read portions of anything and try to make it sound like it does not cover it, but the fact is we put in the strongest language we could. I in fact had the No. 1, one of the No. 1, legal minds in the House of Representatives, the gentleman from California [TOM CAMPBELL] who represents Silicon Valley, to consult with me and say, come up with the language that we can once and for all end submarine patenting but does not destroy the guaranteed patent term. We put that into my substitute, and guess what? It is not a sham. It may be a sham to the opposition who wants to destroy the patent system as we know it today, but it is not a sham to people who have an independent look at what we put in the substitute, the people independently who have no axe to grind who looked at my bill said that my bill and their bill would effectively end submarine patenting, say that Congressional Research Service has basically decided that that day they did their very best job to analyze it. They do not have an axe to grind. We are going to end submarine patenting.

Oh, no. Now we cannot accept that. That is just a sham. It is a sham when somebody who is independent makes that analysis. Why is that a sham? Because that is the only excuse people have for the radical changes that they are proposing for the Patent Office. They are proposing that we make fundamental changes in the technological legal system that protected technological development in the United States of America. In the past that system provided the United States of America with the highest standard of living, with a technological edge that kept us prosperous, kept us free, kept us secure, and of course these multinational corporations which they have lists of many, and many of them have been active out in hither and yon, trying to support proposition—H.R. 400 I should say—that these corporations do have an axe to grind as well. They are going to make a big profit if they can get all the secrets from the little guy after 18 months.

My job was to try to put together a bill that ended submarine patenting because I knew it would come up as an issue. We did our very best. TOM CAMPBELL and I did our very, very best. The Congressional Research Service said we succeeded. So that issue should be out of the way. So what excuse do my colleagues have of having this radical reform? What excuse do my colleagues have?

Mr. Chairman, what other excuse is there for exposing? As my colleagues know, it is very easy for the American people to understand what is happening here. As my colleagues know, the fog that comes off the Potomac may blind some of the Members who come here to vote on the floor of the House of Representatives but it certainly does not blind the people back at home. The fundamental issue we are deciding today, I put all of the good stuff that is in H.R. 400, all the real reforms into my substitute, we have ended submarine patenting.

The real issue is what? There are two fundamenatal issues—publication, publication—and that issue is very easy for people to understand. The American people know that before—throughout our country's history, if someone applied for a patent, that Goddard from the Goddard Rocket Center who developed rocket fuel, that was secret, and the Germans then could not get a hold of it, see, because it was secret and our competitors cannot get a hold of things. People who hate America cannot get that information because it has been secret. They want to change that. They want our worst enemies to have all of our secrets and to be able to use them against us.

They say, "Ah, but we have taken care so that if somebody does steal that, we'll show you a way to deal with that. We're going to let you sue them." My colleagues, 10 years later or 5 years later when the patent is issued, they now are given the right by this H.R. 400 to sue the People's Liberation Army in China if they decide to manufacture things and use them against us that violate our patent laws. Mitsubishi Corp., Sony, name it, all these huge corporations overseas, even our own corporations, do my colleagues think

that really is going to deter anybody from stealing—any of these gangsters from stealing—our technology and using it against us?

This is an invitation, it is an invitation to steal American technology. I have heard nothing in this debate, nothing in this debate that has changed my mind, nor have I heard nothing in this debate that has convinced me that my rhetoric has been out of line, and I think the American people are listening really hard, and when they see these maneuvers like saying it virtually exempts small business, and then during colloquies understand that, well, no they really are not exempt, people understand that there is a power play going on in Washington, DC. It is a power play that will not work to the benefit of the people of the United States. It changes the fundamental rules and rights and freedoms that we have had for 225 years that have served us well.

The patent owners, the people who have—the inventors, the Nobel laureates, the great creators of our society, are against H.R. 400 and for the Rohrabacher substitute. There is a reason for that. The big corporations, the multinational corporations that use technology and also have all sorts of connections overseas, I might add; yes, they are opposed to the Rohrabacher substitute and support H.R. 400. There is a reason for that too.

So it comes down to corporatization; do we want to change the fundamental system that has been set up that makes these decisions as to who owns what, making our patent examiners, as my colleagues know, open to who knows what kind of pressures? And do we want to publish all of our secrets in exchange for the right of our citizens to sue some huge multinational corporation years later, years later once they get their patent? No, that is not a good deal. I do not think the American people think it is a good deal, and I do not think the American people are fooled by the argument that we got to cut our leg off in order to cure the submarine patent infected toe. They are not buying that, they are not buying that at all, and I would suggest that we have a system that served us well, we should not rush into these dramatic changes to harmonize our law with Japan.

What is pushing this all along is an agreement that was made with Japan, and I have held it up several times right here, to harmonize American patent law with Japan. We do not want to be like them. We want to have rights that are protected.

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

Mr. Chairman, I just want to make a couple of clarifications statements for those Members who are listening to this debate.

First, I think it is important to emphasize that any matter that is sensitive from a national security point of view that is a secure matter may be held confidentially under the past law before it was changed last year under current law, under H.R. 400 and under the Rohrabacher substitute. So there is no question that none of the alternatives would allow national security matters to be published, and I think that is important.

Second, I want to address the issue of the Congressional Research Service. Now I am a relatively new Member but I have found CRS to be a useful office here, and I from time to time get their publications and read them, and I do not know the author of the report that has been quoted here. I will say, however, that in my experience in reading through Congressional Research Service publications, they are not always the only person with a viewpoint nor are they always the most expert person in the world with a viewpoint. And I think it is worth pointing out that the intellectual property section of the American Bar Association, lawyers of whom represent both patent defenders and those who might attack patents who do not have—they are not for one side or the other. The intellectual property section of the California Bar Association where most of the high-tech industry in the country is located and most of the patents issued in the country I believe emanate from California, as well as the American Intellectual Property Law Association, as well as the Intellectual Property Owners Association, all oppose the Rohrabacher substitute, all support H.R. 400.

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

Mr. CAMPBELL. Mr. Chairman, will the gentlewoman yield?

Ms. LOFGREN. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, I am so grateful to the gentlewoman.

I do just wish to clarify that whereas the CRS said that both Chairman COBLE and Congressman ROHRABACHER's bill reflected in fixing the submarine patent, the additional sources the gentlewoman cited did not speak to that issue. They favored Chairman COBLE's bill or she would not have been citing them, but they were not rebutting CRS's conclusion that—is that correct?

Ms. LOFGREN. Actually that is incorrect. In fact, the President of the American Intellectual Property Law Association, and I have spoken as recently as 2 days ago indicating it was his judgment the Rohrabacher substitute does not solve the submarine patent association, and, if I may conclude this, does not resolve the submarine patent issue, whereas H.R. 400 in his judgment would.

Mr. CAMPBELL. If the gentlewoman will yield further on that point, I would be very interested in having that reduced to writing so that I could look at it. I do have the CRS report reduced to writing.

Ms. LOFGREN. Reclaiming my time, I will see if I can get that done.

Mr. CAMPBELL. I have one additional point which I might put to the gentlewoman if she continues to yield.

Ms. LOFGREN. I will.

Mr. CAMPBELL. As to the lawyers' associations which support H.R. 400, could one not interpret that that is a natural response to the fact that the bill will create much more opportunity for their employment?

Ms. LOFGREN. I do not believe that is correct and the gentleman and I are both from California, we both taught law and we are both—I think the gentleman was formerly on the Committee on the Judiciary, and perhaps I am wrong on that. I am currently serving on the Subcommittee on Courts and Intellectual Property. Certainly people can have divergences of opinion. But I do not believe that and I doubt very much that that would be the motivation for the intellectual property section.

Mr. CAMPBELL. Would the gentlewoman find it shocking if a group of lawyers in finding a bill beneficial saw some opportunity for enhanced—call upon their own services. That is all.

Mr. GOODLATTE. Mr. Chairman, will the gentlewoman yield?

Ms. LOFGREN. I yield to the gentleman from Virginia.

Mr. GOODLATTE. The lawyers that the gentleman suggests will benefit by this work for the many, many, many American businesses who strongly support this legislation. And would the gentleman suggest, and I am sure the gentlewoman would not suggest, that those businesses are interested in legislation because it will give them the opportunity to pay more in legal fees? Of course not. They are interested in this legislation because it stops submarine patenting where one lawyer, one lawyer got $150 million in contingent fees. And do my colleagues know where that money came from? It came from American business. And do my colleagues know what it gets paid for? American business passes their costs on to the consumers and taxpayers in this country, and that is what this legislation is all about. It is not to help lawyers.

Ms. LOFGREN. Reclaiming my time, I would concur with the gentleman's comments, noting that the National Association of Manufacturers, the Pharmaceutical Research and Manufacturers of America, the Semiconductor Industry Association, the Software Publishers Association and the like have rarely been in favor of more litigation.

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

Mr. COBLE. Mr. Chairman, I yield 5 minutes to the gentleman from the Roanoke Valley in Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman for yielding this time to me, and I rise in strong opposition to the Rohrabacher substitute which would be a disastrous turn to take in American patent law.

First I want to address some of the comments being made by some of the supporters of this substitute and the opponents of the bill. The gentlewoman from Ohio [Ms. KAPTUR] said that we had not been fair and open in this process; and by the way, I will not yield to the gentlewoman because she refused to yield to me earlier, but I want to make this point.

This bill has been more carefully studied and worked in this Congress in very public open hearings than any other legislation considered in this Congress this year. Hearings have been held in the Committee on Science, hearings have been held in the Committee on Small Business, hearings have been held in the Committee on International Relations, and eight public hearings have been held in the Committee on the Judiciary on this legislation. So there is absolutely no possibility that this legislation is not something that has been very fairly and openly debated throughout the process.

□ 1700

Second, the gentlewoman made the point, which is totally inaccurate, that we were going from a 17-year protection for inventors down to 18 months. Well, that is hardly the case at all.

Under our bill, any inventor gets a minimum of 17 years' protection, provided that they themselves do not cause a delay in the issuance of the patent. So they are going to get an increase.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield on that point?

Mr. GOODLATTE. Mr. Chairman, no, I will not yield.

Ms. KAPTUR. Just to clarify, Mr. Chairman.

Mr. GOODLATTE. Mr. Chairman, I would ask for order.

The CHAIRMAN. The House will be in order, and the gentleman from Virginia [Mr. GOODLATTE] may proceed.

Mr. GOODLATTE. I thank the Chairman.

The fact of the matter is the gentlewoman had 30 minutes of time, I have much less, and unfortunately, we have not had the opportunity to have that colloquy.

But the fact of the matter is, under our legislation, they have that same amount of time, they have that time under the new legislation, and they will have, in most cases, more time than they have under current law.

Furthermore, the average patent in this country today is issued after 19 months. This calls for publication after 18 months. So most patents are not going to experience any significant difference in how quickly they are published. But here is the important fact about this, and this is what is wrong about this entire debate by the opponents.

We are not talking about trade secrets here, we are talking about publication of patents. Patents have always been protected in this country by publication. That is how we say to the world that an American inventor has put forward an idea that is entitled to be protected under our laws.

We do not tell them to hide it under a rock. We do not tell them to lock it up in a safe. We tell them that the U.S. Government will publish their patent and say they were the first with that idea and they are entitled to 17-years-plus protection.

That is what they get under this bill as well, only they get it better, because now they are going to be published sooner. When they are published sooner the world knows sooner that they were the first with that idea, and the capitalists who wanted to invest in that small inventor's opportunity to bring that unique idea that is so uniquely American, as the opponents have pointed out, that we lead the world in developing ideas, but we do not lead the world in getting those ideas to market, and one of the reasons why is because we do not get the capital to the inventor quickly enough.

If we change the law so that we have the opportunity to publish after 18 months, and not yours published after 18 months, but anybody who might be competing with you, that is important, because if you do not know that somebody else is in the patent system with something hidden, something called a submarine patent, ready to surface up and take your claim and try to get royalties from you, what you wind up with is a system where the capitalist does not know when to put the money in until you get the patent.

Under this change in the law, which has worked so well in Europe and other places, the money gets to the inventor from the entrepreneurial investor sooner because they know sooner that that person has the idea, and that is the one that is going to have the protection for 17 years.

Now, the gentleman from California claims that submarine patents are eliminated by his substitute. Nothing could be further from the truth. While I have great respect for the CRS, they say both bills seek to curtail submarine patenting. But there is often "many a slip twixt the wrist and the lip," and that is exactly what is true of the gentleman's substitute. It may seek to eliminate submarine patenting, but it certainly does not succeed, because it eliminates one form of delaying the patent process, and that is amending the application.

But there are hundreds of ways that a good patent lawyer, who under the current laws makes a very good living with abusing our current system, there are hundreds of ways that one can delay the processing of a patent application that will not be covered by the gentleman's substitute.

As a result, what we have is a situation where the only way to cure this very serious problem that costs American consumers and taxpayers hundreds of millions of dollars a year is to have publication, which, as I indicated earlier, is not bad, it is not detrimental to the small inventor, it is good for the small inventor, because publication is what tells the world that that small inventor was the first one out of the box.

We also protect them by giving patent pending, a protection that it does not have now. That small inventor who has that idea that he turns into a product and puts on the shelf in the store and says patent pending, under the new law, they can get protection during the time that the patent is pending. If somebody wants to steal it and rip it off, they can get royalties for the entire time. Under the current law, they get no royalties except for the time that the patent is actually issued.

The result of all of this is a vast improvement of our patent system. As we have on numerous occasions over the 200-plus years of our history, this committee and this Congress is what has created the wonderful patent system we have in this country, and no one should ever suggest that it has never been changed in the 200 years since we originally wrote our Constitution recognizing that patent system.

We have to constantly look at it and improve it. When you do not, that is when you fall behind. If you want to look for examples of people who have said in the past that we are the best in the world and we do not have to worry about anybody outside, go talk to the big-three automobile makers and ask them what they thought back in the 1960's and 1970's about their superiority over the Japanese. They learned very quickly that if they did not change the way they do things to keep up with the times, they would fall behind.

If you want to look for a place where there is strong, strong support for these patent reforms to protect American business, American jobs, and American technology, go to the big-three automakers, because all three of them support H.R. 400 because they want to make sure that our patent system remains the best in the world, and that is what this legislation does.

Oppose Rohrabacher, support H.R. 400.

Mr. ROHRABACHER. Mr. Chairman, I yield myself 1 minute.

Just so my friend from Virginia, Mr. GOODLATTE, will understand, if I could quote from the report here, the Congressional Research Service, it says, yes, it does, as he stated, both bills seek, and it did, said seek to curtail, but you did not finish the sentence, and would likely end the practice.

So I mean this is very similar to what we have heard in other parts of the debate where something will effectively permit small business and the little guy to be exempted, but "effectively" is not really an accurate description.

The Congressional Research Service, which is an independent body, and people who do not have an ax to grind, have determined, and I have gone out of my way, and my colleague, the gentleman from California [Mr. CAMPBELL] has gone out of his way, to put the strongest language we could in, and an independent body is agreeing with us, that we would likely end the practice. We have done our very best. This fig leaf could not be used to justify radical changes in our system.

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

The CHAIRMAN. The Chair would advise all Members that the gentleman from California [Mr. ROHRABACHER] has 10 minutes remaining; the gentleman from North Carolina [Mr. COBLE] has 12½ minutes remaining; the gentlewoman from Ohio [Ms. KAPTUR] has 20 minutes remaining; and the gentlewoman from California [Ms. LOFGREN] has 19 minutes remaining.

The Chair recognizes the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume. I will yield time to the gentleman from Maryland [Mr. HOYER] in just a second, but I wanted to answer the gentleman from Virginia [Mr. GOODLATTE], since he referenced me at least three times in his remarks.

Mr. Chairman, I see a big difference between 18 months, 17 years, and 20 years. Under the bill the gentleman supports, the gentleman requires that there be publishing of all patent applications 18 months after they have been filed, whether or not the patent has been issued. Eighteen months is less than 2 years.

The GAO says it takes at least 4 years, the Patent Office says it takes 2 years, average application time, but whatever the time is, some patents take 10 years, 12 years. The gentleman is saying 18 months. That information is made available under the gentleman's radical proposal. It is a radical departure from the current system which says that once a patent is issued, an inventor has protection for 17 years, almost 2 decades.

The gentleman said, oh, but I give you 20 years, 20 years is better than 17 years. No, your 20 years does not begin when the patent is issued, it begins when the patent is filed. I was courteous to the gentleman when he was talking to me. I would certainly appreciate a little eye contact here while I am talking to him.

So there is a big difference, numerical difference to the protection of the inventors of this country. I feel bad the gentleman from Virginia [Mr. GOODLATTE] did not yield to me, but I wanted to clarify for the RECORD, there is a whole lot at stake. Every single day of a patenter's life of his invention is important. They have a lot on the line. Some of them have their whole future on the line. For America, we have America's future on the line.

So the difference between 17 years of guaranteed covered and 18 months when you have to divulge the secrecy of your information is a pretty big difference.

Mr. Chairman, I yield 8 minutes to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I thank the gentlewoman for yielding me this time, and I thank my friend from California for letting me proceed.

I want to say that those of us who are not expert in the field of patents, and I dare say that is probably 100 percent of us, some of us know more than others, that is for sure, but I would presume, unless there is a patent lawyer among us, obviously Mr. CAMPBELL, a law professor, a distinguished law professor, has done a lot of work on this. I am a lawyer, but I want to have a disclaimer at the front that I do not know a lot about this issue from a technical standpoint.

So like most Members, I come from the standpoint of what is best for the people I represent? What is best for the country? What is best for competitiveness, both domestically and internationally, and what best protects the people that I represent?

Now, very frankly, I have heard from numerous people, individuals who are very concerned about this bill. I have read in The New York Times, for instance, articles of inventors, small business, associations who are very concerned at the exposure that this bill brings. The gentlewoman from Ohio [Ms. KAPTUR] referred to the time of 18 months or 17 years or 20 years or whatever the time frame might be.

I have heard the debate back and forth. I would say to my friends that, at the outset, I do accept the premise of the CRS report, that both bills not only seek, as has been pointed out, but do, in fact, accomplish the objective of getting at the problem, to the extent it exists, of the submarine patents.

The gentleman from California [Mr. HUNTER] who spoke earlier pointed out that there were some 300 submarine patents that could be described out of the millions of patents. So the percentage of submarine patents, if they exist, and obviously they do, is as the gentleman from California [Mr. HUNTER] pointed out, incredibly small.

In pursuit of that objective, we are placing at risk the 99.9 percent of inventors, innovators, entrepreneurs who have an idea that they want to protect so that they can justifiably profit in a free enterprise system from the integrity and protection of that idea.

It is for that reason, my friends, that I rise, convinced not of the technical merits one way or the other, because as I said at the outset, I am not an expert, but that there is so much concern in the small business community.

I believe this bill would harm small business and independent inventors. We must remember that small business, as all of us know, represents the fastest growing sector of the economy and are truly America's greatest source of job creation and technology development.

I am not opposed to everything in H.R. 400, as I am sure most are not. In fact, I know my friend [Mr. ROHRABACHER], the principal sponsor of the alternative, which I support, is not an opponent of all. I support the inventor protection electronic filing sections of the bill. However, despite the rhetoric surrounding the manager's amendment, the publication time still poses a threat to America's small business.

Too many small business organizations have voiced their concerns and opposition to H.R. 400. I am not going to go through the list, but my colleagues have seen, I think most of our colleagues have seen, the list of 2 or 3 pages, small-type, of small inventors, small investors, small businessmen and entrepreneurs who are concerned and have said, do not move on this bill.

□ 1715

In fact, the Chamber of Commerce itself has held itself aloof from this bill. The Chamber of Commerce itself has held itself aloof from this bill because they believe there is a risk.

Mr. Chairman, it is a strange alliance that we see on this floor on this bill, on both sides, perhaps because some come from a more involved process with this bill and some a less involved, and are, frankly, looking not so much at the technical aspects of this bill but at the risks that it will pose to the people from whom we are hearing.

Mr. Chairman, the U.S. Chamber of Commerce, as I said, has been conspicuously silent on this bill, and the National Association for the Self-Employed, an organization of 325,000 members, is not only silent, they are strongly opposed to H.R. 400, because they believe it places their small business people at risk. This is a very important issue. We must not rush to judgment. In fact, we are not rushing to judgment, as the gentleman from Alabama is pointing out to me.

The proponents of H.R. 400 claim that there are remedies and processes set up to protect small business. If that is the case, why have the Chamber and the NFIB and small business and small inventors not come forward and said that they have achieved protection? They have not. In fact, they have done the opposite, as I said. Three hundred twenty-five thousand strong have said, we are strongly opposed to this bill.

We all know that small businesses have neither the attorneys nor the resources. The gentleman from California [Mr. CAMPBELL] has spoken to this, the gentleman from California [Mr. ROHRABACHER], the gentlewoman from Ohio [Ms. KAPTUR] have all spoken to it. It is fine to say, yes, if they learn your information very early on you get protection, because you were published. That is great.

That is great, and if you have $1 million or $5 million, like some of the egregious people, I understand, and let us not hoist on the petard of one or two or three multimillionaires who are gaming the system, thousands of folks who are not only not gaming the system but it is the only protection that they have.

Mr. Chairman, in closing, because my time is coming to a close, let me say that I am also concerned, as someone who is deeply involved in governmental organization issues, deeply involved in Federal employee issues, I understand that my friends in the NTU believe that H.R. 400, my good friend, the gentlewoman from California [Ms. LOFGREN] who has fought so fervently for this bill, she and I disagree on the substance, but she is an able advocate of this bill, and they have talked about the NTU.

Let me say, as so many have said on this floor, I am concerned about this critically important process, which must be insulated from outside influence, being altered in the way that H.R. 400 alters it; that it is not a Federal employee, insulated from outside pressure and influence and involvement, who will make decisions critical to the economic welfare not only of small business and inventors and innovators, but also of this country.

So I would ask my colleagues to vote for the amendment offered by the gentleman from California [Mr. ROHRABACHER], incorporating the amendment of the gentleman from California [Mr. HUNTER] as well, and to vote against H.R. 400.

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

Mr. Chairman, I would say there has been much discussion of the Congressional Research Service. I would like to note that the commissioner of patents and trademarks, who actually is an expert in this whole subject area, has noted that the Rohrabacher amendment, in his words, would allow the patent system to continue to be misused by those who are not interested in obtaining patent protection early, and goes on to further detail the submarine patent provisions that would remain.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY of California. Mr. Chairman, like the gentleman from Maryland [Mr. HOYER], I do not come to the well of the House as an expert on patent law either. But unlike the gentleman from Maryland, I come to complete disagreement in terms of what is the proper policy that we should institute in order to create a fiscal and financial environment that is going to ensure that our economy and in fact small businesses will prosper.

When we look at what has happened in just the last decade when we have seen 40 percent of the growth in our economy has occurred primarily in the high-technology industry, we have to ask ourselves, how did that happen? It happened in a large way because we had a lot of small businesses that were able to attract capital, that were able to make the appropriate investments. That created jobs, it created products, it allowed us to become the leader in the information services and computer services and software services and the biotechnology industry throughout the world today.

The changes we are considering making in our patent laws I am convinced are even going to do more to enhance that regulatory environment to ensure that a lot of our inventors that are out seeking capital will have greater access to it, because we will be able to find the investment community, and they will be much more willing to take a risk, to make a gamble on investing on the person who has an idea or an invention, if they have greater assurances that there is not somebody that is holding back a secret patent that could create financial jeopardy down the road.

I guess that is where it comes to the fundamental disagreement in the discussion that we have had on the floor today, was whether or not the Rohrabacher amendment provides a level of protection on the submarine patents as does H.R. 400 offered by the gentleman from North Carolina [Mr. COBLE]. I have come to the conclusion that it does not.

Part of that is based just strictly on the language, in that you can have an extension of the publication of a patent, if the office of director of patents and trademarks does not make a determination that there was not an effort being engaged by the individual that could demonstrate that they were diligently pursuing the publication of their patent.

They furthermore go on to say that if you can have an amendment, and again, you have to have a determination made by the regulatory body that this amendment was not done so simply to prevent the publication of the patent. These are determinations that have to be made that are going to be very difficult.

I am concerned that with those provisions in, we will not deal with the fundamental issue of dealing with the submarine patents, and that is what is impeding, I think, the flow of capital which is so important to U.S. inventors, people that have a good idea that can build products in this country, that can create jobs and be such a benefit to our economy.

Mr. Chairman, I urge people to vote no on the Rohrabacher substitute, and support the bill offered by the gentleman from North Carolina [Mr. COBLE].

Mr. ROHRABACHER. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland, Mr. ROSCOE BARTLETT, one of the only inventors in the U.S. Congress, who is also a professor, a technologist, who shares the Committee on Science with me.

Mr. BARTLETT of Maryland. Mr. Chairman, I would just like to speak to the Members for a few moments from the heart. I am not an expert in patents, but maybe I have some credibility. I hold 20 patents. I was in the academic world for 24 years, and during a part of that I was an inventor. I was a small business man with an R&D company, and my intellectual creations were the basis of that small business.

Mr. Chairman, there is just no reason, no defensible justification for publishing these patents 18 months after they are filed. The only possible reason could be to prevent submarine patents, but CRS has said, and we can see it here by me, both bills seek to curtail submarine patenting and would likely end the practice.

If the Rohrabacher bill is not perfect, let us make it perfect. But let us not undermine the protection that countless thousands of small inventors like myself have with the present system. We do not need to change this system.

I have had a lot of mail on this. I have not had a single telephone call, a single fax, or a single letter that said "Support H.R. 400;" not a one of them, and not all of these small people out there can be wrong. I had the notion when I came to Congress that maybe the great wisdom of the country was not inside the Beltway. The longer I am here, the surer I am that that is true. These people from outside the Beltway have called me and faxed me and written letters to me, and every one of them who have done it, and there have been a large number, have said, please do not vote for H.R. 400, vote for the Rohrabacher bill.

We do not need to bring down our patent system to the level of the Japanese, to harmonize under our GATT agreement. Let them come up to our level of excellence. If we pass H.R. 400, it will cost us jobs. It will cost us jobs because of the lack of protection that our entrepreneurs now have. We are the greatest economic force this world has seen. It is largely because of the protection of our entrepreneur system.

It is true that to at least some degree, America's future is on the line in this vote. Please do the right thing for the little guy that I represented so

many years out there. Do not vote to give away our secrets to every copycat around the world. Protect our entrepreneurs. Vote for the Rohrabacher amendment.

Ms. KAPTUR. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Chairman, I do not want to leave anyone behind on this issue. I, too, though a member of the Committee on the Judiciary, am not going to pretend to be a longstanding expert on this issue.

But I want to raise two points. I hope that maybe we will be able to respond to the concerns. First, this substitute addresses the question that I have heard throughout my district, and that is on small businesses, and how they are protected. I do not think we can go forward without acknowledging and responding to those concerns. We have the time.

Second, I would like to speak to the issue that now I am told is not outsourcing the patent staff, but corporatizing. I would simply say that the concern is that if you have had an independent civil body, then that civil body needs to be and remain independent. The substitute addresses that question.

I would imagine that even in spite of having just met with members of the European Commission who have asked that we have a patent system which they can relate to, even with trying to relate on the international system, there does not seem a reason why we cannot protect small businesses and why we cannot protect the civil servants who are part of the Patent Office who have for years been able to provide good service to our inventors, our scientists, those who have knowledge, and bring knowledge to this country.

This substitute responds to those concerns. If there is reason to repair the substitute and the larger bill, then I would offer to say that we should stand in support of small businesses and, of course, those longstanding civil servants who have done the job in the Patent Office for years and years and years.

Ms. LOFGREN. Mr. Chairman, I yield 2½ minutes to the distinguished gentlewoman from California [Mrs. TAUSCHER].

□ 1730

Mrs. TAUSCHER. Mr. Chairman, I rise today in strong support of H.R. 400, because I am the granddaughter of one of the little guys.

My mother, who I talked to on the phone just a few minutes ago, has been confused about the debate she has watched today. But I strongly support H.R. 400 because I also strongly support our Nation's businesses and the small and independent inventors. I believe this important and needed legislation will improve our competitiveness, reduce the loss of wasted and precious R&D dollars and eliminate the real and dangerous scourge of submarine patents.

Many have valid concerns about the publication of patent information 18 months after filing. But H.R. 400 contains an exemption for all small businesses and independent inventors, allowing them to withhold publication until 3 months after the second meritorious PTO action. Furthermore, upon publication, inventors receive the constitutional monopoly over their invention.

Others mention that the patent term will now be cut below the traditional 17-year term. Nothing could be further from the truth. The fact is that H.R. 400 allows a diligent patent applicant to receive extensions of term for many reasons, including appellate review, administrative delays caused by PTO actions or inactions, the imposition of a secrecy order, or in the case of interference from a competing claim or infringement. Many of these extensions are unlimited to ensure that inventors will not lose any patent term.

Mr. Chairman, nearly 45 percent of all patent applications filed with the PTO are from foreign companies and inventors who have manipulated our patent system to their advantage while U.S. inventors filing abroad are subjected to open examination. H.R. 400 levels the playing field in favor of U.S. businesses while providing additional protection for American inventors. I urge my colleagues to oppose the Rohrabacher amendment and support H.R. 400.

Mr. ROHRABACHER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, these are my concluding remarks. I would like first of all to thank the gentleman from North Carolina [Mr. COBLE], the gentleman from Illinois [Mr. HYDE] and the other Members who have put up with me for the last months in my opposition, and I happen to have very strong beliefs about this. I appreciate the gentleman from Michigan [Mr. CONYERS] for putting up with me.

The bottom line is, when you have strong disagreements in this democratic body, sometimes people get mad at one another, but the fact is we are all friends. We will be working on other issues and working together, and we are all people of integrity.

Mr. Chairman, I also wanted to thank the gentlewoman from Ohio [Ms. KAPTUR] and the gentleman from Maryland [Mr. HOYER] and the gentleman from California [Mr. CAMPBELL], the gentleman from Maryland [Mr. BARTLETT], and of course, the gentleman from New York [Mr. FORBES], who has been so articulate as well.

A lot of Members have put a lot of time and effort into this because this is a really important issue. It is something that will make the difference in the future of our country. We all believe that. Twenty years from now America will be a different kind of place because of the decision we are making today.

We are trying today to make a decision as to whether or not we will fundamentally veer from the system that has protected the technological development of the United States of America for 225 years, a system that has assured the American people of the highest standard of living, the greatest degree of freedom and security for our country of any system in the world.

We do not want to be like the Japanese. We do not want to harmonize our law to a Japanese model. We do not want the European model. People came here because this is where people's individual rights were protected. Again, what has been our rights, our rights have been we can invent and it will be kept confidential, our patent application, until that patent is issued and we own that technology. It has protected us. That has been such an important part of the development of technology in our country. Now it is just being cast away saying, we will exchange it for a system where you can sue somebody if they steel it from you. That somebody may be a huge corporation in Japan or China, but then that will replace it with that system. That is no protection at all.

I ask my colleagues to support my substitute. We have included the good stuff and left out the bad stuff.

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

I wanted to make just a few remarks before the gentleman from Illinois [Mr. HYDE] concludes, I believe, the debate for today. As a relatively new Member, I have found this entire process to be a fascinating one, unfortunately, I think sometimes a confused one.

We have heard and I have heard debates, late-hour radio talk show discussions about patents for the first time in my life. We have heard about patents on talk shows, people thinking it had something to do with foreign governments or trade agreements or the Red Army. In fact, as Mr. HYDE knows, and the gentleman from Michigan, Mr. CONYERS, knows, it does not. And then people becoming concerned and alarmed and afraid and communicating to their Members of Congress, including myself, that they do not want the wrong thing for their country. Of course not. None of us do. None of us do.

Then we get here today with, unfortunately and not unusually, most people in the country, I would venture and it has been said here today, most Members of the House not being experts in patent law, not having had a chance to take the courses in patent law or to practice patent law and to really familiarize themselves with it and then doubt and concern.

Mr. Chairman, it is my hope that Members have found this debated useful so that they can sort through the conflicting and occasionally extravagant claims to do what is right for our country because this is not a freebie vote. This is an enormously important vote for America. When I think about the companies and the inventors and the innovators in Silicon Valley and the role that they now play and will play in making sure our country advances technologically and has a wonderful quality of life, that we have high employment, that we have a bright future, that is dependent on this body going beyond its confusion and doing the right thing by defeating the Rohrabacher substitute and supporting H.R. 400. The bill that was crafted by Chairman HYDE and Ranking Member CONYERS, that was supported and nurtured by the gentleman from North Carolina, Mr. COBLE, the chairman, and the gentleman from Massachusetts, Mr. FRANK, the ranking member, these are unlikely allies who have come together in the best interest of the Nation on a bipartisan basis.

I will close simply by saying this. The White House conference on small business technology chairs have analyzed the debate, analyzed the talk show allegations and have found that the misinformation, they say misinformation, is part of an intense campaign of fear and xenophobia. They say the information being promulgated is simply wrong. They point out that legislation based on bad data is bad legislation. They urge defeat of the Rohrabacher amendment and they urge support of H.R. 400.

Mr. COBLE. Mr. Chairman, I want to express appreciation to all who participated in today's debate and to thank the Chair as well.

Mr. Chairman, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE], chairman of the House Committee on the Judiciary.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding me the time. I will not spend time congratulating everybody, but I do in a blanket way because everybody connected with this issue and this debate on both sides, even the gentleman from California [Mr. CAMPBELL], Professor CAMPBELL, I congratulate.

If my colleagues do not think submarine patenting is a serious problem, and it has been diminuendo by some on the other side, let me quote from a witness before the subcommittee of the gentleman from California [Mr. ROHRABACHER], a gentleman named Bill Budinger, an independent single inventor who had his own little company, Rodel Company, and here is what he said to Mr. ROHRABACHER's committee:

"I have heard people say there is no such thing as submarine patents, and to borrow a phrase from earlier, I think the folks that say that are either naive or disingenuous. Here is a list of 300 patents that were issued in the 2-year period before the law changed," that is 1994. "Each of these patents will monopolize a segment of American technology for a period of 25 years or more. They are going to provide a minimum of 25-year monopolies and some of the monopolies here are 40 years. Every one of these patents is issued to and owned by a foreign corporation. So these folks learned how to game the system."

Now, submarine patents are not the only reason we are here with this bill. Do you not understand that we need access to foreign inventors' ideas? They come over and register and file their applications in our Patent Office, and we do not get to read them. We do not get to see them in English. Whereas our patents, our applications are filed in Japan, filed in France, filed in Germany, and after 18 months, they are published there. So we ought to have parity with foreign inventors; 45 percent of the applications for patents are filed by foreigners in this country.

We saw a rather embarrassing list of Nobel Prize winners but they may not have the technologists. They have the inventors, 45 percent of them. Small business is protected. Small business can opt out. Small business cannot be published until after two office actions. That means you are going to get your patent. Then you have 3 more months when you are not published. That is a different treatment from a so-called big business.

Let us dispel the notion that publication is a betrayal of our secrets. Publication is protection.

There is an animal called provisional rights that arises as soon as your publication occurs. It is the same as though you had a patent and, once your idea has been published, it is yours. It is notice to the world, I thought of it. I thought of it first, do not tread on me. And not only that, but if anybody tries it, they are liable in damages for infringement. So there are provisional rights. Do not tread on me, and it also is an advertisement to investors who might say, hey, this guy has got an idea. I might want to invest in this.

Every patent commissioner except one who is working for the other side has come out for H.R. 400. The Nixon, Ford, Reagan, Bush have all signed a letter saying we like 400. The Clinton administration says, we like 400. And so if it is good enough for them, it ought to give us pause if we do not think we want to support it.

The gentleman from California, [Mr. ROHRABACHER], God love him, says his bill, and he has a CRS report. If I were the teacher, I would give that about a D minus because it misses the mark horribly, horribly. The gentleman from California, Mr. TOM CAMPBELL, a fine lawyer, I just want to ask if he really thinks this eliminates the submarine patent. Under the Rohrabacher amendment, you cannot publish for 5 years. Let me put the question this way: Have you ever spent 5 years in a submarine?

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

Mr. HYDE. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, under the Rohrabacher amendment, you must publish, there is no 5-year delay if you are a gamester, if you are a submariner as determined and applied for a continuation. No 5-year delay.

Mr. HYDE. Mr. Chairman, the gentleman is asking that the patent examiner have an astrological gift to be able to tell whether or not what one is doing is gaming the system.

There is much more to say, I sense an impatience in the Chamber. And not wishing to dull my antennae any more than they are, I hope my colleagues will support 400. I hope my colleagues will tell the gentleman from California, [Mr. ROHRABACHER], he is a swell guy but has a lousy bill.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. ROHRABACHER].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 227, not voting 28, as follows:

[Roll No. 85]

AYES—178

Abercrombie	Diaz-Balart	Kaptur
Bachus	Dixon	Kildee
Baldacci	Doolittle	Kim
Ballenger	Doyle	King (NY)
Barcia	Duncan	Kingston
Barr	Emerson	Kleczka
Barrett (WI)	English	Klink
Bartlett	Ensign	Kucinich
Bereuter	Everett	LaHood
Bilirakis	Filner	Largent
Bonilla	Foley	LaTourette
Bonior	Forbes	Lazio
Bono	Fowler	Leach
Brown (OH)	Gallegly	Lewis (CA)
Burton	Gephardt	Lewis (KY)
Calvert	Gibbons	Lipinski
Campbell	Gillmor	Livingston
Cardin	Goode	LoBiondo
Chambliss	Goodling	Lucas
Chenoweth	Goss	Maloney (CT)
Christensen	Graham	Manzullo
Clayton	Hansen	Martinez
Coburn	Hastings (WA)	Mascara
Collins	Hayworth	McCarthy (NY)
Combest	Hefley	McDade
Condit	Herger	McHugh
Cook	Hill	McInnis
Cooksey	Hilleary	McIntosh
Cox	Hostettler	McIntyre
Coyne	Hoyer	McKeon
Cramer	Hulshof	McKinney
Crapo	Hunter	McNulty
Cubin	Hutchinson	Menendez
Cunningham	Istook	Metcalf
Danner	Jackson (IL)	Mica
Deal	Jackson-Lee (TX)	Miller (CA)
DeFazio	Jones	Miller (FL)
Dellums		Mink

Molinari
Moran (KS)
Murtha
Myrick
Neumann
Ney
Norwood
Oberstar
Obey
Olver
Ortiz
Pallone
Pappas
Parker
Pascrell
Paul
Payne
Petri
Pickering
Pombo
Poshard
Radanovich
Regula
Riggs
Riley
Rivers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaffer, Bob
Sessions
Shadegg
Sherman
Smith (MI)
Smith (NJ)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stearns
Strickland
Stump
Sununu
Talent
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Walsh
Wamp
Waters
Watts (OK)
Weygand
Whitfield
Young (AK)

NOES—227

Ackerman
Aderholt
Allen
Archer
Armey
Baesler
Bass
Bateman
Becerra
Bentsen
Berman
Berry
Bilbray
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Bryant
Burr
Buyer
Camp
Canady
Cannon
Capps
Carson
Castle
Chabot
Clement
Clyburn
Coble
Conyers
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
Delahunt
DeLauro
DeLay
Deutsch
Dickey
Dingell
Doggett
Dooley
Edwards
Ehlers
Ehrlich
Engel
Eshoo
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gekas
Gilchrest
Gilman
Gonzalez
Goodlatte
Gordon
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hastert
Hastings (FL)
Hefner
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Houghton
Hyde
Inglis
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Kind (WI)
Knollenberg
Kolbe
LaFalce
Lampson
Lantos
Latham
Levin
Lewis (GA)
Linder
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McHale
Meehan
Meek
Minge
Moakley
Mollohan
Moran (VA)
Morella
Nadler
Neal
Nethercutt
Northup
Nussle
Owens
Oxley
Packard
Pastor
Paxon
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Pickett
Pitts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Reyes
Rodriguez
Roemer
Rogan
Rogers
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sandlin
Sawyer
Schumer
Scott
Serrano
Shaw
Shays
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (OR)
Smith (TX)
Smith, Adam
Spratt
Stabenow
Stark
Stenholm
Stokes
Stupak
Tanner
Tauscher
Tauzin
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Turner
Upton
Velázquez
Vento
Visclosky
Watkins
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
White
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NOT VOTING—28

Andrews
Baker
Barrett (NE)
Barton
Blumenauer
Borski
Bunning
Callahan
Clay
Costello
Crane
DeGette
Dicks
Dreier
Dunn
Etheridge
Flake
Foglietta
Harman
Hinchey
Johnson, Sam
Klug
McCrery
Millender-McDonald
Schaefer, Dan
Schiff
Sensenbrenner
Towns

□ 1804

The Clerk announced the following pair:

On this vote:

Mr. Dan Schaefer of Colorado, for with Ms. Dunn against.

Ms. EDDIE BERNICE JOHNSON of Texas and Messrs. DAVIS of Illinois, FAWELL, SERRANO, EDWARDS, and GUTIERREZ changed their vote from "aye" to "no."

Mr. PAYNE changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. BARRETT of Nebraska. Mr. Chairman, I was unable to be present for the vote on the Rohrabacher substitute amendment to H.R. 400. Had I been present, I would have voted "no."

Mr. COBLE. 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. UPTON) having assumed the chair, Mr. LAHOOD, 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. 400) to amend title 35, United States Code, with respect to patents, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. ETHERIDGE. Mr. Speaker, on two recent occasions, I was unavoidably detained on official business in my congressional district while the House was in session. Had I been present, I would have voted "yes" on rollcall votes 72 and 73 and "no" on rollcall vote 85.

RESIGNATION AS MEMBER OF COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Government Reform and Oversight:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
April 17, 1997.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER: I hereby resign from the Committee on Government Reform and Oversight effective April 17, 1997.

Thank you very much for your consideration.

Sincerely,

TIM HOLDEN,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON RESOURCES

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Resources:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 17, 1997.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Capitol, Washington, DC.

DEAR MR. SPEAKER: I hereby resign from the Committee on Resources, effective April 17, 1997.

Sincerely,

NICK LAMPSON,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON SCIENCE

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Science:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
April 17, 1997.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER, I hereby resign from the Committee on Science.

Sincerely,

LLOYD DOGGETT.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

CONCERNING PROMOTION OF PEACE, STABILITY, AND DEMOCRACY IN ZAIRE

Mr. ROYCE. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the resolution (H. Res. 115) concerning the promotion of peace, stability, and democracy in Zaire, and ask for its immediate consideration.

The Clerk read the title of the resolution.

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

Mr. MENENDEZ. Mr. Speaker, reserving the right to object, and it is not my intention to object, I yield to the gentleman from California [Mr. ROYCE] the chairman of the Subcommittee on Africa to explain his unanimous-consent request.

Mr. ROYCE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this resolution has been cleared on both sides of the aisle and no recorded votes are anticipated.

Mr. Speaker, we have seen the headlines. Zaire is in crisis. Its government has collapsed, having lost much of its territory to rebel forces. There is humanitarian suffering throughout the country. This is a complex crisis.

Mr. Speaker, one of these forces has been a constant throughout this, and that has been the corrupt and despotic rule of President Mobutu. For more than 30 years, Mr. Mobutu has ruled Zaire with disdain for its people. Zaire is now politically collapsed. It is also economically collapsed. What should be a prosperous country is now one of the world's poorest.

Meanwhile, Mr. Mobutu is one of the world's wealthiest men. Simply put, Mobutu has bled Zaire. Repairing this economic damage will not be easy. Repairing the political damage of Mobutu will be a bigger challenge. The immediate task is to stop the fighting, develop a transitional government, and start on the path toward democracy.

Let us be clear: Mr. Mobutu has no role to play in this process. He should immediately resign from the office of the Presidency, leave Zaire, and withdraw from all political activity. That is what the resolution states. Mr. Mobutu should leave Zaire now.

This is a strong statement for the U.S. House of Representatives to send. It is an important statement. America has a big stake in Zaire, and what the United States Congress says about Zaire is taken seriously in Zaire.

This resolution is directed against Mobutu, but it is really about bringing democracy to Zaire. It calls on the administration to support democratic, multiparty elections. Getting to that goal is a tall order. Multiparty democracy is difficult under the best of circumstances. But single-party democracy long ago proved to be a mirage.

Zaire does not need another leader emerging from the chaos to become a tyrant. That is what Mobutu did. Zaire can do better.

This is a bipartisan resolution. It is the work of the members of the Subcommittee on Africa, who have been very interested in Zaire's political and humanitarian crisis, interested in making things better for the people of Zaire.

I want to thank the gentleman from New Jersey [Mr. MENENDEZ], the ranking member on the subcommittee, who has spoken forcefully on Zaire's crisis; and I want to thank the gentleman from New Jersey [Mr. PAYNE], who has long been engaged in Zaire; and I also want to thank the gentleman from New York, Chairman GILMAN, and the gentleman from Indiana [Mr. HAMILTON] of the Committee on International Relations for supporting this resolution.

As I say, this is a good resolution for Zaire and for the United States.

Mr. MENENDEZ. Mr. Speaker, reclaiming my time and continuing my reservation of objection, I am very pleased that we have been able to work together.

The gentleman from California [Mr. ROYCE] is the committee chair, and I want to commend my colleague for his work in this regard and the rapidity with which we have dealt with this issue because we think it is timely and it makes a difference now if we pursue it.

Also, I want to commend my colleague, the gentleman from New Jersey [Mr. PAYNE], who has for quite some time pursued the course of justice and democracy in Zaire and I understand is a cosponsor with the chairman on this resolution; and the gentleman from California [Mr. CAMPBELL], as well as the committee, for their hard work negotiating, compromising to make this happen.

What we do and what is being offered in this resolution is to send a strong message to our colleagues in Congress and the State Department but most importantly to the Mobutu regime by passing this collaborative resolution.

The Congress can play a unique role different than the role of the State Department in foreign policy by reflecting the beliefs and opinions of the American people.

In this resolution, I think we have done just that. The resolution is carefully drafted to address Zaire's real problem, and that is Mobutu.

□ 1815

The resolution states that Mobutu should resign from the office of president, leave Zaire and withdraw from all political activity. We are on the brink of a new era in Zaire. Rebel leader Kabila has launched a process long overdue, the transition from Mobutu to democracy. And while it is Kabila who has ushered in this process, we have got to be cautious not to anoint him or anyone else for that fact before they have proven their commitment to democracy, a free market economy, a commitment to holding elections in a reasonable time frame. And I know at the State Department is working very hard to communicate our expectations to Mr. Kabila, and they are also working behind the scenes to thwart an escalation of violence which could become potentially uncontrollable and destabilized, not just Zaire, but the fragile peace process in Angola.

It is important that the United States send a message to all parties in Zaire and to other countries in the region that the continued flow of arms into Zaire and the escalation of violence will undermine, not support the Nation's transition process. Years of pillaging Zaire's natural resources and its inattention to the development of its infrastructure, economy and support systems like education and health have left Zaire years behind where it might have been under qualified and well-intentioned leadership. But the Zairian people are resilient, it as a country has enormous tremendous potential, it has natural resources and its people to become politically and economically a strategic power within Africa and the world.

So, Mr. Speaker, as we send this message we think that it is extremely important for our colleagues to join with us sending a unified strong message and creating the opportunity for the United States to play a very significant role in creating a broad-based transitional government pledged to democracy ultimately holding democratic elections.

Mr. Speaker, under my reservation of objection I yield to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN of Virginia. Mr. Speaker, I rise in support of this resolution. It is long passed due, and it is entirely appropriate that this body pass such a resolution because Mobutu was able to stay in power. We established his power base, we sustained him in power for years, long past any time when he could allege to be a legitimate leader of his country. We did that because we assumed he was anticommunist. And so through our misguided ideological objectives, we established in power a leader whose sole objective was his own self-serving interest.

And so over the last quarter century what he has done is to extract the natural resources of his country, he has exploited its people, he has acquired immense wealth, he has used that wealth to spend most of his time in his European villas while the people of his country suffer.

Mr. Speaker, it is long past time when this country should have cut bait on this guy. I am extremely pleased that the people of Zaire have risen and are about to depose him. It is now time for the United States to play a constructive role in that transition. This resolution outlines that constructive role, and I strongly support it.

Mr. MENENDEZ. Mr. Speaker, under my continuing reservation of objection I yield to the distinguished gentleman from New Jersey [Mr. PAYNE], who has worked with the chairman in helping to draft this resolution that is being proposed.

Mr. PAYNE. Mr. Speaker, let me thank the chairman and ranking member of the Africa Subcommittee for their diligence and work on H.R. 115. This is by far the most important piece of legislation on Africa we have before us today.

This bill calls for Mobutu Sese Seko, the President of Zaire, to step down from his office immediately. The bill is symbolic in that it means this is the first step of getting rid of the colonial

dictators like the Abachas and the Mobutus that prevent true democracy. They have been an extension of the colonial rule in the past, and they must leave.

Before I came to Congress and for many years after that, I have been an outspoken critic of the corrupt military regime of Mobutu, so I believe it is timely that we do this in this session.

I introduced in the 102d Congress a resolution calling for the administration to draw on its power to have Mobutu resign and leave Zaire. Although it passed overwhelmingly, it did not move him out.

Mr. Speaker, we all know Mobutu imprisoned Patrice Lumumba in which, those years, he was captured and killed under the aid of our CIA surveillance. And 2 years later, the United States actively supported African allies during the cold war in which the CIA virtually helped bring Mobutu to power in 1965.

At this time, Kabila and Lumumba were fighting for the same cause. It was at the height of the cold war, and things today are very different. And so we should take a different look at what is going on.

I know it was U.S.'s policy of supporting UNITA and Jonas Savimba in Angola, the RENEMO forces in Mozambique, Ian Smith in Rhodesia, our policy of constructive engagement in South Africa, and Sergeant Doe following the brutal coup in Liberia in the 1980's.

Along with that, 75 years of colonial rule by Belgium, France's influence on a continent and one of the wealthiest countries in Africa will perhaps for the first time be able to have self-governance. Mobutu's army is notorious for depending on foreign troops and mercenaries to combat there and fight their fights. As my colleagues know, Serbian troops were there recently. Troops from UNITA have also been in the country.

Today 1.1 million refugees have returned to Rwanda, which has increased the stability in Uganda and Burundi. In the last 6 months the Alliance for Democratic Forces for the Liberation of the Congo-Zaire, the ADFL, have gained control over Kisangani, Zaire's third largest city, Mbuji, one of the other large cities, and Lumbumashi, the second largest city. We hope that Kinshasha will not have to be fought over and destroyed.

I am not pro-Kabila or anti-Kabila, but I think that the time is right, that we should see new leadership in that country.

And so I stand here with my colleagues saying that we should ask the United States to be engaged in the negotiations, to be engaged with our diplomats trying to help the Europeans move along, a removal of Mobutu and then move towards a transitional government so that elections could be held and so that we can move this country for the first time to have free, transparent and democratic society.

Once again I thank my colleagues for allowing me this time.

Mr. MENENDEZ. Mr. Speaker, under my continuing reservation of objection I yield to the gentleman from Ohio [Mr. CHABOT].

Mr. CHABOT. Mr. Speaker, I want to commend both the gentleman from New York [Mr. GILMAN] and the gentleman from California [Mr. ROYCE] as well as the Africa Subcommittee staff for the excellent job they have done in bringing this important and timely resolution to the floor. I also want to express a special appreciation to my colleague from New Jersey [Mr. PAYNE] and also the gentleman from New Jersey [Mr. MENENDEZ], both of whom have shown great leadership on this very important issue for years now.

The message we are sending to Zaire is straightforward. President Mobutu must resign from office immediately and leave the country. The transition from dictatorship to democracy can only begin after the dictator himself has gone. The continuing political chaos in Zaire can only exacerbate a very bad situation and could, sadly, lead to chaos in all of central Africa.

Witnesses testifying before our subcommittee maintain that, and I quote, a disintegration of Zaire could create a dangerous situation in that region that could take decades to fix. Mobutu's exit from Zaire will help to prevent that disintegration from taking place.

Mr. Speaker, the beleaguered people of Zaire have suffered for far too long under the autocratic and thoroughly corrupt rule of President Mobutu. They deserve a better life than they have under him at this time. They deserve freedom. This resolution expresses the sense of this House that the United States supports the creation in Zaire of the enabling environment necessary to conduct democratic multiparty elections as soon as humanly possible. It is a good resolution, and it sends a strong message to President Mobutu.

I urge adoption of the resolution.

Mr. MENENDEZ. Mr. Speaker, further reserving the right to object, as the ranking member I appreciate the work and the courtesies extended by the chair and other colleagues.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 115

Whereas Zairian President Mobutu Sese Seko's 31-year rule has turned his potentially prosperous country into one of the world's poorest, where human suffering long has been widespread;

Whereas the Mobutu Government has systematically violated the human rights and undermined the security of Zaire's 46,000,000 people;

Whereas the Mobutu Government has proven itself unwilling to allow a genuine transition to multi-party democracy and continues to cling to power against the best interests of Zaire's people;

Whereas the Mobutu Government permitted the circulation of extremist propaganda in the refugee camps that undermined voluntary repatriation efforts of the United Nations High Commission on Refugees;

Whereas the international community is concerned about the humanitarian needs of the hundreds of thousands of refugees and displaced Zairians;

Whereas there are continuing reports of human rights violations by all parties that stem from the continued fighting in Zaire;

Whereas representatives of the Zairian Government and the Alliance of Democratic Forces for the Liberation of Congo-Zaire (ADFL) negotiated in South Africa, under the supervision of the United Nations and the Organization of African Unity, with no cease-fire agreement; and

Whereas the objectives of the United States Government, achieving the cessation of hostilities and achieving political reforms in Zaire, continue to be stymied: Now, therefore, be it

Resolved, That—

(1) it is the sense of the House of Representatives that—

(A) President Mobutu Sese Seko of Zaire should immediately resign from the office of the Presidency of Zaire, leave Zaire, and withdraw from all political activity;

(B) the United States Government should unequivocally call on Mobutu Sese Seko to immediately leave Zaire and withdraw from all political activity;

(C) the United States should continue to distance itself and its foreign policy from President Mobutu and his government in order to hasten his departure from Zaire's government and political life;

(D) the United States should work with all interested African and European nations to oppose the presence in Zaire of foreign government and mercenary forces, halt the flow of arms into the country, and encourage the warring parties to negotiate a cease-fire leading to a lasting peace; and

(E) the United States Government should play a leading role in the international effort in supporting the creation of a broad-based transitional government of national unity composed of all democratic forces in Zaire; and

(2) the House of Representatives supports the creation in Zaire of the enabling environment necessary to conduct democratic, multi-party elections at the earliest feasible time, as well as the necessary conditions to establish the rule of law, respect for human rights, and the effective provision of humanitarian assistance.

AMENDMENT OFFERED BY MR. ROYCE

Mr. ROYCE. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROYCE:

Page 3, line 14, strike "and".

Page 3, after line 19, insert the following:

(F) the United States should actively pursue an immediate agreement among the various parties to permit the immediate and unhindered provision of humanitarian relief and the presence of international humanitarian workers to aid refugees and displaced persons in the Zaire; and

The SPEAKER pro tempore. The question is on the amendment offered

by the gentleman from California [Mr. ROYCE].

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

AMENDMENT TO THE PREAMBLE OFFERED BY MR. ROYCE

Mr. ROYCE. Mr. Speaker, I offer an amendment to the preamble.

The Clerk read as follows:

Amendment to the preamble offered by Mr. ROYCE:

After the fifth clause of the preamble, insert the following:

Whereas many thousands of Rwandans seeking to return home are now too ill to walk and scores succumb each day to cholera, malnutrition, malaria, dehydration, and other diseases while awaiting final agreements among parties to the conflict, the Government of Rwanda, and international humanitarian organizations, to permit the organization and implementation of a speedy air evacuation and the regular supply of urgently needed relief supplies and medical care;

Whereas in Zaire there have been numerous attempts to obstruct humanitarian relief to these populations at risk and to hinder relocation of civilians and the repatriation of refugees wishing to return home;

Mr. ROYCE (during the reading). Mr. Speaker, I ask unanimous consent that the amendment to the preamble be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The question is on the amendment to the preamble offered by the gentleman from California [Mr. ROYCE].

The amendment to the preamble was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROYCE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on the matter just considered.

The SPEAKER pro tempore. Is their objection to the request of the gentleman from California?

There was no objection.

ELECTION AS MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. PALLONE. Mr. Speaker, I offer a resolution (H. Res. 120) and I ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

HOUSE RESOLUTION 120

Resolved, That the following named Members be, and that they are hereby, elected to the following standing committees of the House of Representatives:

To the Committee on Transportation and Infrastructure: Tim Holden of Pennsylvania; Nick Lampson of Texas.

To the Committee on Science: Ellen Tauscher of California.

To the Committee on International Relations: James Davis of Florida.

To the Committee on National Security: Ciro Rodriguez of Texas.

To the Committee on Resources: Lloyd Doggett of Texas.

To the Committee on Government Reform and Oversight: Harold Ford of Tennessee.

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

EXTENDING ORDER OF THE HOUSE OF FEBRUARY 12, 1997 THROUGH APRIL 23, 1997

Mr. GOSS. Mr. Speaker, I ask unanimous consent that the order of the House of February 12, 1997, be extended through April 23, 1997.

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

There was no objection.

ADJOURNMENT TO MONDAY, APRIL 21, 1997

Mr. GOSS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 3 p.m. on Monday next.

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

There was no objection.

ADJOURNMENT FROM MONDAY, APRIL 21, 1997, TO WEDNESDAY, APRIL 23, 1997

Mr. GOSS. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, April 21, 1997, it adjourn to meet at 2 p.m. on Wednesday, April 23.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GOSS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

□ 1830

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. PEASE). 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.

TREMENDOUS STRIDES AT HUGHES DANBURY OPTICAL SYSTEMS, INC.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. MALONEY] is recognized for 5 minutes.

Mr. MALONEY of Connecticut. Mr. Speaker, I rise today with great admiration and gratitude for the tremendous strides that have been made in the last 4 decades by the people of Hughes Danbury Optical Systems, Inc. Hughes Optical is not only a long-time employer in Connecticut's Fifth District, they have made enormous contributions toward our Nation's pioneering efforts in space. Their technological leadership has resulted in advanced instruments that have enabled scientists around the world to probe the universe and gain a better understanding of our cosmological origins.

Most recently, Hughes developed and manufactured both the optical telescope assembly and the fine guidance sensors for NASA's Hubble space telescope. They have been a critical team member in the successful daily operations of this space observatory and the on-orbit servicing missions that will keep Hubble healthy and productive for years to come. In fact, one instrument, the first of Hubble's to be recycled, has been returned to Danbury this month for its 1-billion-mile maintenance work.

In operation for nearly 7 years and having orbited our globe over 37,000 times, this fine guidance sensor will be refurbished and upgraded by the skilled engineers and technicians at Hughes Danbury Optical. It will then be returned to Hubble in 1999 to carry out the final leg of the space telescope's planned 15-year mission.

In addition, we can confidently look forward to further achievements in science when NASA's advanced X-ray astrophysics facility, a companion observatory to the Hubble, is launched later this decade, also carrying optics manufactured by this dedicated group at Hughes Danbury Optical Systems.

I salute all of Hughes' talented and dedicated people for giving us the ability to confidently enter the new high-tech millennium ahead. Their cutting edge contributions have played an irreplaceable role in making our Nation the leader in both the discovery of our universe and in the development of our technological achievements.

GOVERNMENT SHUTDOWN SHOULD NEVER HAPPEN AGAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GEKAS] is recognized for 5 minutes.

Mr. GEKAS. Mr. Speaker, the budget negotiations, by some accounts, are not getting very close to agreement. This brings up again, and I say again advisedly, the prospect of a shutdown of Government. It is not too early to start thinking about that, even though we have not finished the month of April. But because of the nature of the budget process, it is something that can be in our futures, unfortunately.

Everybody knows by now that since 1989, for four or five Congresses since then, or whatever that number is, I have been proposing legislation that would prevent a Government shutdown, and it works on a simple formula: At the end of the budget period of September 30, for instance, if no new budget has been negotiated between the President and the Congress, then automatically, by way of instant replay, as I am fond to say, the next day, the dawn of the new fiscal year, would bring about last year's numbers for a period of time under a continuing resolution until a budget can be met. This means, upon passage of this type of legislation, we will never face a shutdown again. That was a horrible aspect of the last Congress when we had to explain to the American people how it was that the Government shut down.

I myself believe that the President failed in his responsibilities there, because if he had signed the appropriations in the first place, the shutdown would not have occurred. Others blame the Republican Congress for proposing measures that the President found necessary to veto. So, who is to blame? That blame game can be played all year long, and we would never get the business of the Congress accomplished. My legislation would ensure that no shutdown would occur.

Now, where are we? Here in 1997, we are approaching the period of time when we will be dealing with the supplemental appropriations. We have good information to the effect that on the Senate side, Senators MCCAIN and LOTT, HUTCHINSON, STEVENS, and others are pursuing the proposals that I have made over these years. In fact, I have conferred with them several times and have had press conferences with them. They are ready to insert into the supplemental appropriations a measure that is similar to mine.

This is good news, because it means eventually that the House will have to act on it. Meanwhile, our own appropriations process for the supplementals is on its way to fruition. We are going to see what we can do to add it to this side's complement of the budget process for supplemental appropriations.

In the meantime, we have received endorsement from several important citizen organizations. The most recent one was from the Concord Coalition which, in response to our proposal, sent us a letter saying, quote:

> Enactment now of this fall-back funding would remove the possibility that Government agencies would shut down later this year due to the inability of the Congress and the President to agree on spending. Your amendment tilts the process in favor of making these tough decisions and away from counterproductive and deficit-increasing political games.

That is an important endorsement that we received from the Concord Coalition.

The U.S. Chamber of Commerce commented in a letter to us:

> Your legislation's provision of temporary funding until Congress and the President come to an agreement means that the threat of closing portions of the Government could no longer be used by either side in an attempt to pass a budget. Negotiations over spending bills would then remain more focused on the legislation's merits, yielding a more rational and sound process.

So says the President of the U.S. Chamber of Commerce in a letter directly sent to us to endorse our legislation.

We have many, many different kinds of endorsements from citizens' groups, contractors' groups, Federal employees' groups, and others. The time has come to allow this process to become a part of our law. It is a shame to permit our Government to shut down at any time, not for 5 minutes.

I cite the most blatant example of why it should never happen. On the Columbus Day weekend of 1990, while we had amassed 500,000 of our young people in Saudi Arabia waiting for Desert Storm, our Government shut down. We should never let anything like that happen again.

TAX CODE SHOULD NOT PUNISH MARRIED COUPLES AND FAMILIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. MCINTOSH] is recognized for 5 minutes.

Mr. MCINTOSH. Mr. Speaker, today, on this Thursday of tax week, I would like to talk with my colleagues and the American people about one of the worst features in our Tax Code. It is the way in which the Government punishes families and punishes husbands and wives for deciding to be married.

Just a couple of weeks ago I received a letter from one of my constituents in Straughn, IN, Sharon Mallory and Darryl Pierce. Here is a portrait of them that they sent along with their letter.

Sharon writes to me, My boyfriend, Darryl Pierce, and I would very much like to get married, but we figured, if we get married, not only would I forfeit my $900 tax refund check, we would be writing a check to the IRS for $2,800. This amount was figured for us by an accountant at the local H&R Block in New Castle.

"Now," Sharon goes on to write, "this system is old and outdated, antiquated. I do not understand how the Government can ask such questions as single, married, dependents. Employers, bankers, realtors and creditors are forbidden by law to ask these questions. The same should apply to the Government."

The marriage penalty is clearly punishing Sharon and Darryl. They want to get married, and yet their accountant tells them the U.S. Government is going to tax them more when they do get married.

Oftentimes, we find that the Tax Code penalizes families with children as well.

One of the worst aspects of the marriage penalty is that it discriminates against women. If a woman has been married, started to raise a family and the children start to be old enough so that she can go back to work, she faces a marginal tax rate of over 50 percent. That means for every dollar she earns, 50 cents goes to the Government in taxes.

This is wrong, and we should not be punishing women who make that choice to go back to work.

Now, married couples are punished by the Tax Code with the marriage penalty, but when couples decide to get married and then have children, they are punished once again. According to the Center for Policy Analysis, the marriage penalty for a couple earning $20,000, that is not a lot of money, maybe about minimum wage for both people, they will be punished approximately $1,200, and they have two children.

Right now, the marriage penalty is about $180 for a couple. When they have children, it skyrockets to $1,265. Or, for example, the Center points out that a married couple earning $50,000 each is punished $1,300 for being married, but when they start to have children, that skyrockets to $1,500 per child. People ask me, does this really discourage families, does it discourage marriage?

Well, my wife, Ruthie and I met a couple the other week in Indianapolis. Both of them are doctors, and their accountant told them, you could save $6,000 if you file for a divorce and file your taxes separately.

This is wrong and we must end the marriage penalty in our Tax Code. It is wrong for Government to punish married couples in this country. It is wrong for them to punish families who have children.

Why should young people, when they decide to get married and start a family, face the prospect of the Government telling them, you are going to pay more in taxes because you are married? Just think what families could do with that money. Many families need it to pay the electric bill or buy food

for their children. $1,500 per children per year means that they could save about $30,000 when their children go to college.

We need to let these working families keep more of their money so that they can pay the bills, they can buy food for their children, and they can save for college.

Let me quote from Sharon and Darryl's letter. They closed it by saying, "Darryl and I would very much like to be married, and I must say, it broke our hearts when we found out we can't because the Government punishes us. We hope some day the Government will allow us to get married and not penalize us for it."

Sharon and Darryl are right. It is wrong for the Government to punish people who decide to get married. We must end the marriage penalty; we must pass a bill and send it to President Clinton that would eliminate that penalty, and when we do that, we will show that the Government is on the side of families, not working against them.

We will show that Government is not going to discriminate against women who go back into the work force, and we will show that Government is going to allow working families to keep more of their hard-earned income and decide how they want to spend it in raising their children, paying the bills, saving for the future, maybe giving them a chance to go to college.

I urge my colleagues to join me in passing the bill to repeal the marriage penalty in our Tax Code, not only for ourselves and all Americans, but especially for Sharon and Darryl, who fondly want to get married, to let them have their dream of having a family together.

STRAUGHN, IN,
February 17, 1997.

Hon. DAVID MCINTOSH,
Muncie, IN.

DEAR REPRESENTATIVE MCINTOSH: My boyfriend, Darryl Pierce, and I have been living together for quite some time. We would very much like to get married.

We both work at Ford Electronics in Connersville Indiana. We both make less than $10.00 an hour; however, we do work overtime whenever it is available. Also Darryl does some farming on the side.

I can't tell you how disgusted we both are over this tax issue. If we get married not only would I forfeit my $900.00 refund check, we would be writing a check to the IRS for $2,800.00. This amount was figured for us by an accountant at the local H&R Block office in New Castle.

Now there is nothing right about this. After we continually hear the government preach to us about "family values."

Nothing new about the hypocrites in Washington. Why don't we do away with the current tax system? It is old and outdated. Antiquated. The flat tax is the most sensible method to use and no one is being penalized. Everyone would be treated the same.

I don't understand how the government can ask such questions as: single? married? dependents? Employers, bankers, realators, and creditors are forbidden by law to ask these questions. The same should apply to the government.

Darryl and I would very much like to be married and I must say it broke our hearts when we found out we can't afford it.

We hope someday the government will allow us to get married by not penalizing us.

Yours Very Truly,

SHARON MALLORY.
DARRYL PIERCE.

□ 1845

IT IS CALLED ACCOUNTABILITY

The SPEAKER pro tempore (Mr. PEASE). Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, in the early morning of April 9, a large group of United States-trained Haitian National Police forcefully entered and illegally searched the family home of a longtime employee of the International Republican Institute, which is an adjunct of the National Endowment for Democracy, which is of great interest to this institution.

The contents of the home, which were owned by the employee's aunt, who happens to be an American citizen, were destroyed and photographs of the employee and his family were confiscated. We have received confirmation from the United States Embassy officials that the Haitian National Police have taken responsibility for the action, and they have claimed that they were thinking that there was a gang operating out of the home. It is worth noting that they failed, regardless of the merit or lack in the claim about the gang. It is worth noting that they never gained proper authorization to take such an action or stage such a raid.

More troubling still is that this raid comes after an already-harrowing series of specific threats against this employee's family in the lead-up to the latest round of elections some 10 days ago, threats that many believe can be directly linked to the employee's work for the IRI. And those of us who have followed Haiti very closely will recall that this pattern mirrors that which preceded the forced departure of Haitian Chamber of Deputy member Dooley Brutus.

We must ask the administration if in fact the Clinton administration has lost control of the program in Haiti to the degree that we are now supporting blatant human rights violations with United States taxpayers' dollars. In fact, tensions in Haiti have been running so high in recent weeks for IRI that it has had to close its office and move its operations to a new, safe site where security can be provided more effectively. This does not sound like a democracy to me.

Mr. Speaker, an attack of this sort is inexcusable in a democracy, even a fledgling democracy. We cannot tolerate this. Not only is the victimization of an American citizen inappropriate, to put it mildly, but the attack on an individual working to further the development of democracy in Haiti is deeply troubling. The fact that the same type of raid was carried out on the same night, in the same neighborhood, in the home of a prominent business family suggests that these types of raids are not all that uncommon. Sadly, that seems to be so.

Rest assured that we will be looking to the United States Embassy, the Haitian Government, and Colin Granderson's civilian mission for a thorough report on this incident.

We also expect the administration to place a priority on ensuring that this assault against an American citizen and property is thoroughly investigated by the Government of Haiti. We know from our experience with the Gonzalez and Bertin cases that the investigation stage is generally where the Haitian judicial system breaks down totally.

The involvement of United States-trained Haitian National Police also means that there are questions to be answered about the apparent lack of progress on the rule of law in Haiti after so great a commitment of United States personnel and tax dollars. One certainly must ask if the wanton destruction of property was included as part of the training we provided with U.S. tax dollars. I hope that is not so.

How many American or Haitian citizens have to be traumatized in this way before the Clinton administration will be willing to take off the rose-colored glasses and give us an honest assessment of the situation in Haiti? It appears that it is quite a sad saga.

If we have a serious problem in Haiti, a problem directly linked to United States tax dollars, let us acknowledge it and get on with the process of fixing it. That is called accountability and the American people expect nothing less, even though we have been getting less for some time from the Clinton administration when we seek candor on the subject of Haiti.

EARTH DAY

The SPEAKER pro tempore. 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, I would like to address the House tonight on the subject of Earth Day. Since the House is going out of session this evening and will not be returning because of the Passover holidays until Wednesday for any legislative action, this is the only opportunity before Earth Day, which is next Tuesday, April 22, to talk about the significance

of that occasion, not only to Congress but to the American people.

Next Tuesday, April 22, is in fact Earth Day. I believe it is the 26th Earth Day. Earth Day has always been a day to celebrate the environment and our natural heritage. It has also served to raise people's awareness about the quality of their environment and the importance of environmental protection and responsible living.

In more recent years, however, Earth Day has become a time for people to grandstand on the environment, particularly politicians, and although it is very popular, it is not always easy to be green. We cannot simply feign interest, particularly politicians, in environmental quality, we actually have to do something about it here in the Congress.

Even though the quality of the environment has substantially improved over the last 20 years, the environment is still high on people's lists. If you do poll or talk to your constituents, they always tell you they are very concerned about the environment. That is because, in my opinion, they understand the connection between the environment and public health.

People want their representatives in Washington to be working to protect their families from environmental health hazards, and people want us to help them protect themselves by providing them with the information that they need to formulate their own decisions about the environment.

Finally, people also want to know that their children and their grandchildren will be able to enjoy the same outdoor experiences that they had the opportunity to experience. This also happens to be the Week of the Young Child, and I do not think it is any surprise, if you will, that Earth Day follows on that, because I think in many ways one of the major reasons why adults are concerned about the environment is because they worry about their children and their grandchildren and their future here on this planet.

Mr. Speaker, I have to say, though, that in the last Congress, the Republican majority really launched a relentless attack on the basic environmental protections that ensure the safety of the water that our children drink and the air that they breathe.

In fact, the Earth Day founder, Gaylord Nelson, declared that the 104th Congress had the worst environmental record in history. I think that is very fair to say. Republicans basically showed their antienvironmental hand in the last Congress, but I think that what they found out is that as the election in November 1996 approached, that bashing the environment really was not a very good thing to do politically, and so all of a sudden we saw less bashing of the environment, and I think this year we are not seeing it much at all.

I think there is fear, really, on the part of the majority of further reprisals from the voters if they try to weaken environmental legislation, and so essentially the Republican leadership is trying to avoid openly bashing the environment this year. But as the Los Angeles Times observed on April 7, and I quote, "Their language masks a reality. Behind these gentler words, the Republican majority is still working hard to relax or abolish many environmental regulations."

Just to give the Members an idea in terms of the antienvironmental battle this year, the House Republican whip, the gentleman from Texas [Mr. DELAY], who last year said he did not believe that acid rain or global warming existed, this year told the House committee that drinking mouthwash or milk is more likely to give you cancer than air pollution is to be damaging to a person's health.

Mr. Speaker, fortunately we see the gentleman from Texas [Mr. DELAY] making these comments because he is at least openly expressing some of his antienvironmental views, but we do not see as much of it on the floor, and I think what we are seeing is that the effort to weaken environmental laws in many ways is now taking place in the back rooms, or as part of some action that may come later in committee.

Democrats, however, still feel it is very important to move ahead with a proenvironmental agenda, and Democrats will continue to put forward environmental initiatives this year, and will press the Republican majority for action on these bills. I think that we can often get Republican Members to join us, even if the leadership does not necessarily support us with this proenvironmental agenda.

Today, in anticipation of Earth Day next Tuesday, leading House Democrats announced a 5-point environmental challenge to the Republican majority. We issued a special report detailing that challenge. Democrats are basically challenging the Republicans to enact legislation to protect the health and safety of American children and put the Republicans essentially on notice that Democrats will oppose any attempts to roll back environmental protections.

I just wanted to describe, if I could, for a brief time during this hour these five legislative challenges that the Democrats put forward today. The first, and I think a very important one, is the challenge to enact the Defense of the Environment Act by July 4. The Defense of the Environment Act basically allows for a separate debate and vote on any legislative provision that would weaken environmental protection.

Some may say, why do you need something like that? Well, there are a lot of reasons for that. Congress needs to act, I think, as a steward of the Nation's environment and natural resources. We owe that to our children and grandchildren. A critical step we can take for them is to ensure that there is full and open debate on any provisions that would weaken the protection of the environment.

The Defense of the Environment Act will put a spotlight on backroom attempts to weaken our environmental laws. This was a bill that was introduced by the gentleman from California [Mr. MILLER], the gentleman from California [Mr. WAXMAN] and the gentleman from Missouri [Mr. GEPHARDT].

Basically what it does is allows for a separate debate and vote on these legislative provisions. Mr. Speaker, again, we might say why is that necessary? Well, to be honest, it is necessary because of what we saw happen in the last Congress with the Republicans in the majority.

In early 1995, Congress adopted procedural steps that ensured that unfunded mandates and tax increases cannot be enacted unless specifically considered and approved by the House. The Defense of the Environment Act simply extends this protection to provisions that weaken environmental protection.

The need is clear. When Republicans took control in 1995, they compiled the worst environmental record in history. What we essentially saw was an effort to do this weakening of environmental legislation either in committee or on the floor, but articulating a position that was totally to the contrary.

So what we are saying with the Defense of the Environment Act is that we do not want to let the industry lobbyists rewrite legislation; we do not want, with regard, for example, to toxic waste, to let Republicans turn polluter pays into pay the polluter. We want to be able to bring these provisions, these weakening provisions, to the floor for a separate vote whenever possible, when legislation comes up that might impact the environment.

The second challenge that the Democrats, again, are making to our Republican colleagues is that the Republicans drop the attack on the basic protections of the Clean Air Act. Specifically, Republicans need to abandon their version of regulatory reform that would undermine the fundamental principles of the Clean Air Act, including health-based standards.

I have to say that I believe that the Clean Air Act has been a tremendous success. Nothing, really, has been more important in protecting the health of American children than both the clean air act that was initially enacted in 1970 and the Clean Air Amendments of 1990. If we look at these two and we look at the statistics, they show that the air our children breathe is dramatically cleaner as a result of these two measures.

The EPA recently put out a report entitled "The Benefits and Costs of the

Clean Air Act, 1970 to 1990.'' That just documents some figures that I think are really important; first, that in that 20-year period airborne lead emissions were reduced by 99 percent, carbon monoxide emissions were reduced by 50 percent, and sulfur dioxide emissions were reduced by 40 percent.

If we look specifically at the Clean Air Act amendments of 1990, just to give some of the results of that, over 50 percent of the cities that did not meet the air quality standard for urban smog in 1990 now meet that standard. Over 75 percent of the cities that did not meet the air quality standard for carbon monoxide in 1990 now meet the standard.

So clearly we have had success. But the Republican regulatory reform bills would roll back basic clean air protections. During the last Congress, House Republicans used these regulatory reform bills to make backdoor attacks on America's most important environmental laws, but most important, the Clean Air Act.

One such GOP proposal was their risk assessment bill, H.R. 1022, a key part of the Republican Contract With America. This passed on February 28, 1995. The risk assessment bill had a supermandate that supplemented all the public health standards of existing environmental laws, requiring, in effect, that the EPA design all standards to minimize the compliance costs for polluters first.

The bill would have undercut the Clean Air Act standards that are now set solely in the best interests of protecting public health. The EPA would have been compelled to select the cheapest pollution reduction option, rather than the most effective option for protecting America's children at a time when childhood asthma rates are rising very sharply.

The GOP bill would also have added additional roadblocks by dramatically expanding the cost-benefit analyses needed to justify new public health standards and giving polluters broad new rights to sue the EPA to block improvements in clean air rules.

This Republican risk assessment bill would also have allowed parties with a financial interest in weakening clean air requirements to sit on mandatory peer review groups that would assess EPA's proposed air standards.

□ 1900

Fortunately, the House and the Senate GOP regulatory reform bills did not get to conference and therefore died at the end of the Congress, but we expect that they will come up again in some form and we are saying today, do not do it. We are tired of these, the use of these regulatory reform bills as a method of trying to weaken the Clean Air Act and other environmental legislation.

Our third challenge in our report, our third challenge to the Republicans, is to pass the brownfields initiative by July 4. This is linked to the cleanup of hazardous waste material primarily in urban areas but also in suburban areas, old industrial sites, hence the term ''brownfield.''

Again, it is linked to children and children's health needs. Kids need cleaner cities. They need a strong economy. Democrats have been offering to work with Republicans to promptly move the brownfields legislation, but so far Republicans have refused. They have been saying and insisting on a broader Superfund bill or Superfund reauthorization that would transfer cleanup costs from polluters to taxpayers. And each day of delay, again, on the brownfields measure basically denies funding for another cleanup.

Currently there are about, there are actually several million children who live within 5 miles of these polluted sites, the so-called brownfields. If you clean up the sites, they can be replaced with different kind of businesses or commercial activities that actually would create jobs in the cities.

Just a little discussion, if I could, about what the brownfields initiative does. It basically provides for the establishment of a new partnership of the Federal Government with States and local governments and the private sector to undertake cleanups.

Two broad purposes: One is to significantly increase the pace of cleanup at the sites by promoting and encouraging the creation, development, and enhancement of State voluntary cleanup programs; and second, to benefit the public health, welfare, and the environment by cleaning up and returning these sites to economically productive or other beneficiary uses.

Essentially, what we are doing is trying to recognize the key role that States have played in cleanup and will continue to play in identifying, assessing and cleaning up brownfields. A lot of people think that the Superfund Program, which is the Federal program for the cleanup of hazardous waste sites, covers all the sites.

Actually, it only covers, I think, certainly less than 50 percent. In my home State of New Jersey, we have about 6,000 hazardous waste sites but we only have less than 150 Superfund sites. So you can see it is only a very small portion of the number of hazardous waste sites.

So to the extent that the Federal Government can expand the Superfund program to provide for more cleanup of sites that are not on the national priority or Superfund list, it actually would help significantly in the State efforts, in the overall effort to clean up a lot of these toxic waste sites.

Under the Democrats brownfields bill, the EPA would give flexibility to the States so that they can get the job done. The bill calls for specific funding for State grants, $15 million per year for 5 years to develop and enhance State clean-up programs.

It also contains $45 million per year for 3 years to local governments to inventory and cleanup brownfields where local officials, developers and purchasers and citizens believe that these redeveloped sites have the most chance of creating new jobs and new opportunities.

A lot of my colleagues on the Republican side have expressed support for the brownfields initiative. It has broad bipartisan support. However, what is happening is that the Republican leadership is insisting that the brownfields initiative be tied to much more controversial legislation; that is, the GOP version of Superfund reform.

And, of course, we cannot support that because essentially it is like the Superfund bill that the Republicans tried to push through in the last Congress that would weaken the Superfund law, that would allow cleanup to be temporary rather than permanent, that would cap the number of sites that can be put on the Superfund list, that would essentially rather than requiring those who caused the pollution, the toxic waste, to bear most of the cost of the cleanup, would in fact put most of the cost of the cleanup on the Federal Government and essentially let a lot of polluters get off.

So what we are really calling upon the GOP leadership is to say, look, pass the brownfields initiative that can expand the Superfund Program in a very effective way by giving money back to States, which is something that many Republicans say is part of their ideology, but at the same time let us get that bill passed. That would be a very proenvironment bill that would help a lot with toxic waste cleanup. Do not link it to this overall effort to weaken the Superfund Program, because all that means is that nothing is going to pass and nothing progressive to move on an environmental agenda will occur here in the Congress.

The fourth challenge that Democrats are making again to the Republicans for Earth Day this year is to increase funding for national parks and to reform unjustified natural resource subsidies. Right now we know that, I should say that we know that beginning with President Teddy Roosevelt, who was a Republican, preserving our natural resources has been a bipartisan enterprise. But unfortunately that was not the case in the last Congress.

We need a bipartisan effort in this 105th Congress in the tradition of someone like Teddy Roosevelt. With regard to the need for funding for national parks, the inadequate funding for national parks is highlighted by a statistic, if I could just quote, that says in constant dollars the total National Park Service's appropriation has declined by more than $200 million between fiscal year 1983 and fiscal year 1997.

In the 104th Congress, the last Congress, the Republicans constantly voted to cut the funding for the National Park Service many times. I do not want to get into all the details but there were actually park shutdowns, the Republicans actually shut down and closed every park for the first time since the National Park Service was created in 1916. At that time, when the Government was shut down because of certain actions that were taken here, we actually had about 725,000 visitors that were turned away at the park gates.

There are also a number of tax subsidies, if you will, unjustified subsidies to natural resource companies that also need to be addressed in this Congress. Part of our challenge with regard to natural resources also affects these subsidies. The most egregious example of the need for reform is with regard to an 1872 mining law. Many people are familiar with this but not everyone. It is an anachronism, basically, from the 19th century that allows the mining of gold, silver, and other valuable minerals on public lands without payments of royalties to the Treasury.

The 1997 annual report of the Council of Economic Advisors points out that between May 1994 and September 1996, the Interior Department was forced, by this 1872 mining law, to give away over $15.3 billion worth of minerals in return for which the taxpayers received only $19,190. This is probably the most egregious example of a government subsidy. Imagine, $15.3 billion in revenue lost, and we received only $19,190.

I could go on with some of the other subsidies, but there are a number of natural resources subsidies that are just totally unjustified and need to be reformed and should be addressed as part of this environmental challenge.

The last Democratic challenge to our Republican colleagues is, some may say that is not very significant, but I think it is, because one of the things that is so important is that Congress set an example and apply the laws that it passes to itself.

We actually have a rule or provision that was passed in the last Congress that says that you have to do that. But it is, nonetheless not always followed in practice, even if it is theoretically the law.

So our fifth challenge refers to the House of Representatives recycling program. We are calling upon the Republicans to repair the House of Representatives recycling program. We know millions of kids carefully recycle their glass bottles and paper but not the Congress. If you talk to your children or your grandchildren, you know that most of them are very concerned about recycling. It is the way for an individual to interact and get involved in environmental protection. So all the kids around the country or certainly a good portion of them are out there recycling their glass bottles and paper but not the Congress. SAM GEJDENSON, a Democratic Congressman from Connecticut, has introduced a resolution that will ensure that Congress plays by the same rules that our kids do with regard to recycling.

Specifically, he has introduced a resolution that provides for a mandatory recycling program in the House of Representatives. And we challenge the Republican Congress to adopt this resolution over the next few months and get the House back on the right track on recycling.

Just to give you some example of how recycling has declined under the Gingrich Congress, I think it is very important that we set an example. Under the leadership of the Speaker, it has declined.

I just want to give you some statistics, because I really think it is interesting. Since the Republicans took over, the percentage of House offices participating in recycling programs has declined, dropped from 90 percent in the 103d Congress to about 50 to 60 percent in the 105th Congress.

With regard to bottles, since the Republicans took over, the tonnage of bottles that are recycled has fallen by 83 percent. Specifically, the tonnage of recycled bottles has fallen from 109.76 tons in 1994 to 18.15 tons in 1996.

Let me give you some statistics with regard to recycled cans. Since the Republicans took over, the tonnage of recycled cans has fallen by 74 percent. Specifically, the tonnage of recycled cans has fallen from 10.76 tons in 1994, to 2.83 tons in 1996.

Now, specifically, what Congressman GEJDENSON's resolution does is mandatory implementation. It provides in the resolution that each Member and each employing authority of the House of Representatives shall participate in the office waste recycling program. The Architect of the Capitol has to ensure that all employees of the House of Representatives whose responsibilities include custodial duties are adequately trained in the implementation of the office waste recycling program. The Architect of the Capitol shall require any contractor under a contract with the House of Representatives for carrying out the office waste recycling program has to ensure that all personnel are adequately trained in the implementation of the program. And finally the architect has to submit semiannually to the Committee on House Oversight a progress report on compliance with the office waste recycling program.

Again, I think this is important. Democrats are calling upon the Republicans to adopt this resolution and work with us to turn the House into a model for recycling for the country, rather than an embarrassment, which I think in many cases we have become with regard to this recycling program.

Again, before I conclude, I just want to say that I think that we need to all join together on this anniversary of Earth Day. And I am pleased with the fact that at least on the floor so far this session, we have not seen any overt efforts to turn back the clock on environmental protection, but I believe very strongly that there is certainly momentum out there on the Republican side with the Republican leadership to start moving towards some of the same measures last year with regard to the Clean Water Act, with regard to the Superfund program, with regard to the Endangered Species Act that would seek to bring up legislation that would weaken some of these very important environmental provisions. And rather than even have the status quo, I think we need to move forward on progressive legislation such as some of the things that I mentioned as part of this Democratic 5 point challenge.

The bottom line is that although the environment has been significantly cleaned up, there is still a lot that needs to be done. The health and safety of our children and our grandchildren depend upon our taking action in a positive way towards cleaning up the environment and setting an example, if you will, for the House of Representatives in that regard.

I wanted to talk a little bit more, if I could, about the brownfields program, because I think that that is something that right now we could move on a bipartisan basis and that there is essentially a consensus to get it accomplished.

Just to give you a little more information about the brownfields program, essentially what it consists of, it is called the Community Revitalization and Brownfield Cleanup Act of 1997. And I think I mentioned before the specific amounts of money that are dedicated, both for inventory, doing an inventory of sites that would be potential cleanup sites for this program and also the amount of money that the Federal Government would provide.

But it also allows a State to request the EPA to make a determination that the State's program is a qualified program, if it provides, one, for response actions that are protective of human health and the environment; two, opportunities for technical assistance; three, meaningful opportunities for public participation. And let me stress that. One of the best aspects of the Superfund program now has been community involvement.

I know that in my own district in New Jersey, the sixth district of New Jersey that I represent, many of the local community organizations, citizens action organizations, if you will, have become directly involved in proposing cleanup and the way to go about cleaning up a Superfund site.

□ 1915

So we are asking that the same thing be done with the Brownfields Program,

that basically the community be involved in the decisions about how to go about the cleanup.

That is really a very important part of any environmental initiative. Anything that we pass in Congress should contain a community involvement program, a citizen action program, because that basically gets the initiative from the grassroots and at the same time teaches local citizens, if you will, about how they can become involved in environmental protection.

I think that is a very important aspect of Earth Day, and part of the lesson of Earth Day is getting people involved on an individual basis as well as on a community basis. But ultimately we in Congress have to make the decisions, we have to move forward on a positive environmental agenda and hopefully this Earth Day next Tuesday will be our opportunity to launch that and to get our Republican colleagues involved as well in a bipartisan way.

Mr. Speaker, I yield back the balance of my time.

CHILD LABOR AND THE CRUSADE OF IQBAL MASIH

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Virginia [Mr. MORAN] is recognized for the balance of the time as the designee of the minority leader.

EARTH DAY

Mr. MORAN of Virginia. Mr. Speaker, I thank the gentleman from New Jersey for raising these very important issues to recognize the importance of Earth Day.

It behooves the Congress to look back at history before there was an environmental sensitivity. We had a lake in Ohio that actually caught on fire. We had air that was not fit to breathe. We have created greenhouse gas emissions that have led to a global warming that one day will inundate several very populous islands. The Seychelles, for example, inevitably will go below sea level because of the greenhouse gas emissions that have resulted in the warming of our entire planet.

The ozone layer has been depleted because of chlorofluorocarbons carbons. We have an area the size of North America in the Antarctic, and while it may not concern people that penguins are not able to reproduce like they were, the fact is that it is a warning to all of us the effects of ignoring our environment.

In this country, we find that children's cancer is the second leading cause of death among children, and we know that 80 percent of the cause is environmentally related, 90 percent worldwide. It is because of pesticides in foods that children eat. It is because of the toxic chemicals that we put in our ground and on our grass that children play on and touch and get into their skin. It is because of the particles that they breathe. It is because of some of the water that they drink.

And so, as a result, we have despoiled this planet in many ways. And it certainly behooves us not to look back at what we have accomplished, but to look even more forward.

There are a lot of things that need to be done. For one thing, we ought to be measuring the toxicity level of environmental risks as they would effect children, not fully grown adults.

And so we have a lot to do, and I know that the gentleman from New Jersey will be in the lead in accomplishing those objectives. Hopefully, it will be sooner rather than later. Hopefully, not too late.

But Mr. Speaker, I would like to raise another equally compelling issue. It is an international issue, but it is one that has immediate effects upon our own population and our responsible role in the world. And so I would like to go down to the podium and address the House from there.

Mr. Speaker, what I would like to speak about is child labor, the exploitation of children for profit. This week is the 2-year anniversary of the death of a real leader in the crusade against child labor. He was murdered because of that crusade. His name is Iqbal Masih.

Let me begin by telling you a little bit about the life of Iqbal Masih and how he became a crusader against child labor. Iqbal grew up Muritke, Pakistan. Iqbal's family lived in poverty, as do millions of other families in Pakistan.

Clearly it was very difficult for Iqbal's parents to scrape together enough to feed their children. By the time Iqbal was 4, his older brother was ready to marry. It should have been a time of great celebration.

Perhaps if by accident of birth Iqbal were born into a different family, one in the United States or a country as prosperous as ours, with the kind of employment opportunities that we afford, perhaps your family or mine, then Iqbal would have taken part in the ceremony and celebrated the marriage of his brother.

But Iqbal was not born into such a family. Iqbal did not get to take part in his brother's wedding. His family could not afford the wedding. They needed $12 to properly wed their son, and they did not have it.

So how did Iqbal's family pay for the wedding? Did Iqbal's father look for more work? Did they try to find a cheaper way to finance the wedding? No. Instead they took out a loan for the $12. But they did not have a house to put a second mortgage on. They did not have a pension plan to borrow against.

So they used their son Iqbal. They traded Iqbal to the moneylender as collateral on a $12 loan. The moneylender was not a banker merely looking for insurance on his loan. In fact, Iqbal's parents were never expected to pay the loan. Iqbal was expected to pay off the loan.

But how does a 4-year-old pay off his parents' debts? Well, he is forced to work. Iqbal had become a bonded laborer. Bonded labor is one step removed from child slavery.

The moneylender, now Iqbal's master, could trade or sell Iqbal to others. He exercised complete control over Iqbal. Because Iqbal's small fingers were nimble, he was forced to tie knots in handmade carpets.

Carpet manufacturers prefer to get children when they are young. As one manufacturer said, their hands are nimbler and their eyes are better, too. They are faster when they are small. They are also easier to control.

Because the carpet manufacturer controls what or even if these children eat, he can easily control them. Some manufacturers are not so subtle. Many of them chain the children to their looms. They must eat, work, and sleep tied to their loom.

At 4 years old, all these children know of the world is their village. They probably do not even know the name of their village. They are often taken hundreds of miles away. Even if they were lucky enough to escape, they would not know where to go. And even if they knew where to go, corrupt government officials merely return them to their masters.

So how do you escape from bonded labor? Iqbal was told he could escape if he raised enough money to pay off his parents' $12 loan. The carpet manufacturer said he would deduct Iqbal's salary from the amount Iqbal's parents owed.

The carpet manufacturer also added any of Iqbal's expenses to the amount his parents owed. These expenses included room and board. Iqbal had to pay for the privilege of sleeping chained to a loom and fines for any mistakes that 4-year-old boy made. The carpet manufacturer also charged interest on the loan.

Within a few years, Iqbal's $12 debt had increased 2,100 percent. Iqbal tied tiny knots for as much as 20 hours a day. He usually worked 6 days a week, and frequently all 7 days of the week he would work. He was beaten when he made any mistakes.

Iqbal worked for 6 years as a bonded laborer until he was freed with the help of the Bonded Labor Liberation Front, a human rights group. Iqbal was only 10 when he escaped. He then traveled around the world speaking out about the horrors that he and millions of other children experienced. His efforts focused international attention on the problem of child labor.

Because of his efforts on behalf of other child laborers, Iqbal won the Reebok Human Rights Award in 1994.

Although a hero to other children, Iqbal made many enemies. Carpet manufacturers had to pay bigger bribes to continue business as usual. They were losing money.

Iqbal returned to his home village of Muritke, Pakistan in April 1995. On Easter Sunday, 2 years ago yesterday, Iqbal was riding his bicycle with two friends when he was shot and killed. Iqbal was 12 years old, 12 years old.

Mr. Speaker, the International Labor Organization estimates that worldwide there are as many as 200 million children working in Africa, one quarter of all the children are working; in Asia, 18 percent; Latin America, 7 percent. Child labor takes many forms. The worst is bonded labor and indentured servitude like Iqbal Masih endured.

Children also work in more traditional manufacturing centers, such as factories. Some children are minors. Some work on fishing rigs in the ocean. Some work on the streets shining shoes or selling their bodies. They work as glassblowers and as carpenters. They sort hazardous recyclables, like broken batteries soaked in acid and used hospital syringes dirty with blood.

Children have little resistance to adults that seek to exploit them. Unfortunately, almost invariably, children wind up at the bottom of all national agendas for political and social action.

I want people to focus on this picture. It is of a little girl at a shoe shine stand in Ecuador. She is less than 4 years old. She represents the millions of children who work on the streets of the world cities.

The cycle begins when a farm family moves to the city in search of work. They soon find that the city is not what they expected. They lack the skills necessary for a good job and find city life far more expensive than they had planned on.

The family's mother may find work as a maid, but typically the father turns to alcohol or leaves the family. If children are surrounded by models of chronic inactivity and frustration at home, they may even be attracted to the excitement of the street.

Children are sent onto streets to work or beg. While seeking work, they are easy prey. They are given a job like this girl shining shoes. They must turn over all the money they receive to an older child who then gives them a small portion as salary.

The older child is equivalent to a pimp raking in profits by exploiting a small army of children. Frequently, though, the older child is in a similar relationship with even older children who may control large groups of these child pimps. Those that are beggars may be maimed to make them look more miserable and helpless than other beggars.

As the children grow older, they may realize they can make more money by theft or by exploiting children younger than themselves.

Street life cannot be easy for anyone, especially a 4-year-old girl. Tragically, when these children need to be thrown a life preserver, they often turn to drugs. The common drug for them today is glue. When they are hungry or very cold, they sniff glue to kill the pain. After sniffing glue the children stagger. They slur their speech, and their eyes swell and turn red. Soon they have irreversible brain damage.

While these tragic lives may sound parallel to life on our own city streets, there is an important distinction: The role of corrupt government officials.

In Brazil, one counselor said if a boy does not have enough money to give a cop, he may beat him. With the proper payoff a kid can keep out of the reform inventory or he can keep his place on the park bench for another night.

I would like to show the next picture, which is of a boy in Aligarth, India. It is a town in the Providence of Uttar Pradesh on the border of Nepal. This picture was presented to the Committee on International Relations last year by a constituent of mine Ms. Francoise Remington, director of a nonprofit group called Forgotten Children.

Uttar Pradesh is known for its production of brass and other metal products. This boy is making tiny padlocks. The average pay for children in the metal industry is $6 a month. The children work 60-hour work weeks. The children are recruited by middle men called dalals, who are paid by the thekedar, or contractor, who prefers children because they are so easy to control.

Although most metal factories claim to be family businesses to skirt India's scant child labor regulations, there are virtually no incidences of actual family metal shops in this part of India.

These children remove molten metal from molds near furnaces. These children work with furnaces at temperatures of 2,000 degrees. Burns are a constant danger. Children also work at electroplating, polishing, and applying chemicals to metal. This child is polishing padlocks on a small grindstone. Fumes and metal dust are constantly inhaled by these children, causing tuberculosis and respiratory illnesses.

Child labor in India is still the norm rather than the exception. There are about 250 million children in India. Estimates of the amount of children working in India ranges from 44 to 100 million. The Indian Government admits to at least 17 million.

□ 1930

The next picture is of Silgi. She is sewing soccer balls.

Nearby Pakistan, nearby to India, has similar problems with child labor.

Mr. Speaker, you may remember this picture from Life magazine last June. This is a picture of 3-year-old Silgi. She sits on a mud floor, in a filthy dress, stitching soccer balls bound for Los Angeles—Los Angeles, this country for which we pay large sums of money of which she gets a pittance. With needles longer than her fingers her stitching is adequate, but her hands are so small that she cannot handle scissors. She must get assistance from a fellow employee, her sister. Silgi lives in Sialkot, a city of 300,000 that produces 35 million soccer balls per year, 80 percent of the world's supply.

Mr. Speaker, children like Silgi can sew up to 80 hours each week, 80 hours a week in silence and near total darkness. Their foreman says darkness discourages photographers who may wish to expose their trade. They are punished if they fall asleep or if they waste materials or miscut patterns. They are also punished if they complain to their parents or speak to any strangers outside the factory. These children may be punished in a small room in the back of the factory. They may be hung upside-down by their knees or they may be contained. Frequently they are starved.

Let me show the last picture. This is of a girl bashing rocks. You could find pictures like any of these, scenes like any of these children that are pictured here today in any of these countries that we refer to.

Sometimes the entire family is working in bondage, perhaps to pay the debt of a diseased relative. Children are required to work alongside their parents to maximize production. They work up to 14 hours a day carrying rocks or breaking them into pieces. This young girl is doing just that. She lives in an area where gravel is scarce. In order to make cement, rocks must be broken down to small stones, and many rural areas' traditional class or caste systems perpetuate bonded labor.

Pledging one's labor and that of his children may be the only resource a family has and may be all they can pledge as security for a loan. Unfortunately, the same family may be uneducated and illiterate. It is easy prey to the money lender who may charge outrageous interest rates, and in those cases in which the labor of the family is pledged, debts are passed from parent to child often for generations upon generations.

Mr. Speaker, a surprising number of children are minors. The hazards they face are enormous. In the jungles of southeastern Peru, children work mining gold. In 1991, common graves of child workers—these are mass graves of child workers—were uncovered. The corpses reveal that these children died from disease and from work-related injuries.

Mr. Speaker, let me just speak briefly as to what the United States can do about this. First thing we need to know is that it exists, to spread the word so

that we can become mobilized. There are many Members of Congress who have introduced legislation to combat these horrors, and just this week the Clinton administration announced a new voluntary code of conduct and labeling program. We need to gather it, this information, because in developing a solution to the problem of child labor we need to know the scope of the problem, the sources of the problem and what it is that we can do in the most cost-effective and efficient manner to change this situation.

Because many governments are in denial over the scope of child exploitation in their country, the international labor organization has made progress working with specific countries in human rights groups in conducting surveys. For example, until recently Pakistan had never conducted a survey to determine the scope of its problem. Pakistan and the International Labor Organization should be commended for undertaking this project. The study indicated that at least 8 percent of Pakistan's 40 million children were actively working and being exploited. More than half of the child laborers were located in the province of Punjab. So while the release of hard data and the scope of the child labor problem may hurt Pakistan in the short term, it now knows where resources are most urgently needed.

The United States compiles two sources of government information on child labor and human rights. The State Department's Annual Country Reports on Human Rights contains an overview of the human rights issues in every country. Unfortunately each report only contains a paragraph or two on child labor issues. Today I introduced legislation to add an additional section to the human rights reports that would detail the scope of child labor in every country. It would include an overview of the country's child labor laws and whether they are effectively enforced. It would include a discussion of government corruption and bribery and their relation to the effectiveness of child labor laws. It would greatly enhance the information available to us today.

The other major source of government information are the reports published by the Bureau of International Labor Affairs under the direction of Under Secretary Andrew Samet. These reports are dedicated to specific aspects of the child labor problem. The first dealt with manufactured and mined imports, the second with forced and bonded child labor, and the third with goods imported into the United States. They have just undertaken their fourth report which I am sure will be as excellent as the last three.

Unfortunately, Mr. Speaker, we are a contributing factor to the propagation of child labor. Few U.S. investors and even fewer U.S. consumers would knowingly buy products made from the sweat and toil of children. As consumers, we should ensure that when we spend $30 to $50 to buy a soccer ball for our children that the money does not go to companies that deny other children their childhoods by working them for pennies a day under inhumane conditions. As investors we should be sure our businesses are doing more than giving lip service to avoiding child labor.

On Monday the Clinton administration took the first step in addressing these concerns. They brought several members of the manufacturing sector together with labor leaders and public interest groups to craft a voluntary labeling program.

The first part of the President's program develops a "Workplace Code of Conduct" for apparel manufacturers. A code of conduct embodies a company's policy on a host of issues typically including ethical conduct which may differ from culture to culture. By firmly stating the company's policy on discrimination, forced labor, wages, benefits and other terms of employment, an American business can put its licensees and subcontractors on notice about the types of conditions it finds acceptable. By incorporating codes of conduct into contracts with licensees and subcontractors, a business can have greater control over how its goods are produced worldwide.

Many American firms have taken upon themselves to adopt strong codes of conduct prohibiting child labor, yet problems persist. One clear example was Nike's recent experience in Pakistan. Nike has a strong code of conduct prohibiting child labor among its subcontractors and anyone they do business with. Yet numerous reports documented children stitching soccer balls for Nike.

So why did they not know there was a problem producing soccer balls? Largely it was because when Nike's subcontractor in Pakistan became overworked, it subcontracted out some of its work, and in doing so did not impose the same code of conduct. This second level of subcontractors were unscrupulous profiteers who farmed out the work to whoever they could get to do it cheaply, the most cheaply, primarily children like Silgi.

Multiple levels of subcontracting are common in global manufacturing. Unfortunately they add levels of complexity to enforcing labor codes.

To ensure that the various levels of subcontractors and licensees are adhering to codes of conduct, businesses need to have reputable firms inspect their subcontractors periodically. Many small firms have been doing this successfully for years, and we are finally seeing the major accounting firms break into this market.

To a certain extent, adopting codes of conduct makes economic sense. The more a code of conduct is enforced, the less likely the controlling firm is subject to claims of worker exploitation and perhaps litigation.

President Clinton's recent initiative includes a code of conduct requiring no more than a 60-hour work week, a minimum age for employment of children, and compliance with local minimum wage laws. Even though an undeveloped country may not see enforcing its minimum wage laws as a priority, our codes of conduct will require that goods bound for the United States be made in compliance with these local laws.

Mr. Speaker, may I inquire at this point how much time is remaining?

The SPEAKER pro tempore (Mr. PEASE). The gentleman has 8 minutes remaining.

Mr. MORAN. Mr. Speaker, today, short of spending many, many hours in a library, consumers have no way of knowing if the products they buy are produced by children, and in exchange for complying with the suggested codes of conduct manufacturers will be permitted to use a new "No Sweat" label on their goods. Consumers will find it easy to look for the No Sweat label. Quick and easy access to such information will empower consumers to show the manufacturing industry the importance of staying child-labor free. I would hope that every parent would look for this label and would understand but for the grace of God their child could be in a similar exploited condition.

Labeling programs do have critics. Some fear that labels will be easily forged. Some fear that labeling requirement will be increased over time and used as protectionist measures. These are valid concerns and only serve to underscore the importance of fighting the battle against child labor on many fronts.

One is trade sanctions. We could ban imports made by children. This is the approach taken by Senator HARKIN and Congressman FRANK and their legislation. This approach would keep track of specific products that were routinely made with child labor from certain countries. These products would be banned unless the importer could demonstrate that child labor was not used in the manufacture of the product.

Another approach is through utilization of the generalized system of preferences program. The GSP, which is the acronym for this program, is designed to provide preferential trade treatment to developing countries. If a country qualifies, certain products are given reduced tariff rates.

A condition of receiving these generalized system of preferences benefits for any particular product is that the export country ensure that basic worker rights are protected. If not, the United States can revoke GSP benefits to all products from the country, or the United States can revoke generalized system of preference benefits for

specific products. Last year, Commerce Secretary Kantor suspended GSP benefits to Pakistan on surgical equipment, sporting goods and hand-knotted carpets for failing to effectively fight child labor in these industries.

Because the export country usually wants to restore GSP benefits quickly, it has an incentive active to cooperate with the United States. The executive branch has the authority to reinstate GSP benefits if it is satisfied that the export country is making a good faith effort to rectify the problem.

Unfortunately, all of these approaches only help solve the child labor problem to the extent it is connected with U.S. trade. But about 95 percent of all child labor does not involve products bound for the United States. Most involves domestic products or services and cannot be effected by U.S. trade policy.

For this reason I introduced the Working Children's Human Rights Act which would deny non-humanitarian U.S. assistance to countries that have not enacted or refuse to enforce their own child labor laws. U.S. taxpayers should not be forced to support rogue regimes that turn a blind eye to government corruption and inaction that perpetuates the exploitation of children. Withholding foreign aid has a limited effect, though, because only a small handful of countries receive any U.S. assistance today.

The United States does, however, have leverage through lending institutions such as the World Bank. The World Bank provides loans, technical assistance and policy guidelines to help its developing country members reduce poverty and improve living standards through sustainable economic growth. The bank does a tremendous job at financing necessary projects such as infrastructure improvement which is necessary to attract private sector investment. Because of the importance of assistance such as World Bank loans to developing countries, it is appropriate for the United States to condition its vote in favor of loans to a particular country on that country's compliance with major U.S. foreign policy goals.

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Today, the United States votes against loans to countries which the President has certified as major illicit drug-producing countries. The eradication of child exploitation ought to be as important to United States foreign policy as combating narcotics, which is terribly important. That is why my legislation would require the United States to vote against loans to countries who have not adopted or refused to enforce their own child labor laws.

There is a more immediate step the World Bank could take. Last year we heard testimony before the Subcommittee on International Relations and Human Rights, on which I sat, that hundreds of children worked on infrastructure improvements on one particular project in India. Who knows how many thousands of children like them work on such projects?

The World Bank and other such institutions should take a more active role in eradicating child labor by requiring that no children work on projects for which World Bank funds are used. Surely U.S. taxpayers do not want their contributions to the World Bank used for development projects that exploit children.

Mr. Speaker, I want to share with my colleagues some success stories in our battle to end exploitation of the children. The first is a project in Bangladesh that would not have been possible without the dedication of U.S. Ambassador David Merrill.

Bangladesh's garment sector began thriving in 1977 and currently exports over $750 million per year into the United States. The industry's main products include shirts, trousers, jackets, T-shirts, shorts, briefs, and sweatsuits.

By 1990, estimates of the number of working 10- to 14-year-old children in Bangladesh were between 5 and 15 million children. The vast majority of these children worked in the garment sector. Typically, garment factories in Bangladesh were dimly lit with poor ventilation. Hours were very long. Workers usually were forced to work without break; the doors are locked during the shift. Only occasionally is a guard with a key near the door. During time of high demand, workers are locked in until their work is finished, often overnight. They work 24 hours a day.

In 1990, the Bangladesh garment manufacturers insisted that children were only in factories to accompany their working mothers who could not afford child care. Not true. Yet the Asian-American Free Labor Institute study showed children walking to factories with their time cards in hand. When that institute probed further, they learned that children really worked at the same factories with their relatives.

In the fall of 1993, Senator TOM HARKIN and Representative George Brown introduced legislation to ban imports made by child labor from entry into the United States. Fearing passage of this bill, the Bangladesh garment manufacturers abruptly fired 50,000 child workers.

Unfortunately, firing the children from the manufacturing centers meant they were forced to look for other work. Many went to work as brickmakers or fish processors, using more dangerous equipment that exposed them to even more risks. Through the hard work of Ambassador Merrill and human rights groups, an historical memorandum of understanding was signed by the Bangladesh garment manufacturers, the International Labor Organization and UNICEF on July 4, 1995.

As a result of this agreement, children are moving from factories to schools while they receive a monthly stipend. The Bangladesh garment manufacturers, UNICEF and the ILO, the International Labor Organization, all contribute to a fund to build schools and educate these children, and that is the solution. That is what we have to be doing. They pay the children one-half of what they would have made in the garment factories.

It is working. We can make progress. We need to be making that kind of progress in other countries. It is wrong to continue exploiting over 100 million children per year.

Mr. Speaker, I appreciate the time. I appreciate my colleague, the gentleman from California [Mr. CUNNINGHAM] having the patience to wait through this. I would urge my colleagues not only to cosponsor the legislation on human rights for children, but to get involved in this issue seeking a long-term solution.

CHINESE COMMUNIST COMPANY COSCO IS THREAT TO UNITED STATES NATIONAL SECURITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from California [Mr. CUNNINGHAM] is recognized for 30 minutes as the designee of the majority leader.

Mr. CUNNINGHAM. Mr. Speaker, my friend from Virginia [Mr. MORAN] just talked about human rights and he makes many, many good points, and I support the gentleman's assessments.

Let me say that I would ask the gentleman to support us, the attorney general from California and all of the police chiefs in the State of California, and I am sure there are other States that are affected. They brought some pretty gruesome pictures of children being imported from Mexico, we are talking 7-year-olds, 8-year-olds, 9-year-olds and teenagers, across the border to serve in methamphetamine labs across the United States.

One out of four of these exploded in fires, and they had grizzly pictures of these children burned. Not over a period of weeks or months or years, but these children are dying within minutes of breathing in the fumes and the chemicals of methamphetamines.

I will work with the gentleman. We do not have to look very far, and I understand that, yes, there are human rights violations like these, but even within our own borders. I think it is criminal, and we ought to do everything we can to stop it.

Mr. MORAN. Mr. Speaker, if the gentleman would yield, I thank the gentleman for his concern, which I know is very sincere and his commitment to do

something about it. I thank the gentleman.

Mr. CUNNINGHAM. Let me just say briefly, Mr. Speaker, that the gentleman that spoke before, the gentleman from Virginia [Mr. MORAN] talked about the Republicans destroying the environment; and I would like to make just about 30 seconds' worth of comments.

The gentleman has a right to his opinion, only he states it as fact, and I would say that the gentleman is factually challenged. He has a right to his view, but those from the left that would take all the power in Washington, DC, and control that power, whether it be environmental, whether it be education, whether it be private property, whether it be religious beliefs, and control it within the walls of this body, I disagree with.

Let me give a classic example. The Superfund, which was created to clean up toxic wastesites, over 70 percent of the dollars that we allocate to clean it up go to trial lawyers in litigation. What we are saying is that over 85 percent of the cleanup of these Superfund sites is done by the State and the people within that State.

Now, it is up to your opinion, Mr. Speaker, whether having the money and having it wasted here in Washington, DC, over 70 percent are getting 90 percent of the dollars down to the State, who actually does the cleanup, and focusing the money on the problem instead of bureaucracy. There are two different views there.

The EPA, the dollars go to over 50 percent of the bureaucracy, and we believe on the Republican side, with many of our colleagues on the other side, that it is more important to get the dollars to clean up clean air, more important to get the dollars out of those that pollute the air, and support this country.

With those comments I would like to move on to the title subject tonight, Mr. Speaker. I want to talk about COSCO. Not Price Club, Mr. Chairman, as we know it, not Costco or Price Club, as many Americans know it, but the China Ocean Shipping Company owned and controlled by only one CEO, chief executive officer, and that chief executive officer is Communist China itself.

There is no board of directors, there are no bosses above COSCO or these other corporations set up by Communist China. They all answer and are directed, and if they do not, one can imagine the consequences.

What I want to speak to tonight is that recently, within the last couple of days, a judge, just the day before yesterday, agreed to examine the validity of the lease made by the Port of Long Beach to a shipping company owned by the Communist Chinese Government.

This is what the COSCO president, a Communist Chinese, says about its shipping company: Call the charges totally false. A handful of U.S. individuals with ulterior motives have made use of the media to fabricate reports that have gravely injured the reputation of COSCO.

In the same article, the newspaper article, and I quote, COSCO's past problems, however, have given its critics ammunition. Six of these ships were cited for safety violations by our Coast Guard last year and considered unsafe. A COSCO ship, owned by Communist China again, recently plowed into a New Orleans dock in December, injuring 116 people. Customs officials found over 2,000 AK-47's being smuggled into Oakland last year by COSCO. The company that makes the AK-47's, the company that distributes the AK-47's and COSCO are all controlled by the same chief executive officer: Communist China, Mr. Chairman.

They also brought in two ships. I remember in the press this year where we had two shiploads of illegal Chinese trying to enter the United States. Mr. chairman, those were COSCO ships.

Now, supporters in the administration will tell us that one of those ship's registrations had expired and they went and asked Communist China, is that still your ship? Well, that is like if I had a car and drove it into Mexico with a load of cocaine and it did not have registration, but it was my car and the Mexican Government came back and said, hey, DUKE, is that your car? I am not going to say, sure, that is my car.

Well, Mr. Speaker, I think common sense should prevail.

This is the same company, Mr. Speaker, that shipped nuclear weapons components to Pakistan. This is the same company, Mr. Speaker, that is shipping chemical and biological weapons to North Korea, to Iran, to Iraq, to Syria, and yes, to the Mujahedin, Hamas, and Bosnia, which impacts the safety of every American citizen and free world citizen in this world. We disagree with the Communist Chinese taking over and controlling a United States port.

There is currently, Mr. Speaker, an FBI report reported to us by intelligence. It is current, and it states that as of today even, the Communist Chinese, through COSCO, are deploying both industrial spies and national security spies into every port, whether they are a tenant or whether they control it. that, to me, Mr. Speaker, is a national security threat and must be examined.

I would state that Councilman Roberts from Long Beach said, it broke our hearts when the Navy made its decision to leave Long Beach. This has been an incredible struggle for the city.

Mr. Speaker, Long Beach has lost thousands of jobs. Why? The President's extreme defense cuts and the additional BRAC process, base closing process, closed Kelly Air Force Base in California. It closed El Toro Base in California, it closed Long Beach Naval Shipyard in California, it took out the training center in San Diego and has devastated over 1 million jobs in the State of California, Mr. Speaker.

We vowed to the people of Long Beach and those other cities that have been devastated by those cuts by the administration that we will do every single thing we can to help, but not at the cost of letting and having a national security threat, a known threat to this country, the Communist Chinese. Even though we are involved in trading negotiations, to think that they are our ally or our friend, in my opinion, is foolhardy.

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What is that opinion based on? That opinion is based on my service on Seventh Fleet staff, responsible for all Southeast Asia exercises and defense of those countries, including planning the invasions of those countries in time of war. It also was gained at Naval Fighter Weapons School, and planning the invasions and defense of those countries.

Just today in the newspaper, Mr. Speaker: "Geneva—After an intense lobbying campaign marked both by threats and tantalizing promises, China succeeded once again yesterday in blocking U.N. criticism of its human rights record."

The gentleman from Virginia [Mr. MORAN] spoke of children being in slavery, and used. It is also done in China, not just India and other countries, Mr. Speaker.

If we take a look at the threat, when that U.N. resolution was blocked by Communist China through threats, they followed through with that threat. Here is another article in today's paper: "U.N. consideration of resolution condemning its human rights record." "The Chinese government took diplomatic retaliation against Denmark for sponsoring the measure," just for sponsoring and speaking their feelings.

"Accusing the Danish government of hurting the feelings of the Chinese people, China announced that it will suspend bilateral state visits with Copenhagen. The motion urged China to relax controls on freedom of expression and religion and release political prisoners, and improve its judicial system." yet China retaliated against a country that expressed its opinion on human rights.

We look at the terrorism threat in Bahrain, shipped in by Cosco and the Communist Chinese. We look at the murders that took place in Germany and France and England and the World Trade Center. Many of these materials were shipped by Cosco ships to the terrorist countries that are a direct threat. We look at North Korea, threatening withdrawal from the nuclear agreement with the United

States. Cosco also delivers nuclear weapons materials to North Korea.

I would say, Mr. Speaker, that why would the people of Long Beach, some of them, and many do not, but we are getting calls every day from all over the United States and all over the world in outrage of this country allowing a Communist Chinese-run shipping company to take over the port.

But if we take a look at the devastation that has gone on in these bases and with these people, they are worried about putting bread on the table, about putting their children through school. They are concerned. So are we, Mr. Speaker.

I would say that President Clinton took a personal role in promoting the interests of Cosco, and at the same time he was cutting over 100 warships out of national security for this country. That is a 23 percent cut. The symbolism could not be made more stark. Richard Fisher, a senior policy analyst of the Asian Studies Center, noted the real, very real security concerns of the Long Beach deal in a Washington Times column of April 3rd.

His main point is given: "If it so desires, the Chinese leadership can direct that Cosco's assets be put at the disposal of the Peoples Liberation Army (the PLA), or the main espionage organ, which the FBI has reports that it is currently doing, the Ministry of State Security, the MSS * * *. Do we really want a subsidiary of the Peoples Republic of China to have such a large presence" in the port?

Mr. Speaker, Cosco has had a position at Long Beach for many years. I have no problems with that. They can be a tenant and I will not object, Mr. Speaker. But to give a Communist Chinese-operated shipping company, with its past violations, full access, and they control everything that comes into the port, they control who sees what containers that go out in the middle of the night, they control what goes out of this country. Mr. Speaker, they will ship in illegals, they will ship in illegal arms, they will ship in intelligence officers, as they do around the rest of the world. We must be vigilant, Mr. Speaker, on stopping that.

Russia told the United States, air defense arms are not sold to Iran, but we find out, yes, they are. I think if we have a bright star in the Clinton administration, it is Madeleine Albright, because I would say, Mr. Speaker, that she is tough, and I think that this gentlewoman has the pizzazz, if you want to use that word, to stand up for American workers' rights.

I would say, Mr. Speaker, that under Republican administrations and under Democrat administrations the weakling of our foreign policy has been our State Department. They will not stand up for our workers' rights, and I think Madeleine Albright is the person to do that.

Let me give the Members a quick story. When the world first started trading with China, with sails and wooden ships, and this is a true story, Mr. Speaker, one of the sailors from a ship threw over a bucket on a line, and it so happened that there was a sanpan down below it, and it impacted a lady, by mistake, on the head, and it killed the lady.

The Chinese, much like in the movie "Sand Pebble," stormed the ship and tried to take the sailor off the ship. The crew stood with arms protecting the sailor, and would not let him go off the ship, because the Chinese wanted to execute the individual right there. They waited three days. The Chinese emissary came back to the ship and threatened the fleet, to withhold all trade to those fleets.

That day the fleet gave over that sailor, Mr. Speaker, and the Chinese executed him, for an accident. So many times when our countries are threatened with economic power of foreign countries, our State Department does not stand up for our rights, does not stand up for our workers, and we need to be more vigilant in that.

I believe in trade. I supported NAFTA. I supported GATT. But all of our fears on both sides of the issue were that we would not make it be fair trade, and more and more we are finding that that in some cases is the case.

I have an article here that says "Marines Lost Bid for Site to China Cosco Firm." The United States Marine Corps wanted the facility at Cosco, and the Clinton administration allowed it to go to a Chinese Communist-controlled company. As Members know, as the Chinese Ocean Shipping Company, Cosco, while it is true that Cosco has been a tenant at Long Beach since 1991, the agreement would turn over 145 acres.

It was a Cosco ship *Empress Phoenix* that shipped in the 2,000 AK–47 automatic rifles into San Francisco base a year ago. Mr. Speaker, these are the same type of weapons that were recently used in Los Angeles in the bank hold-ups which placed in jeopardy the lives of our law enforcement agencies. Yet, the President says, I do not want any assault weapons in this country. These are truly fully automatic weapons of war and assault weapons. There was a shipment of M–2's that we recently stopped at the border in San Diego, fully automatic weapons. We need to stop that, Mr. Speaker. The Chinese regime is not a steady United States ally.

On July 24, 1996, the U.S. Times reported warnings by the former United States Ambassador Charles Freeman quoting a Chinese official that China could intimidate Taiwan because United States leaders would care more about Los Angeles than they do Taiwan.

What was that about? Remember when China fired missiles at Taiwan this last year? When the United States fleet started going through the straits, Communist China responded with a nuclear threat on the city of Los Angeles, and made the statement, "Do you prefer Los Angeles more than you do Taiwan?" And do you think that Taiwan is a possible conflict in the next year? Absolutely, it is.

With American aircraft in the straits, the Chinese official had conveyed an anonymous message to Tony Lake, Anthony Lake, President Clinton's national security adviser, that American interference in Beijing's effort to bring Taipei to heel would result in a devastating attack on the city of Los Angeles. Yet, we are going to allow this same Communist control in Long Beach Naval Shipyard. The San Diego Union Tribune, 3/31/96.

Mr. Speaker, the Panama Canal, one of the most strategic locations in the world for the United States, the Panama Canal, that we paid for with blood and sweat and tears and American citizens digging the canal, was recently turned over to Hutchinson, out of Hong Kong, a controlled Chinese Communist country, both ends of the Panama Canal.

Now, why? The major export to China from the United States is wheat. Why do they not go around the horn? For the same reason sailors have not for 200 years, especially with cargo ships, container ships: The weather. They go through the Panama Canal. Yet the Chinese took over control of both ends of it.

The major export port for wheat going to China is where? Guess where, Mr. Speaker? Long Beach Naval Shipyard. They will control price-fixing of our agriculture interests. They will not only have a national security threat, they will have an economic threat to this country.

In the President's budget, he just gave $50 million to Communist China. Maybe $50 million is not very much to a lot of people, but it is to most. In his budget he cut impact education aid, but he gives $50 million to the Communist Chinese for a coal-burning plant in Beijing.

The President also gave China, after the elections, over $100 million to build Cosco ships in a non-recourse loan to Communist China, a loan to Communist China which takes away our Title XI money for our own shipbuilders to build American ships. Those same ships are not going to be sailed by U.S. sailors, they are going to be sailed by Chinese sailors. Those exports, under the control of price-fixing, will go out of the United States.

That is what I talk about regarding our State Department, Mr. Speaker. If we do not speak from a position of strength, instead of a position of weakness, then the United States and America loses again, just another reason why we are in opposition to this move.

Johnny Chung, a Chinese American businessman from California, gave $366,000 to the DNC, the Democratic National Committee, that was later returned on suspicion it illegally came from foreign sources. Guess what? Mr. Chung brought six Chinese officials to the White House last year to hear President Clinton make his weekly radio address.

Mr. Speaker, guess who two of those guests were: The person that owned Cosco, how Chinese shipping was set up, he was the head of it, controlled by Communist China. And one of the others was the very gun runners that smuggled in 2,000 AK-47's into the United States, and after being caught they were penalized and put in prison. Do you know why they were putting the AK-47's into this country? To disrupt our inner cities in the United States, and to go to our gangs.

The M-2's going to Mexico, during the next 90 days Mexico has critical elections. Do we want a left-wing Communist legislature in Mexico City? No. We want a pro-American, we want a pro-reform Mexican legislature, and not to have some Communist country disrupt the elections of countries next to us, whether it is Mexico or Canada.

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On the campaign trail last year and in a White House meeting in 1995, President Clinton endorsed a proposal to transfer Long Beach Naval Shipyard to COSCO. A COSCO adviser was among the Chinese businessmen invited to hear the President in the Oval Office.

Over the past year, a COSCO ship recently plowed, if you remember, Mr. Speaker, it was a COSCO ship that totally destroyed the pier in New Orleans. Not only shipping two shiploads of illegal aliens, they are not only shipping in AK-47's, they have not only been violated six times by our Coast Guard, they took out an entire pier, injuring over 116 people, causing millions of dollars in New Orleans and declared unsafe. This is the company that we want controlling and having access within the United States? Mr. Speaker, in my humble opinion, that is ludicrous.

We want to make it clear, as the Heritage Foundation, Asia analyst, Richard Fisher said, Increasing trade with China should not be pursued at the expense of U.S. national security. We believe there is enough evidence of these COSCO transactions presenting a threat to U.S. national security, particularly when the Clinton administration has been intimately involved throughout, that Congress should exercise its responsibility with prudent and robust oversight.

We plan to do so, Mr. Speaker.

Mr. Speaker, I think that if the United States does not get involved in trade, including with China, that economically we are going to die. But as many Members on both sides of the aisle are afraid of, that should be fair trade, not trade with the United States having the largest, largest trade deficit in the world with China.

We want fair trade. We want the Chinese and our State Department, along with the President, must demand, not should demand, must demand that, first, that Christians quit being abused in Communist China, that weapons to our enemies, our real enemies, terrorists of Iran, Iraq, Syria, and North Korea cease now, that they quit supplying areas like Bosnia that can be used against our troops, that they quit shipping in weapons to nations close to the United States like Mexico, that the human rights violations be moved on, not thwarted in the United Nations with threats to other countries. And that is another reason, Mr. Speaker, that the United Nations should be and must be changed.

The Speaker of the House, NEWT GINGRICH, was correct in his recent trip to Asia and China. He said that perhaps one of the first signs that China can make is how the handling of the turnover of Hong Kong to the Communist Chinese looks. The next step should be its policy toward Taiwan as a free nation. And yes, I think that our State Department and our President need to focus on the trade deficit, not only with China but other countries as well.

As the gentleman from Virginia [Mr. MORAN] said, its utilization of children, we are not talking teenagers, Mr. Speaker, we are talking about 5- and 6- and 7-year-olds working 14 hours a day just to survive for a handful of rice. And then guess what? Those products come to this country, but our businesses out of business because we cannot meet that labor cost.

We need to take a look at Long Beach and the biodiversity that the interest groups are currently looking at, including the Audubon Society, Mr. Speaker.

I would be happy to sum up by saying that I will not object to Long Beach having COSCO or other nations as a tenant, but, Mr. Speaker, let us not give them control and complete access of a former national security base, not with the record of COSCO, not with the current threat from the Chinese Communists who just increased their defense by 30 percent and bought 250 SU-27's, which are better than our F-14 and F-15 Strike Eagles, our aircraft, and not with the current China shipping arms to our enemies.

Let us be tough. Let us talk softly and carry a big stick, Mr. Speaker. But when the time comes, I would ask the President, the State Department, and this body to be able to speak with a strong voice and be willing to use that stick. And God bless America.

PRIDE IN THE SPEAKER

The SPEAKER pro tempore (Mr. METCALF). Under the Speaker's announced policy of January 7, 1997, the gentleman from Florida [Mr. SCARBOROUGH] is recognized for 30 minutes as the designee of the majority leader.

Mr. SCARBOROUGH. Mr. Speaker, I want to speak on an issue that is not only important to me but also I think very important to this Chamber and also very important to the people of America.

I could not help but take note of the statements of our previous speaker, the gentleman from California [Mr. CUNNINGHAM] on the problems that we are having right now with China, with the influence peddling.

Of course, Mr. CUNNINGHAM brought up some very good points but also some very disturbing points about possible influence that Communist Chinese have been seeking in the United States of America.

We, of course, have been reading with horror over the past few weeks some of the concerns about investigations of people looking into scandals on whether this White House actually sold access to the Communist Chinese. That is something that we all have to be paying very close attention to, especially in this body, because of the constitutional role that we play, the oversight that we play. Nothing has been proven yet. I think that is very important to say. But at the same time the gentleman from California brings up some very good points and some points that we have to be concerned about.

I do want to say that one of the things that has disturbed me over the past few months, as we have been talking about some of the scandals that have been arising concerning the dealings with China and concerning other scandals that have just been absolutely horrifying to me as a United States Representative and as an American and as a father, are some of these moral equivalency arguments that have been trotted out there.

At times we have been told that the possibility of selling access to China, the possibility of a lot of these other things that have been going on somehow is morally equivalent to what the Speaker was charged with earlier. I have been outrages for quite some time at that, because history will plainly show, and the Speaker's critics certainly know this even though they make disingenuous arguments, that there is no moral equivalency.

The Speaker submitted 50,000 documents to the Ethics Committee, told the truth in those documents, but the fact is that one of those 50,000 documents contradicted another statement that he had made in the document production to the Ethics Committee. Because of that, he agreed to a fine that today he decided to take care of.

Let me just say that I am here today to praise the Speaker of the House for what he decided to do in bringing, I believe, honor on this House. I can tell you right now, the Speaker and certainly others know that I have always spoken my mind when addressing the Speaker of the House.

Two weeks ago, I did it in a very, very public way, in a very public confrontation. And I even suggested that if things did not change regarding the direction of the House leadership, that we might have to look in new directions. I have been very pleased with what has been going on for the past few weeks, but I also have said that if things go wrong again in the future, I will speak my mind again.

So tonight I come here not as a mindless cheerleader of the Speaker, not as a political lap dog or a party line parrot, but instead as a U.S. Congressman, as an American citizen, and as a father who is proud of what the Speaker of the House did today.

I believe in his actions today that his character really did shine through, and it is so difficult teaching my two boys about character when there seem to be so few people in public view that seem to be worthy of emulating. But when I teach my 9-year-old boy, Joey, and my 6-year-old boy, Andrew, about accountability and personal responsibility and stepping up to the plate and looking somebody in the eye and being straightforward with them and taking full accountability, I will give the example of what the Speaker of the House did today on April 17, 1997.

I wanted to read a release that talks about what he did. It said, in an example of accountability, NEWT GINGRICH announced that he will reimburse taxpayers in full, using $300,000 of his own personal funds. In order to fulfill his promise, GINGRICH has secured a loan from Bob Dole to be repaid in full in a timely manner. The Speaker said, my wife and I, Marianne, decided that whatever the consequences, we had to do what was best, what was right, morally and spiritually. We had to put in perspective how our lives had been torn apart by the weight of this decision. We had to take into account the negative feelings that Americans have about Government, Congress, and scandals. We had to take into account the responsibility that the Speaker of the House has to a higher standard, and that is why we came to the conclusion of our own choice, without being forced, that I have the moral obligation to pay the $300,000 out of personal funds and that any other step would simply be seen as one more politician shirking his duty and one more example of failing to do the right thing.

Now, let me just say that as a practical matter, I do disagree with what the Speaker did today. But let me qualify that. I disagree because of the precedent that it might set. But at the same time I am very proud that he recognized that it might set a bad precedent in the future and, therefore, he wants to bring about a resolution that would take care of that, but, more importantly, for he and his wife and his family's future, this could have some very devastating consequences. But he decided that at this point in history, that it was the best thing to do, not for himself, not for his party, but for the U.S. Congress and for America.

We do live in a very, very cynical age. I am absolutely horrified when I read accounts in the newspaper of how Americans believe that White Houses have always sold access to the Lincoln bedroom. I am absolutely shocked when I hear that Americans believe that Presidents have always sold access to Air Force One and used it as a reward.

I am horrified when I hear that Americans actually believe that everybody does it, that everybody sells access, that everybody is willing to open themselves up to foreign influence, that everybody is willing to possibly change foreign policy based on money coming in.

That is not the case. No other administration has ever done things to the level that this administration has. And that is an undisputed fact.

□ 2030

I think that had to weigh heavily on the Speaker's mind, because when the Speaker of the House came forward and made his decision, it was not something he had to do.

The Committee on Standards of Official Conduct, in fact, told him he could repay it any way he wanted to under certain guidelines, that it did not have to come out of personal funds.

In fact, if you look back to the history, the 200-year history of the House of Representatives, the fact that he was even fined for this mistake, for this technical error, and that is what it was, is unprecedented, has never occurred before, and the only time that someone is to pay based on a mistake is when that person made a financial gain because of ethical violation.

And not one person has been able to come forward with a straight face and say that the Speaker of the House gained one penny based on his attorney's technical error.

Mr. CUNNINGHAM. Will the gentleman from Florida [Mr. SCARBOROUGH] yield for one moment?

The gentleman I think has mischaracterized the term "fine" with a voluntary payment, and the Speaker has stated that the Committee on Standards of Official Conduct attempted to put a fine, that he would have fought it in court if it was a fine.

Mr. SCARBOROUGH. And I certainly do apologize for that. That is just like last year when we heard the radicals on the left talking about cuts, cuts, cuts, cuts, cuts and actually we were increasing spending on Medicare, increasing funding for school lunch programs, increasing funding on just about every program that you can increase funding on except for military programs. Of course, the leftists, the radicals called those cuts and in fact they were not cuts, and I made a similar mistake here because there was not a fine, the Speaker was simply going to reimburse the American taxpayers for the investigation.

Something else happened today, and it encouraged me, and this was that Senator Bob Dole stepped forward and decided that he wanted to help the Speaker out any way he could and offered to loan him the money with interest because that needed to be done for technical reasons. But Bob Dole, the former Senate majority leader, 1996 Republican Presidential nominee, issued this statement today.

I applaud the decision by the Speaker beginning to pay with personal funds and taking responsibility for his actions and making this difficult decision despite other options for payment. He has yet again shown himself to be a man of integrity. And let me tell you that is coming from a man of incredible integrity himself as a senior leader of the Republican Party. I am pleased that our highest ranking official has chosen to set an example of accountability and ethics for the Nation through his words and action. For that reason and many more NEWT is a friend, and I am pleased that I can be of assistance.

I consider this not only an opportunity to support a friend but a long-term investment for the future of our party that today we bring this story to a close. An ever united Republican Party moves forward with his positive vision for the next millennium, as articulated by one of our most effective leaders NEWT GINGRICH. It certainly was a great statement from a great man.

Today there was another statement from NRCC Chairman JOHN LINDER, who said that the Republican Party of the majority will now move forward. NEWT will lead us to our goals of balancing the budget, improving safety for our schools and communities, saving Medicare and providing tax relief for all Americans. But he ended with an ominous warning.

He said, knowing that the American people side with our ideas and our ideology, the Democrats will have nothing to do but fall back on vicious attacks.

I have got to say, unfortunately, before the ink was dried on that statement the vicious attacks began in this Chamber. I was disheartened to see that they decided since they could not attack the Speaker because the Speaker had not only abided by the law but

had gone well beyond what the law required, that instead they would viciously smear the great name of Bob Dole.

They attacked an honorable man who fought in World War II and almost gave his life to free Europe from the Nazis. He left part of himself on the fields of Europe. He went on to fight through years of physical struggle and still, even through his physical struggle, served America for over 40 years.

In fact, this President himself gave Bob Dole the highest honor that the United States of America can give to any citizen. But he was savagely attacked today by desperate, vicious minorities who will do anything to seize power, the minority. The minority party has done it before. They will continue to do it.

It was interesting today, though, that the architect of the attack was none other than the man who a few years back said we will do anything we can do to destroy NEWT GINGRICH because we know that NEWT GINGRICH is the nerve center of the Republican Party and the conservative movement. He said that himself, and he continues to prove just how desperate the Democratic Party, let me say the radicals in the Democratic Party are.

You see, over the last 2 years they have filed 81 ethics charges against the Speaker. Eighty have been dismissed. This one technical violation based on a mistake by the Speaker's attorney is the only ethics charge that he even had to acknowledge. Eighty out of eighty-one have been dismissed.

I have got to say if one ethics charge was filed against me or other Members of this Chamber, it would be devastating. I just cannot imagine going through week after week after week, 81 charges.

If that is not bad enough, the unions, radicals on the left and other organizations, spent over $100 million vilifying this man, who they say is the nerve center of the conservative movement.

Mr. Speaker, I just cannot imagine what it would be like to have 81 ethics charges filed against me over 2 years, have $100 million spent to personally try to destroy me, and how could I continue to fight.

I have got to tell you, everybody in our party has said that if that happened to any of us we probably would not have the stamina to go on. I do not know how anybody does it. He has been vilified in a way that no other American has been vilified in the past quarter century, and yet he continues.

From the first day, the gentleman from California I am sure can illuminate some facts on this, too, the first day the attacks began and they continued unabated. In fact, before he was even sworn in ever as Speaker, Time magazine ran a cover story and they had a cartoon of him dressed up as a Gingrich and the title was "The Gingrich that stole Christmas." Now, this was before he was even elected Speaker of the House, "The Gingrich that stole Christmas."

Do you know what is so frightening, what is so dangerous about what he said he wanted to do, that it would destroy the radical left's grip on power in Washington, DC. This is all about power because what did he say he wanted to do? He wanted to cut taxes for middle class Americans and what did that do? That took money out of Washington, DC, out of the hands of politicians, out of the hands of bureaucrats, out of the hands of Washington power brokers and returned it back to middle class families like mine, like yours, and like others. He wanted to pass a balanced budget amendment.

That was called radical. And yet, we are $5.6 trillion in debt. That is the debt, my colleagues, that will be passed on to our children and our grandchildren, my boys, and your children.

These were not radical concepts. They were not radical concepts, unless you were a radical who believed that we could continue to tax Americans over 50 percent for every dollar that they earned and you believed that a $5.6 trillion debt was a debt that was sufficient enough to pass on to our children.

And you know, the Medicare demagoguery was the worst of all. The President's own task force said that Medicare would be bankrupt in 5 years.

The Speaker, I think, did an incredible job in trying to put together a plan that AARP and others could agree on; and yet, he was vilified, again, by attack ads, by Members on the left.

When you had the Washington Post saying it was a good idea, that the Democrats were engaged in demagoguery, you had the New Republic, which is usually a left wing magazine, saying that the Speaker was right, that he showed courage in trying to save Medicare, and you had Ted Koppel on "Nightline" run an entire show called "Mediscare," talking about how the President had proposed similar reforms a few years ago before the Speaker did.

And yet, the President turned around with the help of the unions and those on the left and savagely attacked the Speaker for trying to save Medicare for my father, who just had a double bypass operation, for my mother, for my grandparents, and for my other elderly friends and constituents.

I hope that this will end. I hope that we can move forward as a country, and I certainly hope that this horrible chapter is over in the life of the Speaker because he conducted himself very honorably today. And I can say today that I am very honored that we did elect him again as Speaker of the House.

I yield to the gentleman from California [Mr. CUNNINGHAM] who I know has some comments on his dealings with the Speaker.

Mr. CUNNINGHAM. We have all worked for people that we respect and believe that have vision on both sides of the aisle. And I would like to state that we had our Republican Caucus just before the decision was made about the Speaker and before the Speaker made the decision to come forward to the body.

The Speaker's own legal advisors, the special prosecutor that looked into the allegations, came before the caucus and told the Speaker that if he wanted to fight every one of the allegations in that one ethics violation that he would win 100 percent, he could fight them and he would win because they had no basis.

And yet, the left leadership of the Democrat Party wanted its pound of flesh and, for them to give us a bipartisan agreement, had to have the extra pound of flesh and the Speaker had to agree to pay the $300,000.

Knowing that he could win, why would not the Speaker do it? Because on both sides of the counsel, they told him, Mr. Speaker, you will win, but at what cost; and what the gentleman just covered, we would have been in the year of disruption, with the Democrats demagoguing, with the Democrats attacking and partisan rhetoric, because they want the power here in Washington, DC.

And the Speaker's vision is what the gentleman from California was talking about and swore to destroy the Speaker because he was the leader of the Republican Party, the gentleman from Florida that did the same thing. And the leadership has sworn to destroy politically the Speaker, because he is so effective.

I would say to the gentleman, that is wrong; and I think the American people think it is wrong, too. But in the face of that, when you look at leadership, in the face of attending to the people's business of saving Medicare, of providing Medicaid, and balancing a budget and tax reform and revising Superfund, where 70 percent does not go to trial lawyers, and attending to this House and its functions, the Speaker elected not to disrupt the House, not to have this House disabled because of partisan attacks, and went through personal sacrifice.

As the gentleman from Florida [Mr. SCARBOROUGH] said, how many of us could go through a $300,000 voluntary settlement? That is a mansion in a lot of areas. It takes a long time. I could not pay cash for it, and it would be devastating.

So when we talk about leadership, I think it is important to see the Speaker's vision that even at the expense of his own personal family and Marianne, his beautiful wife, making those decisions right with the Speaker, and which he blessed today, I think it is important for the American people to see that.

I would also like to remind the Speaker here tonight that the gentleman from Missouri, the minority leader of the Democrat Party, had ethics violations that filed improper IRS returns that benefited him personally and was found to have ethics violations.

□ 2045

How did he pay his fine, quote? Out of his campaign funds. But yet the speaker choose not today do to that because the Speaker of the House should be held high, and he takes full responsibility. That to me, Mr. Speaker, is leadership. That is vision, and that is wisdom.

Today the gentleman had talked about the gentleman from California attacking the Speaker, the same gentleman that had vowed to destroy the Speaker only last year, and he said that he will do anything he can to remove the political strength of the Speaker.

Is that what the American people want on this body? I do not think so.

The same gentleman from California attacked then Bob Dole, as the gentleman mentioned. Is it not a shame that the gentleman from California will never ever reach the heights of the accomplishments or the values and the respect of the gentleman from Kansas, Bob Dole, and neither will he ever lead this body or have the vision of the Speaker of the House today, NEWT GINGRICH.

And I think it is important to just let me go through real quickly, unless you have something you would like to talk about, I would like to go through just a few quick points and just mention them.

This is what the liberal left stands for in this body, the abolition of private property and land and application of all rents and lands to public purposes to be controlled by the Government. A good example: San Diego County, the Government owns over 54 percent. Many States have over 80 percent of it owned. A heavily progressive or graduated income tax. Abolishment of all rights of inheritance, i.e. the death tax. Confiscation of the property of all immigrants and rebels to centralize the credit in the hands of the government by means of national bank with State capital and exclusive monopoly; i.e., Medicare. The centralization of the means of communication and transport in the hands to the State. The extension of factories, an instrument and production owned by the State bringing into cultivation waste lands and soil into government control. Equal obligation of all to work and the establishment of industrial armies, the unions. The abolition of the distinction between town and country, only the government. Free education for all, but yet controlled by the government. Class distinctions and class warfare to achieve it. Political power, property, properly so-called is merely the organized power of one class for oppressing the other.

I would State, Mr. Speaker, and to the gentleman that yielded his time, I am reading from the Communist Manifesto by Karl Marx and Friedrich Engels.

Mr. SCARBOROUGH. Reclaiming my time, I thank the gentleman for his remarks on the Speaker, and certainly those final words do give us a moment to pause and consider that this is not a personality war, this is a war of ideas, war of ideas on who is going to control this country in the 21st century. It is going to be the Federal Government getting larger and larger, or are we going to finally go back to the ideals of Jefferson and Madison who said that the government that governs least governs best, or the ideals of Madison who said we have staked the entire future of the American civilization not upon the power of government but on the capacity of the individual to govern himself, control himself and to sustain himself according to the Ten Commandments of God.

It is a war of ideas, a war that is being waged the way Americans wage wars, at the ballot box and in the halls of congress, and that is the genius of democracy that was passed to us from the Greeks and through the Romans, through the British empire up to the United States of America.

And today as I stood here, which is the epicenter of freedom, a center that will ring throughout the ages, and I saw the Speaker of the House today step forward and give a splendid example of personal responsibility, I was proud not only to be an American but to be a Member of this Chamber.

And I certainly was hoping that my children were watching on TV. It was a splendid speech. And the minority leader of the Senate, a Democrat, TOM DASCHLE, also applauded the speaker and said that he thought that the Speaker had done what he needed to do. And I also looked across the Chamber at my Democratic friends, and I saw several good Democrats who applauded the Speaker, who even gave him a standing ovation because they knew that, like I, that this was a moment that transcended mere politics, mere party labels, mere ideology, and instead, we were not looking at the leader of a political party but a man who was going to be a leader of a movement that will take us well into the next century.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. HARMAN (at the request of Mr. GEPHARDT), for today after 3 p.m., on account of official business in the district.

Mr. COSTELLO (at the request of Mr. GEPHARDT), for today, on account of an illness in the family.

Mr. CRANE (at the request of Mr. ARMEY), for today, on account of illness.

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. GOSS) to revise and extend their remarks and include extraneous material:)

Mrs. KELLY, for 5 minutes, today.
Mr. MCINTOSH, for 5 minutes, today.
Mr. GOSS, for 5 minutes, today.
Mr. CHRISTENSEN, for 5 minutes, today.
Mr. HUNTER, for 5 minutes, today.
Mrs. MORELLA, for 5 minutes, today.
Mr. JONES, for 5 minutes, on April 23.

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. MALONEY of Connecticut, for 5 minutes, today.
Mr. RUSH, for 5 minutes, today.
Mr. HINOJOSA, 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. LEVIN.
Ms. NORTON.
Ms. EDDIE BERNICE JOHNSON of Texas.
Mr. LANTOS.
Mr. LIPINSKI.
Mr. HAMILTON.
Mr. STOKES.
Mr. DOYLE.
Mr. NEAL of Massachusetts.
Mr. FOGLIETTA.
Mr. BARCIA.
Mr. SKELTON.
Mr. MENENDEZ.
Mr. EVANS.
Mr. HOYER.
Mr. BORSKI.
Mr. DELLUMS.
Mr. KILDEE.
Ms. ESHOO.
Mrs. MALONEY of New York.
Mr. HILLIARD.
Mr. MARKEY.
Mr. CLAY.
Mr. WEYGAND.
Mr. CAPPS.
Mr. ACKERMAN.

(The following Members (at the request of Mr. GOSS) to revise and extend their remarks and include extraneous material:)

Mr. GILMAN in three instances.
Mr. FAWELL.
Mr. ENSIGN.

Mr. WALSH.
Mr. MCKEON in two instances.
Mr. PAPPAS.
Mr. SMITH of New Jersey.
Mr. PACKARD.
Mr. COLLINS.
Mr. GOODLING.
Mr. FORBES.
Mr. YOUNG of Florida.
Mr. BAKER.
Mr. SOLOMON in two instances.
Mr. HANSEN.
Mr. RADANOVICH.
Mr. EVERETT.
Mr. HORN.

(The following Members (at the request of Mr. SCARBOROUGH) and to include extraneous matter:)

Mr. HILLEARY in two instances.
Mrs. MORELLA.
Mr. SKAGGS.
Mr. SMITH of New Jersey.
Ms. FURSE.
Mr. THOMPSON.
Mr. KLINK.
Mr. LAZIO of New York.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1003. An act to clarify Federal law with respect to restricting the use of Federal funds in support of assisted suicide.

ADJOURNMENT

Mr. SCARBOROUGH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 52 minutes p.m.), under its previous order, the House adjourned until Monday, April 21, 1997, at 3 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2851. A letter from the Director, Defense Finance and Accounting Service, Department of Defense, transmitting notification that the Defense Finance and Accounting Service [DFAS] is initiating a cost comparison of all Department of Defense [DOD] transportation accounting functions, pursuant to 10 U.S.C. 2304 note; to the Committee on National Security.

2852. A letter from the Secretary of the Army, transmitting notification that certain major defense acquisition programs have breached the unit cost by more than 25 percent, pursuant to 10 U.S.C. 2431(b)(3)(A); to the Committee on National Security.

2853. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation entitled "Revisions to the Appointment of Members to the National Ocean Research Leadership Council"; to the Committee on National Security.

2854. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize a food cost based basic allowance for subsistence for enlisted military personnel; to the Committee on National Security.

2855. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to authorize the U.S. participation in and appropriations for the U.S. contribution to the 11th replenishment of the resources of the International Development Association, pursuant to 31 U.S.C. 1110; to the Committee on Banking and Financial Services.

2856. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to authorize consent to and authorize appropriations for a U.S. contribution to the interest subsidy account of the successor to the enhanced structural adjustment facility of the International Monetary Fund, pursuant to 31 U.S.C. 1110; to the Committee on Banking and Financial Services.

2857. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to authorize appropriations to pay for the U.S. capital subscription as part of the eight general capital increase of the Inter-American Development Bank, pursuant to 31 U.S.C. 1110; to the Committee on Banking and Financial Services.

2858. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to authorize U.S. participation in and appropriations for the U.S. contribution to the sixth replenishment of the resources of the Asian Development Fund, pursuant to 31 U.S.C. 1110; to the Committee on Banking and Financial Services.

2859. A letter from the Acting General Counsel, Department of Energy, transmitting a draft of proposed legislation entitled the "Powerplant and Industrial Fuel Use Repeal Act"; to the Committee on Commerce.

2860. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's "Major" final rule—Rulemaking To Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, To Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services [CC Docket No. 92-297] received April 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2861. A letter from the Chair, Federal Energy Regulatory Commission, transmitting the Commission's final rule—Statement of Compliance with Section 223 of the Small Business Regulatory Enforcement Fairness Act of 1996 [Docket No. RM97-2-000; Order No. 594] received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2862. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a draft of proposed legislation to authorize appropriations for the Nuclear Regulatory Commission for fiscal year 1998, pursuant to 31 U.S.C. 1110; to the Committee on Commerce.

2863. A letter from the Secretary of Health and Human Services, transmitting the 11th, 12th and 13th annual reports to Congress of the Orphan Products Board [OPR]; pursuant to 42 U.S.C. 236(e); to the Committee on Commerce.

2864. A letter from the Secretary of Health and Human Services, transmitting the Department's "Major" final rule—Individual Market Health Insurance Reform: Portability from Group to Individual Coverage; Federal Rules for Access in the Individual Market; State Alternative Mechanisms to Federal Rules [BPD-882-IFC] (RIN: 0938-AH75) received April 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2865. A letter from the Director of Congressional Relations, U.S. Consumer Product Safety Commission, transmitting the Commission's annual report for fiscal year 1996, pursuant to 15 U.S.C. 2076(j); to the Committee on Commerce.

2866. A letter from the Secretary of Commerce, transmitting a report regarding highly migratory species, pursuant to 16 U.S.C. 971; to the Committee on Resources.

2867. A letter from the Secretary of Health and Human Services, transmitting the 29th in a series of reports on refugee resettlement in the United States covering the period October 1, 1994, through September 30, 1995, pursuant to 8 U.S.C. 1523(a); to the Committee on the Judiciary.

2868. A letter from the Assistant Attorney General, Department of Justice, transmitting the Department's report on settlements for calendar year 1996 for damages caused by the FBI, the Drug Enforcement Administration, the U.S. Marshals Service, and the Immigration and Naturalization Service, pursuant to 31 U.S.C. 3724(b); to the Committee on the Judiciary, April 17, 1997.

2869. A letter from the Secretary, Judicial Conference of the United States, transmitting recommendations for the uniform percentage adjustment of each dollar amount specified in title 11 regarding bankruptcy administration and in 28 U.S.C. 1930 with respect to bankruptcy fees, pursuant to 11 U.S.C. 104 note; to the Committee on the Judiciary.

2870. A letter from the Secretary, Judicial Conference of the United States, transmitting a draft of proposed legislation to authorize the appointment of additional bankruptcy judges and for other purposes, pursuant to 28 U.S.C. 152(b)(2); to the Committee on the Judiciary.

2871. A letter from the Secretary, Judicial Conference of the United States, transmitting the report of the Judicial Conference of the United States on the Confidentiality of Communications Between Sexual Assault Victims and Their Counselors, pursuant to 42 U.S.C. 13942 (c); to the Committee on the Judiciary.

2872. A letter from the Assistant Secretary of the Army (Civil Works), Department of Army, transmitting the Department's final rule—Danger Zones and Restricted Areas (U.S. Army Corps of Engineers) [33 CFR Part 334] received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2873. A letter from the Acting Administrator, General Services Administration, transmitting an informational copy of the construction prospectus for the U.S. Secret Service classroom building in Beltsville, MD, pursuant to 40 U.S.C. 606(a); to the Committee on Transportation and Infrastructure.

2874. A letter from the Secretary of Veterans Affairs, transmitting a report covering the disposition of cases granted relief from administrative error, overpayment and forfeiture by the Administrator in 1996, pursuant to 38 U.S.C. 210(c)(3)(B); to the Committee on Veterans' Affairs.

2875. A letter from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation to allow

the Director of the Federal Bureau of Investigation to permit Federal Bureau of Investigation employees to participate in leave sharing programs with employees of other Department of Justice components and other Federal agencies; jointly, to the Committees on Government Reform and Oversight and the Judiciary.

2876. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965; jointly, to the Committees on Transportation and Infrastructure and Banking and Financial Services.

2877. A letter from the Director, U.S. Arms Control and Disarmament Agency, transmitting a draft of proposed legislation to implement the obligations of the United States under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, known as "the Chemical Weapons Convention" and opened for signature and signed by the United States on January 13, 1993; jointly, to the Committees on International Relations, the Judiciary, and Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BLILEY: Committee on Commerce. H.R. 688. A bill to amend the Solid Waste Disposal Act to require at least 85 percent of funds appropriated to the Environmental Protection Agency from the leaking underground storage tank trust fund to be distributed to States for cooperative agreements for undertaking corrective action and for enforcement of subtitle I of such act (Rept. 105–58 Pt. 1).

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committee on Ways and Means discharged from further consideration. H.R. 688 referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 688. Referral to the Committee on Ways and Means extended for a period ending not later than April 17, 1997.

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. BUYER (for himself, Mr. HAMILTON, Mr. MCINTOSH, Ms. CARSON, Mr. PEASE, Mr. BURTON of Indiana, Mr. ROEMER, Mr. HOSTETTLER, Mr. SOUDER, and Mr. VISCLOSKY):

H.R. 1358. 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 Commerce.

By Mr. DEFAZIO (for himself, Ms. FURSE, Ms. HOOLEY of Oregon, Ms. CHRISTIAN-GREEN, Mrs. MALONEY of New York, Mr. GUTIERREZ, Mr. HINCHEY, and Mr. LEWIS of Georgia):

H.R. 1359. A bill to amend the Public Utility Regulatory Policies Act of 1978 to establish a means to support programs for electric energy conservation and energy efficiency, renewable energy, and universal and affordable service for electric consumers; to the Committee on Commerce.

By Mr. DIAZ-BALART (for himself, Ms. ROS-LEHTINEN, Mrs. JOHNSON of Connecticut, Mr. BONILLA, Mr. KENNEDY of Rhode Island, Mrs. MEEK of Florida, Mr. MANTON, Mr. MEEHAN, and Ms. CHRISTIAN-GREEN):

H.R. 1360. A bill to amend the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide for an exception to limited eligibility for SSI and food stamps for certain permanent resident aliens who are unable because of physical or developmental disability or mental impairment to naturalize; to the Committee on Ways and Means, and in addition to the Committee on Agriculture, 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. ANDREWS (for himself and Mr. PORTER):

H.R. 1361. A bill to prohibit economic support fund assistance under the Foreign Assistance Act of 1961 for the Government of Turkey for fiscal year 1998 unless that Government makes certain improvement relating to human rights; to the Committee on International Relations.

By Mr. STUMP (for himself, Mr. EVANS, Mr. STEARNS, Mr. GUTIERREZ, Mr. SMITH of New Jersey, Mr. KENNEDY of Massachusetts, Mr. EVERETT, Mr. FILNER, Mr. QUINN, Mr. CLYBURN, Mr. DAN SCHAEFER of Colorado, Ms. BROWN of Florida, Mr. MORAN of Kansas, Mr. DOYLE, Mr. COOKSEY, Mr. MASCARA, Mr. HUTCHINSON, Mr. PETERSON of Minnesota, Mrs. CHENOWETH, Ms. CARSON, Mr. LAHOOD, Mr. REYES, Mr. HAYWORTH, Mr. SNYDER, and Mr. BARRETT of Nebraska):

H.R. 1362. A bill to establish a demonstration project to provide for Medicare reimbursement for health care services provided to certain Medicare-eligible veterans in selected facilities of Department of Veterans Affairs; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and Veterans' Affairs, 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. JOHNSON of Connecticut (for herself, Mr. MATSUI, Mr. RIGGS, Mr. STARK, Mrs. MORELLA, and Mr. SHAYS):

H.R. 1363. A bill to provide grants to States to provide uninsured children with access to health care insurance coverage; 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 Mrs. JOHNSON of Connecticut (for herself, Mr. MATSUI, Mr. RIGGS, Mr. STARK, Mrs. MORELLA, Mrs. ROUKEMA, and Mr. MCGOVERN):

H.R. 1364. A bill to provide grants to States to provide uninsured children with access to health care insurance coverage and to amend the Internal Revenue Code of 1986 to increase the excise taxes on tobacco products for the purpose of funding such grants and reducing the deficit; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and 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. ARCHER:

H.R. 1365. A bill to amend section 355 of the Internal Revenue Code of 1986 to prevent the avoidance of corporate tax on prearranged sales of corporate stock, and for other purposes; to the Committee on Ways and Means.

By Mr. BAESLER (for himself, Mr. TURNER, Ms. HARMAN, Mr. BERRY, Mr. BOYD, Mr. CONDIT, Mr. CRAMER, Mr. GOODE, Mr. HOLDEN, Mr. JOHN, Mr. LIPINSKI, Mr. MCINTYRE, Mr. MINGE, Mr. PETERSON of Minnesota, Mr. SISISKY, Mr. STENHOLM, Mr. TANNER, and Mr. BLUMENAUER):

H.R. 1366. A bill to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for election for Federal office, and for other purposes; to the Committee on House Oversight.

By Mr. BARRETT of Wisconsin (for himself, Mrs. KELLY, Mr. FRANK of Massachusetts, and Mr. KLECZKA):

H.R. 1367. A bill to prohibit Federal agencies from making available through the Internet certain confidential records with respect to individuals, and to provide for remedies in cases in which such records are made available through the Internet; to the Committee on Government Reform and Oversight.

By Mr. BRYANT (for himself, Mr. CLEMENT, and Mr. TANNER):

H.R. 1368. A bill to provide that Kentucky may not tax compensation paid to a resident of Tennessee for services at Fort Campbell, KY; to the Committee on the Judiciary.

By Mr. BUNNING of Kentucky:

H.R. 1369. A bill to amend the Internal Revenue Code of 1986 to modify the tax treatment of qualified State tuition programs; to the Committee on Ways and Means.

By Mr. CASTLE (for himself (by request), Mr. FLAKE, Mr. LEACH, Mr. GONZALEZ, Mr. BEREUTER, Mr. LAFALCE, Mr. MANZULLO, Mr. BENTSEN, Mr. GEJDENSON, Mrs. MALONEY of New York, Mr. METCALF, and Mr. GILMAN):

H.R. 1370. A bill to reauthorize the Export-Import Bank of the United States; to the Committee on Banking and Financial Services.

By Mrs. CHENOWETH (for herself and Mr. POMEROY):

H.R. 1371. A bill to amend the Federal Meat Inspection Act to require that imported meat, and meat food products containing imported meat, bear a label identifying the country of origin; to the Committee on Agriculture.

By Mr. COX of California (for himself, Mr. BACHUS, Mr. BAKER, Mr. BALLENGER, Mr. BARR of Georgia, Mr. BARRETT of Nebraska, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BASS, Mr. BATEMAN, Mr. BEREUTER, Mr. BERRY, Mr. BILBRAY, Mr. BILIRAKIS, Mr. BLUNT, Mr. BOEHLERT, Mr. BONILLA, Mr. BONO,

Mr. BRYANT, Mr. BUNNING of Kentucky, Mr. BURR of North Carolina, Mr. BURTON of Indiana, Mr. BUYER, Mr. CALLAHAN, Mr. CALVERT, Mr. CAMP, Mr. CAMPBELL, Mr. CANADY of Florida, Mr. CASTLE, Mr. CHABOT, Mr. CHAMBLISS, Mrs. CHENOWETH, Mr. CHRISTENSEN, Mr. COBLE, Mr. COBURN, Mr. COLLINS, Mr. COMBEST, Mr. CONDIT, Mr. COOK, Mr. COOKSEY, Mr. CRANE, Mr. CRAPO, Mrs. CUBIN, Mr. CUNNINGHAM, Mr. DEAL of Georgia, Mr. DELAY, Mr. DIAZ-BALART, Mr. DICKEY, Mr. DOOLITTLE, Mr. DREIER, Mr. DUNCAN, Ms. DUNN of Washington, Mr. EHLERS, Mr. EHRLICH, Mr. ENGLISH of Pennsylvania, Mr. ENSIGN, Mr. EWING, Mr. FOLEY, Mr. FOX of Pennsylvania, Mr. FORBES, Mr. FRANKS of New Jersey, Mr. GALLEGLY, Mr. GANSKE, Mr. GEKAS, Mr. GIBBONS, Mr. GILCHREST, Mr. GILLMOR, Mr. GILMAN, Mr. GOODLATTE, Mr. GOODLING, Mr. GOSS, Mr. GRAHAM, Mr. GREENWOOD, Mr. GUTKNECHT, Mr. HALL of Texas, Mr. HANSEN, Ms. HARMAN, Mr. HASTERT, Mr. HASTINGS of Washington, Mr. HAYWORTH, Mr. HEFLEY, Mr. HERGER, Mr. HILL, Mr. HILLEARY, Mr. HOEKSTRA, Mr. HORN, Mr. HOSTETTLER, Mr. HOUGHTON, Mr. HUNTER, Mr. HUTCHINSON, Mr. HYDE, Mr. INGLIS of South Carolina, Mr. ISTOOK, Mrs. JOHNSON of Connecticut, Mr. SAM JOHNSON, Mr. JONES, Mrs. KELLY, Mr. KIM, Mr. KING of New York, Mr. KINGSTON, Mr. KLUG, Mr. KNOLLENBERG, Mr. KOLBE, Mr. LAHOOD, Mr. LARGENT, Mr. LATHAM, Mr. LATOURETTE, Mr. LAZIO of New York, Mr. LEACH, Mr. LEWIS of California, Mr. LEWIS of Kentucky, Mr. LINDER, Mr. LUCAS of Oklahoma, Mr. MCCOLLUM, Mr. MCCRERY, Mr. MCDADE, Mr. MCHUGH, Mr. MCINNIS, Mr. MCINTOSH, Mr. MCINTYRE, Mr. MCKEON, Mr. MANZULLO, Mr. MICA, Mr. MILLER of Florida, Ms. MOLINARI, Mr. MORAN of Kansas, Mrs. MYRICK, Mr. NETHERCUTT, Mr. NEUMANN, Mr. NEY, Mrs. NORTHUP, Mr. NORWOOD, Mr. OXLEY, Mr. PACKARD, Mr. PAPPAS, Mr. PARKER, Mr. PAXON, Mr. PETERSON of Minnesota, Mr. PETERSON of Pennsylvania, Mr. PETRI, Mr. PICKERING, Mr. PITTS, Mr. POMBO, Mr. PORTMAN, Mr. POSHARD, Ms. PRYCE of Ohio, Mr. QUINN, Mr. RADANOVICH, Mr. RAMSTAD, Mr. RIGGS, Mr. ROGAN, Mr. ROHRABACHER, Ms. ROS-LEHTINEN, Mrs. ROUKEMA, Mr. ROYCE, Mr. RYUN, Mr. SALMON, Mr. SANFORD, Mr. SAXTON, Mr. SCARBOROUGH, Mr. DAN SCHAEFER of Colorado, Mr. BOB SCHAFFER, Mr. SCHIFF, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. SHADEGG, Mr. SHAW, Mr. SHAYS, Mr. SHUSTER, Mr. SKEEN, Mr. SMITH of Oregon, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mr. SMITH of Michigan, Mr. SNOWBARGER, Mr. SOLOMON, Mr. SOUDER, Mr. SPENCE, Mr. STEARNS, Mr. STENHOLM, Mr. STUMP, Mr. SUNUNU, Mr. TALENT, Mr. TAUZIN, Mr. THOMAS, Mr. THORNBERRY, Mr. THUNE, Mr. TIAHRT, Mr. UPTON, Mr. WALSH, Mr. WAMP, Mr. WATKINS, Mr. WATTS of Oklahoma, Mr. WELDON of Pennsylvania, Mr. WELDON of Florida, Mr. WELLER, Mr. WHITE, Mr. WICKER, Mr. WHITFIELD, and Mr. WOLF):

H.R. 1372. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to reform the budget process, and for other purposes; to the Committee on the Budget, and in addition to the Committees on Rules, and Appropriations, 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 Ms. DELAURO (for herself, Mr. HOYER, and Mr. MCGOVERN):

H.R. 1373. A bill to establish a grant program to improve the quality and expand the availability of child care services, and of family support services, for families with children less than 3 years of age; to amend the Internal Revenue Code of 1986 to modify the taxation of income of controlled foreign corporations attributable to imported property; to amend the Family and Medical Leave Act of 1993 to cover employers that have more than 20 employees; to amend the Head Start Act to authorize appropriations for fiscal years 1999 through 2002 and to increase the funds reserved for services for families with children less than 3 years of age; and for other purposes; to the Committee on Education and the Workforce, 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. DELLUMS:

H.R. 1374. A bill to establish a U.S. Health Service to provide high quality comprehensive health care for all Americans and to overcome the deficiencies in the present system of health care delivery; to the Committee on Commerce, and in addition to the Committees on Ways and Means, the Judiciary, and the Budget, 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. ENSIGN (for himself, Mr. SERRANO, Mrs. JOHNSON of Connecticut, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. BAESLER, Mr. BERMAN, Mr. BLAGOJEVICH, Mr. BOEHLERT, Mr. BONIOR, Mr. BORSKI, Mr. BOUCHER, Mr. BROWN of Ohio, Mr. CALVERT, Ms. CHRISTIAN-GREEN, Mrs. CLAYTON, Mr. CLYBURN, Mr. COSTELLO, Mr. COYNE, Mr. DAVIS of Illinois, Mr. DEFAZIO, Ms. DEGETTE, Mr. ENGEL, Mr. ENGLISH of Pennsylvania, Ms. ESHOO, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FLAKE, Mr. FOGLIETTA, Mr. FORD, Mr. FOX of Pennsylvania, Mr. FRANK of Massachusetts, Mr. FROST, Ms. FURSE, Mr. GEJDENSON, Mr. GIBBONS, Mr. GILMAN, Mr. GONZALEZ, Mr. GORDON, Mr. GUTIERREZ, Mr. HALL of Ohio, Mr. HASTINGS of Florida, Mr. HINCHEY, Ms. KAPTUR, Mrs. KELLY, Mr. KENNEDY of Massachusetts, Mr. KILDEE, Mr. KING of New York, Mr. KLUG, Mr. KUCINICH, Mr. LAHOOD, Mr. LAZIO of New York, Mr. LEWIS of Georgia, Mr. MCCRERY, Mr. MCGOVERN, Mrs. MALONEY of New York, Mrs. MINK of Hawaii, Mr. MOAKLEY, Mr. NEAL of Massachusetts, Mr. NADLER, Mr. OLVER, Mr. ORTIZ, Ms. PELOSI, Mr. PETERSON of Minnesota, Ms. PRYCE of Ohio, Mr. RAHALL, Mr. REYES, Ms. RIVERS, Mr. RUSH, Mr. SABO, Mr. SANDERS, Mr. SAWYER, Mr. SCHUMER, Mr. SHAYS, Ms. SLAUGHTER, Mr. ADAM SMITH of Washington, Mr. SNYDER, Mr. SOLOMON, Ms. STABENOW, Mr. TANNER, Mrs. THURMAN, Mr. TIERNEY, Mr. TORRES, Mr. TOWNS, Mr. TRAFICANT, Mr. VENTO, Mr. VISCLOSKY, Mr. WALSH, Mr. WAXMAN, Mr. WELDON of Florida, Mr. WEYGAND, Mr. WISE, Mr. YATES, Mr. YOUNG of Alaska, Mr. LEACH, Ms. LOFGREN, Mr. DELAHUNT, Mr. NETHERCUTT, Ms. DELAURO, Mr. MALONEY of Connecticut, Mr. PALLONE, and Mrs. MEEK of Florida):

H.R. 1375. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the Medicare Program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals; 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 Ms. ESHOO (for herself, Mrs. MALONEY of New York, Mr. ACKERMAN, Mr. ANDREWS, Mr. BROWN of California, Mr. BONIOR, Mr. BERMAN, Mr. CAPPS, Mr. CARDIN, Mr. CLAY, Mr. CONYERS, Ms. CHRISTIAN-GREEN, Mr. DAVIS of Illinois, Ms. DELAURO, Mr. DELLUMS, Mr. DELAHUNT, Mr. EVANS, Mr. FARR of California, Mr. FLAKE, Mr. FRANK of Massachusetts, Mr. FROST, Mr. FILNER, Mr. GONZALEZ, Mr. GUTIERREZ, Mr. HINCHEY, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KENNEDY of Massachusetts, Ms. KILPATRICK, Mr. KUCINICH, Mr. LANTOS, Mr. LEWIS of Georgia, Ms. LOFGREN, Mrs. LOWEY, Ms. MCKINNEY, Mr. MCGOVERN, Mr. MEEHAN, Mrs. MEEK of Florida, Mr. MORAN of Virginia, Mr. NADLER, Ms. NORTON, Mr. PAYNE, Ms. RIVERS, Ms. ROYBAL-ALLARD, Mr. SANDERS, Mr. SCHUMER, Mr. SERRANO, Mr. SHERMAN, Ms. SLAUGHTER, Mr. STARK, Mr. THOMPSON, Mr. TIERNEY, Ms. VELÁZQUEZ, Ms. WATERS, Mr. WAXMAN, Ms. WOOLSEY, and Mr. YATES):

H.R. 1376. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 and related laws to strengthen the protection of native biodiversity and ban clearcutting on Federal lands, and to designate certain Federal lands as Northwest Ancient Forests, roadless areas, and Special Areas where logging and other intrusive activities are prohibited; to the Committee on Agriculture, and in addition to the Committees on Resources, and National Security, 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. FAWELL (for himself, Mr. PAYNE, Mr. GOODLING, Mr. POMEROY, Mr. KNOLLENBERG, Mr. PETRI, Mr. FROST, Mr. CASTLE, Mr. TALENT, Mrs. ROUKEMA, Mr. BALLENGER, Mr. MARTINEZ, Mr. SAXTON, Mr. FATTAH, Mr. HINOJOSA, Mrs. MCCARTHY of New York, Mr. MCKEON, Mr. UPTON, Mrs. KELLY, Mr. TOWNS, Mr. HILLIARD, Ms. NORTON, Mr. MCCOLLUM, Mr. CALVERT, Mr. WELLER, and Ms. WATERS):

H.R. 1377. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to encourage retirement income savings; to the Committee on Education and the Workforce.

By Mr. HAYWORTH (for himself, Mr. ARMEY, Mr. DELAY, Mr. BOEHNER, Mr.

PAXON, Mr. LINDER, Mr. HEFLEY, Mr. BONILLA, Mr. PITTS, Mr. NETHERCUTT, Mr. TIAHRT, Mr. HUTCHINSON, Mr. STUMP, Mr. KOLBE, Mrs. CUBIN, Mr. EHRLICH, Mr. SHADEGG, Mrs. CHENOWETH, Mr. HOEKSTRA, Mr. COBURN, Mr. WICKER, Mr. SALMON, Mr. CUNNINGHAM, Mr. COOKSEY, Mr. HILLEARY, Mr. GANSKE, Mr. SCARBOROUGH, Mrs. MYRICK, Mr. WATTS of Oklahoma, Mr. JONES, Mr. PARKER, Mr. ISTOOK, Mr. TALENT, Mr. LEWIS of Kentucky, Mr. BOB SCHAFFER, Mr. COBLE, and Mr. CHRISTENSEN):

H.R. 1378. A bill to prohibit discrimination in contracting on federally funded projects on the basis of certain labor policies of potential contractors; to the Committee on Education and the Workforce.

By Mr. HILL:

H.R. 1379. A bill to amend the Internal Revenue Code of 1986 to lower the maximum capital gains rate to 15 percent with respect to assets held for more than 3 years, to replace the estate and gift tax rate schedules, and for other purposes; to the Committee on Ways and Means.

By Mr. HOYER:

H.R. 1380. A bill to amend the Internal Revenue Code of 1986 to reduce estate taxes on family-owned farm businesses and to exclude gain from the sale or exchange of a farming business to the extent of the medical expenses paid by the taxpayer; to the Committee on Ways and Means.

By Mr. KOLBE (for himself and Mr. PASTOR):

H.R. 1381. A bill to amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to establish the U.S. Institute for Environmental Conflict Resolution to conduct environmental conflict resolution and training, and for other purposes; to the Committee on Education and the Workforce.

By Mr. LEVIN (for himself and Mr. ENGLISH of Pennsylvania):

H.R. 1382. A bill to amend the Internal Revenue Code of 1986 to provide that certain educational benefits provided by an employer to children of employees shall be excludable from gross income as a scholarship; to the Committee on Ways and Means.

By Mr. LEWIS of Georgia (for himself, Mr. HOUGHTON, Mr. QUINN, Mr. ACKERMAN, Mr. BORSKI, Ms. CHRISTIAN-GREEN, Mr. CUMMINGS, Mr. DELAHUNT, Mr. EDWARDS, Mr. ENGEL, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GEPHARDT, Mr. HINCHEY, Mrs. LOWEY, Mrs. MALONEY of New York, Mr. MANTON, Mr. MCGOVERN, Mr. MCNULTY, Mr. MEEHAN, Mrs. MEEK of Florida, Mr. MOAKLEY, Mr. NADLER, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. RAHALL, Mr. SABO, Mr. SCHUMER, Ms. SLAUGHTER, Mr. TIERNEY, Mr. TOWNS, Mr. TRAFICANT, and Ms. VELÁZQUEZ):

H.R. 1383. A bill to designate the Federal building located at 10th Street and Constitution Avenue, NW, in Washington, DC, as the "Robert F. Kennedy Department of Justice Building"; to the Committee on Transportation and Infrastructure.

By Mr. MCHUGH:

H.R. 1384. A bill to amend the Immigration and Nationality Act to establish a telephone reporting system to permit certain individuals traveling by boat to enter the United States from Canada without applying for admission at a port of entry; to the Committee on the Judiciary.

By Mr. MCKEON (for himself, Mr. GOODLING, and Mr. KILDEE):

H.R. 1385. A bill to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes; to the Committee on Education and the Workforce.

By Mr. METCALF:

H.R. 1386. A bill to require uniform appraisals of certain leaseholds of restricted Indian lands, and for other purposes; to the Committee on Resources.

By Mr. MILLER of Florida (for himself, Mr. SCHUMER, Mr. CHABOT, Mr. QUINN, Mr. FRELINGHUYSEN, Mr. CAMPBELL, Mr. SHAW, Mr. HORN, Mr. KLUG, Mr. BARRETT of Wisconsin, Mr. MCINTOSH, Mr. MCGOVERN, Mr. LOBIONDO, Mr. PORTER, Mr. SENSENBRENNER, Mr. ROHRABACHER, Mr. CASTLE, Mr. ROYCE, Mr. SHAYS, Mr. RAMSTAD, Mrs. ROUKEMA, Mr. KENNEDY of Rhode Island, Mr. FRANKS of New Jersey, Mr. MEEHAN, Mr. CARDIN, Mr. MCHALE, Mr. NEUMANN, Mr. SOUDER, Mr. SANFORD, Mr. ENGLISH of Pennsylvania, Mr. PORTMAN, Mr. FAWELL, Mr. FOGLIETTA, Mr. OLVER, Mr. FRANK of Massachusetts, Mr. HINCHEY, Mr. MARKEY, Mr. NADLER, Mr. NEY, Mrs. LOWEY, Mrs. MCCARTHY of New York, Mr. MOAKLEY, Mrs. MALONEY of New York, Mr. DAVIS of Virginia, Mr. WOLF, Mr. GOSS, Mr. ENSIGN, Mr. LIPINSKI, Mr. OWENS, Mr. YATES, Mr. STARK, Mr. GEKAS, Mrs. MORELLA, Mr. PETRI, Mr. KASICH, Mr. VISCLOSKY, Mr. FORBES, Mr. WAMP, Mr. BASS, Mr. SMITH of New Jersey, and Mr. KOLBE):

H.R. 1387. A bill to amend the Agricultural Market Transition Act to convert the price support program for sugarcane and sugar beets into a system of solely recourse loans and to provide for the gradual elimination of the program; to the Committee on Agriculture.

By Ms. NORTON:

H.R. 1388. A bill to provide authority for leave transfer for Federal employees who are adversely affected by disasters or emergencies, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. PACKARD:

H.R. 1389. A bill to amend the Internal Revenue Code of 1986 to provide that the amount of the aviation excise taxes for any fiscal year shall equal the expenditures from the Airport and Airway Trust Fund for the prior fiscal year, and for other purposes; to the Committee on Ways and Means.

By Mr. PALLONE (for himself and Mr. MCCOLLUM):

H.R. 1390. A bill to authorize the Government of India to establish a memorial to honor Mahatma Gandhi in the District of Columbia; to the Committee on Resources.

By Mr. PORTMAN (for himself, Mr. CARDIN, Mr. ACKERMAN, and Mrs. KELLY):

H.R. 1391. A bill to amend the Internal Revenue Code of 1986 to provide an exemption from tax for gain on sale of a principal residence; to the Committee on Ways and Means.

By Mr. REGULA (for himself and Mr. MURTHA):

H.R. 1392. A bill to require the administrator of the Environmental Protection Agency to establish a program under which States may be certified to carry out voluntary environmental cleanup programs and to amend CERCLA regarding the liability of landowners and prospective purchasers; to the Committee on Commerce, and in addition to the Committee on 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 Ms. RIVERS:

H.R. 1393. A bill to amend the Toxic Substances Control Act to establish certain requirements regarding the approval of facilities for the disposal of polychlorinated biphenyls, and for other purposes; to the Committee on Commerce.

By Ms. ROS-LEHTINEN (for herself and Mr. KENNEDY of Massachusetts):

H.R. 1394. A bill to amend the Internal Revenue Code of 1986 to modify the tax treatment of qualified State tuition programs; to the Committee on Ways and Means.

By Mr. ROTHMAN (for himself, Mr. OLVER, Mr. HINCHEY, and Mr. PASTOR):

H.R. 1395. A bill to assist the States and local governments in assessing and remediating brownfield sites and encouraging environmental cleanup programs, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration for such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SAXTON (for himself, Mr. SMITH of Michigan, Mr. KOLBE, Mr. PETERSON of Pennsylvania, and Mr. GRAHAM):

H.R. 1396. A bill to require the Board of Governors of the Federal Reserve System to focus on price stability in establishing monetary policy to ensure the stable, long-term purchasing power of the currency, to repeal the Full Employment and Balanced Growth Act of 1978, and for other purposes; to the Committee on Banking and Financial Services, and in addition to the Committees on Education and the Workforce, and the Budget, 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. SKAGGS (for himself, Mr. EVANS, and Mr. SANDERS):

H.R. 1397. A bill to provide health insurance benefits to certain former employees at defense nuclear facilities of the Department of Energy for injuries caused by exposure to ionizing radiation; to the Committee on Commerce.

By Mr. SMITH of New Jersey (for himself, Mr. SAXTON, Mr. HAYWORTH, Mr. CUNNINGHAM, Mr. STEARNS, Mr. RAHALL, Mr. WELDON of Pennsylvania, Mr. WALSH, Mr. KING of New York, Mr. LAFALCE, Mr. BUNNNING of Kentucky, Mr. BOB SCHAFFER, and Mr. NORWOOD):

H.R. 1398. A bill to amend the Public Health Service Act to provide for the establishment of a program for research and training with respect to Parkinson's disease; to the Committee on Commerce.

By Mr. SMITH of New Jersey:

H.R. 1399. A bill to amend title 38, United States Code, to provide a presumption of service connection for injuries classified as cold weather injuries which occur in veterans who while engaged in military operations had sustained exposure to cold weather; to the Committee on Veterans' Affairs.

By Mr. SMITH of Oregon (for himself, Mr. DEFAZIO, Ms. FURSE, Ms. HOOLEY of Oregon, and Mr. BLUMENAUER):

H.R. 1400. A bill to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to participate in a water conservation project with the Tumalo Irrigation District in the State of Oregon; to the Committee on Resources.

By Mr. THOMAS (for himself, Mr. MATSUI, Mr. NUSSLE, Mr. EHLERS, Ms. DUNN of Washington, Mr. FAZIO of California, Mr. MCDERMOTT, and Mr. MINGE):

H.R. 1401. A bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind; to the Committee on Ways and Means.

By Mr. TRAFICIANT:

H.R. 1402. A bill to establish the Commission on Probabilistic Methods; to the Committee on Transportation and Infrastructure.

By Mr. UNDERWOOD (for himself, Ms. CHRISTIAN-GREEN, Mr. RANGEL, Mr. JEFFERSON, and Mrs. MINK of Hawaii):

H.R. 1403. A bill to extend the supplemental security income benefits program to Guam and the U.S. Virgin Islands; to the Committee on Ways and Means.

By Mr. WAXMAN (for himself, Mr. GEPHARDT, Mr. MILLER of California, Mr. BROWN of California, Mrs. MALONEY of New York, Mr. FLAKE, Mr. FRANK of Massachusetts, Mr. SERRANO, Mr. TIERNEY, Mr. KENNEDY of Rhode Island, Mr. LEWIS of Georgia, Mr. BONIOR, Mr. PALLONE, Ms. PELOSI, and Mr. MCGOVERN):

H.R. 1404. A bill to provide for the defense of the environment, and for other purposes; to the Committee on Rules, 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. LAZIO of New York (for himself, Mr. SPENCE, and Mr. STUMP):

H. Con. Res. 64. Concurrent resolution commending the members of the Armed Forces and civilian personnel of the Government who served the United States faithfully during the cold war; to the Committee on Government Reform and Oversight.

By Mr. PALLONE:

H.J. Res. 120. Resolution designating minority membership on certain standing committees of the House; considered and agreed to.

By Mr. HORN (for himself, Mr. GILMAN, and Mr. BEREUTER):

H.J. Res. 121. Resolution expressing the sense of the House of Representatives regarding the March 30, 1997, terrorist grenade attack in Cambodia; to the Committee on International Relations.

By Mr. BAKER (for himself, Mr. MASCARA, Mr. BENTSEN, Mr. LAZIO of New York, Mr. KING of New York, Ms. RIVERS, Mr. KANJORSKI, Mr. LAHOOD, Mr. FRANK of Massachusetts, Mr. FROST, Mr. MURTHA, Mr. SCHUMER, Mr. SMITH of New Jersey, Mrs. MALONEY of New York, Mr. STARK, and Mr. RILEY):

H.J. Res. 122. Resolution expressing the sense of the House of Representatives regarding tactile currency for the blind and visually impaired; to the Committee on Banking and Financial Services.

By Mrs. MORELLA (for herself and Mr. DAVIS of Virginia):

H.J. Res. 123. Resolution amending the Rules of the House of Representatives to postpone final House action on legislative branch appropriations for any fiscal year until all other regular appropriations for that fiscal year are enacted into law; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

44. By the SPEAKER. Memorial of the Legislature of the Commonwealth of Virginia, relative to Senate Joint Resolution No. 377 urging Congress to amend the Fair Labor Standards Act to better address the unique characteristics of emergency medical service employees, and to provide and overtime exemption for such employees similar to that provided for fire, police, and corrections employees; to the Committee on Education and the Workforce.

45. Also, memorial of the Legislature of the State of West Virginia, relative to House Concurrent Resolution No. 7 urging Congress to enact legislation that requires the Administrator of the U.S. Environmental Protection Agency to maintain the current national ambient air quality standards for ozone and fine particulate matter until there is a thorough review by the scientific community; to the Committee on Commerce.

46. Also, memorial of the House of Representatives of the State of Georgia, relative to House Resolution 379 urging the U.S. Environmental Protection Agency to reaffirm the existing air quality standards for ozone and particulate matter; to the Committee on Commerce.

47. Also, memorial of the Senate of the State of Oregon, relative to Senate Resolution 3 urging Congress to ensure that Federal agencies operate or direct operation of Klamath project in accordance with Oregon's system for allocation of water rights; to the Committee on Resources.

48. Also, memorial of the Legislature of the Commonwealth of Virginia, relative to Senate Joint Resolution No. 343 urging Congress to proceed immediately with an extension of waivers to the Program for All Inclusive Care for the Elderly [PACE] Program or to pass S. 999, extending provider status to the PACE Program; jointly, to the Committees on Ways and Means and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4: Mr. ANDREWS, Mr. COBURN, Mr. DELAHUNT, Mr. ROTHMAN, Mr. JENKINS, Mr. FRANK of Massachusetts, Mr. ACKERMAN, Mr. BLAGOJEVICH, Mr. CAPPS, Mr. SCHUMER, Mr. BROWN of California, Mr. BLUMENAUER, Mr. SMITH of New Jersey, Mr. CAMPBELL, Mr. GIBBONS, Mr. COLLINS, Mr. SCARBOROUGH, Mr. JONES, Mr. MORAN of Kansas, Mr. SOLOMON, Mr. TIERNEY, Mr. MCINTYRE, and Mr. LUCAS of Oklahoma.

H.R. 12: Mr. MEEHAN and Mr. PASCRELL.

H.R. 14: Mr. WHITFIELD, Mr. EWING, Mr. BARR of Georgia, Mr. KINGSTON, Mr. RILEY, Mr. CAPPS, Mr. SOUDER, and Mr. COOK.

H.R. 15: Mr. LAMPSON, Mr. KIND of Wisconsin, Mr. BUYER, Mr. NUSSLE, Ms. PELOSI, Mr. DUNCAN, Mr. LINDER, Mr. PALLONE, Mr. DAN SCHAEFER of Colorado, Mr. BAESLER, Mr. MANZULLO, Mr. KLINK, Mr. WHITFIELD, Mrs. EMERSON, Mr. SANDERS, and Mr. SOLOMON.

H.R. 66: Mr. TAYLOR of Mississippi, Mr. CALVERT, Mr. THORNBERRY, Mr. COBLE, and Mr. STUMP.

H.R. 80: Mr. FRANKS of New Jersey, Ms. ESHOO, Mr. LARGENT, Mr. DEFAZIO, MR. CALLAHAN, Mr. TAYLOR of Mississippi, Mr. COX of California, Mr. PARKER, Mr. BENTSEN, Mr. MARTINEZ, and Mrs. THURMAN.

H.R. 85: Mr. LIPINSKI, Mr. KUCINICH, and Ms. FURSE.

H.R. 86: Mr. WATKINS.

H.R. 96: Mr. SKELTON, Mr. GOODE, Mr. HILLIARD, and Mr. SNOWBARGER.

H.R. 122: Mr. CHABOT, Mr. TALENT, and Mr. HAYWORTH.

H.R. 123: Mr. TAYLOR of Mississippi.

H.R. 192: Mr. GILLMOR, Mr. DEUTSCH, Mrs. CUBIN, Mr. KIND of Wisconsin, Ms. BROWN of Florida, Mr. ETHERIDGE, Mr. PALLONE, and Mr. BALDACCI.

H.R. 200: Ms. GRANGER, Mr. DEAL of Georgia, and Mr. MCGOVERN.

H.R. 218: Mr. BARR of Georgia, Mr. MCINTYRE, and Mr. HULSHOF.

H.R. 242: Mr. MATSUI.

H.R. 277: Mr. KENNEDY of Massachusetts.

H.R. 279: Mr. GALLEGLY, Ms. ROYBAL-ALLARD, Ms. MOLINARI, Mr. BALLENGER, Mr. GORDON, Mr. BRADY, Mr. MARTINEZ, Mr. SABO, Mrs. EMERSON, Mr. HILLIARD, Ms. CARSON, Mr. STUPAK, Mrs. KENNELLY of Connecticut, Ms. ROS-LEHTINEN, Mr. DIAZ-BALART, Mr. ALLEN, Mr. OXLEY, Mr. LARGENT, Mr. BARCIA of Michigan, Mr. CRANE, Mr. NETHERCUTT, Mr. EVANS, Mr. SHIMKUS, Mr. ADERHOLT, Mr. MALONEY of Connecticut, Mr. RODRIGUEZ, Mr. KINGSTON, Mr. WISE, Mr. BOUCHER, Mr. CRAMER, Mr. DOOLEY of California, Mr. HAMILTON, Mr. BORSKI, Ms. DANNER, Mr. PASCRELL, Mr. POMEROY, Mr. DAVIS of Florida, Mr. FAWELL, Mr. GILCHREST, Mr. PICKETT, Mr. SANDERS, Mrs. FOWLER, Ms. KAPTUR, Mr. BLILEY, Ms. MCCARTHY of Missouri, Mr. WEXLER, Mrs. TAUSCHER, Mr. SKELTON, MR. STENHOLM, Mr. SESSIONS, Mr. POSHARD, Mr. BATEMAN, Mr. BLUNT, Mr. DEAL of Georgia, Mr. JOHNSON of Wisconsin, Mr. COBLE, and Mr. BARTLETT of Maryland.

H.R. 292: Mr. HILLEARY.

H.R. 304: Mr. LEWIS of Georgia.

H.R. 305: Ms. FURSE, Mr. GUTIERREZ, and Mr. JEFFERSON.

H.R. 306: Mr. FILNER and Mr. MCHUGH.

H.R. 335: Mr. GOODE.

H.R. 367: Mr. ADERHOLT, Mr. PAXON, and Mr. LINDER.

H.R. 414: Mr. DEUTSCH, Ms. BROWN of Florida, Mrs. MEEK of Florida, Mr. PALLONE, and Mr. BALDACCI.

H.R. 415: Mr. WELDON of Florida and Mr. DICKEY.

H.R. 426: Mr. KNOLLENBERG and Mr. CAPPS.

H.R. 437: Mr. CAPPS, Mr. GILLMOR, Mr. CASTLE, Mr. ORTIZ, Mr. CALVERT, Mr. KILDEE, and Mr. SABO.

H.R. 443: Mr. KUCINICH and Mr. GONZALEZ.

H.R. 475: Mr. SMITH of Michigan.

H.R. 492: Ms. BROWN of Florida and Mr. MEEHAN.

H.R. 519: Mr. BLAGOJEVICH.

H.R. 558: Ms. WOOLSEY.

H.R. 561: Ms. CARSON.

H.R. 586: Mr. COOK, Mrs. MCCARTHY of New York, Mr. MCINTYRE, and Mr. MCNULTY.

H.R. 603: Mr. RAMSTAD and Mr. SMITH of New Jersey.

H.R. 623: Mr. WYNN.

H.R. 695: Mr. PAXON and Mr. WELDON of Florida.

H.R. 716: Mr. SNOWBARGER and Mr. BRYANT.

H.R. 753: Ms. ROYBAL-ALLARD, Mr. BARRETT of Wisconsin, Mr. OWENS, Mr. STRICKLAND, and Mr. DELAHUNT.

H.R. 754: Mr. JEFFERSON and Mr. ACKERMAN.

H.R. 775: Mr. DEFAZIO, Mr. GUTIERREZ, Mr. THOMPSON, Ms. WATERS, Mr. TORRES, and Mr. MCGOVERN.

H.R. 820: Mr. DAVIS of Illinois, Mr. STARK, Mr. MATSUI, and Mr. RUSH.

H.R. 857: Mr. MANZULLO and Mr. CRAPO.

H.R. 864: Mrs. MORELLA, Mr. HILLIARD, Mrs. MALONEY of New York, Ms. WATERS, Mr. KILDEE, Mr. RUSH, Mr. FORD, Mr. TOWNS, Mr. DIXON, Ms. LOFGREN, Mr. DEFAZIO, Mr. LATOURETTE, Mr. PAYNE, Mr. LIPINSKI, Mr. TRAFICANT, and Mr. MARTINEZ.

H.R. 865: Mr. CLEMENT.

H.R. 866: Mr. ENGLISH of Pennsylvania, Mr. COBLE, and Mr. WATTS of Oklahoma.

H.R. 867: Mr. HOUGHTON.

H.R. 871: Mr. ADAM SMITH of Washington.

H.R. 872: Mr. BUNNING, Mr. CONDIT, Mrs. CUBIN, Mr. FOX of Pennsylvania, Mr. GILLMOR, Mr. HEFNER, Mr. MCHUGH, Mr. MORAN of Virginia, Mr. PACKARD, Mrs. ROUKEMA, Mr. DAN SCHAEFER of Colorado, Mr. SESSIONS, Mr. STENHOLM, and Mr. TOWNS.

H.R. 875: Mr. SNYDER.

H.R. 895: Mr. DAVIS of Illinois.

H.R. 901: Mr. BURR of North Carolina, Mr. HOBSON, Mr. ROGERS, Mr. ROHRABACHER, Mr. MCCRERY, Mr. MCINTYRE, Mr. SMITH of Texas, and Mr. DEAL of Georgia.

H.R. 911: Mr. BILIRAKIS and Mr. BARR of Georgia.

H.R. 920: Ms. WOOLSEY.

H.R. 928: Mr. LARGENT, Mr. STUMP, Mr. GRAHAM, Mr. SESSIONS, Mr. PAUL, Mr. SOUDER, Ms. DUNN of Washington, and Mrs. CHENOWETH.

H.R. 947: Mr. CARDIN.

H.R. 955: Mr. GIBBONS, Mrs. CHENOWETH, Mr. HEFNER, Mr. SNOWBARGER, and Mr. EHRLICH.

H.R. 965: Mr. LINDER, Mr. NETHERCUTT, Mr. LIVINGSTON, Mr. PAXON, Mr. HASTERT, Mr. KING of New York, Mr. CAMP, and Mr. COOK.

H.R. 977: Mr. FAZIO of California, Mr. ABERCROMBIE, Mr. RADANOVICH, and Mr. TRAFICANT.

H.R. 990: Mr. SHAYS.

H.R. 1002: Mr. LEWIS of Georgia, Mr. WEXLER, Mr. WISE, and Mr. FILNER.

H.R. 1009: Mr. BUNNING of Kentucky.

H.R. 1022: Mr. YATES.

H.R. 1047: Mr. DELLUMS, Mr. FORD, and Mr. MEEHAN.

H.R. 1074: Ms. CARSON, Mr. DELLUMS, Mr. DIXON, Ms. ESHOO, Mrs. MALONEY of New York, Mr. KIND of Wisconsin, Mr. FOGLIETTA, Mr. CONYERS, Mr. JACKSON, Ms. NORTON, Mrs. MEEK of Florida, Mrs. CLAYTON, and Ms. JACKSON-LEE.

H.R. 1104: Mr. KENNEDY of Rhode Island, Mr. BOUCHER, Mr. POSHARD, and Mr. WEYGAND.

H.R. 1118: Mrs. MALONEY of New York and Mr. OWENS.

H.R. 1120: Mr. PALLONE and Mr. KENNEDY of Rhode Island.

H.R. 1130: Mr. BONIOR, Mr. MILLER of California, Mr. STARK, Mr. MCDERMOTT, Mr. NEAL of Massachusetts, Mr. WYNN, Ms. VELÁZQUEZ, Mr. STUPAK, Ms. HARMAN, Ms. KAPTUR, Mr. FATTAH, Ms. WOOLSEY, Mr. GREEN, Mr. SCHUMER, Mr. WAXMAN, Mr. MOAKLEY, Mr. FRANK of Massachusetts, Mr. HOYER, Mr. KENNEDY of Rhode Island, Mr. THOMPSON, Mr. BERMAN, Mr. HEFNER, Mr. ENGEL, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. ROYBAL-ALLARD, Ms. DANNER, Mr. DOOLEY of California, Mr. BROWN of Ohio, Mr. FORD, Mr. LAMPSON, Mr. CRAMER, Mr. BISHOP, Mr. HOLDEN, Mr. WATT of North Carolina, and Mr. MALONEY of Connecticut.

H.R. 1134: Mr. JOHN.

H.R. 1146: Mr. STUMP.

H.R. 1153: Mr. UNDERWOOD and Mr. PICKERING.

H.R. 1161: Mr. CONDIT.

H.R. 1169: Mr. LEWIS of Georgia, Mr. CONDIT, Mr. CARDIN, Mr. GEJDENSON, Mr. FLAKE, Mr. BROWN of Ohio, Mr. FILNER, Mr. LARGENT, Mrs. KELLY, and Mr. KLECZKA.

H.R. 1170: Mr. PACKARD, Mr. ROGAN, Mr. INGLIS of South Carolina, Mr. FOLEY, Mr. LARGENT, and Mr. HUTCHINSON.

H.R. 1178: Mr. MARTINEZ.

H.R. 1188: Mr. LEWIS of Georgia and Mr. DAVIS of Illinois.

H.R. 1189: Mr. STUPAK, Mr. KLUG, Mr. SKELTON, and Mr. MCHUGH.

H.R. 1201: Mr. BORSKI, Mr. DELLUMS, Mr. FLAKE, and Mr. DAVIS of Illinois.

H.R. 1216: Mr. DAVIS of Illinois and Mr. STARK.

H.R. 1219: Mr. COYNE, Mr. DAVIS of Virginia, Ms. LOFGREN, Mrs. MCCARTHY of New York, Ms. PRYCE of Ohio, Mr. RUSH, and Mr. WEXLER.

H.R. 1232: Mr. COBURN.

H.R. 1259: Ms. FURSE, Ms. ESHOO, and Mr. WEXLER.

H.R. 1264: Mr. MEEHAN.

H.R. 1291: Mr. FLAKE.

H.R. 1315: Mr. LATOURETTE, Mr. MEEHAN, Mrs. MEEK of Florida, Mr. JEFFERSON, Mr. TOWNS, and Mr. PARKER.

H.R. 1323: Mr. STARK and Mr. SANDERS.

H.R. 1327: Mr. WATTS of Oklahoma, Mr. METCALF, Mr. DEAL of Georgia, and Mr. WALSH.

H.R. 1340: Mr. SANFORD and Mr. BARRETT of Wisconsin.

H.R. 1353: Mr. POSHARD.

H.J. Res. 26: Mrs. NORTHUP.

H.J. Res. 67: Mr. CRAPO, Mr. PAUL, Mr. CUNNINGHAM, MrMr. ENGLISH of Pennsylvania, Mr. CHRISTENSEN, Mr. JENKINS, Mr. TALENT, Mr. BOYD, and Mr. SOUDER.

H. Con. Res. 8: Mr. CAPPS and Mr. SHAW.

H. Con. Res. 10: Mr. COX of California, Mr. HOLDEN, Mr. FAWELL, Mr. MCNULTY, and Mr. HOBSON.

H. Con. Res. 13: Mr. WEYGAND, Mr. MENENDEZ, and Ms. ROYBAL-ALLARD.

H. Con. Res. 52: Mr. HOLDEN, Mr. GILLMOR, Mr. TRAFICANT, Mr. MINGE, Mr. WELLER, Mr. BROWN of Ohio, and Mr. BORSKI.

H. Res. 96: Mrs. LOWEY, Mr. STARK, and Ms. CHRISTIAN-GREEN.

H. Res. 110: Mr. TRAFICANT, Mr. PETERSON of Minnesota, Mr. COX of California, Mr. PORTER, and Mr. CAMPBELL.

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. 963: Mr. WYNN.

EXTENSIONS OF REMARKS

HOUSE RESOLUTION 121 SUPPORTS PEACE AND DEMOCRACY IN CAMBODIA

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. HORN. Mr. Speaker, I will be returning home this weekend for a particularly happy event. To celebrate the Cambodian New Year and the beginning of the Year of the Ox, we are expecting between 40,000 and 50,000 people from all over America to attend a 3-day celebration in my congressional district, home to the largest Cambodian community in America. Unfortunately, in Cambodia itself, this New Year does not come with the same joy we will see in California.

According to news reports, many families have stayed at home rather than risk their personal safety by attending festivals or touring in cities, particularly in Phnom Penh, the capital of Cambodia. Fear of violence has returned to the daily life of many Cambodians as relations between the two leading political parties have plummeted.

On March 30 of this year, Sam Rainsy, the leader of the Khmer Nation Party, was the target of a grenade attack that killed 19 and injured more than 100, including Ron Abney, an American who was in Cambodia working on behalf of the International Republican Institute to advance the cause of democracy. Sam Rainsy was only slightly injured in this attack. Sadly, those of us who championed the victory of the democratic process in Cambodia leading up to the free elections in 1993 are now watching the unraveling of peace and democracy in Cambodia.

Following the 1991 Paris Peace Agreements, the United States worked closely to help the people of Cambodia create an environment that would allow democracy to prosper. In the 1993 elections, more than 93 percent of eligible voters turned out to the polls. In the period following these elections, the people of Cambodia made great strides to bring greater prosperity and security to their land. Now, we are seeing these gains slip, causing increasing concern in Cambodia and in the United States. The elections expected in 1998 must not fall victim to attempts by undemocratic forces to turn back the gains made in this decade and plunge Cambodia back into chaos and violence.

Today, I am introducing House Resolution 121 with my distinguished colleagues BEN GILMAN, chairman of the Committee on International Relations, and DOUG BEREUTER, chairman of the Subcommittee on Asia and the Pacific. Both have been leaders in the long effort to establish democracy and peace in Cambodia. The United States must continue to help the people of Cambodia advance the democratic process and do so in an unbiased manner so that the people of Cambodia choose representatives who they want to lead them. We are introducing this resolution to express our deep concern over the events occurring in Cambodia and our concern for where these events may lead, while expressing our sympathy to the individuals wounded in the attack of March 30 and to the families of those killed. It condemns this incident as the act of terrorism that it was.

House Resolution 121 calls upon our Government to offer assistance to Cambodian officials to help track down and prosecute those responsible for the attack and calls upon the Cambodian Government to accept this offer. Finally, it calls upon all political parties in Cambodia to renounce and condemn all forms of political violence. The right of the people of Cambodia to choose their future without coercion must be maintained.

I know that many Members of this House also are committed to democracy and peace in Cambodia. We encourage you to cosponsor this important resolution.

Mr. Speaker, I ask that House Resolution 121 be printed at the end of my remarks:

Whereas Cambodia continues to recover from more than three decades of recent warfare, including the genocide committed by the Khmer Rouge from 1975 to 1979;

Whereas Cambodia was the beneficiary of a massive international effort to ensure peace, democracy, and prosperity after the October 1991 Paris Peace Agreements on Cambodia;

Whereas more than 93 percent of the Cambodians eligible to vote in the 1993 elections in Cambodia did so, thereby demonstrating the commitment of the Cambodian people to democracy;

Whereas since those elections, Cambodia has made significant economic progress which has contributed to economic stability in Cambodia;

Whereas since those elections, the Cambodia Armed Forces have significantly diminished the threat posed by the Khmer Rouge to safety and stability in Cambodia;

Whereas other circumstances in Cambodia, including the recent unsolved murder of journalists and political party activists, the recent unsolved attack of party officials of the Buddhist Liberal Democratic in 1995, and the quality of the judicial system—described in a 1996 United Nations report as "thoroughly corrupt"—raise international concern for the state of democracy in Cambodia;

Whereas Sam Rainsy, the leader of the Khmer Nation Party, was the target of a terrorist grenade attack on March 30, 1997, during a demonstration outside the Cambodia National Assembly;

Whereas the attack killed 19 Cambodians and wounded more than 100 men, women, and children; and

Whereas among those injured was Ron Abney, a United States citizen and employee of the International Republican Institute who was assisting in the advancement of democracy in Cambodia and observing the demonstration: Now, therefore, be it

Resolved, That the House of Representatives—

(1) extends its sincerest sympathies to the families of the persons killed, and the persons wounded, in the March 30, 1997, terrorist grenade attack outside the Cambodia National Assembly;

(2) condemns the attack as an act of terrorism detrimental to peace and the development of democracy in Cambodia;

(3) calls upon the United States Government to offer to the Cambodia Government all appropriate assistance in identifying and prosecuting those responsible for the attack;

(4) calls upon the Cambodia Government to accept such assistance and to expeditiously identify and prosecute those responsible for the attack; and

(5) calls upon all Cambodian political parties to renounce and condemn all forms of political violence.

RECOGNITION OF MR. JASON WONG

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me today in commending Mr. Jason Wong, a senior at the Abraham Lincoln High School and the recipient of the Congressional Youth Excellence Award in the 12th Congressional District of California.

Mr. Wong's scholastic achievements are impressive indeed. He has maintained a high grade point average while taking challenging classes, and he ranks in the top 10 students in his high school class. His academic excellence has been recognized by his earning Golden State Exam honors in algebra and chemistry.

In addition to his impressive academic achievements, Mr. Wong has taken an active role in community service. He is the president of the Lincs Service Society, as well as a volunteer tutor at Ulloa Elementary School. He is a member of the Red Cross Club, American Culture Club, the International Committee against Racism, and the Chemistry Club. He has served as vice-president, secretary, and treasurer of the California Scholarship Federation, as well as a volunteer for the San Francisco Annual Chinese New Year Parade.

Mr. Speaker, I invite my colleagues to join me in commending Mr. Jason Wong for his outstanding service to our community and congratulating him for his academic achievements.

TRIBUTE TO THE LATE HONORABLE CHARLES A. HAYES OF ILLINOIS

SPEECH OF

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. STOKES. Mr. Speaker, I want to thank our distinguished colleague from Illinois, BOBBY RUSH, for reserving this special order. We gather to pay tribute to our good friend and former colleague, Charles Hayes, who passed away on April 8, 1997. We join members of his family, the people of Illinois, and others throughout the Nation in mourning his death.

When he was elected to the U.S. Congress in 1983, Charlie Hayes become the first elected representative of rank and file trade unionists to serve in this legislative body. It was a significant achievement for an individual who had devoted his life to fighting for the rights of working men and women.

Mr. Speaker, Charlie Hayes was born in Cairo, IL. At an early age, he found employment at a flooring company where he was paid 15 cents per hour. Racism forced blacks who were employed at the plant to work in the lowest paid and least desirable positions, and to endure insults and indignation. The black workers formed a local union, later recognized by the company as the Carpenter's Local Union 1424, and Charlie was elected president at the age of 20. The action started him on a long career dedicated to protecting the rights of workers.

For more than 40 years, Charlie Hayes would fight to guarantee job benefits, equal employment opportunities and job protection for workers. He held various union posts including international field representative, district director, international vice president and regional director, and executive vice president. During his union days, Charlie was one of the highest ranking black elected union officials in the country.

Charlie Hayes was also intimately involved in the civil rights movement in this country. He worked side-by-side with Dr. Martin Luther King, Jr., during the 1956 Montgomery bus boycott and the 1963 March on Washington. Charlie was also involved in the 1966 campaign for open housing in Chicago, the march in support of hospital workers in Charleston, SC, and Dr. King's last march in support of sanitary workers in Memphis, TN.

Mr. Speaker, in 1983 Charlie Hayes was elected to Congress from the First Congressional District of Illinois. He won the seat vacated by his friend, Harold Washington, following Harold's historic election as mayor of Chicago. Like many of my colleagues gathered in the Chamber this evening, I enjoyed a close friendship with Charlie Hayes. He was a hard working and dedicated public servant whom I respected and admired. He was also a close friend.

We recall Charlie Hayes for his strong leadership on education issues. As a member of the Education Committee, he made great strides in addressing the Nation's school dropout rates. He introduced full employment legislation, denounced unemployment as "morally unacceptable," and fought for national health insurance. Throughout his tenure, however, Charlie never forgot the working men and women of America. He stood strong for workers' rights and boasted a 100 percent voting record on issues important to labor.

Mr. Speaker, it saddens me that Charlie Hayes has been taken from our midst. We are comforted, however, in knowing that he will never be forgotten. His contributions on behalf of the working men and women of this Nation, and on behalf of his constituents, has earned him a place in history. Charlie has found rest from his labors and he is at peace. I extend my sympathy to Charlie's family and the people of Illinois during this period of mourning.

TRIBUTE TO THE LATE HONORABLE CHARLES A. HAYES OF ILLINOIS

SPEECH OF

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to give a parting tribute to one of the foremost pioneers to the working man and woman. The late Congressman Charles Arthur Hayes spent more than 45 years of his life as a trade unionist. He succeeded the late Harold Washington in the House when Washington was elected mayor of Chicago. Congressman Hayes was a man who had a knack for organizing workers on all levels. He helped to organize Local 1424 of the United Brotherhood of Carpenters & Joiners of America and served as its president from 1940 to 1942.

From 1979 until his retirement in September 1983, Congressman Hayes was the international vice president and director of Region Twelve of the United Food & Commercial Workers International Union. In addition to seeking increased benefits and improved conditions for workers, Congressman Hayes also fought to eliminate segregation and discrimination in hiring and promotion in the industry. Congressman Hayes also sought to provide African-American and women workers with opportunities to serve as leaders in the labor movement.

Mr. Speaker, during his congressional career Congressman Hayes introduced several pieces of legislation to address the educational and employment needs of many Americans. Prominent among these are acts to encourage school dropouts to reenter and complete their education and to provide disadvantaged young people with job training and support services. Congressman Hayes also sponsored bills to reduce high unemployment rates and make it easier for municipalities to offer affordable utility companies. He consistently opposed the actions and programs of South Africa's white-minority government and in 1984 joined other demonstrators at its Washington Embassy in protest of the Pretoria regime's policies of racial separation.

Mr. Speaker, I rise with the rest of my colleagues in tribute not only to a pioneer in workers rights but to a pioneer in human rights.

PROTECTION OF OUR NATION'S FORESTS

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Ms. ESHOO. Mr. Speaker, today I am introducing, along with Representative CAROLYN MALONEY and over 50 cosponsors, the Act to Save America's Forests.

This bill is a dramatic and bold change in direction in how we as a nation protect and treat our public lands. Mudslides, scarred landscapes, preventable forest fires and destruction caused by clearcutting and other misguided forest management must end. This legislation is a huge step in that direction.

Our Nation's 155 national forests are home to 34 million acres of remote wilderness areas and 4,385 miles of wild and scenic rivers. They are a valuable resource that generates nearly $199 billion in recreation dollars. For a century we have tried to balance the conservation of the land and continued access to those who use it. But, now, how we manage our public lands is no longer in balance. We favor timber creation instead of careful stewardship.

There are currently eight times more roads in National Forests than there are in the National Highway System. Year after year below cost timber sales are pushed through, which does not benefit the environment or the taxpayer. The most egregious step was the passage of the Timber Salvage Rider in the last Congress which waived all laws protecting these forests and had a devastating impact on the land, rivers and wildlife of our Nation.

The Act to Save America's Forest will end clearcutting and other even-age logging techniques throughout all lands controlled by the Federal Government. Under this bill, maintaining native forest biological diversity will be the priority of the Federal forest management activities. No longer will the Forest Service be charged with the task of exploiting and selling off our resources, often below costs, instead of conserving them.

The passage of this bill would also protect once and for all core areas of biodiversity including Roadless Areas, the Ancient Forests of the Pacific Northwest and over 100 specified areas spread throughout our Nation's forest system.

The overwhelming majority of American people support more environmental protection, not less. The bill I introduce today is a giant step forward fulfilling our obligation to protect and leave for future generations the lands that have been entrusted to us.

RECOGNITION OF ANNIE CHAU

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me today in commending

Annie Chau, a sophomore at San Mateo High School and the recipient of the Congressional Youth Excellence Award in the 12th Congressional District of California.

Ms. Chau's scholastic achievements are impressive indeed. She has maintained a 4.0 grade point average while undertaking a challenging class schedule. Her academic achievements include the San Mateo High School McConville Award in Freshman Spanish, Golden State Exam Awards in first year algebra, geometry, and chemistry, as well as membership in the California Scholarship Federation. At San Mateo High School, she has served as class treasurer, as well as a member of the math team, Amnesty International, the Interact Club, and the International Club.

In addition to her impressive academic achievements, Ms. Chau has taken an active role in community service. She is a member of the San Mateo County Youth Commission, the San Mateo County Volunteer Center Youth Board, and the Foster City Youth Advisory Committee. Furthermore, she volunteers her talents at the Foster City Recreation Department, the ELLIPSE Peninsula AIDS Services, and the Peninsula Association for Retarded Children and Adults [PARCA].

Mr. Speaker, I invite my colleagues to join me in commending Ms. Annie Chau for her outstanding service to our community and congratulating her for her academic achievements.

LINKED FINANCING—A NEW ALTERNATIVE FOR AVIATION FUNDING

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. PACKARD. Mr. Speaker, I rise today to introduce legislation which will establish a new funding mechanism for the Federal Aviation Administration called linked financing. This is an innovative and bold new mechanism for ensuring that the Federal Aviation Administration receives the funding it requires while preserving the advantages of the existing tax structure.

I have worked closely with the Aircraft Owners and Pilots Association on this legislation, and I must credit my friend and former colleague, Jim Lightfoot of Iowa, with advancing this idea in the previous Congress.

Linked financing is based on a simple premise: The services provided by the FAA are an essential Government function, for which users pay. So it ought to be possible to spend more on FAA programs—when and if users are willing to pay more. But as we know, this isn't necessarily the case under existing budget rules. The cap on overall discretionary spending constrains our ability to increase spending on certain transportation programs, even when the users are willing to increase their contribution.

The administration has proposed replacing the current aviation taxes with direct user fees for FAA services to pilots and the airlines. However, user fees have many problems. They are costly to collect, they provide no incentive to manage costs, they have safety implications, and—most important—FAA would have little direct accountability to Congress for how the agency spends the money.

Linked financing is a better alternative. It would retain the excise taxes which airway system users now pay on airline tickets, fuel, and cargo. These taxes would continue to feed the Airport and Airway Trust Fund. The trust fund is for aviation spending only, and it finances most of the FAA's budget.

Under linked financing, what aviation users pay in taxes for a given year would depend on what Congress allowed the FAA to spend the year before. When the FAA's spending goes up, the taxes collected would be adjusted upward by a corresponding amount the following year, according to a predetermined formula. A narrow upper limit on the tax rates would keep the rates at a reasonable level. The objective is for tax revenues to match spending from year to year. I am confident that almost all of the necessary growth in tax revenue would result from aviation industry growth, not tax rate increases. After all, most of the long-term growth in FAA operations spending is justified by increased aviation industry growth. But if circumstances make it necessary for this essential safety-related agency to receive more revenue through tax rate adjustment, the formula would provide for that.

On the other hand, when FAA spending drops, tax rates would drop automatically the following year to reflect the decrease. This would ensure that users aren't paying for something they don't get. And aviation users would see a swift and direct benefit from coming to Congress with ways to reduce FAA spending as well as to increase it.

Linked financing also addresses the constraints imposed by the discretionary spending cap. Under the current rules, additional aviation revenue doesn't automatically lead to additional aviation spending. Why? Because overall discretionary spending is capped, regardless of how much money the Government takes in for a particular function.

The purpose of the spending caps is to help reduce the deficit by controlling government spending instead of raising taxes. However, under linked financing, aviation users would pay for the increased spending for FAA—not other taxpayers.

Therefore, the linked financing plan establishes an annual trust fund reserve account which would be available to the appropriations committees to supplement the resources otherwise available to them within the discretionary cap. This annual reserve account would be outside the discretionary cap, so the discretionary cap would not limit the ability of Congress to spend the funds deposited in the reserve account. The amount deposited in the annual reserve account each year would be equal to the annual increase in Aviation Trust Fund revenue, if any.

The key elements of linked financing are:

First, an adjustable tax rate which is linked to the amount of spending on the air transportation system.

Second, an annual reserve account outside the discretionary cap which is linked to the yearly increase in aviation tax revenue.

Linked financing assures that the taxes that aviation users pay are promptly spent for aviation purposes. And it does this without major changes to the current budget process or the ability of Congress to oversee FAA's spending.

As an innovative mechanism for using dedicated taxes—taxes collected for a specific purpose—linked financing could offer a solution for other user-financed government programs, as well.

Mr. Speaker, the Clinton administration's ongoing opposition to balancing the Federal budget has caused the surplus in the Aviation Trust Fund, once measured in billions of dollars, to dry up. For years I joined many Members of this House in asking that these surplus funds be spent on the intended purpose. The reauthorization of aviation taxes and highway spending programs gives the 105th Congress offers of a unique opportunity to change the way we fund these priority capital programs.

In fact, Senators BOND and CHAFEE recently introduced legislation in the other body which establishes a direct link between the amount collected annually in gas tax revenues and spending for highway programs. And although I disagree with the administration's user fee concept, I was interested to read in the President's budget that a direct link is now needed between dedicated taxes and the level of funding for the agency operations that affect them.

I believe linked financing holds considerable promise for addressing the future funding needs of our Nation's air transportation system, and could also be a solution for other transportation modes, and even other functions of government with dedicated sources of revenue.

Mr. Speaker, linked financing is an idea which deserves serious consideration. I urge my colleagues to give it their attention.

TRIBUTE TO THE MEMORY OF JACKIE ROOSEVELT ROBINSON

SPEECH OF

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, it is with great pleasure and honor that I stand here in this Chamber and shower the late, great Jackie Robinson with praises and accolades for his contribution to major league baseball. Jackie Robinson always had fire in his eyes. There was an intensity in them, a determination from the lonesome odyssey of 1947 when he integrated baseball and changed America.

The versatile Jackie Robinson began his stellar sporting career in 1933 as a letterman in football, basketball, baseball, and track in Pasadena, CA. Destined for stardom, Robinson made the Pomona (CA) Tournament Baseball All-Star team, in his senior year, that included future major league standouts such as Ted Williams and Bob Lemon.

Jackie Robinson's baseball career led him to many challenges outside the sports arena. After being traded to the New York Giants in

December 1956, Robinson contemplated retirement. The following month, Robinson announced his retirement, moving from the dugout to a desk, trading his bat for a pen. Robinson became vice president of Community Affairs for the Chock Full O'Nuts Co., a restaurant chain. In 1964, he resigned from the restaurant company to organize the Freedom National Bank in Harlem.

The black-owned bank's mission was "a community enterprise which will in every way belong to the people it is to serve * * *." As chairman of the board, Robinson helped raise more than $1.5 million.

That same year, 1964, Gov. Nelson Rockefeller of New York, asked him to become one of six deputy national directors. Robinson was Rockefeller's first black staff member. Rockefeller later named him to his executive committee as special assistant of community affairs.

Today, 50 years later, we honor Jack Roosevelt Robinson for his contributions to our beloved game of peanuts and crackerjacks. Our game where the only race that matters is the race to the bag. When color is only a means to distinguish one uniform from that of another. Robinson made it possible for all Americans to see beyond skin color and assess a person's true character. For without Jackie's inspiration and dedication, America's game would not be what it is today, our national pastime. For this reason we have cause to celebrate the 50th anniversary of this barrier breaker and remember his hardships as well as his triumphs.

PRESIDENTIAL SUPPORT FOR ASSISTANCE TO THE NEW INDEPENDENT STATES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. HAMILTON. Mr. Speaker, on March 17, 1997 I wrote to the President to express my support for his $900 million budget request for the New Independent States [NIS] of the former Soviet Union. On April 11, 1997 I received a reply from the President, outlining why he believes his budget request for the NIS serves the American national interest, promotes market and democratic reform, and merits full bipartisan support. I commend the correspondence to the attention of my colleagues. The text follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 17, 1997.

Hon. WILLIAM J. CLINTON,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: I write to commend you for your Fiscal Year 1998 budget request for increased funding for the New Independent States of the former Soviet Union. I support your request for $900 million, including your Partnership for Freedom initiative to encourage economic growth, sustain civil society and promote people-to-people linkages in the New Independent States.

Your direct involvement and leadership in 1993 made the difference in the decision by Congress to appropriate the very large sum of $2.5 billion in assistance for the New Independent States. I believe your direct involvement and leadership will also be essential to win Congressional support for your FY 1998 budget request.

Democratic and market reform in Russia and the NIS are in the national security interests of the United States, and your assistance request promotes these critical U.S. interests.

I urge you to speak out in support of your budget request, and to resist earmarks that impair the effectiveness of the U.S. assistance program.

I look forward to working with you in support of this important initiative.

With best regards.

Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

THE WHITE HOUSE,
Washington, April 11, 1997.

Hon. LEE H. HAMILTON,
House of Representatives, Washington, DC.

DEAR LEE: Thank you for your letter supporting my FY 1998 budget request for $900 million to reinforce the next phase of reform in the New Independent States of the former Soviet Union. These funds will help us seize a historic opportunity: to turn the nascent foundations of market economies in the NIS into competitive, open markets that benefit their citizens and Americans alike.

Already, two-thirds of the people in the NIS live under democratically elected leaders in emerging market economies. Reforms are taking hold, but it is clear that the NIS still has a long way to go. Our timely, targeted investments in democracy and market economies can make the crucial difference.

Priority one is to tackle barriers to investment, lock in economic reform and, at the same time, open the region's vast resources to American business. The changes we support today in tax laws, commercial codes, judicial systems and legal protections against crime and corruption will resonate for decades to come. And these investments in good policy can leverage billions of dollars in trade and investment, which means jobs for Americans at home.

Priority two is to bolster generational change, and in so doing strengthen the social underpinnings of democracy. Our proposal will allow us to double people-to-people exchanges that will forge lasting ties with today's pioneers of reform and the young people who will be tomorrow's leaders. With carefully targeted support, we can work hand-in-hand with American foundations, universities, business associations and volunteer groups to nurture an emerging civil society. Indeed, the seeds planted today through thousands of reforms and grassroots networks will become a bedrock for pluralism and good governance.

This funding request also gives us the opportunity to complete structural reforms still under way in Ukraine, Central Asia and the Caucasus. Many of these countries face the challenge of completing their privatization programs, restructuring energy systems and unleashing the potential of small business. The impact will be seen in thousands of private sector jobs that will be the driving force for economic growth.

I am even more convinced, following the Helsinki Summit, that the time is ripe for this initiative. President Yeltsin pledged to pursue a bold new reform agenda to stimulate investment and growth in Russia. Our assistance can bolster him in this effort. And the leaders of Ukraine, Georgia and many of the region's other countries have committed to take steps to make reform irreversible.

This initiative—what I call a true Partnership for Freedom—has my strongest commitment. By helping to entrench democratic practices and market economies in the NIS, it advances our overarching national interest in seeing that these countries develop as partners of America. The Partnership for Freedom merits full bipartisan support.

Sincerely,

BILL CLINTON.

VETERANS EMPLOYMENT OPPORTUNITIES ACT OF 1997

SPEECH OF

HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. MICA. Mr. Speaker, I would like to clarify for the record the proper interpretation of this legislation as it relates to the judiciary. First, let me address the issue of assigning numerical ratings to applicants who are veterans. As amended, H.R. 240 does not require the judicial branch to employ a numerical rating system or assign numerical points to veterans. Nor does this legislation in any way authorize executive branch agencies to adjudicate complaints within the judiciary. All that H.R. 240 requires of the judicial branch is to provide the same degree of protection.

Second, concern was expressed about the appropriateness of the use of the term "regulation" for the judicial branch. Its use is appropriate. Although many of the statutes in title 28 regarding the judiciary and judicial procedures use terms such as "guidelines" or "procedures," a number also explicitly refer to "regulations" issued by the Judicial Conference. For example, 28 U.S.C. §§153(b), 155(b), 375(h), 1869(k). The use of this term in H.R. 240 is consistent with these statutes. To be sure, it is not the intent of this bill to require the Judicial Conference to follow Administrative Procedure Act—like procedures to which they are not otherwise subject.

Third, questions have been raised regarding the impact of the provision in this legislation that requires consultation with veterans' service organizations. This provision will not impair the independence of the judiciary. It is my understanding that the judicial branch already consults from time to time with various types of groups such as practitioners who routinely appear before the courts, through the Judicial Conference and through various circuit conferences. Veterans' service organizations have a keen understanding regarding veterans' employment problems and could offer valuable assistance to the Judicial Conference in formulating its policies. Finally, all that is required by this provision is consultation not agreement. None of these organizations would have veto power over any regulations promulgated by the judiciary under this provision of the bill.

Mr. Speaker, this concludes my remarks. As previously noted, my purpose in addressing the above issues is to present the proper interpretation of these provisions for the record.

A SALUTE TO RUTH HAYRE—DEFENDER OF PHILADELPHIA'S CHILDREN

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. FOGLIETTA. Mr. Speaker, I rise to honor Ruth Hayre, grande dame of Philadelphia's public schools. Ms. Hayre recently announced her retirement from the Philadelphia School Board.

Her departure marks the end of a career in city schools that has spanned five decades. Ms. Hayre was an honor graduate of West Philadelphia High School at age 15. By the time she was 20, she had earned her master's degree at the University of Pennsylvania and was headed toward a career in education.

In 1931, Ms. Hayre was denied a teaching job in Philadelphia because of the color of her skin. She joined the school district a decade later as one of the first African-American professionals in the system. Hers was a life of firsts: the first black high school teacher, the first black principal, the first black district superintendent, and the first black woman named to the school board.

Always an advocate for high academic standards, Ruth Hayre in 1988 established a college scholarship program for needy high school students.

In 1946, when she first came to the old William Penn High School for Girls—which was then two-thirds black—Hayre was struck by the way African-American students were pushed into less demanding courses. She complained that one course she was assigned to teach had little value of direction. When she became principal of the school a decade later, she immediately abolished the course.

In 1991, she became the first black woman to serve as president of the Philadelphia School Board. As president, she spearheaded the effort to modernize Philadelphia's schools and to bring the district's curriculum and health education efforts into the 20th century.

As the Philadelphia Inquirer editorialized last week, "For decades, Ruth Wright Hayre's name has been synonymous with quality education. Her retirement next month for health reasons from the School Board of Philadelphia should inspire her colleagues to live up to the exciting standard she set."

In light of her many accomplishments in education, civil rights and the arts, and the void she leaves in lives of all Philadelphians, I am proud to honor Ruth Hayre.

TRIBUTE TO THE CRANBURY LIONS CLUB 65TH ANNIVERSARY

HON. MICHAEL PAPPAS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. PAPPAS. Mr. Speaker, I rise today to pay tribute to the Cranbury Township Lions Club which is celebrating its 65th anniversary this year. Coincidently, the Lions 65th anniversary coincides with Cranbury's tercentennial.

Having served as a Lion myself since 1982, I am well aware of the important role and contribution that the Lions Club makes in so many communities around our country.

We have heard before, right here in this Chamber, that the era of big government is over. But it is not good enough to just say it, we must act and reach out to our neighbors and those in need. The Lions have been doing just that for many years all over the country and the world.

We in this Nation have a choice. A choice to volunteer and help each other or let government assume that role. If big government is truly over, then we as individuals need to assume some of the responsibilities of government. We the people, need to help our fellow citizens who are in need.

The Lions Clubs around our Nation have consistently been involved in efforts to help those in need to see better through the collection and refurbishment of used eyeglasses, diabetes education, and a host of other activities. America's Lions are doing their share.

The Cranbury Lion's Club has for the past 8 years supported Project Quest, a campaign for drug prevention focused on Kindergarten through eighth grade students. Project Quest provides funding for teacher training and materials in the fight against illegal drugs and drug abuse among the community's youth.

It is these kinds of efforts, people in one community selflessly helping to solve its own problems, that will guide America into the next century. Since its founding in 1932, by Dr. Gerald Miller, the Cranbury Lions has quietly served as an example to us all.

I would like to congratulate some of the club's longest serving members, Judson Hagerty, Jay Schuyler, Arthur Danser, and George Conley. Each of these men have served the club and their community for over 40 years and together they represent close to 200 years of service.

Each year, the Cranbury Lions are responsible for hosting the township's Memorial Day parade. I want to pay early congratulations to Frank Brennan who is this year's parade committee chairman.

As this Congress continues to emphasize the need for service organizations and volunteers to assume a greater role, it will be organizations like the Cranbury Lions that year after year continue to bring about positive change.

Tomorrow night, the Cranbury Lions will hold their 65th anniversary dinner and I would like to extend my best wishes.

As America looks toward the 21st century, Lion's Clubs around the Nation stand ready and committed, full of energy, creativity, and solutions to help us become a better society and solve the problems that face our Nation. Among those groups is the Cranbury Lions.

PROTECT THE ENVIRONMENT AND LOW INCOME FAMILIES IN ELECTRICITY DEREGULATION

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. DEFAZIO. Mr. Speaker, today I am introducing legislation that would create a national fund to provide matching grants to State and local programs promoting energy conservation, renewable energy resources like wind and solar power, and universal electricity service for low income, rural and other consumers for whom basic electricity service may be compromised by deregulation.

Nationwide, it is estimated that regulated utilities spend between $6 and $7.5 billion annually on energy conservation, renewable energy, and low income energy assistance programs. In the brave, new world of deregulated electricity markets, many of these public purposes could fall through the cracks. My bill provides a stable funding source to not only help maintain existing energy conservation, renewable energy and low income energy assistance programs, but to expand them around the Nation.

This is not a new Federal bureaucracy. It is a simple mechanism that will funnel money directly to programs crafted at the State and local level. Its cost to the Federal Treasury will be near zero.

The national program would be funded by a competitively neutral, non-bypassable transmission access charge paid by all electricity suppliers. The charge would be set to a level sufficient to fund qualifying State programs each year, but would be limited to no more than 2 tenths-of-a-cent per kilowatt-hour. The fund would be administered by a joint Federal-State board with oversight from the Department of Energy.

If fully utilized, the national electric systems benefits fund would provide between $5 and $6 billion each year in matching grants for locally designed energy efficiency, renewable and low income energy assistance programs. Electric utility industry deregulation without this important incentive-based program would be a disaster for the environment and for low income families.

TAXPAYER BROWSING PROTECTION ACT

SPEECH OF

HON. BILL PAXON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. PAXON. Mr. Speaker, I rise today in strong support of H.R. 1226, the Taxpayer Browsing Protection Act.

The American public should know that the problem of IRS agents browsing through taxpayer files is not exclusive to Washington, DC. Just last week in Buffalo, NY, it was revealed that at least 18 Buffalo-area IRS agents had used their access as Government officials to snoop through the tax files of thousands of upstate New Yorkers. And of these 18, only 2 were fired for their actions.

Quite simply, if the Government is going to compel personal information from its citizens, then there is a corresponding obligation to preserve the privacy of that information. Tax snooping is a clear case of abuse of Government authority, at the expense of others' privacy and freedom.

The repugnance of Government agents rifling through our possessions without cause is

precisely what sparked our constitutional prohibition against unreasonable search and seizure.

That is why I support H.R. 1226, the Taxpayer Browsing Protection Act, and I urge my colleagues to do the same.

TRIBUTE TO THE HONORABLE MICHAEL A. MARTONE

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. LEVIN. Mr. Speaker, I rise to salute the Honorable Michael A. Martone, an Oakland County District Court judge from Troy, MI who will receive the Italian-American of the Year Award. This award, presented to Judge Martone by the Italian-American Study Group of Troy, is in recognition of his outstanding and continued commitment to the youth of our community.

Judge Martone has developed and implemented a unique alcohol and drug intervention program which actually brings the courtroom to middle and high schools. His program, dubbed "Court in the Schools: Critical Life Choices," illustrates to young adults the lifelong consequences of failing to think critically and breaking the law. On September 9, 1996, Judge Martone gained national recognition for his efforts to establish the program around the nation when he was profiled on NBC's "Today Show." More than 12,500 students have participated in the program, not only in Michigan but in New York, Missouri, Florida, and Arkansas.

In addition to continuing his expansion of "Court in the Schools," Judge Martone remains active in the community as a volunteer with the Troy Community Coalition, Oakland County's HAVEN Courage House, and the Juvenile Diabetes Foundation.

Mr. Speaker, I ask my colleagues to join me in recognizing Judge Martone's accomplishments and outstanding contributions to the youth of our Nation. On this special occasion, I send my very best wishes to him and his wife, Martha Rose and their two sons, Jonathan and James.

75TH ANNIVERSARY OF SANTA CLARITA VALLEY'S BOY SCOUT TROOP 2

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. McKEON. Mr. Speaker, I am proud to announce that on Saturday, April 19, 1997, Santa Clarita Valley's Boy Scout Troop 2, will celebrate its 75th anniversary. Sponsored by the Kiwanans Club of Valencia, Troop 2 remains the largest troop in the valley, with over 130 boys currently registered.

Throughout the years, Troop 2 has served almost 3,000 boys and produced 65 Eagle Scouts while managing to remain an active part of the community. From helping distribute emergency water supplies in the aftermath of the 1994 Northridge earthquake to participating in the annual 4th of July parade, Troop 2's volunteer efforts serve as a reminder of the dedication and commitment of the Boy Scouts of America.

On behalf of the citizens of the Santa Clarita Valley, I am honored today to help recognize the tremendous accomplishments of Troop 2.

THE UNDER 12 SYRACUSE BLITZ BOYS SOCCER TEAM WINS NATIONAL INDOOR SOCCER CHAMPIONSHIP

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. WALSH. Mr. Speaker, today I ask my colleagues to join me in congratulating the under 12 Syracuse Blitz Boys soccer team for winning the National Indoor Soccer Championship on March 17, 1997.

The North American Indoor Soccer Championship features qualifying regional tournaments at 20 sites around the country. The winning teams are then invited to participate in the grand finals. This dedicated group of athletes competed against 22 teams in their age bracket, including teams from Massachusetts, Maryland, Kansas, and Tennessee, as well as Ohio, Indiana, and Michigan. It was Syracuse's second championship win in a row, as they won the indoor title last year.

Our central New York community is proud of the hard work and dedication displayed by the members of the 1997 Syracuse Blitz Boys soccer team.

Members of the 1997 Syracuse Blitz Boys under 12 National Indoor Champions are: Brian Knapp, Brian Perry, Mac Wilkie, Isaac Collings, Devin Dean, Josh Kristoff, Frank Monteleone, Patrick Ridall, Joey Spadaro, Alex Dowley, Brendan Quinlan, Joey Antonacci, Chris Paulus, Justin Crowley, and Matt Ponichtera. Coaches include Coach Bob Escobar, and assistant coaches Don Ridall and Craig Wilkie.

Congratulations to all the team members and coaches for their impressive achievements.

THE INTRODUCTION OF THE FEDERAL EMPLOYEES EMERGENCY LEAVE TRANSFER ACT OF 1997

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Ms. NORTON. Mr. Speaker, on May 26, 1995, in response to the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, the Office of Personnel Management [OPM] transmitted to Congress the Federal Employees Emergency Leave Transfer Act of 1995. With jury selection just begun in the Oklahoma City trial, it is time to pass this bill that would enhance the use of transfers of leave to assist Federal employees who are adversely affected by disasters or emergencies as declared by the President. I am reintroducing the bill today as we mark the anniversary month of the bombing in Oklahoma City. The bill was passed by the Senate and House last year and failed to go to conference because of opposition to an unrelated amendment attached in the House.

In 1988, Congress authorized a 5-year test of voluntary leave transfer and leave bank programs within Federal agencies. These programs were designed to help employees faced with a medical or family emergency who had already exhausted all available leave. In 1994, the House Post Office and Civil Service Committee's Subcommittee on Compensation and Employee Benefits held a hearing on the programs, which documented their success. Legislation I authored making them permanent was subsequently enacted.

Current leave transfer law limits, in some situations, the transfer of donated leave from one agency to another. Current law also requires that donated leave be used only for personal or family medical emergencies, and that employees exhaust all personal leave balances before qualifying for leave donations.

In the wake of the bombing of the Murrah Federal Building in Oklahoma City in April 1995, affected employees were excused from duty without being required to use their available leave. This was made possible by OPM's efforts to coordinate agencies' existing leave transfer programs. It became apparent from this experience that such situations would be better handled by establishing in law the necessary authority for special leave transfer programs to address needs created by Presidentially declared disasters and emergencies.

Senator TED STEVENS (R-AK), chairman of the Senate Governmental Affairs Committee first introduced OPM's proposal, S. 868, on June 21, 1995. The bill was approved by the committee, without amendment, on August 10, 1995. It passed the Senate by unanimous consent on October 19, 1995. The Congressional Budget Office determined that S. 868 would not affect direct spending or receipts, and that any administrative costs resulting from its implementation would be minimal.

S. 868 was referred to the House Subcommittee on Civil Service which did not hold hearings on the measure, but referred the bill to the full House Government Reform and Oversight Committee. The full committee attached several other measures, including the Veterans Preference bill, to S. 868, and the House subsequently passed the bill as amended. The Senate, however, failed to consider the bill as amended and it did not become law.

The bill I introduce today is identical to S. 868. It requires that in the event of a major disaster or emergency, the President would have the authority to direct OPM to create a special leave transfer program for affected Federal employees. Employees need not be facing a medical emergency to qualify, they would need the leave because of the adverse effects of the disaster or emergency. The bill would allow agency approved recipients to use donated leave without having to first exhaust their own accumulated leave. It would allow employees in any executive agency to donate leave for transfer to affected employees in the

same agency or other agencies. It would also allow agency leave banks to donate leave to any emergency leave transfer program established under this act. OPM would be permitted to establish rules for the operation of this special program.

The Federal Employees Emergency Leave Transfer Act enjoys the support not only of OPM but of the Federal employee organizations, has no budgetary impact, and has not been controversial. I urge my colleagues to support this important bill.

IN HONOR OF THE PULASKI CADETS, INC., 164TH ANNIVERSARY MILITARY REVIEW AND BALL

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to the Pulaski Cadets, Inc., an organization which will be celebrating its 164th anniversary on April 19, 1997. This momentous occasion will recognize the contributions of Danuta Sieminska, operations manager of the Polish and Slavic Federal Credit Union and Thomas Wojslawowicz, president of the Pulaski Day Parade at the annual Military and Review Ball to be held in the Crystal Ballroom of the United Poles in America in Perth Amboy.

The Pulaski Cadets, Inc., have a long and distinguished history of service to their fellow Americans. This independent company, named after the famous Revolutionary War Gen. Kazimierz Pulaski, was incorporated in 1833. Its roots extend back to March 1778 when General Pulaski, commander of the American Cavalry, received permission from the Continental Congress to form an independent legion headquartered in Baltimore. During the War for Independence, the Pulaski Legion participated in a number of battles including Egg Harbor, Yorktown, and Savannah where General Pulaski was mortally wounded.

After the Revolutionary War, the Pulaski Legion was ordered to report to New York to defend that region of the new nation. In 1833, some descendants of the Pulaski Legion veterans decided to organize their own unit and named it the Pulaski Cadets. The official title of New York City Guard was bestowed upon the Pulaski Cadets in 1839. This elite military unit was attached as 1st Company to the 11th Regiment and later to Company G of the 55th Regiment, which caused an awkward situation since the 55th Regiment spoke mostly in French. They were subsequently granted a transfer to the 9th Regiment. During the Civil War, many of the commissioned officers served with honor and distinction. The organization of the Militia—now called National Guard—made it possible for the company to continue on an independent basis. This tradition was kept alive until shortly after World War I.

The organization of the Pulaski Cadets was revived in 1985 by Brig. Gen. Jan K. Krepa and his Adjutant LTC Dziekanowski. The mission of this newly revitalized group included providing educational opportunity for the young people of the area through the Pulaski Cadets Scholarship Fund. Over the past 12 years, more than $12,000 has been distributed to qualified students attending American colleges and universities. This financial assistance has made a real contribution to the academic success of many fine young men and women.

It is an honor to have such an exceptional organization working on behalf of the residents of my district. The Pulaski Cadets, Inc.'s efforts to promote the educational achievement will be long remembered. I am certain that my colleagues will rise with me and pay tribute to an important piece of our American history.

25TH ANNIVERSARY OF THE OAK LANE COMMUNITY ACTION ASSOCIATION

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. BORSKI. Mr. Speaker, I rise today in honor of the Oak Lane Community Action Association [OLCAA] as they celebrate their 25th anniversary. In 1972 a group of citizens formed an organization based on the ideas of community action and involvement. As the group approaches their silver anniversary, they have upheld the ideals of the original founders.

OLCAA began their activism with a series of block meetings regarding quality of life issues in the neighborhood. They soon began expanding these meetings into all inclusive East Oak Lane town meetings. As the organization stands now, it not only has a positive impact on the neighborhood, but on the city of Philadelphia as well.

OLCAA has been able to take a diverse community and package its differences into a unified body of energy and strength. By working as a team, they have experienced successful community improvements in many different arenas. The group has sponsored initiatives such as integration in real estate, citizen safety programs, and educational and recreational projects at Ellwood School and the Oak Lane Library. With the 35th Police District as their partners, OLCAA developed the first Police Bike Patrol program in residential Philadelphia.

I wish to honor the members of this organization and community for diligent hard work and passion that should serve as a model to all communities in this Nation. They have focused their energy on creating a better community for themselves and their neighbors. Unselfishly, they have extended this focus to the city of Philadelphia and its residents. OLCAA has overcome obstacles to create a neighborhood that fosters close relationships between citizens, and is a place of unity.

On their 25th anniversary, I would like to wish the Oak Lane Community Action Association continued success in their efforts, and I congratulate them on achievements already made.

CAMBODIA

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. LIPINSKI. Mr. Speaker, a couple of months ago, I took part in a congressional delegation that traveled to Cambodia. It was a distinctly unique opportunity to visit a country where the people democracy has taken root, although not without its fair share of difficulties, and has begun to grow and mature with the assistance of the United States.

First of all, I want to commend our fellow Americans in the United States Embassy in Phnom Penh, Cambodia, especially Ambassador Kenneth Quinn and Edward Birgell of the Agency for International Development. They have done an outstanding job in less than ideal circumstances, and I strongly believe that the growth of democracy in Cambodia is due in no small part to their efforts.

Ambassador Quinn and his colleagues at the United States Embassy play a pivotal role in Cambodia's development. Under Ambassador Quinn's guidance, they work on a number of extremely important initiatives. They provide assistance to Cambodia to rebuild the judicial system and implement the rule of law. They coordinate POW/MIA efforts with the Cambodian Government. They helped Cambodia draft labor laws in accordance with international standards. Most importantly, they are heavily involved with establishing and strengthening the democratic processes, which provides permanence to their work in Cambodia. Their achievements are truly remarkable, and I salute each and every one of them.

As most of you know, Cambodia has had a difficult time in the last few decades—a tumultuous history to say the least. In 1975, the country was torn apart and nearly decimated by the genocidal Khmer Rouge. The turbulent civil wars punctuated by short periods of rest did not end until the United Nations [U.N.] sponsored the October 1991 peace treaty followed by U.N.-supervised elections in 1993. As a result of the elections, a new democratically elected government headed by two prime ministers was established. This "power-sharing" arrangement, although somewhat unwieldy, was necessary to maintain the fragile partnership and put Cambodia in a positive direction for the last 5 years—a generally forward-looking, fledgling democracy with market-based economic policies, free press, multiparty political system, and nongovernmental organizations. It is fair to say that the last several years have been Cambodia's most peaceful and productive period in the 20th century.

Ripped apart by civil wars, the people of Cambodia are in the midst of rebuilding their nation. Cambodia still bears wounds from those past internal conflicts. For instance, the country is still a huge minefield. About 1 in 10 Cambodians have been injured by landmines. While there is a concerted effort to remove the landmines—over 1,500 people are employed specifically for this task—at the current pace, it will still take at least several decades. Still they persevere.

Unfortunately, the U.N.-brokered fragile partnership by necessity is rapidly fraying at the edges. With the 1998 national elections right around the corner, cooperation between the two prime ministers has almost ceased. The results are dramatic. Human and civil rights violations are rising and corruption is running rampant. These factors increase the political and economic risks resulting in a slowdown in foreign investment and aid. The downward spiral will result only in chaos.

This dramatic downturn deeply concerns me, for it undermines all the hard work of Ambassador Quinn and his colleagues in the U.S. Embassy to keep the peace. In my conversations and meetings with them, I was deeply impressed with their conviction and devotion to the Cambodian people. They have made tremendous personal sacrifices. In many cases, their families are unable to join them in Cambodia. Also, they work in facilities that are in dire need of improvements. I saw facilities that would not pass OSHA regulations here in the United States, and it deeply concerns me that our fellow Americans must work in such conditions. Moreover, Embassy staff are at a security risk, for there have been numerous threats against their lives. We should all be extremely proud that this group of devoted people represents us and our interests in Cambodia. They represent the epitome of public service.

It also undermines all of the hard work that the Cambodian people have put in—paid for by their blood, sweat, tears, and untold number of lives. They are amazing. I can honestly say that I have never seen a more inspired and hard working group than the people of Cambodia. Their resilience and perseverance deeply moved me. Over a million Cambodians were killed in one of the bloodiest genocides in history, yet they still persevere. Human and civil rights violations rise, yet they still persevere. Political violence occurs more and more frequently, yet they still persevere.

They persevere because the burning fire of eternal optimism in the face of insurmountable odds resides in the Cambodian people. I saw it in their faces. I heard it in their voices. I felt it in their deeds. They persevere because they have suffered under a totalitarian regime. And now, they have tasted democracy and have seen the shining city on the hill. They look to America and see the nation that Cambodia can be—a nation of freedom and opportunity. They look forward with the hope of a better tomorrow. They have tasted democracy, and they have no wish to go back.

We must reaffirm our commitment to Cambodia by fully supporting our Embassy in Cambodia. We must provide them with the resources necessary to do their job effectively. In the coming months as we consider the annual appropriation bills, I strongly urge my colleagues to consider the situations of our fellow Americans working in the Embassy and our Cambodian friends. Ambassador Quinn and his colleagues are promoting the basic ideals that form the core of our Nation in the great democratic tradition—the ideals that make America the greatest nation in the world. Let us do all that we can to give them the support they deserve.

MEDICAL NUTRITION THERAPY ACT OF 1997

HON. JOHN E. ENSIGN

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. ENSIGN. Mr. Speaker, today I am introducing a bill that will contribute to the improved health and well-being of many Americans. The symptoms and complications related to diseases such as cancer, heart disease, diabetes, kidney disease, and hypertension could be significantly diminished by a change in lifestyle brought about with the help of medical nutrition therapy. Medical nutrition therapy is a service provided by a registered dietitian (RD) or nutrition professional that entails counseling in diet, drug interaction, vitamin therapy, and physical activity. It can improve the quality of life of seriously ill patients while saving health care dollars by speeding recovery, reducing the incidence of medical complications, lowering the number and length of hospital stays, and decreasing the need for drug and surgery treatments. Currently, this treatment is not covered by Medicare, thereby discouraging those who do not want to pay for it out-of-pocket from receiving it.

Today, I am introducing the Medicare Medical Nutrition Therapy Act of 1997 with Congressman JOSÉ SERRANO and Congresswoman NANCY JOHNSON and 98 cosponsors. This bill will provide Medicare coverage for medical nutrition therapy by a registered dietitian or nutrition professional upon the referral of a physician. My colleagues and I have drafted this bill with the intention of changing what is currently a sick care system, which only pays for care when people get sick and sicker, to a health care system which pays to keep people as healthy as possible. It is my hope that this bill will help to save Medicare, and most importantly, to save lives.

We all know we should not wait until we hear a crunching sound under the hood of a car before going in for an oil change. Medicare is paying for the health care equivalent of rebuilding engines, but won't pay for the oil change to prevent it.

IN HONOR OF REGINA RUTKOWSKI: CHOSEN TO BE MARSHALL OF BAYONNE'S CONTINGENT IN THE TRI-STATE PULASKI DAY PARADE

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to an exceptional woman, Regina Rutkowski, who was chosen as marshall of Bayonne's contingent to the Tri-State Pulaski Day Parade which will march along Fifth Avenue in New York City on October 20, 1997. Mrs. Rutkowski will be invested with the marshall's sash at a brunch held in her honor on Sunday, April 20 at the Hi-Hat Caterers in Bayonne.

The journey which has led Mrs. Rutkowski to be recognized with this honor began in Poland where she was born to Franciszka and Teodor Razin. Along with her family, the future Mrs. Rutkowski suffered the ravages of World War II. Her father, a noncommissioned officer in the Polish Cavalry, was captured by the Nazis and placed in a concentration camp for 3 years. The family was later relocated to a German labor farm from which Mrs. Rutkowski still can clearly recall the bombardments in this strange country. After the war, her family moved to England where Mrs. Rutkowski's father joined the British Army, becoming a member of the military band. Mrs. Rutkowski acquired a passion for music from her father, an accomplished musician and composer. In her own right, Mrs. Rutkowski is an accomplished artist with numerous works of art to her credit.

Upon her family's arrival in the United States, Mrs. Rutkowski continued her education which culminated with her graduation from Jersey City State College magna cum laude with a perfect 4.0 grade point average. Subsequently, the former Regina Razin met and married Richard a Rutkowski who went on to become mayor of Bayonne from 1990 to 1994. This joyful union produced three children: Richard, Jr. who manages the Hi-Hat Caterers along with his wife Bonnie; Stephen, a chiropractor in Connecticut who is married to Dr. Teresa Rutkowski; and Robert, a graduate of Widener University Law School. Mrs. Rutkowski's family circle is completed by her brother and sister-in-law Thomas and Helen Razin and their two sons Thomas and Richard.

Mrs. Rutkowski has long been an active community member. This extraordinary woman has been a valued member of many Polish-American organizations, including the Pro Arte League of the Kosciuszko Foundation, AMERPOL Club of New Jersey, the Polish-American Heritage Committee of Bayonne, and Bayonne's Third of May Polish Constitution observances. Additionally, Mrs. Rutkowski serves on the Parish Council of Our Lady of Mt. Carmel Church in Bayonne and is a member of the parish's centennial committee and the Mt. Carmen Guild.

Regina Rutkowski is a vivid example of community spirit. It is an honor to have such a caring and dedicated individual in my district working on behalf of her fellow residents of Bayonne.

HONORING TO PATRICK GRIFFIN TANNER

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. HILLIARD. Mr. Speaker, I rise to pay tribute to the late Patrick Griffin Tanner, who tragically died last week at the tender age of 19 in New Orleans. Patrick, a native of Washington, DC, was a tireless worker for the enrichment and betterment of his city, Nation, and world.

In his short, yet tireless and noble life, young Patrick was involved in the Big-Brother program; a volunteer at the Ivymount School; a volunteer at the Chevy Chase Presbyterian Church; he worked in the Special Olympics;

served as a volunteer for housing rehabilitation and disaster relief programs in several States, as well as in rural Virginia and the Anacostia neighborhood of Washington. At the close of his life, he was working in New Orleans for the Habitat for Humanity organization. He was indeed a well-rounded and giving boy.

I knew of Patrick through my efforts as a Congressman to give him advice and encouragement for his desire to enter the U.S. Naval Academy. He would have been a credit to the U.S. Navy.

When I dwell on how tragic it is to lose such a fine, upstanding young man, I must say that of all the benefits which education and virtue confer upon me, the contempt of the death of a young person is one of the greatest.

In composing my remarks for Patrick's tribute, I recalled some remarks by the Roman poet Horace. Horace wrote the following in the year 65 B.C., but it seems as though when he wrote these remarks, he was thinking of Patrick Tanner. Horace wrote:

> The wise man who can command his passions, who fears not want, nor death, nor chains, finally resisting his appetites and despising the honors of the world, who relies wholly upon himself, whose angular points of character have all been rounded off and polished is indeed a free man.

Mr. Speaker, Patrick Griffin Tanner is indeed a free man now. The chains and shackles of this world have indeed been lifted; his spirit has soared, his soul is at rest.

In closing, I send my heartfelt wishes to his parents, John and Nancy Tanner, as well as to his sister, grandparents, relatives, and friends. Patrick will be sorely missed.

"WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION" PROGRAM

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. THOMPSON. Mr. Speaker, I would like to congratulate the Vicksburg High School for winning first place at the State competition of the "We the People . . . The Citizen and the Constitution" program. This organization works to educate young people about the Constitution, the Bill of Rights, and their place in American history and our lives. Over the past 10 years, more than 75,000 teachers and 24 million students have developed a better understanding of their responsibilities as American citizens through participation in this program.

The following distinguished students will be participating in the "We the People . . . The Citizen and the Constitution" national finals which will be held here in Washington on April 26–28: Adrian Brown, Benjamin Bryant, William Campbell, Brian Crawford, Sarah Czaika, Richard Feibelman, Michael Finney, Katherine Flanagan, Stacey George, Beth Hassell, Claude Jarrett, Eric Johnson, David Jones, Quincy Jones, Ormonde Landry, Shelia Lewis, Scott Lovorn, Farrah Martin, Dionne Murphy, Nicole Nixon, Allison Price, Taylor Rowland, Ryan Roy, Amanda Schilling, Anna Sorey, Jason Stewart, Jennifer Sykes, David Thomas, Tonya Tonth, John Vollor, Michael Warren, Emily Weatherly, and Hugh Whitten.

I would also like to recognize their teacher, Sherry Fisher, who deserves much of the credit for the team's success. The district coordinator, Sam Habeeb, and the State coordinator, Lynette McBrayer, also made important contributions to the team's efforts.

These students set an example for responsible American citizens and scholars. They are a great asset to their families, the Second Congressional District, the State of Mississippi, and this Nation. I wish them the best of luck at the national finals.

HONORING BERTHA DAUBENDIEK

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to a dear friend of our environment, Ms. Bertha Daubendiek. On Saturday, April 19, as part of Michigan's Earth Day activities, Ms. Daubendiek will be recognized and honored for her longtime accomplishments in working to preserve our precious natural resources.

After graduating with honors from Grinnell College in 1938, Bertha Daubendiek made Michigan her home, and made activism and voluntarism her new calling. In 1970, her activities prompted both chambers of the Michigan legislature to acknowledge her as one of the States's premier volunteers. As her interest turned to the environment, her commitment to community increased as well. In 1979, Ms. Daubendiek received the Detroit News' Michiganian of the Year Award for her work in the completion of 50 nature preservation projects. In 1994, Ms. Daubendiek was inducted into the Michigan women's Hall of Fame.

Some of Ms. Daubendiek's most significant work has been as founder and executive director of the Michigan Nature Association. This unique group of individuals have banded together and created preserves in 51 of Michigan's 83 counties, enhancing the State's natural beauty. They have performed this task without using a penny of taxpayer funds. In addition to this, Ms. Daubendiek is the author of Michigan's natural beauty road law. Passed in 1970, the law is responsible for the preservation of more than 800 miles or roadside habitat.

If you drive around the great State of Michigan, you may notice new license plates on some of our automobiles that display the saying, "Great Lakes Splendor." I believe this statement is true because of the efforts of people like Bertha Daubendiek.

Mr. Speaker, it is indeed an honor and pleasure for me to rise today to pay tribute to a true environmental hero, Bertha Daubendiek. She is an inspiration to me and countless others who work to protect our precious environment.

INTRODUCTION OF H.R. 1362—VETERANS MEDICARE REIMBURSEMENT DEMONSTRATION ACT OF 1997

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. EVANS. Mr. Speaker, today I have joined with Congressman STUMP, many of the Republican and all of the Democratic members of the Veterans' Affairs Committee to introduce the Veterans Medicare Reimbursement Demonstration Act of 1997. This strong show of support by so many members of the committee clearly indicates the high priority my colleagues and I give this legislation.

For some time our committee has been exploring the intra-government transfer, or subvention, from Medicare to VA. This year the committee began the process at the urging of veterans and the Veterans Health Administration. Veterans wanted to gain access to the veterans health care system. VA felt it was in their best interest to explore nonappropriated funding as a growing part of their resource base.

VA has submitted a budget during this session of Congress that identified VA collecting and keeping funding from the Medicare trust funds for treatment of certain Medicare-eligible veterans. This is a critical part of the strategy VA has outlined for its future. The Independent Budget, an assessment of veterans programs' resource needs written by four of the major veterans' service organizations and sponsored by many more, also endorses the concept of using Medicare funds in VA.

I am convinced the Veterans Medicare Reimbursement Demonstration Act of 1997 we are introducing today offers the best and the most risk-free way of exploring the viability of this funding option for both VA and for Medicare. This bill does not propose VHA develop a new managed care system tailored to treating a new population of veterans. Instead, it provides VA the opportunity to offer the services it has available to treat aging veterans who might not otherwise receive this care. This will allow VA to limit its care responsibility for new veterans to the services and capabilities that it has available right now.

In addition, the demonstration project authorized by this legislation is time- and site-limited. There are additional safeguards in place to ensure that the Medicare trust fund will not spend any additional funding for veterans who choose VA as a health care provider.

The veterans that this bill will affect are lower and middle-income veterans—some of whom have lost access to VA health care services as constrained resources have compelled VA to stop treating so-called discretionary veterans. VA will receive no funding from Medicare for veterans who are receiving care in VA medical centers today.

We believe that our bill creates opportunities for everyone involved to benefit. The Medicare trust funds have a chance to save money because VA will discount Medicare's rates for providing care to the new Medicare-eligible veterans it will treat. Specifically, Medicare

would receive a mandatory 5-percent discount on its reimbursement for services provided to eligible veterans in VA. For this reason, it is our strong view that this bill will produce savings for the Medicare trust funds.

VA will benefit by opening its doors to care for new veterans. Most importantly, veterans will benefit by having a new choice of health care provider.

I hope that my colleagues will view this bill, not just as a bill good for veterans, but as an opportunity to help preserve Medicare for older Americans as well.

TRIBUTE TO TUFTS UNIVERSITY TUFTONIA'S DAY 1997, APRIL 21, 1997

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. MARKEY. Mr. Speaker, I rise today to recognize Tufts University in Medford, MA and to honor the more than 78,000 alumni who this Monday, April 21, 1997, will turn their attention to their alma mater in celebration of the 13th annual Tuftonia's Day.

Tuftonia's Day is a gathering of students, alumni, professors, administrators, and parents to celebrate the achievements of the Tufts community. This community extends not only to the campuses in Medford, Boston, and Grafton, MA, but also as far away as the campus abroad in Talloires, France. Students and graduates of Tufts live in more than 100 countries around the world. Tufts is truly a world-class institution of higher education. Tufts University strives to instill in all its students, from undergraduate through the professional degree program, the importance of volunteerism and the need to give something back to one's community.

For this reason the focus of this year's Tuftonia's Day is again TuftServe. The purpose of this is to highlight and show appreciation for the volunteer work that the alumni of Tufts have contributed to their local communities. In fact, Tufts alumni logged over 218,915 hours of community service last year. This outstanding record should stand as an inspiration to us all. I congratulate the alumni of Tufts University for their commitment to the community and loyalty to their alma mater.

TAX LIMITATION CONSTITUTIONAL AMENDMENT

SPEECH OF

HON. MICHAEL F. DOYLE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. DOYLE. Mr. Speaker, I rise today to voice my opposition to House Joint Resolution 62 as it was considered on the floor of the House of Representatives earlier this week. Although the House considered related legislation, House Joint Resolution 159, during the 104th Congress, the differences between these two measures is substantial. House Joint Resolution 159 would have required a supermajority in Congress to approve any bill which would raise Federal revenue. This year, however, the House leadership decided to include an exception to this rule. While I agree there may have been a need to provide for exemptions to the supermajority requirement, I believe the leadership should have excluded measures which would close tax loopholes or eliminate corporate welfare provisions from the Internal Revenue Code. Unfortunately, House Joint Resolution 62 did not address either of these possibilities.

Instead, the resolution was specifically altered to allow for a change in the Tax Code which would overwhelmingly benefit the wealthiest 1 percent of families in the United States. The night before this measure was considered on the floor, Members of the House leadership drafted language which would, in effect, exempt legislation designed to modify capital gains tax rates.

As a result, House Joint Resolution 62 would have made it more difficult for Congress to cut out corporate welfare, while making it easier to enact tax programs that would disproportionately benefit the wealthiest Americans. When House Joint Resolution 159 was considered during the 104th Congress, it did not contain this glaring inequity, and I was able to support it. However, this is clearly not the same initiative we considered a year ago.

I believe it is crucial that Members of Congress commit themselves to eliminating the budget deficit and crafting a fair and equitable Tax Code. Certainly, an income tax hike is no way to accomplish these goals. House Joint Resolution 62, as it was first drafted, was a well-intentioned initiative, designed to protect the American public from such an increase. However, in the end, it became a disfunctional, inequitable measure which could have obstructed our path toward these objectives. I am pleased the House defeated this measure, and I urge my colleagues to turn their attention to eliminating unwarranted revenue subsidies and putting our Nation's financial house in order.

SALUTE TO CLEVE McDOWELL

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. THOMPSON. Mr. Speaker, I rise today to honor the late Dr. Cleve McDowell who was born to the late Mr. and Mrs. Fudge McDowell on August 6, 1941, in Drew, MS. Dr. McDowell departed this life on Thursday, March 13, 1997, leaving a proud legacy as a mentor, civil rights leader, and community activist.

He received his early education in the Drew (MS) Public School system where he served as class president, editor of the school newspaper, captain of the debating team, and a member of several varsity sports teams.

Dr. McDowell was an honor graduate of Jackson State University in 1963, and had done further study on the graduate level during the 1970's. While at Jackson State University, he worked as a student assistant under the last Medgar Evers (1962–63). He became the first African-American student to attend a white graduate school in Mississippi by enrolling in the University of Mississippi Law School with the aid of a Federal Court Order and the U.S. Army troops in June 1963. He later enrolled in Texas Southern University Law School in Houston, TX, where he became president of the Student Bar Association and received several merit awards. He later worked on the field staff for the Mississippi State Conference (1964). Dr. McDowell left the Mississippi Field Staff to join the staff of the Chicago Branch of the NAACP and served on committees of the National Youth Work Committee of the NAACP, where he worked in employment, voter education registration, fund raising, and community development.

He served as staff consultant to the Cook County Department of Public Aid (Chicago). He also served as personnel director-program analyst for Coahoma Opportunities, Inc., of Clarksdale, MS. In April 1969, McDowell joined the Mississippi Head Start Training Coordinating Council as its executive director. In October 1973, he joined the Governor's Office of Human Resources and OEO as the Head Start coordinator for the State of Mississippi. In May 1974, McDowell became associate director of the Mississippi Bar Legal Services Program where he served until he started his private practice of law in Drew, MS, in 1975. In addition, he served as managing attorney for the North Mississippi Rural Legal Services in Clarksdale, MS, from 1977 to 1979; served as a member of the Mississippi State Penitentiary Board of Directors (1971–76); and was elected to serve as Tunica County Judge (1978–82).

He was a member of the Mississippi State Bar Association, the American Bar Association, and the Magnolia Bar Association. He was admitted to practice in the Northern and Southern United States District Courts, Fifth Circuit U.S. Court of Appeals and the Eleventh Circuit U.S. Court of Appeals.

Dr. McDowell was an active member of Epsilon Xi Lambda Chapter of Alpha Phi Alpha Fraternity and was worshipful master of Drew Lodge No. 6 of the Most Worshipful Stringer Masonic Grand Lodge (Prince Hall) of Mississippi. He was also a member of the Knights Templars Royal Arch, a 32d Degree, and Shriner Masonic units.

Dr. McDowell was the senior pastor of the Greater Holly Grove Missionary Baptist Church of Drew, MS, and chairman of the Sunflower County, Democratic Party. He also served as the public defender for Sunflower County, MS. He was also a former member of the board of alderman and past vice-mayor of the city of Drew, MS.

Mr. Speaker, I ask you to join me and the civil rights community in saluting Dr. Cleve McDowell for his outstanding contributions to this Nation.

INTRODUCTION OF LEGISLATION

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. LEVIN. Mr. Speaker, over the past two decades, college tuition costs have skyrocketed by over 200 percent while median household income increased by just 82 percent.

Increasing college tuition has caused many students to rely more and more on college loans and other forms of aid to finance their way through college. The average student loan has risen from $518 in 1980 to $2,417 in 1995. In total, student loan debt has reached an all time high of $24 billion.

Education is a high priority, and we have to find other ways to finance it besides sinking our children into debt. That's why I am introducing this bill that would allow families to exclude from income tax any educational assistance provided by their employers toward the education of their children.

Several companies have already taken the lead in providing this kind of assistance. for example, General Motors [GM], Ford Motor Co., Chrysler Corp., and the United Auto Workers [UAW] have developed the Scholarship Program for Dependent Children. Under GM's program, the auto maker will provide up to $1,000 annually in tuition assistance for each dependent child of active, retired, or deceased GM workers who are pursuing post-secondary education or training.

We need to encourage this kind of employer-employee partnership to meet the needs of working Americans without expanding the size of Government. This legislation would do just that.

Mr. Speaker, I urge my colleagues to cosponsor this bill and support employer-employee cooperation in education.

MINNECHAUG GIRLS BASKETBALL TEAM WINS STATE CHAMPIONSHIP

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. NEAL of Massachusetts. Mr. Speaker, I rise today to congratulate the Minnechaug Regional High School girls basketball team on winning the Massachusetts Division I championship.

Throughout the season, these young women's positive attitude distinguished them from their competition. On the way to 23 victories and only 2 defeats, their teamwork, selflessness, and the courage to never give up, propelled their success. Game after game, they rallied to victory after disappointing starts. This is the hallmark of a championship team.

In winning their first State championship, first western Massachusetts championship, and the first championship by any western Massachusetts team in 4 years, I commend them. This is a milestone achievement. I hope that the members of the team, coach Dave Yelle, and the Minnechaug Regional High School community know that all of us in the second district join them in taking pride in their season. Congratulations, Falcons.

KILDEE SALUTES CESAR CHAVEZ AWARDS CEREMONY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. KILDEE. Mr. Speaker, I rise before you today to pay tribute to an outstanding leader, whose efforts have helped improve the lives of all Hispanics. Cesar Chavez has been immortalized in my home town of Flint, MI.

On April 19, 1997, the Labor Council for Latin American Advancement Flint/Genesee Chapter will hold the Third Annual Cesar Chavez Awards Ceremony. The day will begin with a "March for Justice" which will take place on Cesar Chavez Drive in Flint, MI. The march will pay tribute to 20,000 strawberry workers and also honor the memory of Cesar Chavez and the 10th anniversary of the naming of Cesar Chavez Drive in Flint, MI.

It is with great pride and admiration that I will honor Cesar Chavez and the legacy he has left behind for all Americans to follow. Cesar Chavez fought for many of the same ideals and human rights that I have fought for during my tenure in the U.S. House of Representatives. Cesar Chavez worked selflessly to create a foundation for future generations of Hispanics to build upon.

Therefore, it is reassuring to see the Hispanic community in Flint carrying on the work that Cesar dedicated his life to. It will be an honor for me to welcome Richard Chavez to Flint, MI on April 19, 1997. Richard Chavez is the brother of Cesar and is currently an executive board member of the United Farm Workers.

Mr. Speaker, it is indeed an honor and a pleasure for me to rise today before my colleagues in the U.S. House of Representatives to pay tribute to Cesar Chavez and all American workers who continue to fight for equal rights for all people.

SALUTE TO REPRESENTATIVE WILLIAM "BILL" RICHARDSON

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. THOMPSON. Mr. Speaker, I rise today to honor the late Mississippi [MS] State Representative William "Bill" Richardson who was born December 26, 1951, in Indianola, MS.

Mr. Richardson suddenly departed his life on Tuesday, March 25, leaving a proud legacy as a husband, father, educator, community activist, and public servant. He was the faithful husband to Doris and the loving father to Hope and Tiffany. Words cannot describe the dedication and devotion he showed to his wonderful family.

He received his early education in the Sunflower [MS] County Public Schools and received a bachelor's degree from Mississippi Valley State University [MVSU] and did post graduate work at both MVSU and the University of Southern Mississippi.

Mr. Richardson served almost 20 years as an educator in the Indianola [MS] School District where he taught Social Studies and Civics. In 1992, after an active career in the Sunflower County community he was elected to the Mississippi State House of Representatives. While serving in the Mississippi Legislature he was appointed to the Committee on Education, the Committee on Agriculture and the Joint Legislative Parole Commission. During the 1995 Legislative Session, Representative Richardson was elected Sergeant-at-arms of the Mississippi Legislative Black Caucus.

During his illustrative career, he remained active in the Mississippi Association of Educators, he National Educators Association, the Indiana Association of Educators, the Board of Directors for Delta Housing, the National Association for the Advancement of Colored People, the Rasberry United Methodist Men's Club, and the Sunflower County Chapter of the MVSU Alumni Association.

Mr. Speaker, I ask you to join me in honoring a devoted husband, father, and public servant for his outstanding contributions to the State of Mississippi.

IN SUPPORT OF H.R. 607: HOMEOWNERS INSURANCE PROTECTION ACT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. GILMAN. Mr. Speaker, I rise today in support of the Homeowners Insurance Protection Act which will amend the Truth in Lending Act and stop the abusive practice of overcharging homeowners for private mortgage insurance.

Private mortgage insurance has given millions of Americans the opportunity to become homeowners. This is a valuable service that mortgage industry provides; however, most homeowners are unclear about their rights under this insurance. Many Americans believe that private mortgage insurance insures them, when, in fact, it insures the lender while the homeowner pays the premium. As the practice stands, homeowners who have paid off 20 percent of their loan no longer need the insurance, but they do not realize it and continue to pay the premium throughout the life of their mortgage. In some cases, 20 to 30 extra years of payments. For an individual who pays $350 per year on a 30-year mortgage, that can mean paying an extra $7,000 to $10,000 of unnecessary premiums.

This legislation will bring about two simple reforms. It will require full disclosure of a homeowners' right to cancel the insurance once they have down 20 percent on their home. It will also require the mortgage lenders to inform consumers at least once a year of their cancellation rights. Both of these requirements must be provided by the creditor at no extra cost to the consumer.

This bill will protect the rights of homeowners from overpaying unnecessary premiums while maintaining the important role of

private mortgage insurance in promoting home ownership. Accordingly, I strongly urge my colleagues to join me in supporting this important legislation.

TRIBUTE TO CIVIL SERVANTS ON THE 2-YEAR ANNIVERSARY OF THE OKLAHOMA CITY TRAGEDY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. HOYER. Mr. Speaker, on Saturday, April 19, 1997 we mark the 2-year anniversary of the Oklahoma City bombing, one of the most reprehensible tragedies in our Nation's history. I rise today to pay tribute to the fallen Federal workers and the other victims who perished in an event that continues to tug at the heart strings of the entire Nation.

The cowardly and meaningless act of terrorism against the civil servants and children in the Alfred P. Murrah Federal building has touched off a 2-year period of national soul-searching and introspection. Many of the victims families are attempting to move forward in their lives. In fact, the mother of Baylee Almon, whose limp body in the arms of a firefighter became the symbol of the heroism and heartbreak of the bombing, was recently married and is taking steps to move beyond her daughter's death.

We lost many of these fine men and women 2 years ago and I want to once again extend my heartfelt sympathies to all of their families, their friends, their coworkers, their neighbors, and those they serve. As the old saying goes, "time heals all wounds"; but, the Oklahoma City tragedy will require significantly more than 2 years to diminish the effect it has had on the entire country.

Mr. Speaker, it has long been my view that Federal workers are one of our Nation's greatest assets. As President Lyndon Johnson once noted:

> So very much of what we are as a Nation—and what we are to achieve as a people—depends on the calibre and character of the Federal career people. In no other endeavor can you more directly serve our country's cause—or the values on which we stand—than in the public service.

Mr. Speaker, the people we lost in the bombing were not nameless faceless bureaucrats, and, Mr. Speaker let me be perfectly clear and to the point—I get angry over those who would denigrate our civil servants. All too often it is the prevailing habit of this body to attack the character and devotion of our Federal employees. Mr. Speaker, we must stop the senseless scapegoating and needless bashing of our civil servants.

Yes, there are nonperformers, just like there are at corporations and factories across our country. But, Mr. Speaker, the great majority of these men and women are Americans with a deep love for their Nation who, in many cases, have bypassed more lucrative careers to serve their fellow citizens.

Federal employees play an integral, albeit often invisible role in our daily lives. Federal employees make sure that our senior citizens get their monthly Social Security checks and that our veterans get the care and treatment they need. Federal employees are responsible for printing our money and insuring it when we make deposits at the bank. Federal employees protect our borders and make sure the food we eat is safe. The bottom line is that Federal employees devote their days, and often their nights, to ensuring that our Government and our country is a better place to live.

So, as we pay tribute to the victims and survivors of the Oklahoma City tragedy, I urge my colleagues and my fellow Americans to give great care and thought to those who would criticize our Federal Government. Yes, you get angry at the IRS; yes, you may get angry at law enforcement officials, but do not allow that anger to be directed at individuals. Let it be directed at policy. Let us all be a civil society and strive to make America the great Nation we all know it can be.

TRIBUTE TO RICHARD HENDRICKSON

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. FORBES. Mr. Speaker, I rise today to pay tribute to Richard Hendrickson of Bridgehampton, Long Island, NY, an esteemed and accomplished meteorologist who has been bestowed the 1997 Albert J. Myer Award for a career of dedicated service to the National Weather Service.

Mr. Hendrickson is an exceptional and worthy recipient of this honor, named for Brigadier General Myer who founded the National Weather Service in 1870. For 67 years, Mr. Hendrickson has provided an unbroken tenure to the National Weather Service, which operates a forecast facility at Brookhaven National Laboratory in Upton, Long Island.

During his highly distinguished career, Mr. Hendrickson has been awarded numerous honors by the National Weather Service for his accomplishments as weather forecaster. These prestigious awards include the Helmut E. Landsberg Award, named for the father of modern climatology; the Thomas Jefferson Award, named for America's third President who, among his many talents, was an accomplished weather observer; and the Edward H. Stoll Award, given to weather observers with 50 years of service.

Mr. Hendrickson is so clearly worthy of the many professional honors and recognitions bestowed upon him. He is also deserving of the personal gratitude of all Americans for a lifetime of superior service to the study of weather observation. Mr. Hendrickson's efforts have broadened our understanding of the science of weather observation, and has contributed greatly to the ability of all meteorologists to forecast the force of powerful weather systems. Thanks to the efforts of Mr. Hendrickson and weather observers like him, many lives have been saved because our neighbors have been able to take precautionary actions before destructive hurricanes or blizzards have struck their communities.

Mr. Speaker, I ask my colleagues in the U.S House of Representatives to join me in offering our collective praise and gratitude to Richard Hendrickson for his 67 years of dedicated, accomplished service to the National Weather Service.

ACT TO SAVE AMERICA'S FORESTS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mrs. MALONEY of New York. Mr. Speaker, as a New Yorker, I feel strongly about a former New York Governor, Teddy Roosevelt's legacy: The National Forest System; 95 percent of America's forests have been cut down, just 5 percent remain standing—which is owned by the American people.

The practice of clearcutting forests and even aged logging is destroying one of America's most beloved resources.

It not only upsets the forest ecosystem by draining the soil of important nutrients. It weakens the land—creating the potential for dangerous mud slides.

The poor policing of loggers is also threatening the existence of the American grizzly bear, salmon, and common song birds.

Our legislation will:

Prohibit clear cutting and even aged logging and other abusive practices on Federal land.

Change the mission of the Forest Service by setting it up as the enforcement agency for preserving plants and animals native to forests. It actually requires the Forest Service to repair past damage either by program or by allowing the forest to heal itself.

And it brings Americans into the enforcement fold by providing rewards for citizens who report violations.

In America right now—Less than 6 percent of the original forests are still standing.

In the lower 48 States just 1 percent remain.

This legislation doesn't cost much—but it can save 100's of millions in road building subsidies.

The Act of Save America's Forest will effectively shift the focus of the forest management of Federal lands from corporate profit, to protection and nurturing of our rare and natural resources.

THE JOSEPHINE BUTLER UNITED STATES HEALTH SERVICE ACT

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. DELLUMS. Mr. Speaker: I rise to honor the memory of Josephine Butler by introducing the Josephine Butler United States Health Act. This legislation is named after a heroic African-American fighter who lived in this Nation's Capital. The Josephine Butler United States Health Service Act seeks a comprehensive, universal national health care system based on health care for people, not profits; on community control of health care, not corporate

control; commits to the proposition that a health care system in the richest Nation in the world should be available to everyone living in this Nation, and that such a health care system must be dedicated to the whole person, their family, and their community.

Josephine Butler was a holistic activist, whose passion and tireless energy encompassed not only health care but statehood for the District of Columbia, the environment, the trade union movement, women's rights, the welfare of children, the arts, peace and justice for all nations, and neighborhood parks. Josephine Butler, called by some the Harriet Tubman of the District of Columbia, a founder and former chairperson of the D.C. Statehood Party, was guided by a fierce commitment to the right of self-determination for all peoples. Ms. Butler brought the D.C. statehood movement to people across the United States and to the United Nations.

Josephine Butler was an international and a courageous peace activist. She was founder of the D.C. chapter of the Paul Robeson Society, and a founder of the World Congress of Peace. Her concern for peace was worldwide—from the former Soviet Union, to the island of Grenada, the Middle East, South Africa, and back to the District of Columbia. In 1994 Ms. Butler received the National Partnership Leadership Award from President Clinton for the work she had done in transforming the once crime-ridden Meridian Hill/Malcolm X Park into a place of beauty. Her work as cochair of the Friend of Meridian Hill led the President to cite the group as a "shining example for the nation" of what community activism can accomplish.

Johsphine Butler, born January 24, 1920, moved to Washington, DC, seeking medical treatment for typhoid fever as a young girl from the Brandywine area of Prince George's County where her father had been a sharecropper. She began working in a laundry and took the lead in organizing laundry workers in the D.C. area into a union. She remained involved in union activities, committed to the rights of workers for the rest of her life.

In the late 1950's and early 1960's, Jo Butler was incapacitated with tuberculosis. Upon recovery, she became a volunteer for the D.C. Lung Association, and then the association's community health educator, where she worked from 1969 to 1980. Her deep commitment to adequate health care for all led her to serve as a founding board member of the Committee for a National Health Service formed in the 1970's. She died on March 29, 1997, but remains alive in our hearts, supporting our efforts to achieve universal health care for this great Nation.

INTRODUCTION OF THE EMPLOYMENT, TRAINING, AND LITERACY ENHANCEMENT ACT OF 1997

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. McKEON. Mr. Speaker, today I am joining the distinguished chairman of the Committee on Education and the Workforce, Mr. GOODLING, and the ranking Democrat on the Postsecondary Education, Training, and Life-Long Learning Subcommittee, Mr. KILDEE, to introduce important, bipartisan legislation to reform this Nation's fragmented and duplicative array of employment, training, and literacy programs. The Employment, Training, and Literacy Enhancement Act will consolidate over 70 Federal programs through the establishment of three block grants to States and localities for the provision of employment, training, and literacy services, and through amendments to the Rehabilitation Act of 1973.

The bill would accomplish key reforms in this country's job training system by building on the three principles of individual choice; quality training for the 21st century; and the transfer of resources and authority for employment, training, and literacy programs to States and local communities. By amending, consolidating, and improving existing programs established under the Job Training Partnership Act [JTPA], the Adult Education Act, the Wagner Peyser Act, and other statutes, we hope to build on the many positive reforms that are already underway in States and local communities, while encouraging further reform and breaking down barriers to State and local program integration.

The three block grants that are established under division A of the bill would comprise each State's employment, training, and literacy system—an adult employment and training opportunities grant; a disadvantaged youth employment and training opportunities grant; and an adult education and family literacy grant. While the legislation separately amends the Rehabilitation Act of 1973, vocational rehabilitation programs are not block granted with job training.

Specifically, title I would drastically reform the current JTPA State and local delivery structure, as well as its fiscal and performance accountability provisions. The bill provides maximum authority to States and localities in the design and operation of their individual employment, training, and literacy systems. We reduce administrative requirements, paperwork, duplicative planning, reporting, and data collection requirements and eliminate bureaucracy throughout the system. At the State level, Governors would pull together representatives of the State legislature, key State agency heads, and leaders from business, local communities, and others to develop a single State plan and performance measurement system for the three block grants and for programs authorized under the Wagner-Peyser Act. Governors are also asked to designate work force development areas throughout the State, for the distribution of funds and service delivery under much of the system.

To ensure the involvement of employers in the design and implementation of local systems, the bill requires the establishment of local, employer-led, work force development boards. These boards would provide policy guidance and oversight over local systems, and would be responsible for the establishment of local full-service employment and training delivery systems—easily accessible single points of entry into the employment and training system. Local elected officials would continue to play an important role in the development and implementation of the local system.

Title II of the bill amends JTPA by merging its existing nonschool-based summer employment and year-round programs—resulting in the disadvantaged youth employment and training opportunities block grant. The main focus of reform under this block grant is to increase the focus of these programs on longer term academic and occupational training, rather than short-term employment fixes—requiring that all employment experiences under these programs be tied to academic and occupational learning opportunities. Under the bill, communities may continue to carry out programs such as summer youth employment, if linked to additional learning opportunities. The block grant is designed to result in improved academic and occupational opportunities for disadvantaged youth in the community, as well as completion of high school, or its equivalent, and other positive results such as placement and retention in employment, or continuation into postsecondary education or training. States and localities would also be required to show how the hardest to serve disadvantaged youth are served within their programs.

Title III of the bill would amend the current adult employment and training programs authorized under JTPA by establishing a single delivery system for all adults, that maximizes individual choice in the selection of occupations and training providers. The bill encourages an employment first approach to job training—providing training services to individuals who are unable to obtain initial employment, or employment that will lead to self-sufficiency, through core services and intensive job search assistance. With limited exceptions, training services for adults would be provided through the use of vouchers—referred to as skill grants in the bill—distributed through an easily accessible full-service employment and training delivery system. While a single employment and training system would be established through this block grant, funding for dislocated workers would remain protected. States would continue to be required to use State reserve funds to provide rapid response assistance—for dislocated workers—and additional assistance to areas that experience substantial worker dislocation. The bulk of funding under the adult training system would be sent to local work force development areas for the establishment of full-service employment and training delivery systems; provision of core or up-front services through the full service system; provision of intensive services; and the provision of training services. Not only will this legislation result in improved services to dislocated workers, but it will also result in enhanced services provided to welfare recipients who must make the transition from welfare to work.

Title V of the bill amends the current Adult Education Act and the National Literacy Act, consolidating numerous categorical programs into a block grant to the States. While this title is maintained as a separate act, adult education and literacy programs share planning and performance provisions with the job training system, pulling adult education and family literacy programs into the broader system. This is particularly important because a large number of under-and unemployed individuals will need to improve their literacy skills before they can participate in job training programs.

The legislation requires States to send 85 percent of available funds to a variety of local service providers to be used for adult education programs, English as a second language programs and family literacy programs. All set asides and caps have been removed, allowing States to use the funds to meet the unique literacy needs of their citizens. The bill contains continued authorization for the National Institute for Literacy and for national activities conducted by the Department of Education.

In the area of vocational rehabilitation, the bill amends the Rehabilitation Act of 1973 by extending its authorization through 2000. It also makes some minor substantive changes to the law that promote consumer choice and promote State agency accountability. The amendments would create a limited written plan at the option of the person with a disability. This alternative to the statutorily required individualized written rehabilitation plan, would allow individuals with disabilities who know what they are seeking from the vocational rehabilitation system to obtain it without wasting unnecessary paperwork and time. Other changes include a shift of current State plan requirements to standard and indicators, allowing agencies to focus on definable indicators instead of malleable process monitoring; and a deletion of a number of out-of-date and unnecessary State plan obligations. Finally, the amendments also repeal 25 programs authorized by the act for which Congress has never appropriated funds.

The skills of this Nation's work force are more important today than ever before—both to American workers and to U.S. competitiveness. However our current patchwork of Federal programs is not the answer. The Employment, Training and Literacy Enhancement Act is a first, important step in addressing our long-term work force preparation needs by helping States and local communities to make sense out of our current confusing array of training programs. I thank our distinguished chairman for his insight and leadership on this vital issue, and I thank the ranking Democrat Member of our Subcommittee, Mr. KILDEE, for his valuable input in development of this legislation. I invite all of my colleagues to join with us in this dramatic effort to overhaul our current employment, training, and literacy programs.

VETERANS COLD WEATHER INJURY COMPENSATION ACT

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. SMITH of New Jersey. Mr. Speaker, today I have introduced legislation that will assist disabled veterans who were exposed to extremely cold weather conditions for prolonged periods of time while defending our nation during World War II and the Korean war, and more recently while serving in the peacekeeping mission in Bosnia. In fact, Mr. Speaker, veterans of the Battle of the Chosin Reservoir in Korea are recognized as having suffered especially high rates of severe cold injuries.

In many instances, service members did not seek or were unable to obtain medical care after cold injuries because of battlefield conditions, which impeded the ability of veterans to acquire supporting documentation, such as buddy letters, which are often used to support claims to the Veterans Administration. For too long, our Government has failed to recognize the severity of the injuries suffered by these veterans, and this legislation will help to right that wrong.

Mr. Speaker, my bill instructs the Secretary of Veterans Affairs to create and maintain a registry of veterans exposed to extremely cold weather for a great length of time. It will use that information to analyze all clinical data obtained by the Department of Veterans Affairs in connection with exams and treatment given to veterans that may help in determining what kind of association there is between the disability and the cold weather. In addition, if a veteran suffers from a cold weather injury after serving in a war or battle that was fought in prolonged, extreme weather circumstances, it would be presumed—for the purpose of disability benefits—that the injury was caused by the severe weather.

Veterans from all over New Jersey, and the Nation, have been requesting that we provide a simplified process of recognizing and identifying this service-connected affliction, which has been ignored for far too long. We have the moral obligation and duty to ensure that our veterans are cared for when injuries and disabilities result from war and service to our country.

Mr. Speaker, I would also like to take this opportunity to thank Larry St. Laurent, director, and John Dorrity, assistant director, of the Ocean County Veterans Service Bureau, for their hard work and assistance in writing the Veterans Cold Weather Injury Compensation Act.

I would urge all of my colleagues to please consider supporting this bill.

INTRODUCTION OF THE SAVER ACT

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. FAWELL. Mr. Speaker, I am very pleased to join with my colleague DONALD PAYNE, the ranking Democrat on the Employer-Employee Relations Subcommittee, as well as 25 other Democrats and Republicans from across the political spectrum, in introducing bipartisan legislation addressing a critical national problem: the lack of individual retirement savings.

America faces a ticking demographic time bomb that requires increased retirement savings. Today we introduce the Savings Are Vital to Everyone's Retirement Act of 1997, the SAVER Act, as a first step in defusing the retirement time bomb. The SAVER Act initiates projects to educate American workers about retirement savings and convenes a National Summit on Retirement Savings.

Through this bill, we hope to facilitate a public-private partnership to educate the public on this serious and underreported national problem. Workers need to know the importance of saving for the future, and of saving as soon as possible. As a survey released this year by the Employee Benefit Research Institute [EBRI] reveals, there is much work to do. Less than a third of Americans have even tried to calculate how much they need to have saved by retirement. Furthermore, less than 20 percent are very confident they will have enough money to live comfortably throughout their retirement. Far too few Americans—particularly the young—have either the knowledge or the resources necessary to take advantage of the extensive benefits offered by our retirement savings system.

We know the old adage that you feed someone for life by teaching them to fish. We need to apply this principle to retirement savings. The same EBRI survey found that while only a quarter of workers expressed confidence in their ability to map out a retirement savings strategy, an encouraging 50 percent said they would stick to a plan if they had one. We must find ways to get the information and skills out to workers to harness this latent energy.

The SAVER Act directs the Department of Labor [DOL] to maintain an ongoing program of education and outreach to the public through public service announcements, public meetings, creation of educational materials, and establishment of a site on the Internet. The information to be disseminated will include a means for individuals to calculate their estimated retirement savings needs, a thorough description of the types of retirement savings arrangements currently available to both individuals and employers, and an explanation for employers, in simple terms, of how to establish different retirement savings arrangements for their workers.

The SAVER Act also convenes a National Summit on Retirement Savings at the White House, cohosted by the executive and legislative branches, to be held by April 15, 1998, and again every 4 years thereafter. The National Summit would advance the public's knowledge and understanding of retirement savings and facilitate the development of a broad-based, public education program; identify the barriers which hinder workers from setting aside adequate savings for retirement and impede employers, especially small employers, from assisting workers in accumulating retirement savings; and develop specific recommendations for legislative, executive, and private sector actions to promote retirement savings among American workers.

The national summit would bring together experts in the fields of employee benefits and retirement savings, key leaders of government, and interested parties from the private sector and general public. The delegates would be selected equally by the majority and minority leaders of the two Houses of Congress and would represent the diversity of thought in the field without regard to their political affiliation. The national summit would be largely funded through the existing educational appropriations for the DOL and by contributions from the private sector.

The lack of adequate retirement savings will only become a more pressing problem as the baby boomers begin to retire. It does not take a mathematician to recognize that in the future

retiring Americans will have to rely less on Social Security and more on pensions and other personal savings. But make no mistake, we have known of this problem for a long time. Sixteen years ago President Carter's Commission on Pension Policy reported that a serious crisis existed in our retirement income programs, and that baby boomers will place severe strains on an already overburdened system. It's 16 years later and the problems have only gotten bigger as they have come closer. The American people can afford to wait no longer.

I hope that the SAVER Act can be a first step in a truly bipartisan effort to reverse the long course of neglect of this vital issue, and help American workers better prepare for a comfortable and secure retirement.

HONORING THE CONTRIBUTIONS AND SACRIFICES BY THE MEN AND WOMEN OF THE U.S. SPECIAL OPERATIONS COMMAND

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. SKELTON. Mr. Speaker, today I ask all Members of the House to join me in honoring the limitless contributions, valorous acts, and tremendous sacrifices demonstrated daily by the men and women of the U.S. Special Operations Command [USSOCOM]. As we observe the 10th anniversary of the creation of USSOCOM, we should make note of the unique military capability provided to our National Command Authority.

The immeasurable achievement of USSOCOM since its birth—a scant 10 years ago—is testament to the vision, forethought, and dedication of those who have come before us in service of our Nation. We should also recognize the work of our former colleagues Sam Nunn, Bill Cohen, and the late Dan Daniel, effort essential for the existence of this command. Their efforts led to passage of the Nunn-Cohen amendment to what is known as the Goldwater-Nichols Defense Reorganization Act.

The special operators of USSOCOM—"the quiet professionals"—are truly dedicated men and women. They provide a unique, unmatched, and necessary capability to our Nation in the areas of contingency response, counterterrorism, and unconventional warfare. Whether conflict erupts in Panama, Southwest Asia, Somalia, Liberia, Haiti, Bosnia, or some other unnamed site around the globe, we should gain comfort knowing they stand ready to serve our national security objectives. I hope my colleagues can join in recognizing their tradition. God bless them all.

LEGISLATION TO CLOSE A CORPORATE TAX LOOPHOLE

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. ARCHER. Mr. Speaker, several recent news reports describe corporate acquisition transactions in which one corporation distributes the stock of one—or more—of its subsidiaries to its shareholders in a so-called spinoff and, pursuant to a prearranged plan, either the distributed subsidiary or the old parent corporation is acquired by another, unrelated corporation. Often, the corporation that is to be acquired borrows or assumes a large amount of debt incurred prior to the spinoff, while the proceeds of such indebtedness are retained by the other corporation.

For Federal income tax purposes, taxpayers take the position, and the IRS apparently rules, that the initial distribution is tax-free pursuant to section 355 of the Internal Revenue Code and the subsequent acquisition is tax-free pursuant to one of the various reorganization provisions described in section 368. Such positions are consistent with the holding in the case of *Commissioner* v. *Mary Archer W. Morris Trust*, 367 F.2d 794 (4th Cir. 1966) and published IRS rulings.

Congress did not intend that section 355 apply to insulate these transactions from tax. Section 355 was intended to permit tax-free restructurings of several businesses among existing shareholders, with limitations to prevent the bail-out of corporate earnings and profits to the shareholders as capital gains. The recent transactions that raise concerns have very little to do with individual shareholder tax planning. Rather, they are prearranged structures designed to avoid corporate-level gain recognition. In essence, these transactions resemble sales. If such transactions were treated as sales for tax purposes, the remaining corporation would recognize gain with respect to the stock of the acquired corporation.

Today's introduced legislation is intended to treat transactions occurring after April 16, 1997, the general effective date of the bill, as sales at the corporate level.

A technical explanation of the legislation is provided below. This legislation affects complex transactions and additional or alternative legislative changes also may be appropriate. For example, it may be appropriate to amend or repeal present-law section 355(d) and to treat certain asset acquisitions as stock acquisitions. Written comments on the issues raised by this bill are welcome.

DESCRIPTION OF PROPOSAL—ACQUISITIONS OF DISTRIBUTING OR CONTROLLED CORPORATIONS PURSUANT TO PLAN

The proposal would adopt additional restrictions under section 355. Under the proposal, if pursuant to a plan or arrangement in existence on the date of distribution, either the controlled or distributing corporation is acquired, gain would be recognized by the other corporation as of the date of the distribution.

Whether a corporation is acquired would be determined under rules similar to those of present-law section 355(d), except that acquisitions would not be restricted to purchase transactions. Thus, an acquisition would occur if a person—or persons acting in concert—acquired more than 50 percent of the vote or value of the stock of the controlled or distributing corporation pursuant to a plan or arrangement. For example, assume a corporation, P distributes the stock of its wholly owned subsidiary S to its shareholders. If, pursuant to a plan or arrangement, either P or S is acquired, the proposal would apply to require gain recognition by the corporation not acquired. It is anticipated that certain asset acquisitions would be treated as stock acquisitions.

Acquisitions occurring within the 4-year period beginning 2 years before the date of distribution would be presumed to have occurred pursuant to a plan or arrangement. Taxpayers could avoid gain recognition by showing that an acquisition occurring during this 4-year period was unrelated to the distribution.

In the case of an acquisition of the controlled corporation, the amount of gain recognized by the distributing corporation would be the amount of gain that the distributing corporation would have recognized had stock of the controlled corporation been sold for fair market value on the date of distribution. In the case of an acquisition of the distributing corporation, the amount of gain recognized by the controlled corporation would be the amount of net gain that the distributing corporation would have recognized had it sold its assets for fair market value immediately after the distribution. This gain would be treated as long-term capital gain. No adjustment to the basis of the stock or assets of either corporation would be allowed by reason of the recognition of the gain.

The proposal would not apply to a distribution pursuant to a title 11 or similar case.

The Treasury Department would be authorized to prescribe regulations as necessary to carry out the purposes of the proposal, including regulations to provide for the application of the proposal in the case of multiple distributions.

TREATMENT OF DISTRIBUTIONS WITHIN AFFILIATED GROUPS

Except as provided in Treasury regulations, section 355 would not apply to a distribution of stock of one member of an affiliated group of corporations filing a consolidated return to another member. In the case of a distribution of stock within an affiliated group, the Secretary of the Treasury would be instructed to provide appropriate rules for the treatment of the distribution, including rules governing adjustments to the adjusted basis of the stock and the earnings and profits of the members of the group.

EFFECTIVE DATE

The proposal would be effective for distributions after April 16, 1997, unless the distribution is: First, made pursuant to a written agreement with an acquirer which was—subject to customary conditions—binding on or before such date and at all times thereafter; second, described in a ruling request that identifies the acquirer and is submitted to the IRS on or before such date; third, described in a Securities and Exchange Commission [SEC] filing made on or before such date, to the extent such filing was required to be made on account of the distribution and identifies the acquirer; or fourth, described in a public announcement that identifies the acquirer on or before such date. The exceptions for written agreements, IRS ruling requests, SEC filings, and public announcements would not apply to distributions of stock within a consolidated group of corporations.

INVESTIGATING FOR FAIRNESS

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. BARCIA. Mr. Speaker, I rise today to pay tribute to my friend Jay Brandow, an outstanding individual from my hometown of Bay City. For the past 12 years Jay has been an investigative reporter for WNEM–TV 5. Jay is not only an exceptional reporter but also a true asset to the community. His superb reporting has provided information that has enlightened and greatly impacted our community, our State, and our Nation.

I have had the pleasure of knowing Jay for many years. I first knew him when I was a Michigan State Senator. The stories Jay investigated and reported have uncovered several critical issues in our community. Although many of his stories were significant, his Bancroft-Eddy story truly stands out. This news story revealed the terrible and unsafe public housing that was existing in our own community.

Jay's investigative reporting helped bring attention to the low-income public housing that was being subsidized by the Department of Federal Housing and Urban Development. The apartment buildings were unsafe, unclean, and hazardous to its tenants. The condition of the complex was alarming. His relentless investigation and reporting, resulted in a critical investigation into the housing condition of the Bancroft-Eddy complex. This official investigation by both the Michigan State Housing Development Authority and the Department of Housing and Urban Development resulted in effective efforts to improve this public housing. Jay's determination brought him to Washington DC to meet with HUD officials as well as myself, in my capacity as the fifth district Congressman. He was willing to go that extra mile to thoroughly investigate and demand improvement. Mr. Brandow's superior investigation and reporting skills forced the State and Federal Government to improve the Bancroft-Eddy housing complex in Saginaw, MI.

Mr. Brandow should be proud of his efforts. Our community now has safe, clean, and livable low-income housing for those individuals and families who are truly in need of help. Jay's investigation and reporting proved that he is not only an outstanding reporter, but that he cares for the less fortunate in our society.

Mr. Speaker, I ask you and all of our colleagues to join me in congratulating Jay Brandow as he is presented an award from the Tri-County Fair Housing Commission. We wish him the best for the new challenges ahead.

COMMENDING AMERICANS WHO SERVED IN THE COLD WAR

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. LAZIO. Mr. Speaker, I am proud to introduce a concurrent resolution commending those Americans who serviced during the cold war.

Fifty years ago this July, George Kennan, in his article "The Sources of Soviet Conduct," defined the challenge facing America with the onset of the cold war. After describing the expansionist and totalitarian nature of the Soviet state, Kennan called for "a policy of firm containment, designed to confront the Russians with unalterable counterforce at every point where they show signs of encroaching upon the interests of a peaceful and stable world." Kennan was convinced that the Soviet dictatorship would eventually be undermined by its own internal weaknesses. But until that happened, he exhorted Americans to face "this implacable challenge" by drawing upon the strength of our national character. In Kennan's memorable words: "To avoid destruction the United States need only measure up to its won best traditions and prove itself worthy of preservation as a great nation." He concluded that the American people, in standing up to totalitarian aggression, were shouldering the "Responsibilities of moral and political leadership that history plainly intended them to bear.

We look back today at this stirring call to action and see how history has confirmed Kennan's words. The Soviet regime, a regime which accepted no moral or legal restraints, which aggressively sought to recast the rest of the world in its image, which subordinated all its natural and human resources to building a vast military machine, has collapsed. America, in contrast, stands strong in the durability of its democracy, the dynamism of its economy, and the vitality of its citizens. Clearly, we have met and surpassed the implacable challenge described by George Kennan as he surveyed events in those dark early days of the cold war.

It is now time to recognize all of those Americans who served during the cold war. The men and women of our Armed Forces, our intelligence community, our foreign service, and many other areas of our government met the challenge of the cold war with skill and dedication. Americans served in every corner of the globe, often isolated from family and friends, sometimes under the most arduous conditions. some laid down their lives when the cold war turned hot in places like Korea and Vietnam. Others accepted discomfort, loneliness, and risk while maintaining our military readiness against a foe capable of launching a devastating attack with little notice. All of them lived up to America's best traditions and ensured America's preservation as a great nations

Through their efforts, almost 500 million people have been freed from Communist tyranny. Nations once submerged by Soviet imperialism can now claim their rightful place in the international community. Fears of a nuclear holocaust now seem a distant memory.

For Americans, the cold war ended with no parades, no fanfare, no speeches. After a conflict where so much was a stake, not enough has been done to acknowledge our country's victory and our debt to those who make it possible.

During the 104th Congress, my resolution honoring Americans who served during the cold war passed the House of Representatives by a unanimous vote. Unfortunately, the resolution did not come up for a vote in the Senate.

It is now time to recognize all Americans who served during the long, demanding years of the cold war. We are worthy of preservation as a great nation because so many of our most talented and dedicated citizens did their part for so long in a conflict that seemed endless.

HEALTH CARE COVERAGE FOR CHILDREN

SPEECH OF

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. STOKES. Mr. Speaker, I want to thank my colleague, the gentleman from New Jersey, Congressman FRANK PALLONE, for sponsoring this special order this evening. I am pleased to join FRANK and others as we discuss an issue of great importance to the Congress and this Nation. The issue under discussion is that of children's health.

I want to use the time allocated to call attention to the millions of children who are uninsured. Just recently, the Democratic caucus children's health care task force convened a hearing which focused on the problem of uninsured children in America. According to the U.S. Census Bureau, nearly 10 million children across the nation, or 13.8 percent of all children under the age of 18, are uninsured.

The rate for African-American children without any health insurance at all is even higher, at 15.3 percent. Statistics further indicate that 2.9 million of those children are eligible for Medicaid but are not enrolled.

Mr. Speaker, the urgency to insure these children lies in the fact that uninsured children are less likely than insured children to get much needed health and preventive care. The lack of such care can have adverse effects on these children's health for the rest of their lives. In my home State of Ohio, nearly 300,000 children are without health insurance. It is estimated that as many as a quarter of all children in Ohio may have been uninsured for at least 1 month over the last 2 years. While the overall rate for the State is 9.6 percent, slightly less than the national rate, far too many children still remain uninsured.

As a member of the House Appropriations Subcommittee on Labor-Health and Human Services-Education, I know that the problem of uninsured children is taking a toll on many families across this Nation. The Congress must make this issue a top priority. We must be willing to explore the expansion of Medicaid eligibility, and reforms of outreach and service delivery systems in order to provide access to comprehensive health care services for uninsured children.

Mr. Speaker, it has been said on many occasions that our children represent our future. It is time for the Congress to take action on behalf of our Nation's youth. I join Congressman PALLONE and members of the Democratic children's health task force in urging our colleagues to move forward to insure and protect America's greatest resource—our children.

INTRODUCTION OF A RESOLUTION TO ENACT LEGISLATIVE BRANCH APPROPRIATIONS LAST

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mrs. MORELLA. Mr. Speaker, I rise today to introduce a resolution to ensure that the legislative branch appropriations bill is the last appropriations bill we enact. My resolution would amend the rules of the House to postpone final action on legislative branch appropriations for any fiscal year until all other regular appropriations for that fiscal year have been enacted. By doing so, we would both avert another shutdown and restore responsibility to the appropriations process.

This resolution adds new points of order under House rules governing appropriations to prohibit final action on the regular legislative branch appropriations bill unless all other regular appropriations bills for the fiscal year are enacted. Similarly, a continuing resolution could not contain legislative branch appropriations unless it also included continuing appropriations for the same period for all other regular appropriations bills not already signed into law.

Unless all other appropriations bills were signed into law, this means that there could not be final action on the conference report for legislative branch appropriations. It would not preclude the Appropriations Committee or the House from considering the legislative branch appropriations bill before other bills; the House simply could not vote on final passage of a conference report, a motion on a Senate amendment or a continuing resolution, if we have not first, or concurrently, provided appropriations for the other twelve bills.

This resolution would demonstrate our commitment to govern responsibly and to put the American people before ourselves. By enacting our own funding bill last, we may be more likely to find common ground on the other bills and to avert another Government shutdown. We must never again shut down the Federal Government; it devastated our constituents who depend on Government services, our Federal employees, contractors and their families, and our communities. By linking our own funding to the enactment of all appropriations bills, we would ensure that we would take our responsibility seriously and work to find common ground.

During the November 1995 shutdown, Congress made the mistake of passing the fiscal year 1996 legislative branch appropriations bill before taking care of all of the other bills. The President vetoed it—not because of its content, but because of its timing. When it was enacted later that year, legislators lost that extra motivation to negotiate the remaining bills during the prolonged Government shutdown—after all, their salaries and their staffs were secured.

I encourage my colleagues to join Representative TOM DAVIS and me in putting the American people first. Please help me to ensure that before we pay ourselves, we meet our obligations to take care of Government agencies and the public that we are here to serve.

TRIBUTE TO VANDERGRIFT FIRE DEPARTMENT

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. KLINK. Mr. Speaker, I rise today in recognition of the George G. McMurtry Vandergrift No. 1 Volunteer Fire Department of Westmoreland County. The fire department was founded on November 29, 1897 and is celebrating its centennial with several festivities throughout the year. I would like to take this opportunity to join the citizens of Vandergrift in congratulating the volunteers, both past and present, for 100 years of outstanding public service to their community.

The Vandergrift Fire Department is made up of dedicated individuals who risk and sacrifice their personal safety every day as volunteers in their community. They have careers independent of their volunteer service. They have families and daily responsibilities. However, when the emergency call sounds, the members of the Vandergrift Fire Department put their own lives on hold to provide safety and emergency services to the citizens of Vandergrift. They have proven that by joining together they provide an invaluable service to the entire community.

On behalf of my colleagues in the House of Representatives, I would like to wish the George G. McMurtry Vandergrift No. 1 Volunteer Fire Department another 100 years of successful public service. They have protected the lives of their families, their property, and the spirit of their community with dignity. Their service represents a local heroism which has guided a community for a century—with honor, courage, and self-sacrifice.

TRIBUTE TO CHARLES A. HAYES

SPEECH OF

HON. WILLIAM L. CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. CLAY. Mr. Speaker, I rise to pay tribute to our former colleague and my dear friend, Charles Hayes—a leader, a visionary and a man of the people. Charlie passed away on April 8, 1997, in Chicago, IL.

Charles Hayes was a crusader for justice, fairness, and decency. He began his quest to make the world a better place before most Members of this body were born.

Emerging from the fiery furnace of the Great Depression as a member of the Civilian Conservation Corps, he learned the importance of work and fairness early on.

At the young age of 20, Charlie stood up against racism and discrimination in the workplace. He organized a group of black carpenters in a flooring plant and formed a local union to secure fairer wages and better working conditions for the employees. He was elected president of that local and began his climb to become one of the most important labor leaders in America.

In 1954, as district one director of the United Packinghouse Workers of America, Charlie forced the union to acknowledge and address the employment concerns of women in the workplace.

For more than three decades, this working man from Cairo, IL used his union office to fight for the rights of ordinary people.

Charlie was an advocate for full national health care for every American before anyone ever heard of Medicare. He voiced strong support for protecting American jobs from foreign competition long before the international trade imbalance became a major national concern.

Everywhere you looked, you saw Charlie Hayes standing up for the little guy. From strikes to marches. From jobs and civil rights issues to health care and housing concerns. You could always count on Charlie Hayes to be there when the going got tough.

In 1983, the people of the First Congressional District of Illinois sent Charles Hayes to Congress to fight for them—and fight he did.

I had the privilege of serving with him on both the Committee on Education and Labor and the Committee on Post Office and Civil Service. He brought with him decades of hard work and experience on the front lines that helped him to make important contributions to both committees. He never forgot the struggle. He crafted every bill with a sincere commitment to securing justice and equality for working men and women.

He introduced full employment legislation and denounced unemployment as morally unacceptable. While a number of politicians were arguing about how best to cut taxes on the rich, Charlie Hayes was arguing about how best to help those in our society who could not help themselves.

When Charlie left Congress, he went back to Chicago to fight once again on the front lines with men and women who had served on the various task forces he formed while in Congress. Each day he fought the good fight.

Though his struggle is over, Charlie's legacy will live on. We will always remember his strength of character, his love for life and his fighting spirit.

I ask our colleagues to join me in honoring his wonderful life by continuing to champion the cause of American workers.

I salute my dear friend Charlie Hayes and I bid him farewell.

RECOGNIZING MAYOR EMORY FOLMAR'S 20 YEARS OF SERVICE TO THE CITY OF MONTGOMERY

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. EVERETT. Mr. Speaker, this month the city of Montgomery, AL marks an important milestone; two decades of courageous, visionary leadership embodied by a remarkable public servant, Mayor Emory Folmar.

To those of us native to South Alabama, the words Emory Folmar speak for themselves. They evoke images of strong, effective leadership; courageous political stands; and, an undaunted spirit of patriotism and loyalty to home and country.

Mayor Emory Folmar, bolstered by a uniquely charming and indispensable political

partner, his wife Anita, has forged a legendary record of service to his community and his beloved State that any high public official would envy. Under his two-decade-old watch, Montgomery has become a bustling and beautiful capital city for which all of Alabama can be proud.

He has tackled crime and city service problems head-on and in-person, earning the respect of city workers and citizens alike. His embrace of Maxwell-Gunter Air Force Base has ensured that the military not only maintains a high profile presence in central Alabama, but that the Air force retains one of the very best educational, training, and software support facilities in the country.

In reviewing his record of public office, it is fitting to note that Emory Folmar began his career as mayor by defeating no less than 44 candidates without a run-off. That was on April 12, 1977, and that same indomitable character lives on today, even more determined than ever to put Montgomery, AL first.

As a personal friend, I have no doubt that Emory Folmar will pay little attention to this anniversary and will instead continue being the man of the people he truly is. As long as Montgomery's best days lie ahead—and they will because of his vigilance—Emory Folmar will be at his best, serving the public.

I congratulate Emory and Anita Folmar and I look forward to 20 more years of their brand of successful leadership for Alabama. Thank you Mr. Speaker.

UNITED STATES RESUMES AID TO TURKEY

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. RADANOVICH. Mr. Speaker, yesterday, April 16, 1997, President Clinton notified Congress that he will be invoking the national security waiver clause in the Humanitarian Aid Corridor Act, therefore resuming United States aid to Turkey despite that country's immoral blockade of humanitarian assistance to Armenia. This course marks a continued failure by the administration to grasp the deep distress Armenia and its people are suffering as a result of Turkey's cruel 4-year blockade. There is neither grounds for Turkey's blockade of Armenia, nor any overriding policy objective cited by the administration which legitimizes this injustice.

Recently, I was honored to visit Armenia. I know first-hand of the courageous efforts of Armenia's leaders to move forward with market reforms and policies designed to foster political and economic integration with Western institutions and economies. I am committed to encouraging this process, and I believe it is disgraceful that the administration turns a blind-eye to policies that suffocate a land so rich in potential. The Clinton administration has correctly articulated the U.S. foreign policy objectives in the Caucasus region are stability, peace, democracy and economic prosperity. Unfortunately, with yesterday's waiver, the administration demonstrated its inability to recognize the means for achieving these ends. By assisting in the enforcement of this blockade, President Clinton has sentenced Armenia and her people to another painful year.

TALENTED HIGH SCHOOL STUDENTS REPRESENTING OREGON

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Ms. FURSE. Mr. Speaker, on April 26–28, 1997, more than 1,200 students from 50 States and the District of Columbia will be in Washington, DC to compete in the national finals of the We the People . . . The Citizens and the Constitution program. I am proud to announce that the class from Lincoln High School from Portland will represent Oregon and the First Congressional District. These young scholars have worked diligently to reach the national finals by winning local competitions in their home State.

The distinguished members of the team representing Oregon are: Joseph Bartels, Alexandra Boule-Buckley, Eric Fitzgerald, Joel Fowlks, Jason Franklin, Nina Handelman, Morgan Harvey, Calder Hughes, Leah Hyman, Marguerite Ingalsbe, Katherine Johansen, Conor Jones, Katherine Kennedy, Ruben Litwer-Mos, Christopher Lorenz, Emma McCandlish, Andrew Moore, Pernilla Nathan, Michael Nguyen, Jacob Oken-Berg, Nels Overgard-Cook, Elizabeth Schaub, Ashley Schmidt, Adam Smith, Thomas Steinberger, Joseph Streckert, Lakesha Thomas, Kimvi To, Zachary Vanderkooy.

I would also like to recognize their teacher, Mr. Hal Hart, who deserves much of the credit for the success of the team. The district coordinator, Mr. Daniel James, and the State coordinator, Ms. Marilyn Cover, also contributed a significant amount of time and effort to help the team reach the national finals.

The We the People . . . The Citizens and the Constitution program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The 3-day national competition simulates a congressional hearing in which students' oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

Administered by the Center for Civic Education, the We the People . . . program, now in its ninth academic year, has reached more than 75,000 teachers, and 24 million students nationwide at the upper elementary, middle and high school levels. Members of Congress and their staff enhance the program by discussing current constitutional issues with students and teachers.

The We the People . . . program provides an excellent opportunity for students to gain an informed perspective on the significance of the U.S. Constitution and its place in our history and our lives. I wish these students the best of luck in the national finals and look forward to their continued success in the years ahead.

COMMEMORATING THE SPECIAL OPERATIONS COMMAND'S 10TH ANNIVERSARY

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. YOUNG of Florida. Mr. Speaker, many of my colleagues may not be aware, but this week marks the 10th anniversary of the Special Operations Command, based at MacDill Air Force Base in Tampa.

The 47,000 soldiers who make up the special operations command are the most elite forces that the U.S. military has to offer. This command coordinates special forces members from the Army, Navy, Air Force, and Marine Corp who currently operate in 140 countries worldwide. Despite their numbers, range of deployment and unique talents, the Special Operations Command makes up only 1 percent of DOD's budget and 1 percent of the U.S. military. Deployed to some of the most hostile environments in the world, these bold warriors are a constant presence for the United States.

Special forces have been an indispensable asset to the United States in armed conflicts since the American Revolutionary War. Today, the modern special forces operator is prepared to meet both humanitarian and military challenges wherever they are deployed. Teamwork and cooperation are essential for the survival of each member of the unconventional warfare community. In 1987, the special operations command was borne out this need to coordinate the complicated and dangerous missions assigned to special forces members.

In recognition of the anniversary of the Special Operations Command, Orval Jackson of the Tampa Tribune has written a very comprehensive history of the command which I commend to my colleagues attention.

Mr. Speaker I know I speak for all my colleagues in admiration of the sacrifices and service of the men and women who serve and have served in the special forces—many in virtual anonymity.

[From the Tampa Tribune, Apr. 14, 1997]

10 YEARS BOLD

(By Orval Jackson)

TAMPA.—It stands to reason Special Operations forces are on duty in many of the world's trouble spots, such as Bosnia and the Persian Gulf.

More surprising, however, is that Special Operations forces also are deployed to more than 140 nations, providing governments with a variety of military and humanitarian skills.

Most Americans don't know about these missions, because the command, based at MacDill Air Force Base, doesn't publicize them. And that's the whole point: They're special operations.

"Special Operations forces offer a unique, versatile and global joint service force, which continuously operates worldwide," said Army Gen. Hugh Shelton, commander in chief of the unified command.

The successes and wide-ranging tasks of the special forces will be recognized this week as the Special Operations Command commemorates it's 10th anniversary.

Many of the deployments, Shelton said, are in areas plagued by disease, starvation, poverty and civil strife—incubators for future

insurgencies, humanitarian crises and ethnic conflict.

"U.S. Special Operations forces have become extremely skillful in practicing the art of peace, while still remaining prepared for and preserving the option of force," Shelton said.

Case in point: Somalia. A humanitarian program there in 1992 evolved into a military one the next year. In it, two Special Operations soldiers became the first Americans since Vietnam to receive the Medal of Honor.

In October 1993, Master Sgt. Gary I. Gordon and Sgt. 1st Class Randall D. Shughart disregarded their own safety while trying to rescue crewmen from two downed helicopters. Gordon and Shughart held heavily armed crowds at bay until they ran out of ammunition and were killed. The lone survivor of the crash, who was wounded, was taken prisoner and later was released.

Gordon and Shughart were part of about 47,000 active, reserve and national guard forces of the Army, Navy and Air Force that make up the Special Operations Command. Despite its worldwide involvement, it represents only 1 percent of the nation's military and 1 percent of the Defense Department's budget.

Its anniversary week will be highlighted Wednesday when Secretary of Defense William Cohen is presented the Bull Simons Award, given annually to those who embody the spirit, values and skills of a legendary special operator.

Cohen, who was a Republican senator from Maine, and Sam Nunn, a Senate Democrat from Georgia at the time, wrote the legislation that created the Special Operations Command in 1987. Nunn, who is unable to attend the MacDill events, received his Bull Simon Award recently in Atlanta.

Nearing the end of his 34-year career, Simons led a Special Forces raid on the Son Tay prisoner-of-war camp in North Vietnam in 1970. The prisoners had been moved before the forces arrived, but the raid was credited with forcing the North Vietnamese to improve the care of POWs.

Another bold, but ultimately unsuccessful, mission spurred the creation of the Special Operations Command. In 1980, an attempt to rescue 53 American hostages in Iran led to the death of eight military personnel when two rescue aircraft collided in the Iranian desert.

As efforts were under way in the Department of Defense to reform the special forces operations, the process was spurred on by the 1983 terrorist bombing attack that killed 237 marines in Lebanon and the invasion of Grenada, which was successful despite operational problems within the military units.

Then-President Reagan approved establishment of the new command April 13, 1987, and three days later it was activated by the Department of Defense under the command of Army Gen. James Lindsay. It took over the facilities of the U.S. Readiness Command at MacDill, whose missions were transferred to other commands.

During its 10 years, the command has participated in five other major operations in addition to Somalia, including its first big test in December 1989, when more than 4,400 special operations forces participated in operation Just Cause in Panama. It led to the capture of dictator Manuel Noriega.

In 1990-91, more than 9,400 personnel were deployed to operations Desert Shield and Desert Storm.

Last April, Special Operations helicopters flew through some of the worst conditions to reach a mountainside above Dubrovnik, Croatia, where Secretary of Commerce Ron Brown and 34 others were killed when their plane crashed.

In addition to well-publicized military operations, Special Operations forces have a number of lesser-known missions.

They include combating terrorism; seizing or destroying weapons of mass destruction; assisting host countries in civil affairs; conducting rescue missions and antidrug activities; and providing humanitarian assistance.

"I think as you look at the situation we are facing today and in the foreseeable future, there are challenges Special Operation forces should be handling and I see a greater need for them than ever," said retired Army Gen. Carl W. Stiner, who followed Lindsay as commander in chief.

"One significant thing I think we did was keep the focus on readiness and modernization of our forces," Stiner said. "Another was to work with the regional CINCs [commanders in chief], educating them on the utility of Special Operations forces and their capability of assisting in achieving reasonable objectives."

"VISION OF THE FUTURE"—15-YEAR-OLD LEVI TILLEMANN-DICK DISCUSSES THE IMPACTS OF TECHNOLOGY IN TWO GENERATIONS—ESSAY WINS NATIONAL CONTEST

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. ACKERMAN. Mr. Speaker, I would like to call the attention of my colleagues to a young man who at the tender age of 15 has already established himself as a thoughtful analyst of the future. Levi Tillemann-Dick of Denver, CO, was winner of a recent essay competition, "Vision of the Future", sponsored by the Association of Computer Manufacturers [ACM] to examine how changes in computer technology will change our lives over the next 50 years.

The essay contest was held in order to highlight the Association's celebration of the next half-century of computing, and it was conducted with the assistance and cooperation of the magazine Popular Science. The purpose of the contest and the focus of the judges involved in evaluating the essays submitted was getting students to realize that whatever choices they make with computer science will have future implications for society, economy, and across all spectra of life.

The essays were judged on the basis of their creativity and sense of excitement about what future technologies will be like and how they will affect our daily lives. Levi was awarded a college scholarship of $2,500 for his winning essay—an important incentive for a student in this age when advanced education is essential for young people to reach their full potential in this information age.

Levi Tillemann-Dick, at the age of only 15, is currently studying at Regis College in Denver. Until January of this year he was schooled at home by his mother, Annette Tillemann-Dick, the daughter of our colleague from California, TOM LANTOS.

Levi Tillemann-Dick's winning essay, "Gigatrends: Technology's Impacts Two Generations from Today", reflects the kind of thoughtful education in technology that is essential for the future of our Nation. Mr. Speaker, I ask that this outstanding essay be placed in the RECORD, and I invite my colleagues to read it. It is important as we here in this body consider the effect that technology will have upon the lives of our children and grandchildren, and these are the kinds of problems on which we in this body should be focusing.

GIGATRENDS: TECHNOLOGY'S IMPACTS TWO GENERATIONS FROM TODAY

(By Levi M. Tillemann-Dick, the Yale Academy, Denver, CO)

Fifty years ago, a Naval scientist labored for hours beside a computer the size of a small bus, calculating the trajectory of a single artillery shell. Today's notebook computer can perform the same operation in a fraction of a second. IBM and Hewlett-Packard have just announced the invention of the PAN—Personal Area Network—a set of devices that use the human as a conductor to relay detailed textual information from one person to another simply by touch. While it is very difficult to predict what the hardware will be like in fifty years, it is possible to make reasonable predictions of what the technology will be and how it will affect our lives.

Computers have demonstrated themselves to be especially well adapted to two types of activities: communications transactions, and information processing and storing. In key respects, computers have operated with much the same impact on society as did the printing press and the book, but accelerated a million times. Tom Sawyer on the printed page created a virtual reality device that led us toward the media of today and the shared experiences and artificial sensations of tomorrow.

The Internet's technology is the communications gateway to the near future. It will wholly transform people's lives. The Internet will, of course, be used for commerce, personal communications, entertainment, and research. It is a relatively small conceptual step, however, from the PAN processor that relays a written message through one's body by a shake of the hand, to a microcell sensory transmission system that relays ideas and sensations directly to and from the most powerful processor in the world, one's brain. Within a few decades, developments stemming from PAN-type research will transform the Internet into the LifeNet, a comprehensive sensory environment for human habitation. Our minds will be afforded wireless direct sensory interfacing with other people and various databases. A dramatically enhanced version of what we now call "virtual reality" will become as common as air conditioning. Telephones, TVs, PCs and other media conveyors will be replaced by wireless sensory feeds from, and to, communal microcells. The LifeNet will become infinitely more important to mankind than the telephone is today. It will become as essential to our lifestyles as electricity or running water is now.

What are the implications for our society? Strong arguments can be made that the place of technological advancement will be accelerated, and human interactions forever altered. Some have suggested that today's Internet is addictive. They have hit on a key point but used the wrong terminology. It is not addiction that causes these people to return to the Internet each day, but the fact that they can craft a new identity for themselves—any identity they choose. Or they

can participate in experiences that are otherwise beyond their reach. If today's crude mess of wires and two-dimensional web sites so captivate people, consider the impact of a technology affording a lifestyle where you could go wherever you wanted to go, and be whoever you wanted to be whenever you chose. Every field of human endeavor would be affected, from business to entertainment to courtship and art. Over the course of not many years, the technology's impact upon society would be all-encompassing.

Fifty years ago, the average person in the workforce was a farmer or laborer. They were physically strong. They ate more, but weighted less. Today's office and service workers have diminished physical capabilities, but are better educated. The LifeNet will accelerate this trend. The amount of food needed to survive when spending weeks, months, or years on the 'Net would be drastically reduced from the amount needed to sustain a body that is undergoing today's activity. Like most changes, this is a two-edged sword. Resource depletion resulting from overpopulation will cease to be a major issue when we are subsisting on 600 calories a day in a sensory reality where we can eat all we want. Our mansions will be built in our minds, and our future Ferrari's will be driven along the roads of our collective imaginations. The physical body (over a period of time) would deteriorate to a state where the full recovery back to a state of good physical health would take months—if it was possible at all. Fifty years from now, our minds will be working and playing in ways now beyond our imagination, and paradoxically, the sensations we will feel will be just as real as those we experience today.

The time constraints relating to day and night will dissolve when we can communicate effortlessly anywhere in the world. It is likely that humans will require less sleep, since we will need only the time to file and store the information that our brains have collected and not to rest our physical bodies.

These technologies will not be expensive. On a per capita basis, participation in the LifeNet will consume far fewer resources than an automobile, and reduce our housing and other needs. This fact, along with a lack of prior investment in other infrastructures like highways and copper cabling, will prompt the rapid expansion of the LifeNet into third-world countries. The equipment required for the microcellular sensory transmission technology will be modular, redundant, and like that for the Internet, incrementally inexpensive. Countries that have problems with overcrowding and famine would quickly embrace the LifeNet. Their resources would be extended, and planners would likely program the system to minimize the population's reproductive drive.

People will still have jobs. There will be lots of work to do. People will want to consume the newest experiential sensations. Some food will need to be prepared, and equipment manufactured. Government would be divided into two categories: geographical-physical and communicative. The responsibilities of the geographic governments will be to defend landmasses and keep order in the physical world—much as they do today. However, there will likely be another type of government co-existing with today's political successors. The responsibilities of these communicative governments will be to administer, regulate, and defend cyberspace. The communicative government will also be responsible for the maintenance of the input-output microcells. The communicative governments already exist in the form of the various online services—and their monthly fees are the taxes. As they mature, these communicative governments will develop such things as better defense systems against the threats of cyberspace terrorism.

Religion has been, is and it is safe to assume always will be, a major part of society. Televangelism's success leads us to the conclusion that the LifeNet will support religions of many sorts. It is not clear whether people will completely forego interpersonal religious contact as the LifeNet becomes pervasive.

The darker side of religion and the LifeNet may the result of a large and potentially violent antitechnological cult movement that could arise. These cults would likely be something parallel to today's right-wing extremists and Muslim fundamentalists, but vastly more diverse and considerably more dangerous. It is frightening to contemplate the destructive "holy wars" that they could embark upon and the grave consequences for LifeNet residents

Some people would have to remain physically active and strong, because of the nature of their labor. There will always be tools and equipment that will break down and will have to be repaired, and there will always be operations and experiments that must be carried out physically to know the outcome. Manufacturers, natural resource harvesters, and explorers of all sorts are likely to be visitors to the LifeNet, rather than residents.

The field of manufacturing would be dramatically reduced in size, considering that large cut of the world's population would no longer need much in the way of cars, clothing, physical tools and countless other physical objects. Natural resource harvesters will work in every field from farming to mining. Harvesters will be supported of new technologies and these activities would also decrease for the same reasons as manufacturing would—the virtual elimination of every physical non-necessity.

One of the few physical job categories that would likely grow is that of the explorers. An explorer is anyone from a cellular biochemist to an astronaut. This field is sure to expand in the years to come, as science expands and becomes more complex, and as space and deep-sea exploration become further reaching.

Another small category of physical beings would work for various medical and life-support companies. They would have the lives of every individual in the cyberworld in their hands. They would be paid to keep the devices that nourish and climatically maintain all the people who chose to enter into the cyberlife. They would have the solemn but necessary responsibility of—after the allotted amount of time—turning off the machines.

It is impossible to predict exactly what the technology will be in fifty years considering that when my Dad was fourteen there were no PCs, and when my Grandma was fourteen electricity was cutting-edge technology. But one thing is certain: There will be things that are wonderful, things that are beautiful, and some things that are deeply frightening that will all become realities in the next fifty years.

ATTORNEY GENERAL RENO: DEFENDING THE POWERS THAT BE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. SOLOMON. Mr. Speaker, I wanted to draw your attention to the following editorial from a major newspaper that serves the Capital District region of my home State of New York, the Times-Union. It deals with a subject with which I've been paying a great deal of attention, and that's the fundraising activities of the Democrat National Committee and the Clinton White House. It's no longer any secret that the open-ended dealings of the White House in attracting large sums of campaign cash may have led to violations of national security, breaches of classified information, changes in U.S. foreign policy, and economic espionage, not to mention the violation of a whole slew of laws related to campaign fundraising, the activities of Federal employees, the use of Federal property, and the expenditure of Federal tax dollars.

I've investigated and monitored this situation with such zeal since last October, not because of any partisan interest, but because of my genuine concern for this country's security, especially when a foreign power like China, under a Communist government I have viewed with distrust for many years based on a wide variety of policies, is being investigated for actively trying to infiltrate our political system for their own gain. In any other administration, Mr. Speaker, no matter who was in the White House, or the Justice Department for that matter, there came a point where politics were cast aside for the best interests of the country. Tragically, that line has been blurred, if not erased, as a great deal of the fundraising activities that may have compromised American business and security interests were condoned, and even orchestrated, by the Clinton administration.

But, I know and have known all along, that in order to prevent the entire controversy from being lost and consumed in the shadows and barbs of partisan politics, and independent prosecutor was necessary. Mr. Speaker, there are a few moments in history where a particular person in power or in public service will make a decision that will be judged over time as either a monumental stand for what is right and just, or as cow-towing to the powers that be. I fear Attorney General Reno has had her moment and the powers that be are smiling.

[From the Times-Union, Apr. 16, 1997]

JANET RENO, WRONG AGAIN

U.S. Attorney General Janet Reno was wrong to resist previous calls to appoint a special prosecutor to look into widening allegations surrounding President Clinton's campaign last year. She was wrong again on Monday, when she rejected, for a fourth time, a similar entreaty.

Ms. Reno's explanation for sticking to her position grows weaker by the day. She continues to insist that there is still no credible evidence of possible criminal wrongdoing by any of the high government officials who are covered under the special prosecutor statute. She argues the Justice Department is capable of handling the inquiry.

There are at least two reasons why a special prosecutor is warranted now. One is the accumulation of charges that point to possible criminal wrongdoing at the White House level. The now infamous "coffees" may have violated federal prohibitions against fund raising on federal property. So might Vice President Gore's phone solicitations. The trail of Asian money may have influenced Clinton administration policy on China and Taiwan. Government phones and credit cards may have been improperly used.

Each day, it seems, more allegations come forth, to the point where the public is now so overwhelmed by the charges and countercharges that only a credible, outside investigation can clear the air.

The second reason for Ms. Reno to act is even more compelling: To avoid the appearance that she is reluctant to turn on Mr. Clinton after he agreed to keep her on for his second term.

It is no secret that Ms. Reno had earned Mr. Clinton's disfavor with her readiness to appoint special prosecutors during his first term. It seemed apparent that she would remain on the Clinton team only if she promised to change her ways. Could this be the reason she has once again rebuffed a call for an independent inquiry?

There is only one way for the attorney general to give a reassuring answer to that question. By doing the right thing, and calling for a special prosecutor.

MANAGEMENT POLICIES CURRENTLY IN PRACTICE AT YELLOWSTONE NATIONAL PARK

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. HANSEN. Mr. Speaker, I want to draw my colleague's attention to an article on the management policies currently in practice at Yellowstone National Park written by Montana Representative RICK HILL. RICK invites us to give some serious reflection about the role and condition of Yellowstone and its future stewardship. Recent testimony in the Parks Subcommittee indicates that the park is badly overgrazed. The impact of this mismanagement goes way beyond the overpopulation of bison to impact the entire Yellowstone system. My friends our colleague has sounded the alarm, and I would ask you to take a few moments to read this article to gain a better appreciation of the current state of Yellowstone and the substantial problem we must address. I submit the article for the RECORD.

OPINION BY CONGRESSMAN RICK HILL

(February 28, 1997)

This week Congress received more bad news about our beloved Yellowstone Park: It's being ravaged by misguided environmental policies. In testimony before the House Resources Subcommittee on National Parks, Dr. Charles Kay, discussed his research that indicates many of the native plants and animals in the park are being wiped out.

How can this happen you ask in an area as carefully monitored and managed as a national park? According to Kay, it is those very management practices that have led to the near disappearance of willow, beavers, berry shrubs, and mule deer. Most alarming of all, is that even grizzly habitat, which we are spending millions of dollars to expand in other areas of Montana, is being allowed to dwindle within the park. According to one study, there is now 100 times more stream bank erosion on Yellowstone's denuded streams than on the same willow-lined streams outside the park.

It would seem only logical that the park service would reassess the natural management program it has used over the last 30 years, especially given the disastrous results of the "let-it-burn" policy. However, we now are seeing the "let-em-starve" version of that same misguided thinking applied to the animal population of the park.

In questioning Park Director Roger Kennedy, during the House hearing, the committee was told that this policy dates back 30 years and that no one has made a conscious decision how the bison will be managed. It is clear from the park director's testimony and meetings with Secretary Babbitt that the Department of the Interior and the Park Service do not consider their current management policy as a failure. Nor do they have any immediate plans to change the policy despite testimony that called it foolish and misguided.

While Secretary Babbit continues to engage in finger pointing, he is overseeing the systematic destruction of our nation's oldest national park. In a letter to Governor Racicot, Secretaries Babbitt and Glickman suggest three steps to reach a solution. The first of these is an expansion of the range for the bison. However, all parties agree that this is not much more than a temporary band-aid. What do we do when the bison have overgrazed the new range? Perhaps the secretary sees all of Montana as the eventual range of the bison? Their second proposal is that we control the size of the herd. We all agree the size needs to be controlled, but again there is no willingness on the part of the Department of the Interior to take the actions necessary to control herd size. In a meeting with Montana's delegation Babbit refused to commit to any action that would result in a reduced herd size. Their third step is to eliminate Brucellosis. Once again there is total agreement on the need to eliminate this most serious disease. However, Babbitt flatly refuses to discuss even testing for the disease or a systematic vaccination program. It is hard to see how Brucellosis can be eliminated without either testing or vaccination.

No one is advocating the wholesale slaughter of bison. However, we cannot ignore the fact that over population which leads to overgrazing is killing Yellowstone Park. For the Department of the Interior to insist that nothing can be done to control the size of the herd is irresponsible. Bison herds at Moiese, Montana, have been successfully managed for years, as was the herd we are discussing in Yellowstone Park up until the change to hands-off management.

What every Montanan knows and now many Americans also realize from sensationalized news reports, is that Bison are dying. Overlooked by most of these reports is the cause of this "slaughter." Until we turn the discussion to the underlying cause of this problem, we will repeat this same tragedy every few years. Our goal must be a complete reassessment of management policy for Yellowstone Park. Montanans and Congress need to prevail upon the National Park service and the Secretary of the Interior to take action immediately in order to stop this from happening again.

DEFENSE WORKERS HEALTH BENEFITS LEGISLATION

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. SKAGGS. Mr. Speaker, I am today again introducing legislation to provide health insurance benefits to former employees at defense nuclear facilities such as the Rocky Flats site in Colorado.

This bill, the Defense Nuclear Workers' Health Insurance Act of 1997, is essentially identical to a bill I introduced in the last Congress, and is based on provisions of a Defense nuclear workers' bill of rights that I introduced in 1991. Other provisions of that larger bill were enacted as part of the 1993 defense authorization bill.

The bill I am introducing today would establish a health insurance program to help with the costs of serious illnesses resulting from workplace exposure to radiation or toxic materials. This would be funded through the Department of Energy and would cover treatment costs exceeding $25,000 for the covered illnesses or injuries.

Mr. Speaker, nuclear weapons plant workers were on America's front lines in the cold war. They helped our national defense mission, working with dangerous materials often under conditions that would not be acceptable by today's standards. Now, as the work force at these sites is reduced, we need to act to assure prospective future employers that company health insurance rates will not be adversely affected if they hire these former defense workers. We also need to act to give these workers assurance that they'll have insurance coverage for work-related illnesses.

This is the right thing to do. America has already rightly recognized a special obligation to veterans and to those exposed to dangerous levels of radiation during the cold war—uranium miners, people who were downwind from nuclear tests, and "atomic veterans." Nuclear weapons workers deserve similar consideration, and this bill would provide that.

INTRODUCTION OF THE FARMER ESTATE TAX RELIEF ACT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. HOYER. Mr. Speaker, today I am introducing the Farmer Estate Tax Relief Act of 1997. This bill is designed to make it easier for America's farming families to keep farming.

In discussions and visits with farmers throughout my district, I have learned that there is serious concern about the ability to pass farms on to future generations. The $600,000 exclusion from estate taxes is not enough to preserve these small businesses that are so dependent upon large capital and land investments.

In Maryland, I understand that there are about 1,000 farms valued at more than $1 million. A typical farm has anywhere from $20,000 to $200,000 worth of equipment.

It is a shame to hear stories of sons and daughters that must sell off part of their parents' farm simply to pay off the estate tax. While retaining the $750,000 "special use" valuation, my legislation would raise the exclusion by $1.4 million, allowing these heirs to exclude a total of $2 million of farm assets.

To encourage these heirs to stay in one of America's most crucial professions, my bill offers the total higher exclusion only to heirs that continue farming for at least 10 years.

Maryland farmers have raised a second issue with me that is addressed by my bill. These independent business people, who often do tough, physical labor into their 70's and 80's, must sometimes sell farm assets to pay high medical bills.

The legislation I am introducing today would allow a one-time exclusion from capital gains taxation for up to $500,000 of medical expenses. Taxpayers could apply this exclusion to the sale of farm or farm assets in the year of, before, or after the medical expenses occurred.

I know that there are many other Members that share my concerns on these issues. While estate taxes can also have a negative impact on other types of family businesses, I am most concerned about the impact on the men and women who put food on our tables.

As a nation, we cannot afford to push these farm families out of business and I am pleased to introduce this bill to provide them with relief. I urge prompt passage of the Farmer Estate Tax Relief Act.

EARTH DAY

HON. WALTER H. CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. CAPPS. Mr. Speaker, the main reason I am an environmentalist is because of a little guy named David—my grandson. Environmentalism is all about what we leave him and his generation.

The district that I live in and represent is one of the most beautiful places on earth—the central coast of California. Living in Santa Barbara, the birthplace of the environmental movement, has taught me a vital lesson. It has taught me that wilderness, nature, and open space has a value beyond what money can measure. While nature can be measured for its trees that can be cut, its fish that can be caught, and its ore that can be mined, its value is priceless as a resource that renews the human spirit.

For this reason, the protection of our public lands is such an important concept. All Americans regardless of where they live, must have access to the natural beauty of this Nation.

The more time that we spend in cars and offices, moving too quickly to think, the more our spirits require the rejuvenation that comes from being outside in fresh air surrounded by beautiful sights. That is what I have enjoyed in my district for three decades. I want to ensure our future generations have the same opportunity.

We are all responsible for the stewardship of our resources—conservationists farmers, ranchers, outdoorsmen, and sportsmen. We must use our resources wisely—in a manner that does not destroy the environment in which we must continue to live. While the strategies for putting that stewardship action are always an issue of vigorous debate, we must work together and remember that the only end game is ensuring a healthy environment for our posterity.

Earth Day serves the purpose of reminding us all of our common responsibilities of good stewardship. Today, we can forget all else and focus on this end—passing on these priceless resources to our grandchildren and our grandchildren's children. It is our responsibility to ensure that they too can live in and find refuge in a healthy natural world. Our children deserve nothing less.

CONGRATULATIONS OFFICER FARRI

HON. VAN HILLEARY

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. HILLEARY. Mr. Speaker, Saturday, March 15, 1997 was a very special day in the life of my friend, U.S. Capitol Police Officer Vincent Farri. At 11:30 p.m. that night, Vincent's wife Christina gave birth to their first child, a boy named Richard Vincent. The child entered the world at the healthy weight of 8 pounds, 10.6 ounces, and a length of 21 inches.

I have known Vincent for some time now. He is an outstanding member of our Capitol police force. In addition to his fine service overall, he has been a great help to me personally as I have brought constituents through the Capitol. I thank him for it, and I want to congratulate him on the birth of his son, Richard.

Knowing Vincent as I do, I can say with great confidence that he will be a terrific father. Young Richard may be unaware of it now, but someday he will understand how lucky he is to have such a good family raising him.

It is a true pleasure for me to enter these remarks into the CONGRESSIONAL RECORD. I am privileged to have the opportunity to play a small part in this special time for the Farri family. How wonderful it must be for Vincent and Christina to enjoy firsthand the miracle of birth! to them I offer my heartfelt congratulations. To their son Richard, I offer my warmest welcome into this world as a citizen of the greatest country on Earth.

TACTILE CURRENCY FOR THE VISUALLY IMPAIRED

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. BAKER. Mr. Speaker, today I am introducing legislation that encourages the Bureau of Engraving and Printing to consider making Federal Reserve Notes tactually identifiable by the blind and visually impaired. This legislation enjoys considerable bipartisan support from my colleagues on the House Committee on Banking as well as other Members who share the same interests in assisting visually impaired individuals exert their independence.

In March 1994, the Bureau of Engraving and Printing commissioned the National Academy of Science to executive a study entitled "Currency Features for Visually Impaired People." This study explores methods of making currency more accessible for all Americans.

The report concluded that the needs of the blind could be better served if further study on specific changes such as size, color, and tactile marks be initiated.

Currently, the Department of Treasury is engaged in efforts to redesign the Federal Reserve note to prevent counterfeiting. Indeed, the new $100 bill already been issued nationwide. With this window of opportunity upon us, I believe Congress has the change to assist the millions of visually impaired Americans who strive to live independently by making their money more accessible to them.

My bill simply endorses the efforts of the Bureau of Engraving and Printing to study cost-effective tactile changes in Federal Reserve notes and encourages the incorporation of those changes in the national currency.

My bill does not cost the Federal Government any money, nor does it impose and undue, unfair mandates.

Such a minor change in currency will have a significant impact on the independence of visually impaired Americans. Further, a tactual mark can serve other purposes, such as being an additional counterfeit deterrent.

Visually impaired individuals are capable, independent people whose valuable contributions touch all of our lives. It is important that all Americans are afforded equal opportunities to perform at the best of their abilities. My bill stresses that importance. I hope all Members will join me to pass this legislation.

JONES ACT RESOLUTION

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. SOLOMON. Mr. Speaker, today, I and my distinguished colleague on the Rules Committee, Mr. MOAKLEY, join a bipartisan group of our colleagues in introducing a resolution that will strongly reaffirm the Congress' support for the Jones Act—section 27 of the Merchant Marine Act of 1920.

The Jones Act has its origins in the earliest days of our Nation. Its basic requirement is that any vessel used to transport cargo between ports in the United States must be built in the United States, registered under the U.S. flag, and carrying a crew made up of U.S. citizens. Relying on American ships and crewmembers, the Jones Act provides tangible benefits for our national defense. The Jones Act fleet provides the experience needed to maintain trained and loyal American-citizen merchant mariners. Our merchant marine vessels, both private sector and Government owned, rely on the abilities of these merchant

mariners to operate. Without the Jones Act, we jeopardize our national security interests and place our men and women in the Armed Forces in tremendous danger.

As important as our national security, our Jones Act fleet is also an essential part of the transportation industry in this country. The fleet contributes approximately $15 billion a year to our economy and employs 124,000 American workers. Because of the Jones Act, the United States will always have a safe and reliable maritime system.

With these important benefits in mind, I rise today to urge my colleagues to support this resolution and to reaffirm in the strongest possible terms our support for the Jones Act.

This resolution spells out, loud and clear, that Congress will not allow the Jones Act to be weakened. It says that we will not allow substandard foreign-flag vessels—and their foreign crewmembers who are paid less than minimum wage—to push the U.S.-flag fleet out of its own market. It declares that if we did not have the Jones Act, these same foreign-flag vessels, free of virtually all U.S. laws and taxes, would also be able to compete unfairly against our domestic trucking, railroad, and pipeline industries. This resolution says that we will not allow that to happen.

This resolution says we are not going to hand over an entire American industry to foreign operators. More than 40 other maritime nations have laws similar to the Jones Act, and in this country we have similar laws that preserve our other transportation markets—like trucking and aviation—to American companies and American workers. With this resolution, Congress reasserts this Nation's commitment to maintaining a strong domestic maritime industry—with American ships and American workers.

This resolution promotes fairness to American businesses and American working men and women. It promotes our commitment to a strong national defense with no cost to the taxpayer. It promotes a safe and reliable national transportation system. And it promotes a vital sector of our economy. I ask my colleagues to join in supporting this resolution.

100TH ANNIVERSARY OF THE RHODE ISLAND AUDUBON SOCIETY

HON. ROBERT A. WEYGAND

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. WEYGAND. Mr. Speaker, I rise today to bring to your attention the momentous occasion of the 100th anniversary of the Rhode Island Audubon Society.

Founded as the State's first environmental organization, the Audubon Society of Rhode Island was originally established to protect birds from the feather trade. It now actively addresses a wide range of natural resources and environmental issues and is dedicated to advocacy, education, natural area protection, and land management. The Audubon Society of Rhode Island independently protects over 8,000 acres of coastal property and woodlands of diverse natural habitats. Each year, over 15,000 students and teachers statewide participate in environmental education programs ranging from classroom sessions, natural history field trips, summer camps, and teacher workshops and trainings.

Serving the second most densely populated State in the Nation, one with limited natural resources and an industrial economy, the Audubon Society of Rhode Island actively fulfills its environmental stewardship through preservation and protection of Rhode Island's treasured natural heritage.

With 3,500 members, the Audubon Society of Rhode Island is a very respected voice in local ecological issues.

Mr. Speaker, I ask that you join me, our colleagues, the members of the Audubon Society of Rhode Island and the State of Rhode Island, in recognizing the momentous occasion of the founding of the Audubon Society of Rhode Island, and expressing our warmest appreciation and thanks for a century of dedication to improving the quality of environment for wildlife and for humans alike. We wish them another 100 years of success.

ON THE DEATH OF FORMER ISRAELI PRESIDENT CHAIM HERZOG

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. GILMAN. Mr. Speaker, we were all saddened today to learn of the passing of the former President of Israel, Chaim Herzog. Mr. Herzog's life mirrored the birth and early history of the State of Israel. During his career, he served as a distinguished soldier, author, and diplomat.

Mr. Herzog was born in Belfast, Ireland, in 1918, the son of a rabbi, and immigrated to mandatory Palestine in 1935. He served as an officer in the British Army during the Second World War, and landed with Allied troops at Normandy in 1944.

Later he served with distinction in defending Israel from Arab attack during Israel's war of independence in 1948. After the June 1967 war, Mr. Herzog was appointed Israel's first military governor of the West Bank.

In the 1970's, he served at the Israeli Embassy in Washington, and was later named Israel's Ambassador to the United Nations. He was the author of several books, including "Israel's Finest Hour," a historical account of the 1967 war. Mr. Herzog was elected Israel's President in 1983.

Mr. Speaker, Chaim Herzog has been described by his contemporaries as "a man of war who loved peace." The American people extend to his family and to the people of Israel their deepest condolences for the passing of a man who has helped shape the history of Israel, and who was a lover of peace.

[From the Washington Post]

FORMER ISRAEL PRESIDENT HERZOG DIES

(By Dafna Linzer)

JERUSALEM (AP)—Chaim Herzog, Israel's longest-serving president as well as a distinguished soldier, author and diplomat, died today. He was 78.

Herzog suffered heart failure after contracting pneumonia during a recent visit to the United States, said Rachel Sofer, spokeswoman of Tel Hashomer Hospital in Tel Aviv.

When Herzog became Israel's sixth president in 1983, the country was divided by the war in Lebanon and facing international isolation. During his 10 years in the largely ceremonial post, Herzog made 45 visits abroad and was credited with helping to shape Israel's image internationally.

He got mixed reviews, however, when he set free Shin Bet secret service agents in 1986 who were accused of murdering two Palestinian militants. Four years later, he pardoned members of the Jewish underground convicted of attacking Palestinians.

Speaking in 1993, Herzog said his pardons saved the morale and effectiveness of Shin Bet after the scandal known as "Bus 300." The agency had tried to frame Yitzhak Mordechai, the current defense minister but at the time an army commander, for the deaths of two Palestinian bus hijackers. It was later learned that Shin Bet ordered the killings.

Born Vivian Herzog in Belfast on Sept. 17, 1918, Herzog was Ireland's bantamweight boxing champion before immigrating to prestate Palestine in 1935. His father, Isaac Herzog, became the first Ashkenazi chief rabbi when Israel gained independence in 1948.

During World War II, he was an officer in the British army, landing with the allied troops in Normandy. He was one of the last British officers to question Nazi Gen. Heinrich Himmler before he committed suicide in prison.

President Ezer Weizman, who served in battle with Herzog in the 1948 War of Independence, described him as a "talented man and good friend."

Shimon Peres, the former premier and Labor Party leader, called Herzog "a man of war who loved peace."

"Herzog was the most statesman-like man in Israel. He was a military man, a president, son of rabbis and man of the modern age," Peres said on Israel radio.

Following the war, he was named the first military governor of the West Bank, which Israel captured from Jordan in the 1967 Mideast War. The aristocratic Herzog won plaudits for his commentaries during the war, when his balanced and soothing reports put the nation at ease.

Later, he became the first head of Israeli military intelligence, served as U.S. military attache in Washington, and in 1975, was appointed Israel's ambassador to the United Nations.

During his three-year stint as U.N. ambassador, he made a celebrated but unsuccessful defense of his country against a resolution equating Zionism with racism.

He ripped up a copy of the resolution while speaking at the podium. That year he also wrote "The War of Atonement," an account of the 1973 Yom Kippur war and its political effects.

Among his other books was a historical look at the 1967 war entitled "Israel's Finest Hour."

In 1978, Herzog returned to Israel and opened a law practice in Tel Aviv. He was voted into parliament as a Labor representative in 1981.

In March 1983, he was elected president, overcoming intense opposition from the right-wing Likud party, headed by then-premier Menachem Begin.

When he took office, Herzog vowed to be a "people's president," but he lacked the common touch for the rough-and-tumble of Israeli political culture.

"He acted like a European, with European culture, grace and dignity. He tried to be folksy, but it was hard in a three-piece suit," said Gabi Brun, who covered the presidency for the daily Yedioth Ahronot for 20 years.

Herzog adopted the traditional president's role as the watchdog of the country's morality, decrying racial intolerance and religious strife.

THE INTRODUCTION OF THE PARKINSON'S RESEARCH ACT OF 1997

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. SMITH of New Jersey. Mr. Speaker, today I am introducing legislation that will provide for and coordinate greater research efforts on Parkinson's disease. I am introducing this bill for two reasons.

First, I support expanding life-affirming research on Parkinson's. Increasing resources to find a cure is not only a compassionate response to the suffering experienced by over 500,000 Americans, but it is a wise and economical use of our nation's tax dollars. In addition to the human tragedy resulting from the condition, Parkinson's patient advocates note that this terrible disease costs our society some $25 billion a year in direct medical expenses and reduced productivity. Parkinson's is a progressive and debilitating disease that affects a large segment of our population. Therefore, the discovery of a cure or an effective treatment will pay dividends far in excess of the $100 million in authorized funds provided in this bill.

As you already know, Parkinson's disease results from a degenerative condition in the brain whereby nerve cells lose the ability to produce the neurotransmitting chemical dopamine. Common symptoms include tremors—particularly in the extremities—rigidity, loss of balance, and bradykinesia, or very slow movements.

Parkinson's disease is an incurable condition which afflicts roughly 1 in every 100 people over the age of 60. Existing treatments, such as L-dopa, a pharmaceutical substitute for dopamine, and pallidotomy, a surgical technique which can relieve symptoms, are not long-term solutions, and their effectiveness diminishes over time.

While new drugs, medical devices, and surgical techniques which offer symptom relief are all extremely important, a real cure requires the ability to halt the neurodegenerative cycle and repair damaged brain cells. This year, it is estimated that another 50,000 Americans will be diagnosed with Parkinson's disease.

Despite these troubling numbers, Parkinson's disease does not get the attention it deserves in our federal medical research institutes. Patient advocates correctly note that while federally funded medical research spends roughly $1,000 per person with AIDS, and $255 per person with cancer, Parkinson's disease receives only $21 per person in research from NIH. This does not mean that other, more prominently discussed, diseases and conditions should receive less, but it does mean that more Parkinson's research is desperately needed, and soon.

Second, I continue to have a serious concern that under the Morris K. Udall Parkinson's Research bill—H.R. 1260—introduced by our colleagues from Michigan and California, NIH could expand its research using tissue from intentionally aborted babies. As someone with a deep respect for life during all of its phases, I find the exploitation of these murdered innocents simply unethical. The end, even though I agree it is very worthy, does not justify immoral means.

The Parkinson's research expansion bill being introduced today by me and 12 of our colleagues addresses this concern. It authorizes the same research funding level as the Udall bill, but bars the use of these funds for research using tissue from aborted babies. Unlike the Udall bill, this legislation will ensure that 100 percent of the funds authorized for Parkinson's research are ethically unimpeachable and noncontroversial.

Let me be clear: Parkinson's research is vitally important and should be increased. However, unborn children should not be exploited in the process. In fact, were the Udall bill to come up before the House with the pro-life safeguards included in my legislation, I would enthusiastically support it.

Unfortunately, there is a well-founded concern with respect to the issue of fetal tissue research. In January 1993, one of President Clinton's first acts was to overturn a Bush administration policy prohibiting NIH funding of research involving the transplantation of fetal tissue from intentionally aborted babies. In June 1993, a new NIH bill specifically authorized NIH funding of human fetal tissue transplantation research using tissue from any source: ectopic pregnancies, miscarriages, and induced abortions.

Since 1993, there have been four awards by NIH for research on human fetal tissue transplantation, and every single one of them has been in the area of Parkinson's research. So the fetal tissue research issue is clearly relevant to a bill dealing with research to find treatments for Parkinson's disease.

Another reason pro-life people have reason to be concerned about the issue of fetal tissue research as it relates to Parkinson's is provided by an April 1996 article in The Washingtonian. In that article, Morton Kondracke writes that the "fight over lifting a ban on federal funding of fetal-transplant research is what got Joan Samuelson into Parkinson's activism." Joan Samuelson, as you may know, is the president of the Parkinson's Action Network, which is the principal organization lobbying Members of Congress to cosponsor H.R. 1260.

Of course, there is nothing improper about people or organizations lobbying Congress to endorse fetal tissue research. If people disagree with my view on this issue, that is their right. However, many Members of Congress have been given the impression that there is absolutely no connection whatsoever between fetal tissue research and Parkinson's disease. To the contrary, my colleagues should understand that the forces urging them to cosponsor H.R. 1260 are substantially similar to the forces that lobbied Congress during the Bush administration to endorse fetal tissue research involving intentionally aborted unborn children. Many of the same players also opposed an amendment to the NIH reauthorization bill in 1993 which would have ensured that all of the safeguards recommended by an NIH advisory panel were in place before tax dollars were used for fetal tissue transplantation research.

In conclusion, Mr. Speaker, the legislation I am offering is identical to the Udall bill both in structure and in the funding authorization provided. The only differences between my bill and the Udall bill are: First, the title, to prevent confusion; and second, the pro-life protections contained in the bill. Everything else is identical.

Therefore, there is no debate over the commitment to fighting Parkinson's disease. There is no debate over funding levels. There is no debate over the structure of the new program. Indeed, if we could simply focus Federal funding toward the overwhelming majority of Parkinson's research that is uncontroversial, there would be no debate, and the expansion of Parkinson's research could begin almost immediately.